Retelling Good Governance Narratives on Africa's Economic and Political Predicaments: Continuities and Discontinuities in Legal Outcomes between Markets and States

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RETELLING GOOD GOVERNANCE NARRATIVES ON AFRICA'S ECONOMIC AND POLITICAL PREDICAMENTS: CONTINUITIES AND DISCONTINUITIES IN LEGAL OUTCOMES BETWEEN MARKETS AND STATES

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I. Introduction

In this Article, I argue against two premises of the good governance programs of the Bretton Woods institutions, Western governments and Third World elites. The first of these premises is the overstated promises and hopes of economic recovery and political freedom that are often assumed to be embodied in or to flow from good governance programs. The second of these premises is that good governance programs are a necessary antidote to the egalitarianism that may flow from regulatory controls in the economy aimed at achieving social justice and/or economic growth. This egalitarianism, in my view, was an important aspect of modernizing nationalist development policy which, notwithstanding its limitations, laid a basis for state regulation of the economy in favor of social justice and economic progress in the pre-good governance era.

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An important premise of the good governance agenda seems to be that economic regulation in favor of social justice is a perverse incentive that encourages lazy citizenry and rundown economies. Good governance accounts spin out narratives of individual responsibility to replace what they argue to be the dependent mentality of Sub-Saharan African citizens.

My alternative thesis challenges these simplistic premises given that good governance programs have the following paradoxical outcome. They simultaneously empower the weak while protecting the powerful. The legal effect of this simultaneous outcome is to turn into heresy the promise and hope that markets under the good governance regime are an antidote to the restrictions of state involvement in the economy that characterized modernizing nationalism in Sub-Saharan Africa. Markets, as I will demonstrate, are no less coercive than states in their outcomes.

In short, the economic coercion of the marketplace is legally comparable and indistinguishable in its effects to other forms of coercion, particularly those associated with economic regulation by the state. This view proceeds from the observation that markets operate against a set of background constraints defined in part by the different economic entitlements of actors in the marketplace—i.e., some market actors have more resources than others. These constraints form the background against which the negotiations that different market actors invariably engage in every day in the following way. Because market actors can exercise their differential economic entitlements, they restrict the scope of choice of other market actors bargaining with them. The market therefore becomes a forum that mediates the coercion that arises from the haggling between these actors. In essence, different market structures mediate these constraints in ways not often acknowledged when they are presented as antidotes to the coercion of government economic regulation.

Proceeding from this view of markets, one then appreciates the exaggerated promises of good governance programs to the extent that they are offered as revolutionary antidotes to the failed experiment of post-colonial modernizing nationalist leaders in Africa. It is apparent that there are both striking continuities and discontinuities between the era of modernizing nationalism and its presumed successor era, that of good governance. In brief, my argument can be summarized as follows: Contrary to the beliefs of their proponents, neither good governance nor modernizing nationalism are simple antidotes. Neither offers a coherent or complete theory of the state, of economic reality, or of the role of law and politics. Instead, one may argue that they both represent ideological stances within a general left-right framework, which explains certain striking ideological similarities between them. An example of this striking similarity between them is the consistency of their assumptions regarding the management of what they perceive to be the irrational impulses of the “African.” Modern-
izing nationalism has the state as the locus of power. Here the African is
governed under the yoke of the Keynesian state-inspired, problem-solving
governance: the assumption being that the African needs the benevolent
direction of the one-party state to which total loyalty should be owed in
building the nation. Good governance, by contrast, has the market as the
mechanism or locus of power in managing the African. Here, the
assumption is that three decades of state directed economic policy pre-
vented the African from effectively participating in growth-led
development. A turn in favor of the market would thus provide the Afri-
can with the right incentives to spur economic growth.

Therefore, both good governance proposals and modernizing nation-
alism share a skepticism of the African, who cannot be trusted to be self-
governing, and thus must give up self-government to a locus of power—
either the state or the market. Ultimately, the relationship between good
governance proposals and modernizing nationalism is not one of a clear
break from one to the other. Instead, each is a different mode of gov-
ernance with a complex relationship to the other. Although each represen-
ta radically different loci of power, they nevertheless share basic ideological
assumptions regarding the necessity of managing the irrational impulses
of the African. It therefore seems disingenuous that the fear of the irra-
tional behavior of the African, or faith in the rational behavior of the mar-
ket can serve as antidotes to the other.

For example, the assumption that expansion of the market would re-
strain the arbitrary actions and excessive power plays of Sub-Saharan Afri-
can governments seems illusory, even with the advent of the good
governance agenda on the continent. Although the egalitarian ethos of
modernizing nationalism was frequently an obstacle to economic aggran-
dizement by the elite, that obstacle has largely been removed by the aban-
donment of egalitarianism in good governance proposals. In good
governance proposals, elite misconduct is supposed to be checked by free
and fair elections, a free press and a free judiciary in a way that it was not
under modernizing nationalism. Thus, it is more accurate to say that both
modernizing nationalism and good governance are comparably vulnera-
ble to elite exploitation rather than only modernizing nationalism is.

II. ANTECEDENTS TO GOOD GOVERNANCE: FROM HEGEL'S
EUROCENTRICISM TO MODERNIZING THE POST-COLONIAL STATE,
to DEPENDENCY AS DEVELOPMENT FLOUNDS

In this part of the Article, I argue that good governance accounts of
addressing economic crises and political restrictions in Africa are a con-

1. See Makau Wa Mutua, The Ideology of Human Rights, 36 Va. J. INT'L. L. 589,
2. See generally James Thuo Gathii, Good Governance as a Counter Insurgency
Agenda to Oppositional and Transformative Social Projects in International Law, 5 Buff.
temporary episode of a longer history related to Western enlightenment thought, especially in its justifications of colonialism. I recognize that enlightenment thought was written in its own space and time and that there is no single European enlightenment tradition that focused its imagination on economic progress and political emancipation in Africa. My interest goes beyond demonstrating how European enlightenment fed from the creation of the other in the non-European world, as Europeans savored the energy and thrill of converting others into their self image, one which they were themselves defining in relation to others.9

Instead, I am interested in extending criticisms of Eurocentricism which have characterized language, literary and cultural studies to the political and economic spheres. International legal history scholarship has borrowed from these critical approaches, but it has largely, though not exclusively, confined its critiques to viewing international law as a doctrinal theoretical enterprise bereft of any substantive, political and economic commitments.4 I will do so by tracing one possible genealogy of colonial imposition of certain frames of enlightening, improving and developing the other in the African context. Whether it is referred to as development, progress or modernization, the genealogy derives from Hegel in the nineteenth century; to modernization theorists at the dusk of classical colonialism; to dependency at the moment of frustration with the hopes and promises of independence from colonialism; and eventually to good governance at the advent of the liberal triumphalist creed which presupposes that liberal democracy is the final and quintessential form of all human government, and free markets the best and only guarantee of human progress. Each of these four parts of my genealogy is the subject of parts III, IV, V and VI of this Article. In part VII, I show how specific assumptions of the good governance agenda can be undermined by showing that radically different and valid interpretations can be construed from these assumptions. Throughout this Article, I also refer to modernizing nationalism as an amalgam of African and non-African ideas about the role of law and markets in Sub-Saharan Africa.

Using this genealogy, I intend to conjoin two types of critiques: material and non-material forms of oppression and emancipation in realms as diverse as politics, economics, culture, history and philosophy. In other words, I resist the characteristic focus of much of the previous critical work

3. See Edward Said, Orientalism 1 (1979) ("The Orient has helped to define Europe (or the West) as its contrastive image, idea, personality, experience.").

4. See generally Bart Moore-Gilbert, Post-Colonialism: Between Nationalitarianism and Globalisation, Post-Colonial Studies: Culture, Politics, Economy 62 (1998) (concluding that globalism signals new opportunities for post-colonialism); Ngugi Wa Thiong'o, Decolonizing the Mind: The Politics of Language in African Literature (1986) (undertaking literary criticism within the oppressive social relations that race relations takes place). Moore-Gilbert urges a combination of the characteristic postcolonial focus on cultural and textual levels of the West's relationship with the rest, with a dose of the dynamics of economic and political domination and exploitation. See id. at 64.
on cultural, textual and other non-material forms of domination, as well as the Marxist charge that too much attention on non-material forms of domination necessarily elides the real dynamics of oppression embedded in economic structures such as class. I advocate instead a type of scholarship that combines the two, because it is impossible to separate cultural and other non-material forms of Euro-American and Third World elite oppression of the developing world and the poor, on the one hand, from national and international economic disparities on the other.5

III. Hegel's Africa: A Dark Continent in Three Parts and the Legitimation of Colonial Governance

Hegel contrasts Africa with four civilizations which all exhibit what he refers to as an historical and developed world spirit—an idea represented by a continuum from East to West—starting with the Orient, to the Greeks, and then to the Romans before ending with the Germans, whom according to Hegel, best conform to the highest consciousness of world spirit. It is against this background that Hegel posits an Africa trapped in conditions of nature as opposed to consciousness. There are at least five ideas through which Hegel seeks to give these assertions credibility, all which reflect the racism underlying his Eurocentric bias. They are: that Africans have no history or concept of religion, have no rationality; and that they fall far short of the highest form of a political constitution—the state—that which characterizes Germany. In addition, Hegel asserts that African slavery was worse than European enslavement of Africans. I will address each in turn.6

A. Africa as an Unconscious Geographical Entity Without History

Hegel posits Africa as a land without history. After all, history was a linear progression through which the past was defined by determining its coordinates relative to Germanic Europe, which epitomized the highest achievement in consciousness. This historical narrative erased the fact or

5. See Gyan Prukush, Can the Subaltern Ride? A Reply to O'Hanlon and Washbrook, 34 COMP. STUD. SOC'Y & Hist. 168, 168 (1992). Post-structuralist scholarship has acknowledged quite validly that the deployment of fixed boundaries between European and non-Europeans, for example, gives legitimacy and stability to European identity over non-European identity. Indeed it is true that the categories of European and non-European are internally heterogeneous along race, gender and class lines. I do not hold any category as foundational in my analysis of oppression and domination. It matters not how many times you split the subject—an oppressed subject remains oppressed regardless of how they are split by heterogeneity. See, e.g., id. at 168.

6. For a discussion of Africa as a nation with no history or conception of religion, see infra note 31 and accompanying text. For a discussion of African enslavement of Africans, see infra notes 40-47 and accompanying text.
the possibility that non-European societies such as those in Africa had any history or consciousness of their own.7

Hegel’s linear progression of history characterizes enlightenment thinkers who relativized Africa with their own reading of the European experience.8 This relativization of the European and the non-European was based in part on second hand accounts about Africa. Hence, rather than appreciating Africa on its own terms, this progress narrative regards it as evolving towards a common destiny with an idealized European experience. Hegel is no exception to this Eurocentric bias; he does not view Africa as having a destiny unrelated to Europe.

Since Africa has no history, Hegel seems to relinquish it to the realm of geography. He divides Africa into three parts. One part “lies south of the desert of Sahara—Africa proper—the almost entirely unknown to us, with narrow coast tracts along the sea; the second to the north of the desert . . . the third is the river region of the Nile, the only valley-land of Africa, and which is in connection with Asia.”9 This division of Africa pre-dates and overlaps contemporary divisions of the continent, and it embodies one of the most enduring images of Africa—sub-Saharan Africa—the part that lies south of the Saharan desert. Hegel calls it Africa proper, which in his view,

has remained—for all purposes of connection with the rest of the World—shut up; it is the Gold-land compressed within itself—the land of childhood, which lying beyond the day of self-conscious history, is enveloped in the dark mantle of Night. Its isolated character originates, not merely in its tropical nature, but essentially in its geographical condition.10

This is an unforgiving indictment of a continent closed to itself, insular and therefore, in Hegel’s view, unconscious and unhistorical.11

Contrary to these assertions of an Africa as unconscious and enveloped in the mantle of darkness, there are accounts from peoples of various parts of Africa regarding great civilizations, with trade and diplomatic contacts with Asia and Europe prior to colonial contact.12

Yet, given the racism underlying Hegel’s view of Africa as the land of darkness, it is not surprising that he relativizes North Africa to Europe more generously than he compares tropical Africa to Germanic Europe. For Hegel, Africa north of the Sahara is European Africa. As for Egypt,

7. See GEORGE WILHELM FRIEDRICH HEGEL, THE PHILOSOPHY OF HISTORY 99 (1956) (arguing that Africa has no historical signatures).
8. See id. at 91-102 (exploring Africa and African history from perspective of European enlightenment).
9. Id. at 91.
10. Id.
11. See id. at 99 (stating that Africa “is no historical part of the World”).
Hegel states: “Egypt will be considered in reference to the passage of the human mind from its Eastern to its Western phase, but it does not belong to the African Spirit.”\footnote{Hegel, supra note 7, at 99.} Clearly, Hegel’s view of Africa continues to influence contemporary thinking about North Africa relative to sub-Saharan Africa—the former still thought of as superior and more westernized, while the latter backward and less civilized.

To make sense of Hegel’s idea of history, it is important to note that he regards history as consisting of transactions of world historical peoples, who play their part successively on the historical scene. “It begins with the nations of the Oriental world, China, India and Persia; proceeds through the contrasted worlds of the Greeks and the Romans, and finds its culmination in the Germanic world of the modern times.”\footnote{W.H. Walsh, Principle and Prejudice in Hegel’s Philosophy of History, in Z.A. Pelczynski, Hegel’s Political Philosophy Problems and Perspectives 182 (1971).} The development of the reality and consciousness of freedom unites Hegel’s view of world history. However, it is the Germanic peoples, unlike those of China, India or Persia, who enjoyed the conditions which combined objective and subjective freedom. Consequently, the Germanic peoples were “in a position to live orderly and civilized lives, and at the same time let them feel that they were doing so not as a result of external direction but through their own efforts.”\footnote{Id.} Clearly, Hegel’s telling had the effect of reinforcing the exclusion of Africa from conscious humanity as he understood it in Judeo-Christian historicity.\footnote{See B. Jewsewicki & V.Y. Mudimbe, African Memories and Contemporary History of Africa, 31 Hist. & Theory 1 (1991) (discussing exclusion of Africa from Judeo-Christian historicity).} This historicity held that Africa was excluded from Judeo-Christian Europe because of general cultural inferiority and political disorganization.\footnote{See id. For an excellent account of how this influenced international legal doctrine, see generally Antony Anghie, Finding the Peripheries: Sovereignty and Colonialism in Nineteenth Century International Law, 40 Harv. Int’l L.J. 1 (1999). Anghie states: The naturalist international law that had applied in the sixteenth and seventeenth centuries asserted that a universal international law deriving from human reason applied to all peoples, European or non-European. By contrast, positivist international law distinguished between civilized states and non-civilized states and asserted further that international law applied only to the sovereign states that composed the civilized “Family of Nations.” Anghie, supra, at 4.}

B. Africans Have No Rationality or Morality

Hegel argues that Africans have not attained universal reason or rationality, an idea tied to his notion that freedom would be best achieved...
where both objective and subjective freedom intersect. In Hegelian terms, the peculiarity of the African character was "the fact that consciousness has not yet attained to the substantial realization of any objective existence—as for example, God or Law—in which the interest of man's volition is involved and in which he realizes his own being." The African in this sense is living in a state of nature.

Rationality in this Hegelian scheme is only attainable with a conscious act of will. Hegel declares that "[w]e must lay aside all thought of reverence and morality . . . if we would rightly comprehend him [the African]." Continues Hegel, "Among the Negroes moral sentiments are quite weak, or more strictly speaking, non-existent." Hegel's ill-founded railings about the African oscillates between referring to them as African and racializing their identity as a Negro—a perspective from which he sees the Negro as incapable of any substantial existence—as in God or law—due to the African's completely wild and untamed state.

So, whereas Hegel may not have held the view that the ideal of free self-development was only fully realizable in Germany, he nevertheless believed that it was first realized in Germanic Europe. History in the Hegelian sense was therefore a rational process that could result in what he referred to as free self-development. In Africa, such a rational process was not possible, everything there depended on passion and caprice. According to Hegel, Negroes live in "absolute and thorough injustice." They are normally quiet, but when aroused can suddenly become besides themselves, whereupon they plunder and carnage—run riot. To be part of history then, Hegel's solution for Africa is straightforward—such a radical transformation from unconsciousness to history would have required contact with Europe. Indeed we know from his Philosophy of Right that he advocated for the position that it was imperative for European economies to expand to the virgin areas of the world.

It is needless to emphasize that this view is based on an isolated and pre-modern Africa. According to Hegel:

During the three or three and a half centuries that the Europeans have known this border-land and have taken places in it into their possession, they have only here and there (and that but for a short time) passed the mountains and they have nowhere settled down beyond them. The land surrounded by these mountains is an unknown Upland, from which on the other hand the

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18. See Hegel, supra note 7, at 93 (arguing that African character is difficult to understand).
19. Id.
20. Id.
21. Id. at 96.
22. Id. at 99.
23. See generally George Wilhelm Friedrich Hegel, Philosophy of Right (1950) (attempting to conceive of and present the state as in itself rational).
24. See id.
Negroes have seldom made their way through. In the sixteenth century occurred at many very distant points, outbreaks of terrible hordes which rushed down upon the more peaceful inhabitants of the declivities . . . . [These hordes] exhibited the most reckless inhumanity and disgusting barbarism—and the fact that afterwards, when their rage was spent in the calm of peace, they showed themselves mild and well disposed towards the Europeans, when they became acquainted to them.\(^{25}\)

Hegel's graphic yet prejudicial portrayal of Africa continues:

The peculiarly African character is difficult to comprehend, for the very reason that in reference to it, we must quite give up the principle which naturally accompanies all our ideas—the category of Universality . . . . This distinction between himself as an individual and the universality of his essential being, the African in the uniform, undeveloped oneness of his existence has not yet attained; so that the Knowledge of an absolute Being, an Other and Higher than his individual self, is entirely wanting. The Negro . . . exhibits the natural man in his completely wild and untamed state. We must lay aside all thought of reverence and morality—all that we call feeling—if we would rightly comprehend him; there is nothing harmonious with humanity to be found in this type of character. The copious and circumstantial accounts of Missionaries completely confirm this, and Mohammedanism appears to be the only thing which in any way brings Negroes within the range of culture.\(^{26}\)

Hegel concludes his observations on Africa: "From these various traits it is manifest that want of self control distinguishes the character of the Negroes. This condition is capable of no development or culture."\(^{27}\) Under these circumstances, Hegel declares:

At this point we leave Africa, not to mention it again. For it is no historical part of the World; it has no movement or development to exhibit . . . . What we properly understand by Africa, is the Unhistorical, Undeveloped Spirit, still involved in the condition of mere nature, and which had to be presented here only as on the threshold of World's History. Having eliminated this introductory element, we find ourselves for the first time on the theatre of world history.\(^{28}\)

For Hegel, Africa falls out of his account of world history; it is merely a geographical area in the extreme—its tropical climate sharply contrasts

\(^{25}\) Hegel, supra note 7, at 92.
\(^{26}\) Id. at 93.
\(^{27}\) Id. at 98.
\(^{28}\) Id. at 99.
with the location of world historical peoples in the temperate zones. In Africa’s extremes, Hegel sees no possibility of human development, for here “man cannot come to free movement; cold and heat here are too powerful to allow Spirit to build up a world for itself.”

Finally, according to Hegel, Africa could only become part of world historical peoples when its peoples achieved complete freedom in the Germanic sense, so that history would then be the success story of the modern European man and his experience. World history is nothing more than a specific European experience, the baseline against which all others would be judged. Hence, Africa is precluded from the history of the world unless it can exhibit the characteristics of Hegel’s European experience.

C. Africans Have No Concept of Religion

Hegel also asserts that Africans have no concept of God and, therefore, of religion. In his view, unless Africans can achieve the consciousness of a Higher Being, they cannot appreciate the idea of God, because religion begins with “the consciousness on the part of man of a Higher Power . . . in relation to which he feels himself a weaker, humbler being.”

Hegel disparages African religious practices as worship of the dead, sorcery and certainly, as falling well below the highest achievable or absolute religion—Christianity—where the unity of God and humanity is established. Sorcery, unlike religion, places the African in a position of authority over the power of nature. The African’s command of nature’s elements, such as storm, rain and cessation of the rainy period, amounts to magic. According to Hegel, magic is performed by the King’s ministers in the form of “special ceremonies, with all sorts of gesticulations, dances, uproar, and shouting, and in the midst of this confusion commence their incantations.”

In addition, this power may be personified in a fetish such as a tree—which exists not as an independent piece of art or an object of religious worship, but as an “arbitrary choice of its maker.”

What seems to trouble Hegel about the African’s lack of religion is what Hegel calls the worship of the dead—the deceased forefathers and ancestors as a power influencing the living. This worship of the dead, in Hegel’s view, does not supercede the power of those living, because the Africans presumably command the dead and lay spells upon them. In addition, Hegel observes that Africans did not regard death as a universal law. These observations lead him to conclude that the African is in perfect contempt of humanity, because Africans do not have the reverence which

29. Id. at 80.
30. Id. at 93.
31. See id. at 93-95 (exploring Hegel’s views on African religious practices).
32. See id. at 94 (stating sorcery places Africans in position of command over nature).
33. Id.
34. Id.
is accompanied by consciousness and religiosity to acknowledge the supremacy of a Higher Being over themselves. The African has “no knowledge of the immortality of the soul.”

Hegel misrepresents and disparages African religious and moral practice in several ways. Hegel picks and chooses from a variety of sources that he considers the most outrageous practices, so that they can stand in sharp contrast with the Germanic experience that represents the highest achievable standard. In so doing, he devalues African religious, cultural and moral beliefs and practices. Such beliefs and practices do not seem to reach a standard that potentially contributes anything positive or significant. Yet, there is no doubt there are rich religious, moral and cultural practices in Africa that are irreducible to the essentialized renditions and heresies of Hegel. For example, while Christianity and other monotheistic religions seek to forcibly convert non-believers, African religions are largely communal and non-universalist. Unlike Christianity, they do not proclaim the idea of a foundational truth as the only salvation.

Hegel’s stereotypes of the African further characterize them as having merely attained dominance of nature, a fact that he says is consistent with the African’s sensual nature. Hence,

human flesh is but an object of sense—mere flesh. At the death of a King hundreds are killed and eaten; prisoners are butchered and their flesh sold in markets. . . . When magical rites are performed, it frequently happens that the sorcerer kills the first that comes in his way and divides his body among bystanders.

What is most telling about this reification of the African as a very sensual being is a fetish; white-European racist ideology. This sensual image of the African is a creation of this ideology in its urge to assert its whiteness and its desire to remain white. The graphic narration of cannibalism among Hegel’s Negroes is obviously intended to evoke an impassioned response that measures the white-European experience not only as civilized, but as superior and incommensurable with this fetishization of African sensuality and inhumanity. Based on re-orienting the focus away from the anticipated outrage that Hegel’s images of African sensuality provoke, I argue that race becomes less of a natural artifact as Hegel would have it, and more as a practice developed by culture. In this sense, the

35. See supra note 7, at 95-96.
38. See Jewsiewicki & Mudimbe, supra note 16, at 186 (stating “Hegel’s picture of the moral life of the native Africans could scarcely be blacker”).
Germanic peoples, who in Hegel’s view have achieved the highest form of consciousness, are being defined by the simultaneous fetishization of African sensuality and inhumanity—clearly a cultural, as opposed to a natural, process. This cultural process then defines the worthy, the polar opposite of the Negro, from the unworthy—the Negro locked in his or her sensuality, inhumanity and, above all, unconsciousness. While Hegel, a white man, fantasizes about the African, almost devours with pleasure the details of travelers and missionaries in his writing, this pleasure is simply humiliation for the African.

D. Africans Have No Political Constitution (State)

Hegel attributes the Africans’ untamed state to their willful disregard, or lack, of a political constitution. According to Hegel, for Africans,

the political bond can therefore not possess such a character as that free laws should unite the community. There is absolutely no bond, no restraint upon that arbitrary volition. Nothing but external force can hold the State together for a moment. A ruler stands at the head, for sensuous barbarism can only be restrained by despotic power. But since the subjects are of equally violent temper with their master, they keep him on the other hand within limits.40

The highest political constitution is embodied in the state—a condition first attained by the Germanic Europe.41 As for Africa, it demonstrated no change since it had no history. In fact, slavery represented the inevitable condition for “the Negro,” while the state epitomized the conditions in which freedom could be realized.42 Remarks Hegel:

[A] State is then well constituted and internally powerful, when the private interest of its citizens is one with the common interest of the State; when the one finds gratification and realization in the other . . . in a State many institutions must be adopted, much political machinery invented, accompanied by appropriate political arrangements—necessitating long struggles of the understanding before what is really appropriate can be discovered—involving, moreover, contentions with private interest and passions, and a tedious discipline of these latter, in order to bring about the desired harmony. The epoch when a State attains this harmonious condition, marks the period of its bloom, its virtue, its vigor, and its prosperity.43

40. Hegel, supra note 7, at 96-97.
41. See id. at 18 (stating that molding of constitution by society is process identical with history itself).
42. See id. at 41 (arguing “State presents the realization of freedom”).
43. Id. at 24.
Hegel’s account of Africa’s lack of a political constitution is strewn with accounts of how the will predominates reason, the thorough injustice of Africans and their despotic Kings and the strange customs in which they and their subjects were involved. He mentions Dahomey and the Ashanti in passing, only to give examples of how they are an exception to the European norm. Moreover, Hegel’s view of Africa’s lack of a political constitution is stereotyped, factually inexact and, above all, thoroughly racist.

Alternative perspectives of Africa disclose a variety of political arrangements that existed before the onset of colonial rule. Hence, although these arrangements were not necessarily egalitarian—for example, they excluded women for the most part—the excessive powers of the modern nation state that were established by European governors under colonial rule and carried forward in the post-colonial period were unknown in pre-colonial Africa. Indeed such powers were undoubtedly first exercised by European states over their subjects, and the imposition of the state in Africa entrenched this specific form of individual control by the state in Africa. Political arrangements in Africa have been argued to fall into at least two categories: centralized societies and acephalous or communal societies. The first type of states had centralized authority, administrative machinery and judicial institutions, while the second type lacked these attributes as well as sharp distinctions of rank, status and wealth. In other words, there is another story about Africa that is not part of Hegel’s telling.

E. Africans Enslave Their Own

Hegel disapproved of the European enslavement of Africans. However, he opined that:

Bad as this may be, their lot in their own land is even worse, since there a slavery quite as absolute exists; for it is the essential principle of slavery, that man has not yet attained a consciousness of his freedom, and consequently sinks down to a mere thing—an object of no value.

In addition to attributing slavery in Africa to the fact that the African has attained no consciousness, he also attributes it to lack of any moral senti-

44. See id. at 96-99 (discussing political constitution and lack of political bonds among Africans).
47. See Fortes & Evans-Pritchard, supra note 45, at 5-6 (discussing two types of political systems).
48. Hegel, supra note 7, at 96.
ment on the part of the African.49 He referred to parents selling their children, a fact that explains the existence of polygamy—the begetting of children for sale.50 Hegel says the African has a "want of regard for life," which he attributes to the African's "great courage, supported by enormous bodily strength."51 Perhaps the zenith of Hegel's naive yet racist observations is demonstrated by his additional conclusion that the Africans want of life is demonstrated by allowing themselves "to be shot down by thousands in war with Europeans."52 Such a remark exemplifies Hegel's complete understatement of the violent terror of European slaving expeditions and the disparity in power between the targets of the slaves and the slavers themselves. As Anthony Farley reminds us of contemporary race relations in the United States—a valid argument both today and during Hegel's time—race "is not a matter of 'difference;' it is a matter of power. There is no 'race' without the colorline. The ideology of 'difference' functions as denial in our culture by masking, on the ground of nature, the sadomasochistic relationship between whites and blacks."53 Farley's point goes beyond making the assertion that race relations, very much like slave-master relations, cannot be seen outside the oppressive social relations within which they take place.

More importantly, Hegel overlooks the fact that European enslavement of Africans involved forced migration and plantation agriculture in a market society, factors that made such slavery a much more devastating deprivation of freedom for Africans.54 These Africans were displaced from their homes, thereby making them rootless and incapable of recreating that which gave them a sense of identity and pride—membership belonging as family, kinship and village ties were brutally severed.55 This is very significant given that Africans place great emphasis on membership to kinship and ancestry groups as sources of prestige and social protection. Thus, to be free meant to have many protectors, and to be a slave meant to be cut off from one's kinship, ancestry and village. Because slaves had a place in African society, they rarely ran away because their status did not necessarily mean that they had lost the honor of their own communities.56 By contrast, in the plantations of the United States, the conditions of slaves

49. See id. at 96 (stating that concept of moral regard does not apply to Africans).
50. See id. (discussing parents selling children and children selling parents).
51. Id.
52. Id.
53. Farley, supra note 38, at 475.
55. See id. at 53 (detailing account of unknown African who is enslaved and brought to America). Patterson argues that slavery meant the deprivation of membership in networks of dependence and the eradication of slave histories. See id. (discussing slavery concept).
56. See id. at 172-86 (analyzing conditions of slavery).
were characterized by attempts to escape, rebellion, animosity and downright racism.\textsuperscript{57}

Hegel’s racist beliefs about the African seems to justify his recommendation of slavery as a recipe for the African’s lack of rationality, political constitution, religion and history. For Africans, slavery was an advance . . . a phase of education—a mode of becoming participant in a higher morality . . . [and] culture . . . . Slavery is in and for itself \textit{injustice}, for the essence of humanity is \textit{Freedom}; but for this man must be matured. The gradual abolition of slavery is therefore wiser and more equitable than its sudden removal.\textsuperscript{58}

IV. Modernization Theorists: From Tradition to Modernity—Sweeping Colonialism Under the Rug

In the late 1950s and early 1960s, Hegel’s disparaging constructs yielded to the confluence of the nationalism of the political leadership of the new states and to the modernization theory of Western academics. This era of postcolonial hope constitutes the second moment in my search for the genealogical precursors of the good governance agenda. The anti-colonial struggles against the political and economic domination of Africa were a positive assertion of African identity that challenged the imperialist stereotypes, such as Hegel’s, which had characterized Africa as uncivilized and incapable of self-governance.

In addition to the rising tide of nationalism in Africa and Asia in this period, the United States had come to replace the British Empire as the major world power. In the Cold War era that subsequently ensued, communist Soviet Union came to be regarded as the primary ideological counterpoint of the United States. In the race for international dominance, “high priority [was] accord[ed] in the West to the need to ‘develop’ the colonial and ex-colonial territories . . . .”\textsuperscript{59} Consequently, the development efforts of this era carried over the imperialistic motivations of earlier periods, this time not only to train colonial peoples for independence, but also to win their allegiance in the so-called Cold War.

Modernization theory became “fashionable” during this time. The term modernization embraced the “modern” in the sense of the new technology of the time, for example, “jet-travel, space exploration, and nuclear

\textsuperscript{57} See id. at 27 (discussing idioms of slavery). See generally Eugene D. Genovese, \textsc{Roll}, \textsc{Jordan Roll: The World the Slaves Made} (1974) (noting fascist oppression of slaves is one of history’s greatest crimes); \textsc{Vincent Harding, There Is a River: The Black Struggle for Freedom in America} (1981) (discussing starving slaves in underground dwellings).

\textsuperscript{58} Hegel, \textit{supra} note 7, at 99.

power." Power As such, it also evoked the prior centuries of Western "pro-
gress," in which mechanical inventions first made industrialization possi-
ble, which in turn brought about the economic transformation that led to
modern capitalism. Moreover, because the origin of such "development"
in post-feudal England had coincided with the movements of indepen-
dence in her American colonies and the creation of the nation-state in
neighboring France, the notion of modernization also implicitly suggested
the "democratization of societies, especially the destruction of inherited
privilege and the declaration of equal rights of citizenship."61

In the United States, modernization as a policy was associated with a
concurrent expansion in the role of government, known as the "New
Deal."62 The political goals of the New Deal in the 1930s and the 1940s
were to demonstrate the superiority of "Western ways" to the post World
War II world and to encourage and assist developing nations in emulating
them. Modernization theorists believed that these societies would and
should "evolve in sequences towards progressively higher stages of de-
velopment, culminating in Western-style industrial economies."64

The claim of modernization theorists that "modern law is a necessary
condition for the progression towards and development of a modern mar-
ket," is rooted in the thesis of economist Max Weber, who had analyzed
"this very connection" in Economy and Society.65 Weber had "explored
the nexus between law and economic institutions" and had developed a theory
similar to modernization, namely, that "clearly articulated legal standards
. . . provide a predictable framework for the resolution of disputes . . . ."66
Weber postulated that the system which had developed in Europe, a "ra-
tional legal system founded on formal, universal rules which [are] uni-
formly applied," was "causally related to the development of a capitalist,
industrial economy."67 The underlying premise of the rationality doctrine
is that, in order for a merchant and a consumer to enter into a sale, con-
tract or other "capitalist exchange" with a reasonable expectation of its
enforceability, the parties must be able to rely on a basic operative frame-
work that would affect both equally.68 These economic "rules" have to be
predictably enforced by the state, independent of whatever political, reli-
gious or other considerations might come to prevail in the society.

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60. Reinhard Bendix, Embattled Reason: Essays on Social Knowledge 250
61. Id.
62. See W.W. Rostow, The Stages of Economic Growth: A Non-Communist
63. See id. at 87-92 (discussing post-1945 economic growth).
64. Lan Cao, Law and Economic Development: A New Beginning?, 32 Tex. Int'l
65. Id. at 547-48 (citing Max Weber, Economy and Society (1956)).
66. Id.
67. Id. at 548.
68. See id. (describing keys to economic development).
Modernization theory similarly prescribes a developmental transition from *tradition*—a state in which societies are referred to variously as archaic, feudal or agrarian, to *modernity*—the state in which Weberian rationality yields predictability in governance. Thus, traditional societies tend to be custom-bound, hierarchical and unproductive societies, in contrast to economically productive modern societies in which “effective governance... is regarded as predictable and legitimate by those who are subject to it...” In the former, an individual’s position tends to be inherited; in the latter, it is presumably achieved. Modernization theory has produced various sub-theories; however, they remain essentially Weberian in their assumptions.

Most modernization theorists subscribe to the analysis set forth by Walt Whitman Rostow in his treatise, *The Stages of Economic Growth: A Non-Communist Manifesto.* According to Rostow, “development” consists of five historically identifiable sequences:

(i) the traditional society, organized around agrarian subsistence modes of production;
(ii) the preconditions for “take-off,” triggered by encounters with external forces;
(iii) the “take-off,” marked by industrial development and increased economic growth;
(iv) the “drive to maturity,” a time of fluctuating progress; and
(v) the age in which high mass-consumption replaces basic subsistence needs.

In sum, modernization theory suggests that development occurs *dualistically* because in pre-modern societies traditional institutions slow down market impulses. According to this view, the traditional system plays a passive role; it is not that the system actively resists change, rather, that it is simply incapable of absorbing it. Under this analysis, traditional organizations and institutions are “disengaged from the dynamics of structural change.”

This approach is inherently Eurocentric in that it views “structural transformation [as] a trajectory from traditional pre-capitalism to modern capitalism [in which] the former is inevitably and inexorably co-opted by the latter.” Drawing from the European experience, modernization theorists had concluded that “modernization” always originates in social struc-

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70. See Rostow, *supra* note 62.
71. See id. at 4-11 (summarizing five stages of economic growth).
73. Id. at 500.
tures characterized by inequalities based on some sort of inherited or kinship privilege, such as under monarchical rule. When viewed from the perspective of the French and American Revolutions, "pre-modern" or traditional societies seemed to have had historically common elements, such as a system of hereditary hierarchy. Thus, modernization was regarded as the process of the "destruction of these features of the old order and the consequent rise of equality..." 74

This perspective yielded an "oversimplified view of traditional societies, of modern societies, and of the transition from one to the other." 75 In reality, a significant contrast existed between pre-development in the post-colonial "developing" nations and pre-industrial Europe, a difference which Reinhard Bendix has summarized as follows:

Generally, the European nations began their development with a unification and centralization of governmental functions and an extensive diminution of group differences. This was a gradual development. The new states of the twentieth century face a more difficult task, because through imitation they have accelerated change, making it even more unmanageable. And from the start they are confronted with economic competition from already developed countries. Most of the newly sovereign countries arose from movements of independence, which appealed to all the people, and accordingly established regimes based on a universal franchise. Thus they began their political existence with the full complement of democratic institutions developed in Western Europe. But to achieve national identity and economic growth a national government appears indispensable. 76

Indeed, modernization theory was partially embraced by anti-colonial nationalists in African independence movements of the period. The ascendency of the United Nations in the post World War II period had "heralded a new approach to the question of colonies." 77 The imposition of rule by means of conquest came to be viewed as unjust, and the United Nations sought to promote the process of decolonization by formally "recognizing the rights of colonial peoples to self-determination." 78 Anti-colonial forces, therefore, accepted the nation-state as the basic unit within which political independence would be realized. Hence, just as the modernizing nationalist had presumed, the nation-state was adopted as a basic unit of governance in Africa.

74. Bendix, supra note 60, at 251 (discussing hallmarks of modernization).
75. Id. (discussing consequences of over simplification of modernization process).
76. Id. at 341-42.
77. Antony Anghie, Universality and the Concept of Governance in International Law, in LEGITIMATE GOVERNANCE IN AFRICA: INTERNATIONAL AND DOMESTIC LEGAL PERSPECTIVES 32 (Edward Kofi Quashigah & Obiora Chinedu Okafor eds., 1999).
78. Id.
In keeping with its anti-colonial origins, post-colonial leadership in Africa, however, partially rejected the notion that the new state should cede control of its economy to the external forces of the market. Nationalist parties feared that market forces would replicate imperial control and thus justified state involvement in the economy as necessary to address the inequities caused by colonial rule.79 Like New Deal liberalism in the United States, modernizing nationalists embraced the notion that the government could and should correct flaws in the market that nurtured glutinous monopolies by regulating the economy to provide some assurance of equitable prosperity. It developed as an ideology that mediated between a Western Keynesian-inspired welfare state and African nationalism. A synthesis was evidenced in a combination of modernizing and egalitarian, redistributive commitments adopted by nationalists in the immediate post-independence era. This redistributive “modernizing” was seen as distinguishable from “Westernization.”80 While the latter involved imbibing values associated with the West, such as individualism, modernization involved borrowing or adapting the technological aspects of industrial society with a view towards achieving high productivity in their own industrial and manufacturing sectors.

As distinguished from other theories, modernization viewed the integration of the developing world’s plural and agrarian societies of the developing world into viable political and economic systems as “fundamentally a process internal to society, rather than a process driven by external forces.”81 Secondly, modernization regarded viable rule and economic performance as “mutually reinforcing.”82 Thirdly, modernization associated “effective governance” with “democratic rule or at a minimum, with the existence of institutions . . . that are accountable to the people they purport to serve.”83

The popularity of modernizing nationalism was influenced by the Keynesian consensus of the time. African economists and finance ministers of the early post-colonial period had been trained in Keynesian economics.84 Additionally, support for the role of the state in economic regulation was appropriate in light of the redistributive goals of newly independent regimes which had only recently regained control over their own property and sought to provide universal employment. As a practical measure, modernizing nationalism embraced Keynesian, state-inspired,

81. Barkan, supra note 69, at 87.
82. See id. (discussing modernization in society).
83. Id. at 87-88.
problem-solving governance. In contrast to good governance, which uses the market as the mechanism for "managing" the African, the state itself was the locus of power. With modernizing nationalism, the assumption is that the African "needs" the benevolent direction of the one-party state, to which they should owe total loyalty.

Another contemporary influence on modernizing nationalist economic policy was the example of Soviet growth achieved through central planning. The anti-imperialist ideology of the Soviet Union was understandably attractive to African leaders in the 1950s and 1960s. The Soviet model provided an alternative to a Western-style market, ostensibly designed to avoid its problems, which coincided with the establishment of African socialism as an assertion of national identity and commitment to solidarity. Unlike Western ideology, which idealizes the transparency and openness of the market and denigrates the notion of a state-controlled economy, modernizing nationalism laid down a series of justifications which legitimated the role of the state's role in the economy to address market failures and undertake social reform. Throughout the 1960s and into the 1970s, capitalistic development as applied in Africa was more concerned with ensuring social order and stability than with ideals of liberty and democracy.

Although a step in the right direction, modernizing nationalism nonetheless "resemble[d] in important respects the projects articulated by nineteenth century thinkers and undertaken by imperial powers, that of converting the non-Western world according to models authored by the West, and creating conditions in which powerful Western interests may expand their economic strength and reach." Africans were expected to relive the European experience from agrarianism to the industrial revolution and contemporary Africa was analogized with the Europe of 500 years earlier. In this respect, modernization theory, unlike modernizing nationalism, profoundly misunderstood the significance of the changes wrought during the colonial period.

Modernization theory, while perhaps historically accurate in the European context, was inapplicable to the African situation because it failed to acknowledge that African countries had in the meantime developed laterally in a manner related to the former colonial power and, thus, would not be making the classic transition from tradition to modernity. At independence, the newly self-governing regimes had inherited a framework of laws, systems and structures set in place by the colonial powers. As


87. Anghie, supra note 77, at 38.
L.H. Gann has observed, drawing on his own contemporary experiences in sub-Saharan Africa:

Imperial conquest involved countless alliances and counter moves. In their own interest... the imperialists created an indigenous sub-elite of African interpreters, clerks, teachers, medical assistants, evangelists, army sergeants, and police officers. Without them imperial rule could have been neither established nor ended, and they ultimately took over its legacy. It was the European impact which helped to create wider than tribal loyalties.88

Hence, it is only fair to state that modernizing nationalists in Africa rejected the simplistic transition of their countries from tradition to modernity as was presumed by modernizing theorists.

For example, modernization theorists tried to sweep colonialism under the proverbial rug and, with almost missionary zeal, attempted to "convert" Africa overnight to membership in their global market faith.89 To this end, they also ignored the nature of community-based systems which called for the development of populist statecraft and concentrated instead on imposing a system of market regulation inappropriately reliant on the assumption that all Africans have equal individual bargaining power. Robert Brenner has aptly criticized this premise, which he dubs the "myth" of the homo economicus—an extra-historical assumption that wherever there is a market there must be individual profit maximizers all competing at will, free from any exploitation by the political or social system.90 Modernization theorists had similarly assumed that development always progressed coextensively with the institutions of Western capitalism with "each stage more or less predetermined along sequences established by the West."91 In reality, however, the imposition of a Eurocentric paradigm may breed disempowerment of those whose position is precarious or disadvantaged and whose inequality stems from deeper sources.

Indeed, by the late 1960s,

[t]he self-assurance and faith in progress that characterized modernization theorists in the 1950s and early 1960s... succumbed to a deep pessimism, prompted by the failure of developing countries to progress economically as predicted, and by the disintegration of political institutions and the proliferation of authori-

89. See Killick, supra note 86, at 380 (noting importance of rapid economic growth).
91. Cao, supra note 64, at 549.
tarian and military regimes, belying [modernization] theory's assumptions about political development.92

As Colin Leys points out in *Confronting the African Tragedy*:

Exactly why so much of Africa should be in this situation remains to be properly explained, and the determinants undoubtedly vary significantly from country to country. A central part of any general explanation, however, must be the failure of the colonial regimes to transform the relations of production . . . . Part of the reason for this was undoubtedly the sympathy that some, perhaps many, colonial governors and their officers felt for the people under their control, and the steps they took to limit the speed and extent of their exposure to the pressures of “world market forces.” But another part of the reason was the unwillingness of the colonial powers—Britain and France, at any rate—to pay the military, [the] financial and diplomatic price of superintending the mass dislocation and conflict that would have resulted in Africa from a rapid programme of converting land and labour into commodities. Either way, the result was to destroy the precolonial economies and the social orders based on them, without putting in their place economies or social systems capable of defending themselves against ‘world market forces’ after independence.93

A. Dependency Critiques: The Impossibility of Modernity—De-Link or Stay-Put

The notion inherent in modernization theory that the newly independent African nations would be transformed overnight was completely discredited by the late 1960s, when worldwide frustrations with the stilted development of post-colonial economies were distilled into a formula known as dependency theory.94 Dependency theory is the third point along my genealogical map towards good governance.95 Dependency theory is a neo-Marxist critique of modernization that based its analysis of failed African economic development on two tenets: Africa was too far in the “periphery” of the global economic system and it was too dependent


94. See Tamanaha, *supra* note 92, at 477 (discussing how “dependency theory filled the void left by the collapse of modernization theory”). Dependency theory is based on the premise that “sources of underdevelopment were to be found in the history and structure of the global capitalist system.” *Id.*

95. For further discussion of the first two points along the genealogical map towards good governance, see *supra* notes 7-94 and accompanying text.
upon the "center," subjected thereby to a multinational corporate hegemony.\(^{96}\)

Although developed in the Latin American context, dependency theory was invoked in the 1970s to cast blame for the failure of industrial and technological development in sub-Saharan Africa on external relations of dependence within the international economy. The theory had evolved as a means of explaining the growth of underdevelopment. Andre Gunder Frank postulated that dependency was not a "natural" state.\(^{97}\) Rather, the typical features of poverty and backwardness which are found today are the historic creation of Western capitalism, which penetrated and transformed "traditional" societies from the sixteenth century onwards . . . . Formal colonialism may have ended, but neo-colonialism has taken its place and has strengthened its hold by an alliance between multinational corporations and the bourgeoisie.\(^{98}\)

Dependency theories explained the economic predicament of developing countries on at least two major grounds, expounded by the Latin American dependentistas such as Frank and Henrique Cardoso, and economists such as Samir Amin.\(^{99}\) The first view holds developmental failure to be the result of a "peripheral" position within the international capitalist economy, which made developing economies vulnerable due to disadvantageous terms of trade for their unprocessed or raw materials, changes in international prices affecting their few exports and reliance on one or a few trading partners and suppliers of aid, investment and loans.\(^{100}\) The second is that dependency results from a conflict of interest between transnational corporations and countries with developmental needs.\(^{101}\)

In essence, dependency is an alternative theory of structural transformation, which, unlike modernization, focuses on external rather than in-

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96. See Tamanaha, supra note 2, at 477 (summarizing image projected by dependency theory as "that of a Western core and developing periphery, whereby the wealth of the former is based upon keeping the latter in a state of permanent dependency and underdevelopment").

97. See Hopkins, supra note 59, at 28-29 (discussing "the development of underdevelopment").

98. Id.


100. See id. at xvii, xxi-xxii (discussing difficulties of countries with peripheral economies).

101. See Samir Amin, The Class Struggle in Africa, Revolution 23-47 (discussing colonial influence on developing countries). See generally Frank, supra note 79, at 4-17 (noting relevance of learning about economic and social history when analyzing underdevelopment); Andre Gunder Frank, Capitalism & Underdevelopment in Latin America: Historical Studies of Chile and Brazil (1967) (discussing economic and political problems in capitalist development and underdevelopment in Latin America).
ternal influences. In contrast to modernization theory, which "attributed economic backwardness to internal constraints in 'traditional societies' and presumed that external contacts would be instrumental in removing [internal constraints]," dependency theorists cited external constraints, arguing that those economic "links" constituted "chains of dependence and inequality between a privileged core and an exploited periphery."102 This theory of dependence takes different forms; some regard it as a vulnerability to foreign capital, others as an inability to develop due to an inherent international conflict of interest. Cardoso's analysis, for example, posits the difficulty of differing "terms of trade." Followers of Amin argue that the "dualist" international system mirrors the "systematic exploitation of the peasantry by the market sector."103 The Frankian viewpoint similarly examines the creation of "peripheral capitalism" by which African economies are seen to have become marginalized from the mainstream global economy: "[G]lobal merchant and finance capital penetrate African economies at will. During this process, the traditional system serves principally as a reservoir of cheap inputs (natural resources and labor) and as a destination for cheap outputs."104

Amin, in particular, criticizes Rostow's stages of modernization/industrialization, outlined above—traditional, pre-takeoff, takeoff, drive to maturity, mass consumption—describing them as "totally absurd" because they are each "define[d] rigidly, universally, and in 'economistic' terms."105 For Amin, the "essential error" of modernization theorists is that underdeveloped countries are seen as being like the "developed" ones at an earlier stage of their development. In other words, the essential fact is left out, namely, that the underdeveloped countries form part of a world system, that the history of their integration into this system forged their special structure—which thenceforth has nothing in common with what prevailed before their integration into the modern world.106

In Amin's view, underdevelopment is revealed by "(1) unevenness of productivity as between sectors, (2) disarticulation of the economic system, and (3) domination from outside—three [structural] features that are clearly not 'traditional' in character."107 Amin concurs with Frank:

It is impossible . . . to find in the world of today any country or society which has the characteristics of Rostow's first, the tradi-

102. Hopkins, supra note 59, at 29.
103. LOGAN, supra note 72, at 499.
104. Id.
106. Id.
107. Id. at 15.
tional stage. This is not surprising, since the construction of Rostow's stages takes account neither of the history of the new underdeveloped countries nor of their crucial relations with the new developed ones over several centuries past. 108

Minor distinctions among Frank, Cardoso and Amin notwithstanding, dependency theory presents the undeveloped countries of Africa, Asia and Latin America as physically and conceptually marginalized—as passive non-actors. Similarly, modernization theorists postulated these undeveloped countries as inert and, as such, ready to be shaped and reshaped by market forces that are believed to "initiate and perpetuate structural change." 109 A general summary of the common aspects shared by various versions of dependency theory might include the following "factors that create a relationship of dependency of the periphery upon the centre": 110

(i) heavy penetration of foreign capital, mainly direct investments by multinational corporations (MNCs) resulting in a large return/profit flow to the center;
(ii) unbalanced reliance on the export of a few primary products;
(iii) centre-periphery trade characterized by "unequal exchange";
(iv) imported technology inappropriate to the needs of the masses;
(v) symbiotic relationships between local elites and foreigners; and
(vi) economic penetration influences the political, social, cultural and educational realms. 111

"The charge that trade and conquest are linked in a manner detrimental to developing nations but beneficial to Europe was first articulated by Karl Marx in the nineteenth century." 112 Marx had similarly criticized classical economists for focusing their theoretical inquiries towards patterns of distribution as opposed to their relational foundation. 113 The remedy for focusing their theoretical inquiries towards patterns of distribution in appreciating the relationship between industrialized and non-industrialized countries was to focus on the relational foundations of distribution. 114 According to Amin, as long as agriculture in the periphery is not de-linked from world food market prices, and industrialization in the periphery is not de-linked from external technology and finance, the fail-

108. Id. at 8.
109. Logan, supra note 72, at 499.
111. See id. at 372 (listing factors that create dependency).
112. Cao, supra note 64, at 551.
114. See generally Samir Amin, De-Linking: Toward a Polycentric World (Michael Wolfers trans., 1990) (discussing economists' focus on distribution patterns).
ure of development in the periphery will be manifested in increasing dependency.115

Nonetheless, dependency theory fails to recognize that unilateral delinkage by the African nations has never been a feasible option. The movement was afflicted with the same understatement of colonial historiography that characterized modernization theory. The image projected was that of “a Western core and developing periphery, whereby the wealth of the former [was] based upon keeping the latter in a state of permanent dependency and underdevelopment.”116 Thus the influence of outside control as the source of problems in Africa was unduly overstated, while internal issues were unduly trivialized. Dependency theory also did not address crucial African religious, social and ethnic identity issues. Nor could it account for the “wide disparity among developing countries in the rate and nature of development [that] could be explained only by factors internal to each country—precisely as modernization theory had argued.”117 Its simplistic Marxist formula “designated the dynamics of capitalism and class as the exclusive explanatory factors.”118 This formula converted many into supporters of dependency theory, but proved to be insupportably abstract.

Dependency theory has been criticized, in particular, by Robert Brenner, who argues that economic development is actually an outcome or product of the established structures of class relations within a society. According to Brenner, traditional themes of economic change have been inaccurate—both the “commercial” model, focusing on trade/market penetration and private property/contracts and the “demographic” argument that changes in the economy can be explained by shifting availability of labor, which incorrectly presupposes that labor is free to follow the “laws of supply and demand.”119 Brenner instead argues that “it is the structure of class relations, of class power, which will determine the manner and degree to which particular demographic and commercial changes will affect long-term trends in the distribution of income and economic growth—and not vice versa.”120

In Brenner’s view, Frank and the other dependenistas erred in following the Marxian tradition by displacing class relations from their analyses of economic development. Assuming that capitalist market expansion will bring about an inevitable transformation to a capitalist class structure, it

115. See generally Samir Amin, Re-Reading the Postwar Period: An Intellectual Itinerary (Michael Wolfers trans., 1994) (analyzing why history of capitalist expansion has been marked by polarization on a world scale).
116. Tamanaha, supra note 92, at 477.
117. Id. at 478.
118. Id.
120. Id. at 11.
fail[ed] to take into account either the way in which class structures, once established, will in fact determine the course of economic development or underdevelopment over an entire epoch, or the way in which these class structures themselves emerge: as the outcome of class struggles whose results are incomprehensible in terms merely of market forces.\textsuperscript{121}

This misguided method was systematized, Brenner argues, in Immanuel Wallerstein's treatise.

B. \textit{The Origins of the Modern World System}\textsuperscript{122}

Wallerstein's thesis that capitalist development is functionally equivalent to the development of a trade-based division of labor, was actually a throwback to the model originally set forth by Adam Smith in \textit{The Wealth of Nations}.\textsuperscript{123} Smith's classic theory accounts for the development of a society's wealth by its separation of tasks, a specialization of production between the agriculture and manufacturing sectors, which naturally develop interdependent trade relations limited by the size of the "market"—the accessible geographical area and population.\textsuperscript{124} For Brenner, the flaw in the Smithian model is that it takes for granted the premise that labor power can be easily transferred from agricultural to manufacturing, and vice versa, in response to market opportunities. This transfer system assumes there are no barriers to market mobility, such as serfdom or slavery.\textsuperscript{125} Moreover, classic studies of the economic relations in barrier societies between the peasantry and the aristocracy, have traditionally failed to question or explain why it was that the peasants were the peasants and the aristocrats the aristocrats in the first place.\textsuperscript{126}

Because capitalist development has historically coincided with the decline of feudalism, the possibility that non-feudal modern barriers may still exist in non-European nations has not been sufficiently explored. Wallerstein, for example, postulated that there have only been two types of global systems—world empires and world economies—and that participation in the global market was to be preferred over the imperialist system because it is allegedly free of a dominant, surplus-extracting bureau-

\textsuperscript{121} Brenner, \textit{supra} note 90, at 27.

\textsuperscript{122} It should be noted that Wallerstein himself has since admitted that his attempts to come up with a history of capitalism were Eurocentric in that they assumed all nations follow the same trajectory. See \textit{generally} Immanuel Wallerstein, \textit{Eurocentrism and Its Avatars: The Dilemmas of Social Science}, 226 NEW LEFT REV. 93 (1997).

\textsuperscript{123} See \textit{id.} at 104 (discussing Adam Smith's view that humans have propensity to barter and trade).

\textsuperscript{124} See Brenner, \textit{supra} note 90, at 33-34 (discussing relationship between lords and peasants).

\textsuperscript{125} See \textit{id.} at 33 (discussing feudal restrictions on mobility of land).

\textsuperscript{126} See \textit{id.} at 35 (stating that distribution of power "cannot be explained in terms of demographic/economic supply and demand").
cracy.\textsuperscript{127} The modern global system, however, may not fit into any prior model. It has been suggested that global communications, cross-border environmental concerns and the end of the Cold War have been chipping away at classic notions of sovereignty and thus revealing an unprecedented scenario of global interdependence. Similarly, although the welfare state must, by nature, involve a negotiated compromise between owners of labor and owners of capital, historical analysis have focused on the symptoms of coercive production, without acknowledging that these systems depend upon and stem from an autonomous social order, which itself places limits upon and remains resistant to economic forces.\textsuperscript{128}

One such limiting and resistant force which has been somewhat ignored in the context of African developmental economics is the incidence at the state level of corruption. In the immediate post-colonial period, Westerners studying Africa were wary of openly criticizing the fledgling governments. As one Africanist L.H. Gann lamented, with Peter Duignan in 1960: “We were basically alone in predicting that newly independent Africa might have to cope with military coups, corruption, ethnic strife and other afflictions. The great majority of Africanists, particularly in the United States, did not wish to criticize the new countries, lest they be regarded as racists.”\textsuperscript{129} Their conciliatory attitude was to “give them a chance,” and the era was characterized by early optimism.\textsuperscript{130} Consequently, there was less criticism of corruption in this early period than perhaps there should have been. Both modernizing nationalism and dependency theory similarly avoided corruption issues, perhaps in order to put a good face on the African State.

\[T\]hese . . . schools of thought tended either to have an ahistorical approach, or unrealistically short-term perspectives. Modernizers were largely uninterested in history of any kind, and imagined Africa catching up with the West in a generation or two, helped by the advantage of having western technology available to them. \textit{Dependentistas}—at least in some cases—imagined some kind of alternative path of “autocentric” development, following “delinking”; and some Marxists imagined Cuban or Chinese-style revolutions. Few theorists of any these persuasions expected the post-colonial states of all ideological stripes to be corrupt, rapacious, inefficient and unstable, as they have almost all been. Most saw these things as aberrations, distortions and pathologies, and often tended to resort to single-factor or reduc-
tionist explanations of them. And their hopes have been only too deeply disappointed.\textsuperscript{131}

It was not until the contemporary fad good governance proposal that corruption was openly addressed, following the lead of political scientists who were themselves African. Thus, good governance, unlike either modernizing nationalism or dependency theory, zeroes in on the state of the African State.

In analyzing the sequence of these ideologies, one may observe certain continuities and discontinuities; however, it is clear that the results of these programs depend upon how the process is structured. As Samir Amin observed:

There is for sure a "logic of the market," going along with supporting the interests of major dominant capital. But there are also logics of social, human and developmental needs. History of modern times is a history of struggles leading to historical compromises between these conflicting logics. The Welfare State, the national development projects of modernization and even Sovietism were expressions of such compromises. Together, they made possible a "controlled globalization."\textsuperscript{132}

For the sub-Saharan nation in the global context, the compromise has thus far been presented as a choice between "de-linking" from an exploitative regime in order to pursue a risky venture of socio-political entrepreneurism, or staying put and focusing instead on how the rules of the game can be adapted to make it a better player. Nonetheless, as we experience the transition to the good governance agenda, we must bear in mind that Third World countries are so financially indebted to the West that they have no choice but to stay put in the global system. This indebtedness has now given institutions such as the World Bank the leverage to determine the terms and conditions under which these countries gain access to international markets' finance and technology.\textsuperscript{133} Unlike dependency theory, good governance advocates staying put in the market. It also presupposes, however, that liberal democracy is the final form of all human government and that the Western market is the best guarantor of human progress.

V. \textbf{Displacing Modernizing Nationalism/Dependency: Good Governance as the Idea of the 1990s}

In the 1990s, the term governance became widely accepted as "a guiding principle to advance the conceptualization of contemporary African

\textsuperscript{131} Id. at 41.
\textsuperscript{132} Amin, supra note 115, at 4.
processes.” Since then, a wide range of economic and political themes have been regarded as falling within the rubric of good governance. According to World Bank publications, bad governance lies at the heart of poor economic and political performance in post-colonial sub-Saharan Africa.

As promoted by the leading international financial institutions and bilateral donors since the late 1980s, good governance is an uneasy combination of two main objectives: on the one hand, a project limiting the power of the state in the economy while simultaneously expanding the role of the market and on the other, establishing liberal democracy as a counterpart to structural adjustment or neoliberal economic reform. Good governance can, therefore, be regarded as a vehicle for market governance through a small state and its attendant liberal democratic commitment to confining democratic practices to the political sphere without simultaneously extending it to the economic sphere.

The good governance agenda is a reconceptualization of orthodox structural adjustment or macroeconomic reform and stabilization. Under this agenda, orthodox structural adjustment remains a primary objective—increasing the productive capacities of the private sector as the engine of economic growth, or releasing market forces from the clutches of regulatory controls. Releasing market forces within this framework is premised on the protection and enforcement of the private rights of property and freedom of contract and exchange by using a system of public law. There are at least two major roles assigned to public law and policy here: first, to protect private property against re-distributive interventionism and second, to enforce contracts.

When orthodox structural adjustment was initially implemented in sub-Saharan Africa in the early 1980s, its critics noted that attempts at macroeconomic reform or stabilization, without regard to the institutional, political and administrative mechanisms supporting these reforms, were not likely to result in revamping economic growth. While the programs of orthodox macroeconomic reform were technically sound, sub-Saharan African economies lacked the institutional, political and administrative mechanisms to support them. In consultation with critics from sub-Saharan Africa and other consultants whose work examined the institutional, political, and administrative contexts within which the economy operated, the World Bank adopted this wider agenda within the ambit of

136. See generally Gathii, supra note 2, at 107 (discussing role of private property rights and freedom of contract in good governance agenda).
137. See, for example, World Bank, Africa's Adjustment and Growth in the 1980s (Washington D.C., 1989).
orthodox structural adjustment.\textsuperscript{138} This reconceptualization of orthodox structural adjustment programs came to be known as good governance.\textsuperscript{139} The objective of the good governance agenda was not to abandon orthodox structural adjustment reform, but rather to address the criticism that it was too narrowly focused on economic reforms to the exclusion of the institutional, political and administrative context that is considered necessary for their success.\textsuperscript{140}

Below, I critically explore how the good governance agenda discredits modernizing nationalist economic and political policies and praxis, the various components of the good governance agenda, how this agenda links these components (economic, political, institutional and administrative mechanisms) to the likelihood or inevitability of economic growth and/or underdevelopment; and the limitations underlying these linkages.

A. Modernizing Nationalist Economic and Political Policies and Praxis

Good governance reforms are usually justified as antidotes to the economic policies of modernizing nationalists. Modernizing nationalists on this view are regarded as bearing the responsibility for formulating self-interested economic policies at the expense of the interests of the majority of the people of independent, sub-Saharan African countries. The good governance agenda, by contrast, represents itself as a neutral reform movement. Yet, as I argue in this Article and elsewhere, both good governance and modernizing nationalism operate within a common ideological structure.\textsuperscript{141} This structure transcends some of the differences between them. For example, although both modernizing nationalism and good governance are often thought of as alternatives, they share a commitment to strong governing institutions, albeit in different senses. While modernizing nationalism was committed to strong authoritarian governments that coercively imposed their preferences on dissenting groups, the good governance agenda involves transferring public authority to the private

\textsuperscript{138} See World Bank, Governance and Development 4-5 (1992) [hereinafter Governance and Development] (discussing World Bank's role in addressing economic reform and nurturing political consensus for reforms).

\textsuperscript{139} See World Bank, Governance: The World Bank's Experience, at vii-ix (1994) [hereinafter Governance: The World Bank's Experience] (concluding that "[g]ood governance is epitomized by predictable, open, and enlightened policymaking . . . , a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs").

\textsuperscript{140} See World Bank, Managing Development: The Governance Dimension—A Discussion Paper, June 26, 1991 Governance and Development, supra note 138, at 1 ("Failure to involve beneficiaries and others affected in the design and implementation of projects can substantially erode their sustainability."); Governance: The World Bank's Experience, supra note 139, at vii-ix (discussing accountability of economic and social dimensions of governance to produce change).

sphere, which is itself no less coercive than government-imposed regulation. Such common features however, are often overlooked. Similarly, the state still remains as central in supporting and operating the economic, political, legal, administrative and institutional reforms in the good governance agenda as in the agenda of modernizing nationalism.\(^{142}\) This is because the market does not create the conditions for its own existence, but rather, depends on the state to create a public law system to safeguard the privacy and efficacy of relations in the private marketplace. Both states and markets, as conceived and organized within modernizing nationalism and good governance, also immiserate the poor while protecting the powerful.

The good governance agenda also seeks to discredit the view, held within dependency theory and widely accepted within modernizing nationalism, that external relations of dependence within the international economy explain the failure of industrial and technological development in sub-Saharan Africa. By contrast, among those adhering to the good governance agenda, the failure of technological and industrial development in sub-Saharan Africa is explained as a deviation from the developmental path through markets ostensibly followed by European countries and the United States. Sub-Saharan African countries are likewise blamed for failing to adopt appropriate policies at home—such as strengthening exclusive ownership rights and property relations, eliminating legal and other barriers to local, regional and international trade, and privatizing publicly owned enterprises. In the good governance agenda, the primary agent of change is the autonomous, creative entrepreneur operating within a free market. Paradoxically, the primary locus of policy, for better or worse, is the nation-state. These good governance prescriptions are very much a throwback to the ideas of modernization theorists.

Good governance adherents, however, do not acknowledge their connection to modernization theorists, and rather focus on critiquing modernizing nationalist economic policy. They regard modernizing nationalism as a homogeneous body of thought and praxis. Nonetheless, these criticisms are incomplete and misleading. Modernizing nationalism was a complex amalgam of ideas premised on, or influenced by, diverse strands of thought—from African conceptions of societal obligation to Keynesian-inspired, demand-management, macroeconomic policies. Modernizing nationalism had both undesirable and desirable features and consequences, which I will now examine.

Like the New Deal, modernizing nationalism was partially predicated on the idea that government should correct the flaws of the market economy and regulate it so that prosperity and equality would not be solely dependent on the market. Nonetheless, accounts associated with good governance understate this idea. Modernizing nationalist economic the-\(^{142}\) See \textit{World Bank, World Development Report} 3-4 (1997) (advocating its view of small but powerful state).
ory was based on a variety of economic and political theories, and arguments based on market failure are therefore only part of a larger complex picture. Market failure presupposes that government intervention in the economy is useful because markets do not work perfectly.

Market failure is associated with imperfections in the marketplace, such as informational asymmetries between market actors and the transaction costs associated with them, externalities, monopolies, and the nature of incomplete markets that characterize rural economies. These features, it was argued, could only be addressed by the state assuming a corrective role in the economy. Similarly, certain criticisms of stringent forms of market reform under structural adjustment programs have been criticized by the new development economists. These economists are careful to argue that their recommendations for corrective state involvement in the economy should not be read as an endorsement of the policies that have characterized postcolonial African economic governance.  

Modernizing nationalists were against the notion of free markets replacing constructive governmental intervention with respect to sub-Saharan African economies. This view is different from justifications of governmental regulation based on market failure. While good governance critiques portray African governments as irreparably corrupt and market distorting, modernizing nationalists saw the state as a locus of regulatory power in the marketplace for the promotion of altruistic and collectivist goals. In their view, restraints from interventions in the marketplace were an endorsement of the status quo.

Modernizing nationalists thus rejected the neoclassical mantra that presupposes that governmental interventions in the marketplace should be few and far between, if at all. Neoclassical economists assume that efficiency and market price are presumed to provide the ideal, and perhaps the only solutions to economic problems, and that the role of the government is reserved for exceptional situations where the market would be inefficient. There is a deep logic here—that economic governance should be predicated on the basis of perfect markets except in exceptional instances of market failure. Market failure is wrongly presumed to be episodic and aberrational, rather than systemic and integral in the economy.

By contrast, modernizing nationalists adopted an alternative view of the state's role in the economy. In their view, it was the role of govern-

143. See Robert Bates, Markets and States in Tropical Africa: The Political Basis of Agricultural Policies 1-2 (1981) (finding government policies contribute to problem of farming in developing countries); Robert H. Bates, Essays in the Political Economy of Rural Africa 1-2 (1983) (stating decline of African economies is related to limits of social change in rural Africa); Joseph Stielitz, The New Development Economics, in World Development 257-65 (1986) (emphasizing that improper government intervention in marketplace for reasons other than those concerning market failure has resulted in establishment of institutions, such as marketing boards, which produce low quality and high-priced goods and services resulting in misallocation of resources and in creating opportunities for corruption and rent seeking).

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ment to regulate the economy as an industrial strategy. Such a strategy involved the state controlling access to credit, foreign exchange and other key inputs as part of the industrialization strategy. Modernizing nationalism was also partly inspired by anti-colonial struggles. It rejected leaving the economic affairs of the new state to the impersonal forces of the market. The market was considered by many nationalist parties as a proxy for external colonial control. They justified state involvement in the economy as necessary to address the inequities created by colonial rule. These forms of anti-colonialism ranged from Africanizing the economy through preferential licensing, nationalization and giving subsidized loans and other subsidies to assist Africans in acquiring property formerly in the hands of white settlers and owners. These and other programs have often been criticized for favoring the well-to-do at the expense of the poor and, in so doing, betraying the nationalist anti-colonial commitment to correcting the imbalances created by colonial rule.

In Western-oriented sub-Saharan African countries, modernizing nationalism was also influenced by the Keynesian consensus of the time. Keynesian economics gave credence to programs such as full employment, which gave the state a role in economic regulation. African economists and finance ministers of the early post-colonial period were trained or exposed to Keynesian economics. Keynesianism was different from neoclassical prescriptions, which modernizing nationalists regarded as an integral part of the extractive nature of colonial economic governance. Modernizing nationalists, therefore, rejected reliance on the free market. In their view, the neoclassical assumption of the self-ordering nature of a market economy would endorse and reinforce the imbalances of wealth created by colonial rule both at the national and international level. In the last two decades, however, the Keynesian consensus has largely broken down. In the view of some of its critics, Keynesianism was wrongly premised on the idea that economic regulation was more successful than the market. By legitimating economic regulation, Keynesianism was criticized for its high correlation with inflation, inefficient use of resources, undermining entrepreneurial energy, and diminishing individual freedom. Critics of modernizing nationalism, therefore, recommended that Keynesianism should be abandoned in favor of orthodox structural adjustment because the unleashing of markets from regulatory controls would: first, give individuals a chance to define what the public interest was because they could express their choices in the marketplace; second, maximize individual prosperity and freedom because the market would allocate resources efficiently; third, create wealth from private enterprise that would trickle down to individuals; and fourth, give individuals the opportunity to purchase goods and services at prices determined by supply and demand

144. Mwai Kibaki, Kenya's first postcolonial Finance Minister was a graduate of the London School of Economics. His annual budgets were heavily inspired by Keynesian economics.
as opposed to governmental regulation. This critique of Keynesian economics and of the welfare state in Western Europe and the United States coincided with the conservative Thatcher and Reagan governments in the United Kingdom and the United States respectively, whose major themes were economic freedom, smaller government and personal choice. This conservative era was the formative background against which orthodox structural adjustment and neoliberal economics gained international ascendancy in the 1980s.

Another source of inspiration for modernizing nationalist economic policy was the experience of Soviet growth through central planning. The anti-imperialist ideology of the Soviet Union was an additional attraction for African leaders in the 1950s and the 1960s. The Soviet model provided an alternative to the Western-style market economies. This Soviet model was ostensibly designed to avoid the problems of Western-style market economies. Today, central planning is regarded with as much disfavor as modernizing nationalism. The end of the Cold War heralded the adoption of market economies as an antidote to central planning in the former centrally planned economies in Eastern and Central Europe and the former Soviet Union. However, the apparent disrepute of all aspects of command and control economies continue to be reconsidered. Not all aspects of this system were economically inefficient and wasteful.

Modernizing nationalists also justified their economic policies on broad notions of African and scientific socialism. The assertion of African socialism was both an anti-colonial engagement with the coercive reality of the international economic order, as well as an assertion of an African identity—part of an important postcolonial commitment to solidaristic and communitarian values. This assertion of African identity was part of the larger anti-colonial project of rescuing African identity from the degrading assumptions of backwardness and inferiority in colonial and imperial accounts. African identity now rose to the status of inspiring pride as a national way of life. Good governance accounts discredit the assertion of the uniqueness of Africa or the African identity. They argue that there is nothing unique about Africa to immunize it from opening its borders to


146. See id. at 22-23 (noting that economic distinctions in West are minimal).

147. See Republic of Kenya, African Socialism and Its Application to Planning in Kenya, Sessional Paper Number 10 (1965) (discussing objectives to create new Kenya through economic development). This document outlined Kenya's brand of African socialism to include: political equality; social justice; human dignity including freedom of conscience; freedom of want, disease, and exploitation; equal opportunities and high and growing per capita income, equitably distributed. A more radical group within the ruling Kenya African National Union ("KANU"), however, prescribed nationalization of property as a means of ensuring economic independence and greater Africanization of commerce. See Bildad Kaggia, Roots of Freedom: 1921-1963, at 160, 165 (1975) (stating goal to unite Africans as nation by severing tribal ties).
international trade and commerce, contrary to what modernizing nationalists claimed. Yet the assertion of identity by modernizing nationalists was itself an assertion of pride which had quite a different purpose. In addition to laying down a justification for state involvement in the economy, modernizing nationalists sought to address questions of poverty and inequality—an agenda that was low in the economic policies of colonial governors; it challenged the image of the African as backward, uncivilized and incapable of self-management. This assertion of African dignity cannot be understated bearing in mind the racist legacy of heresies, such as Hegel’s image of Africa and the assumptions of modernization theory.

As an ideology of the newly independent sub-Saharan African countries, modernizing nationalism also justified expansive executive power and authoritarian, one-party states which undermined and betrayed their anti-colonialism and their commitment to social reform. One particular way in which expansive executive power was justified was by reference to African culture and tradition. Modernizing nationalists often argued that notions of limited government and separation of powers were alien to the African cultural and political context. By glorifying African culture as an anti-colonial strategy, these nationalists used the stamp of culture and tradition to give authoritarian governance a measure of legitimacy. This tendency within modernizing nationalism to constitute national political communities on the basis of a shared and stable identity based on notions of repressed culture and tradition, had the effect of repressing and discouraging plural politics. The emergence of one-party states in many sub-Saharan African countries further closed the space for alternative or opposition politics. Anything other than deference to the one-party government was treated as dissidence. In addition, African culture was again used to justify entrusting chief executives with far-reaching, constitutionally entrenched powers. These ideas had currency in the West as well, where arguing against African democracy was considered insensitive to the newly won political independence of these countries. Tom Mboya, the then powerful Minister for Constitutional Affairs in Kenya, even published an article in Foreign Affairs, a leading mouthpiece on United States foreign policy, endorsing one-party governments. By the end of the 1960s, however, the rosy expectations of the post-independence era had disappeared


the party system is not a necessary part of democracy which is concerned with the views, wishes and interests of the individuals making up the nation. Democracy is not fundamentally or necessarily concerned with the existence or well-being of parties, which may represent either sections or cross sections of the population.

as African governments had either become dictatorial, authoritarian one-party states or taken over by military means.

As a confluence of ideas, therefore, modernizing nationalism resulted in laying down a series of justifications that legitimated the role of the state in the economy to correct market failures and for purposes of undertaking social reform, as well as in justifying expansive executive authority over civil society and other branches of government in addition to being a way of asserting a sense of African dignity.

VI. FROM MODERNIZING NATIONALIST POLICIES TO GOOD GOVERNANCE MARKET PRESCRIPTIONS

While modernizing nationalism takes in account the broader historical and international perspective of sub-Saharan Africa's economic predicaments, the good governance agenda presents a narrow explanation of reasons for the lack or failure of development by focusing too much attention on the internal policy failures within respective African countries. Such analysis primarily centers around the failure of African governments to adopt free market policies in the national economy—for example, through the adoption of import substitution policies at the expense of exports and providing subsidies to inefficient state-owned industries. There is also the claim that these policies will prevent authoritarianism by eliminating rent-seeking incentives. These accounts say little about other factors that form the broader context within which poor economic performance could be seen. These factors include the colonial history of artificially constructed states with populations having no shared history or sense of nationhood, dependence on outside capital markets, and the predominance of agriculture or mineral mining as the main economic activities. In short, analysis of the internal policies of the nation-state cannot be analytically isolated from the larger international economy within which the nation-state operates. To analytically isolate the nation-state from the global economy, as the good governance agenda does, also suggests that sub-Saharan African states are morally culpable for their present condition. This, however, does not and should not give credence to scapegoating international dependence as the sole reason for sub-Saharan Africa's economic problems. Such simplistic explanations are refutable, in part, on account of the nature of African dependence on the West. In addition, such simplicity could easily be construed as an attempt to guard sub-Saharan African institutions and the policies and praxis of modernizing nationalist economic policy from criticism.

Good governance accounts demonstrate a significant distrust of African leadership. While dictators such as Uganda’s Idi Amin and Emperor Bokassa of the Central African Republic are remembered for their senseless and murderous leadership, these experiences should not be used to discredit the ability of Africans to govern themselves without external su-
pervision. Yet, not even the economic policies of modernizing nationalists who were not as destructive as Amin or Bokassa, offered any radical programs of social reform or democracy. Any commitment to radical social reform and democracy ought to reach all hierarchies of wealth and power at the individual, national and international levels. Neither modernizing nationalism nor good governance offer such prospects for radical social reform or democracy.

Increasing the productive capacities of the private sector as the engine of economic growth is the primary goal of orthodox macroeconomic adjustment of the good governance agenda. The release of market forces from the clutches of regulatory controls of modernizing nationalist economic policy is a primary policy goal. Protection and enforcement of the private rights proceed from a number of assumptions. First, good governance contends that economic growth is best attained through maximizing unrestrained, private initiative and entrepreneurship without interference by the state. Second, sub-Saharan African countries have a history of perverse state intervention in the economy which can only be arrested by resorting to private initiative. Third, economic freedom in the private sphere is presumed to be a necessary condition for political freedom. And fourth, the greatest threat to economic growth is government regulation of the economy, while the absence of such regulation in the private sphere implies economic and political freedom.

The good governance agenda, therefore, proceeds from the assumption that improvement of public governance is a prerequisite to the promotion of competitive or market capitalism. Private enterprise is best realized by a supportive system of public governance. Such a supportive regime of public governance has, at times, been referred to as an "enabling environment" for economic growth.

The Bretton Woods institutions, the biggest promoters of the good governance agenda, place a high premium on the lack of free markets, facilitated by a supportive framework of public governance, to explain economic failure in sub-Saharan African economies. By contrast, African governments, United Nations agencies such as the United Nations Commission on Africa, and other critical observers proceed from the view that the historical and international economic context are significant explanations of economic failure within sub-Saharan Africa. One school of thought in this critical tradition holds that sub-Saharan Africa's socio-economic system is incapable of development and cannot "become a viable and reliable means of general progress." This view sharply contrasts with the good governance optimism which supports the view that public


governance within a free market economy forms a reliable foundation for a better economic future. Briefly, according to this critique, short of a major shift in Africa's place within the global economy, policy changes at the domestic level will fall short of laying a foundation for improved economic performance.

The Lagos Plan of Action of 1980, hereinafter the "Lagos Plan," prepared by African governments under the auspices of the Organization of African Unity and the Economic Commission on Africa, identified external economic dependence as a major factor in Africa's poor economic performance.151 The report recommended a reduction of sub-Saharan Africa's external dependence on Western countries and capital and a replacement of this dependence with a self-sustaining development strategy based on maximum internal use of the continent's resources.

By contrast, in 1981, in its first major report on the economic crisis facing sub-Saharan Africa in the 1970s, the World Bank's, *Accelerated Development in Sub-Saharan Africa—An Agenda for Action*,152 (the "Berg Report"), prepared in consultation with African finance ministers, placed major emphasis on improper economic policies pursued by sub-Saharan African governments as the primary cause of its poor economic performance.153 It proposed a market-based economic strategy founded on outward or export-led growth.154 While the Lagos Plan of Action recommended an economic strategy based on "maximum internal use of the continents resources," the Berg Report, by contrast, spoke of the efficient use of these resources and the integration of sub-Saharan African markets into the international economy.155

The Berg Report put efficiency at the center of the analysis of "domestic policy deficiencies and administrative constraints"156:

The focus of the analysis is on the efficiency with which resources are used. Economic growth implies using a country's scarce resources—labor, capital, natural resources, administrative and

154. See *id.* at 483 (emphasizing Berg Report's recommendations).
155. See *id.* at 512 (noting solutions recommended in Berg Report).
156. See *World Bank, Agenda For Action* *supra* note 152, at 24 (stating "domestic policy deficiencies and administrative constraints have also been important . . . and will continue to block economic progress unless changes are made"). Domestic policy constraints, deficiencies and administrative constraints are defined to include: trade and exchange rate policies, the planning and decision-making context in which public policy is determined and resources are allocated, organization and management of the public sector and implications of the size of government on economic expansion. See *id.* (discussing changes in world economy affecting Africa's economic growth).
managerial capacity—more efficiently. Improving efficiency requires, first, that a country produce those things which it can best produce as compared with other countries and, second, producing them with the least use of limited resources. While the analysis which follows will be restricted to these efficiency considerations, it is recognized that policymaking inevitably has to embody wider political constraints and objectives. However, the record of poor growth in most sub-Saharan African countries suggests that inadequate attention had been given to policies to increase the efficiency of resource use and that action to correct this situation is urgently called for.  

Efficiency of resource use is thus a central concern of the World Bank’s orthodox program of macroeconomic reform. This focus on efficiency reflected the application of concepts of neoclassical economics in assessing macroeconomic policies. By contrast, in the 1960s, the World Bank focused on how African economies could mobilize growth through industrialization and planned development through policies such as the mobilization of resources from the agrarian sector, infrastructural development, and import substitution policies that put the government at the center of the process. In sub-Saharan Africa, this resurgence of neoclassical economics had a primary focus on getting prices right, export-led growth and on efficiency. This focus on efficiency is associated with the rise of supply-side economics, which is associated with at least two elements: first, with the “structure of incentives and markets, the role of government, and ownership patterns; and second, sectoral restructuring with a move toward tradable (export) sectors.”

This neoclassical resurgence was critiqued by Western political economists and selected African intellectuals consulted by the World Bank for having no regard to the institutional, political and administrative context that was considered necessary for the success of the supply-sided structural adjustment programs. The World Bank later reconceptualized its or-

157. Id. (discussing efficiency in use of resources).
159. Id. at 540. Prior structural adjustment programs are regarded as having been based on the demand side alone—such as: real depreciations to induce a flow of resources toward the production of tradables, and broad aggregate targets, such as low inflation and (more prominently) balance of payments equilibrium. This emphasis came with a more global outlook, which favored capital flows, on the then-current scale, from the surplus countries to the deficit countries in order to facilitate the sectoral adjustment of the latter from non-tradable to tradables. Id. at 539.
160. See id. at 540 (noting adjustment programs create conflict in structure of economy). No single definition of structural adjustment programs is available. Hence, they have been defined as a “combination of supply and demand-side policies . . . directed toward the transformation of the structure of an economy in
thodox attachment to market oriented reform. This reconceptualization, referred to as good governance, proceeded from the assumption that although the programs of orthodox macroeconomic reform were technically sound, sub-Saharan African economies lacked the institutional, political and administrative mechanisms to support them. In consultation with critics from sub-Saharan Africa and other consultants whose work examined the institutional, political and administrative context within which the economy operated, the World Bank adopted this wider context as part of orthodox structural adjustment.

The objective of the good governance agenda was not to abandon orthodox structural adjustment reform, but rather to address the criticism that it was too narrowly focused on economic reforms to the exclusion of the institutional, political and administrative context that was considered necessary for its success. Good governance’s principal agenda is the improvement of public governance—to lay the groundwork for orthodox structural adjustment reform. Improving public governance means not only efficient use of land, labor and capital, but effecting administrative and managerial capacities as well. The good governance agenda was also designed as a rhetorical response to criticisms that its narrow focus on predicating macroeconomic policy on neoclassical premises frustrated the larger goals of development. African governments expressed concern that the issues contained in the Lagos Plan of Action, for example, would be eclipsed. The Lagos Plan of Action proposed to promote economic growth, trade and investment through economic integration and protected markets. The World Bank, by contrast, diplomatically acknowledged the Lagos Plan of Action, but was opposed to any protectionist policies because its market oriented proposals targeted the dismantling of barriers to trade.

response to serious disequilibria, aiming both to restore macroeconomic equilibrium and to restore microeconomic efficiency.” *Id.*


162. Teresa Hayter & Catherine Watson, *Aid: Rhetoric and Reality* 143 (1985) (remarking that efficiency is World Bank’s favorite word). Hayter and Watson argue that in World Bank terminology, the word efficiency is often a euphemism for capitalism. The Bank equates efficiency with capitalism, or with allowing market forces to operate more freely. Thus when, for example, it says in one of its reports on Peru that: “The principle of efficiency should then reach all sectors, but in particular agriculture” it simply means that market forces will be allowed to operate, marketing will be privatized, agricultural co-operatives will be broken up into small private parts.

*Id.* at 144.
In its 1989 report, *Sub-Saharan Africa: From Crisis to Sustainable Development*, the World Bank was emphatic that the primary obstacle to development in sub-Saharan Africa is in the administrative and political controls on the economy. Removal of these administrative and political controls is regarded as a prerequisite for the efficiency of governance institutions. According to this view, sub-Saharan African governments need better government, not less government and economic policies. Market reforms would be wasted if the political context were not favorable. Public institutions were a root cause of weak economic performance in sub-Saharan Africa. According to the report, successful implementation of free market reforms needed to be accompanied by good governance. Good governance was defined as including an efficient public sector, a reliable judicial system and an administration accountable to the public. Improvement of public governance is thus equated with efficiency.

Administrative and political controls on the economy or with markets domestically and internationally are, in a sense, equated not only with inefficiency, but also with bad governance and slowed economic growth. These controls on the economy are regarded as having provided opportunities for corruption, which, in addition to slowing economic growth, also resulted in the inability of sub-Saharan African governments to command the legitimacy of their people. In summary, the report concluded that “a crisis of governance underlies the litany of Africa’s development problems.”

As a policy objective, efficiency gives precedence to economic growth over economic regulation for social reform. In a sense, the good governance agenda promotes efficiency as an antidote to the failed economic nationalism of modernizing nationalists. Yet, as we have seen, this reading of modernizing nationalist economic policy is incomplete and inaccurate. While modernizing nationalist economic policies and praxis were not free of problems, most of all on grounds of efficiency, free markets are not themselves free of the coercive realities of state power. Hence, even efficient economic policies result in coercive outcomes by making routine the unequal bargaining power inherent in market transactions. The coercive

164. See id. at 55 (discussing need for government to apply strategy to strengthen institutions in both public and private sectors).
165. See id. (noting weakness of Africa’s public administration).
166. See id. at 192
167. See id. at xii (stating “private sector initiative and market mechanisms are important, but they must go hand-in-hand with good governance”); see also Robert H. Bates & Anne Krueger, *Generalizations from the Country Studies, in POLITICAL AND ECONOMIC INTERACTIONS IN ECONOMIC POLICY REFORM* 460-67 (Robert H. Bates & Anne Krueger eds., 1994) (discussing avenues to implement reforms of marketplace using both political and economic solutions).
168. *SUB-SAHARAN AFRICA, FROM CRISIS TO SUSTAINABLE GROWTH*, supra note 163, at 60.
The character of economic transactions arises, in part, because initial resource endowments among parties, prior to their entry into a contract, may give one party an advantage over the other.

The legal recognition, protection and enforcement of such unequal bargains is a public endorsement of the economic coercion of the marketplace. In effect, the economic coercion of the marketplace becomes indistinguishable, at least in law, from the neoliberal assumption that economic regulation by the state is necessarily coercive. Efficiency then seems to mediate the preference for coercive outcomes in the marketplace as being superior to the coercion characteristic of economic regulation in the marketplace.

The central place of efficiency analysis in the good governance agenda plays a role in constructing nationalist economic policy as a case of deviance from \textit{laissez-faire} liberalism and its accompanying institutions and praxis. Sub-Saharan Africa’s deviance from \textit{laissez-faire} liberalism is central to legitimating the good governance framework through its reification of the private sphere as an arena of free and efficient bargaining that promises the best prospects for sub-Saharan Africa’s economic development. The greatest threat to this freedom and the prospects it offers for economic growth lie in the coercive power of the government. The projection of the postcolonial sub-Saharan African state as having gone through an inevitable stage of economic collapse and stagnation thus forms a contextual backdrop against which to justify \textit{laissez-faire} liberalism as a technocratic and rational antidote.\footnote{169} This projection infuses hope and confidence in \textit{laissez-faire} liberalism as insurance against political authoritarianism and its attendant loss of productive efficiency and individual freedom.

Various examples in the good governance agenda demonstrate that market outcomes are no less coercive than economic regulation of the economy, efficiency claims to the contrary notwithstanding. Take the example of the neoclassical preference for export crop at the expense of food crop production. The World Bank argues that food crop production is inimical to the goal of economic efficiency given the fact that most of sub-Saharan Africa has a “distinct comparative advantage in export crop production.”\footnote{170} Consequently, food production and food security is subordinated to export production, even if only in the “short run.”\footnote{171} To the person concerned with food security, it is troubling to note how the prominence of efficiency as an important imperative in economic policy results in justifying distributional outcomes inimical to the maintenance of food security in countries prone to drought, famine and low nutritional standards. As an observer noted, the World Bank was arguing that these effi-

\footnote{169} See generally Gathii, \textit{supra} note 1 (including several articles discussing good governance and Africa’s expansion).

\footnote{170} \textit{Agenda for Action}, \textit{supra} note 152, at 63-64.

\footnote{171} See \textit{id.} at 62 (noting link between increase in export crops with acceleration in farm production).
ciency analyses were incontestable and left "no room for discussion"—
growing food at the expense of export produce was economically ineffi-
cient.172 Understanding the distributional consequences of preferring ex-
port crop over food production, demystifies efficiency as a neutral,
apolitical criterion.173

The justifications advanced for the privatization of marketing of agri-
cultural commodities is another example that illustrates how efficiency
analyses are neither apolitical nor neutral, but, rather, ideological and ac-
companying by distributional consequences. The good governance agenda
favors the devolution of the marketing of agricultural commodities to the
"private sector, with its small-scale, decentralized and flexible struc-
ture,"174 since most consumers already pay "free market" prices.175 While
it may be true that the privatization of the marketing of agricultural pro-
duce is an important part of dismantling monopsonistic structures associ-
ated with depressing market price for producers, privatization would
result in "doubling and tripling urban food prices."176 Rather than lead-
ing to lower prices, as presumed under the neoclassical assumption of per-
fect markets, the removal of monopsonistic marketing leads to an increase
in urban food prices.177

172. See James Ferguson, From African Socialism to Scientific Capitalism: Re-
fections on the Legitimation Crisis in IMF-Ruled Africa, in DAVID B. MOORE & GE-
RALD J. SCHMITZ, DEBATING DEVELOPMENT DISCOURSE, INSTITUTIONAL AND POPULAR PER-
SPECTIVE 136 (1995) (discussing World Bank's assertion that scientific proof dis-
counts "widely disputed claims" involving loss of food production in Africa).

173. See Wayne Eastman, Critical Legal Studies, in THE HISTORY AND METHODO-
LOGY OF LAW AND ECONOMICS 754, 759-63 (Boudewijn Bouckaert & Gerrit De Geest
eds., 1999).

174. SUB-SAHARAN AFRICA—FROM CRISIS TO SUSTAINABLE GROWTH, supra note
163, at 65.

175. See id. at 64; see also HAYTER & WATSON, supra note 162, at 140 (noting
that "Bank's predilections clearly lie in the direction of the neoclassical principles
of full-cost recovery and market pricing, together with the view that those who can
pay, should pay, rather than the principle of free provision of free services for all").
The World Bank's rationale for preferring market as opposed to government de-
termination of prices is based on the view that markets allow competition and re-
sult in gains in efficiency. See id. (discussing World Bank's rationale). The World
Bank hence advocates the removal of subsidies and price controls because these
are regarded as undesirable distortions. See id. (describing undesirable distortions
on pricing). Such reforms are also thought of as desirable because they reduce
government spending, a virtue promoted by these institutions, notwithstanding
the resulting rise in prices of essential commodities especially for the poor. See id.
(discussing effects of removal of subsidies and price controls).

176. Ferguson, supra note 172, at 137.

177. Paradoxically, a major reason why African governments maintained a
monopsony over agricultural marketing was to depress urban food prices in order
to contain or prevent riots, which would unduly destabilize the government. State
control over marketing boards created opportunities for bureaucratic rents. See
generally BATES, supra note 143 (discussing political origins of crisis regarding agri-
cultural pricing in Africa). These rents in turn became a primary driving force
behind agricultural policy with the effect of emasculating African agriculture. At
the international level, the marketing of agricultural commodities is heavily regu-
These examples illustrate a tendency within the good governance agenda to use efficiency claims to trump social objectives, such as food security, as inefficient interventions in the marketplace. The discrediting of the impulse within modernizing nationalism to regulate marketing of agricultural produce on policy grounds, such as for food security, evinces a preference for certain distributive outcomes over others in the good governance agenda. It is not enough to consider whether farmers would be better off marketing their produce to private actors rather than the government, because deregulation involves exposing farmers to external competition that does not guarantee better producer prices. For consumers of agricultural produce, the preference for export crop production may only result in an increase in food prices. While I do not understate the importance of increasing productive capacities of various institutions and actors within sub-Saharan Africa, I favor striking a balance between the need for social objectives such as food security and economic growth. Social objectives such as food security should not be surrendered to satisfy an abstract conception of efficiency the effect of which is to legitimate and privilege the coercion of the marketplace.

A major consequence of the predominance of efficiency as an important criteria for determining allocation of resources is thus to prevent the use of economic regulation for the purpose of social justice objectives. Consequently, the scrapping of free health care or the abolition of higher education scholarships, among other reforms, have all been justified by this efficiency imperative. Cutbacks on social spending is one of the costs the public sector suffers in the adjustment process. Such cutbacks are necessary because the performance of inefficient institutions is exacerbated by accelerating population growth rates. In short, bad governance is equated with political and administrative controls on the economy, the

...
primary factors the World Bank sees as the causes of low returns on investment in sub-Saharan African economies.\footnote{179}

VII. Problematizing Specific Good Governance Assumptions

So far, I have argued that the narrative from state to markets does not necessarily herald a new era either of economic or political freedom for sub-Saharan Africa. At the same time, it has not been my argument that free markets necessarily spell doom for the continent—although in their current formulation they are inclined to serve the interests of specific groups—i.e., creditors, exporters and professional elites serving as technocratic experts. In this part of the Article, I demonstrate that specific assumptions of the good governance agenda can be undermined by showing that radically different interpretations can be drawn from each of these assumptions. By showing that radically different and valid interpretations can be construed from the same assumptions that justify good governance reforms, I undermine the internal coherence and economy of the most significant justifications of the good governance reforms.

A. International Competitiveness and Development

A dominant presumption in the good governance agenda is that economic regulation led to arbitrariness and inefficiency in the public sector. Loss-making public sector enterprises, costly and unreliable infrastructure, and price distortions (such as price controls, overvalued exchange controls and subsidized credit), established by modernizing nationalists all resulted in inefficient resource allocation. The impact of these types of government regulation rendered Africa uncompetitive in an increasingly competitive world.\footnote{180} A major goal of the good governance prescriptions is to put Africa on a growth path, in part by integrating respective national economies into international markets. Good governance is therefore regarded as an important prerequisite for neoliberal economic reform: increasing a country's competitiveness through exploitation of any comparative advantage, which presupposes making efficient use of available productive resources. In fact, according to the World Bank, Africa's poor export record is the main cause of the failure of development in the continent in the last thirty years.\footnote{181}

\footnote{179} Sub-Saharan Africa—From Crisis to Sustainable Growth, supra note 168, at 3. According to the World Bank, bad governance in sub-Saharan Africa is best illustrated by contrasting business operating costs in sub-Saharan Africa with those of South Asia, the most comparable region: in sub-Saharan Africa, business operating costs are typically fifty to one hundred percent above those in South Asia. See id.

\footnote{180} See World Bank, Africa's Adjustment and Growth in the 1980s 3 (1989).

\footnote{181} See id. at 19. According to the World Bank:
[The] main cause of rising current account deficits and shortages of foreign exchange in the 1970's was not the terms of trade, but the slow growth of exports: of the 29 countries for which information is available,
The World Bank’s emphasis on making Africa competitive through export-led growth, or the exploitation of its comparative advantage, has an interesting ideological background in neoclassical economics. For example, according to the World Bank, the successful export-driven development strategies of Southeast Asian economies (Taiwan, South Korea, Thailand and Indonesia in particular) prior to the recent financial crises were achieved as a direct result of the liberalization of their economies. This result was accomplished through the removal of governmental controls and regulations on imports and advancements in trade, agriculture, industry, financial institutions and marketing. In other words, the World Bank’s interpretation of the high growth rates achieved in Southeast Asia is strategically aligned with its own position—that liberalization or economic liberalism is “the key to unlocking the future development prospects of the developing countries.” In the World Bank’s view, releasing market forces from the clutches of national regulatory control was “sufficient to improve economic performance.”

Japan has challenged this orthodoxy, however, by using its expanded vote and voice within the World Bank over the objections of the United States, which still retains the greatest influence by virtue of its share contributions to the World Bank. In Japan’s interpretation, strategic state involvement with the private sector, rather than a deregulated and liberalized economy where market forces predominated, had been the key to East Asia’s growth success. In contrast, in the United States, the role of the government is seen as that of preventing abuses in the operation of the free market system and facilitating its operation in the most efficient manner. The Japanese view, however, sees the marketplace as one of the several procedures the government uses for ensuring that business ac-

24 recorded a lower rate of export growth during the 1970’s than in the previous decade, and 19 had negative rates of export growth, compared with only one during the 1960’s.

Id.

182. See generally Sub-Saharan Africa—From Crisis to Sustainable Growth, supra note 163.


184. Id. In its East Asian miracle report, the World Bank, under pressure from Japan, conceded that government allocation of subsidized credit tied to performance had contributed to the region’s successful growth rates. See generally World Bank, The East Asian Miracle: Economic Growth and Public Policy (1993) (describing remarkable record of high and sustained economic growth in eight economies, including Japan).

185. See Wade, supra note 133, at 6-7, 33-39 (discussing Japan’s growing strength in World Bank).

186. See id. at 7 (attributing success of Japan, Taiwan and South Korea to state involvement in industrial sector).

tivity serves the needs of the community. This Japanese intervention echoes the now widely accepted belief that no single economic reform approach, even one incorporating selective state intervention as the Japanese recommend, is sufficient to address the economic problems facing developing countries. The opinion that a country’s economic fortunes are heavily dependent upon success in the international market has also come under criticism in the United States. Paul Krugman has argued that this view is merely hypothetical because it was not based on any necessary truth, but rather a false theoretical position.\(^{188}\) Although Krugman’s opposition to the Clinton Administration’s focus on increasing competitiveness is in part tied to the specific circumstances extant in the United States, he nevertheless does make an important point that could apply in other contexts—the belief that elimination or reduction of government-imposed impediments on exports would necessarily increase economic growth is an assumption, not a truism.\(^{189}\) Krugman has also argued that at least under some circumstances, a government, by supporting firms in international competition can raise national welfare at another country’s expense.\(^{190}\)

The notion of opening national markets to international competition is also a simplistic, capitalist idea from the eighteenth century transposed to the twenty-first century. Although free markets “may have succeeded in overthrowing mercantilism and creating cottage industry in rural England,” open markets have been achieved at “high social costs and low rates of return” in developing countries.\(^{191}\) One estimate, for example, argues that “nearly 75% of all world commerce is conducted by economic systems operating with principles at odds with those of the United States.”\(^{192}\) Opening up the markets of agrarian economies of sub-Saharan Africa to international competition in today’s technologically competitive capitalism at the beginning of the twenty-first century,\(^{193}\) and the closed markets of Europe and the United States, has resulted in major economic dislocations—lower incomes among the poor, increases in the number of

\(^{188}\) See Paul Krugman, POP INTERNATIONALISM 5 (1994) (“The idea that a country’s economic fortunes are largely determined by its success on world markets is a hypothesis, not a necessary truth; and as a practical, empirical matter, that hypothesis is flatly wrong.”).

\(^{189}\) See Cox, supra note 187, at 25 (noting that United States followed an interventionist policy while encouraging foreign nations to adopt free market system).

\(^{190}\) Paul Krugman, Is Free Trade Passe? 1 Econ. Persp. 136 (1987). To be fair, Krugman is careful to lay down some fears and cautionary measures to ensure the success of such a strategy. See id. at 215.

\(^{191}\) See Amsden et al., supra note 145, at 2 (comparing laissez-faire model in rural England and Eastern Europe).


\(^{193}\) See Amsden et al., supra note 145, at 2 (describing twentieth century capitalism as technologically advanced).
people living under the poverty line, and cutbacks in social services such as
education and housing. In the meantime, vulnerable groups such as wo-
men and children have been subjected to excruciating hardship.\(^\text{194}\) The
virtues of free markets were exaggerated in the programs imposed on sub-
Saharan Africa by bilateral and multilateral donors. The consequences
have, in addition, further entrenched sub-Saharan Africa’s subordinate
position within the international economy.

B. Economic Liberty Equals Political Liberty

The good governance agenda directly links controls on the economy,
on the one hand, and the building of pluralistic and transparent political
institutions in sub-Saharan Africa, on the other. According to the World
Bank, overcoming administrative and political controls on the economy
would directly contribute to building democratic political institutions
which would:

- uphold the rule of law;
- ensure vigorous protection of the freedom of the press and human
  rights;\(^\text{195}\)
- safeguard the independence of the judiciary;
- guarantee transparent accountability of public monies; and
- establish independent public auditors responsible to a representa-
  tive legislature rather than an executive.\(^\text{196}\)

Good governance programs therefore aim not only at addressing the
arbitrariness and inefficiency of the public sector, but also at building ac-
countable and transparent political institutions governed by the rule of
law. In this manner, good governance agenda accounts link the arbitrar-
iness and inefficiency of political institutions with declining levels of in-
vestment and efficiency since the late 1970s, but also with the nature of
authoritarian governance in the continent. This concern with questions
relating to political liberty is also partly a reflection of the powerful ide-
ological commitments against state control over national economies or state
infringement of fundamental rights and freedoms, especially civil and po-
litical rights in the good governance agenda. These commitments are bi-
ased to the extent that they are presented as evidencing the claim that free
market economies have trumped command and control economic ideolo-
gies that prescribe too much state involvement in the economy and perva-
sive invasion of individual liberties. The end of the Cold War provided a
perfect ideological climate for the popularization of this specific meaning
of liberty—freedom from governmental coercion in the economic sphere.

\(^\text{194. See United Nations Research Institute for Social Development, Adjust-
ment, Globalization and Social Development (1995).}\)

\(^\text{195. See Sub-Saharan Africa—From Crisis to Sustainable Growth, supra
note 163, at 60.}\)

\(^\text{196. See id. at 192.}\)
The integration of political liberty within the economic reforms of the good governance agenda was initially proposed by Western bilateral donors, primarily including the United States, members of the European Union, and the Organization for Economic Cooperation and Development. In the context of bilateral development cooperation, good governance acquired a distinctive meaning in the early 1990s. Some bilateral donors referred to this new policy of linking development assistance to the respect for political liberty by those who would receive the assistance as political conditionality. The meaning of political liberty envisioned by most of these programs includes multiparty politics, free and fair elections, and respect for individual rights and freedoms.

The integration of political freedom as part of the agenda of development cooperation was regarded as novel for a number of reasons. First, during the Cold War period, bilateral development policy was influenced by foreign policy considerations that did not give a high priority or premium to questions of political liberty in countries receiving development assistance. For example, U.S. foreign policy placed more emphasis on containing and fighting communism than perhaps any other objective involved.

197. See OECD, PARTICIPATORY DEVELOPMENT AND GOOD GOVERNANCE (1995); Mark Robinson, Will Political Constitutionality Work, 24 IDS BULL. 58, 58 (1993) ("A prominent feature of aid policy in the 1990s has been the increasing tendency of donors to make the provision of development assistance conditional on political and administrative reform in recipient countries."); Thomas Carothers, Recent US Experience with Democracy Promotion, 26 IDS BULL. 62, 62 (1995) (discussing practice of United States government to use economic measures for democratic ends).

198. See generally Robinson, supra note 197 (providing comprehensive overview of emergence of good governance agenda within bilateral development cooperation policies specifically on theme of "good government"); Carothers, supra note 197 (providing comprehensive overview of emergence of good governance agenda within bilateral development cooperation policies specifically on theme "towards Democratic Governance").

199. See The Foreign Assistance Act, 22 U.S.C. § 2151(a)(1)-(4) (1998) (outlining four principal goals of United States development cooperation policy). Since 1961, the Foreign Assistance Act has mandated the United States Agency for International Development ("USAID") to encourage respect for individual civil and political rights. See id. Notwithstanding the recent emphasis on democracy promotion, American foreign policy has historically been associated with ideological struggles for freedom around the world, while simultaneously seeking isolation. It has been argued that American liberal absolutism (freedom as absence of government constraints) was in large part a reason for American hysteria against communism and fascism, as well as the social upheavals European countries were undergoing in the inter-war years. See Louis Hartz, The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution 302-08 (1955) (discussing state of America and Europe between wars). Similarly, in the post-Cold War period, American-led responses to the crisis in the Balkans have also been criticized for being too emphatic on notions of human rights. These responses not only gave extremist nationalists additional totems to fuel the war, but also failed to appreciate the underlying social and economic problems that raised fundamental questions of power, culture, identity and inequality that were intimately related to the causes of the war. See generally Susan Woodward, The Balkan Tragedy: Chaos and Dissolution After the Cold War (1995) (discussing the causes of the wars in the former Yugoslavia).
including democracy promotion. Notwithstanding events like the Vietnam War, which became a focal point for a more ethical foreign policy, Cold War goals predominated foreign policy and praxis before its end. Before Jeane Kirkpatrick became the United States ambassador to the United Nations, she criticized President Jimmy Carter's Administration's human rights initiatives for practicing a double standard inimical to American interests. In her view, the Carter Administration and its liberal supporters had reacted with punitive outrage to human rights violations perpetrated by right-wing governments allied to the United States, while taking a relatively accommodating view of the far more systematic abuses of Communist tyrannies that were actively threatening American interests around the world. Kirkpatrick argued that the Carter Administration's policy of forcing American allies to democratize too quickly had resulted in transforming American allies such as Iran and Nicaragua into hostile radical dictatorships. Kirkpatrick's views reflect a contradiction within American foreign and development cooperation policy—between the belief that the United States should provide leadership on questions of political freedom around the world on the one hand, and the concern or

200. The predominant cold war attitude towards promotion of human rights abroad was largely influenced by realist thinkers who argued that the United States should treat authoritarian and totalitarian governments differently. Totalitarian regimes were the communist regimes that realist thinkers argued the United States should not tolerate. However, this view was heavily contested by liberals and world order theorists, among others. Those offering this alternative view argued that the distinction between authoritarianism and totalitarianism was not well founded, at least, in all cases. They pointed out that there was no difference between authoritarian governments, such as that of Idi Amin of Uganda, from totalitarian governments, such as that of Ceausescu of Romania. See Zbigniew Brzezinski, Human Rights and American Foreign Policy: A Symposium, 72 COMMENT. 25, 29 (1981) (stating no difference between authoritarian and totalitarian governments); Tom J. Farer, On a Collision Course: The American Campaign for Human Rights and the Antitotalitarian Bias in the Third World, in Human Rights and American Foreign Policy 263, 273-276 (Donald P. Kommers & Gilburt D. Loescher eds., 1979) (discussing similarities between authoritarian and totalitarian governments); Tom J. Farer, Toward a Humanitarian Diplomacy: a Primer for Policy, in Toward a Humanitarian Diplomacy 1 (Tom J. Farer ed., 1980) (arguing difference between totalitarian and authoritarian governments is non-existent); Robert O. Keohane & Joseph S. Nye, Power and Interdependence: World Politics in Transition (1977) (same).

201. See generally Jeane J. Kirkpatrick, Dictatorships and Double Standards: Rationalism and Reason in Politics (1982) (noting Carter's propensity to choose policies violative of "strategic and economic interests of U.S.").


skepticism that political freedom abroad could be realized overnight or at the expense of other more important interests of the United States, on the other hand.204

However, the end of the Cold War and the linkage between free markets and political freedom in the conservative programs of neoliberal economic reform seem to have eclipsed the debate on the role of United States foreign policy in countries allied to the East, relative to those with authoritarian governance. The commitment to free markets around the world became a primary goal of United States foreign and development cooperation in the 1990s.205 On the basis of this new agenda, government controls of economic activity were used to explain economic stagnation and lack of individual liberty in sub-Saharan Africa. This approach is based on the view that open societies which value individual rights and respect the rule of law and open and accountable governments provide better opportunities for sustained economic development than do closed systems, which stifle individual initiative.206 Open or “free” societies with market economies are presumed to have built-in ability to promote political stability. The power plays of the sovereign would be controlled by the free market and the exercise of the political freedoms that accompany free markets and free citizens. Moreover, political stability is argued to be important for encouraging large inflows of foreign investment and capital.

The U.S. democracy promotion programs have proliferated in the last ten or so years. In addition to the United States Agency for International Development, which is the federal government’s development cooperation agency, the National Endowment for Democracy, a bipartisan agency, was established for the specific purpose of spreading the American form of democracy around the world.207 These initiatives have been justified


205. See Cox, supra note 187, at 121 (summarizing U.S. foreign policy goals after Cold War).

206. See id. at 103-04 (noting that United States wanted open world economy, believing that economic growth depended on “free enterprise and private property”).

from a variety of perspectives. Perhaps the most often cited argument is that the United States should provide leadership on questions of political freedom as the leader of the “Free World.” In the post-Cold War era, however, linkages between economic and political liberalization seem to predominate the justifications for including political freedom in U.S. foreign assistance programs. Political freedom is argued to lay the basis for the formulation of economic policy. Freedom of expression, assembly and association, for example, are deemed to be necessary to enable citizens to play a role in deciding the types of economic policies their countries should follow. Although these freedoms do provide the information necessary for the functioning of a market economy, it is hardly true that the economic policies that African governments are currently implementing are open for public discussion and approval.

Another typical argument advanced to justify these programs is that there is a positive correlation between capitalism and democracy, and that this connection is historical and logical because capitalism accompanies democracy and vice versa. The heavy emphasis in U.S. development cooperation and praxis that participatory politics (democracy) and market economies (capitalism) go together is, however, historically as recent an addition to development cooperation as human rights is to the U.S. foreign policy goals. Post-World War II U.S. development cooperation policy and praxis in sub-Saharan Africa was, in part, premised on the implicit assumption that strong governments were necessary to help in the development process. Similarly, according to modernizing nationalists, it was necessary to “subjugate” the powerful forces of “tribalism” in the pursuit of development.208 This assumption was consistent with the Cold War imperative of strong governments with the ability to contain communist uprisings around the world. This implicit assumption has now been replaced by an explicit claim that there is a positive co-relationship between democracy and economic development or capitalism.

The notion of political liberty which is embedded in U.S. democracy promotion programs is primarily that of negative freedom, or freedom from interference by the state. Defined this way, political liberty coincides with the definition of economic freedom, or the absence of government regulation in the economy.209 This view of freedom is often critiqued for

208. See Paschal Mihyo, A False Start: Law and Development in the Context of a Colonial Legacy, 2 VERSFASSUNG UND RECHT IN ÜBERSEE 133, 166 (1993). The ideology of developmentalism was adopted by modernizing nationalists with foreign assistance and domestic expropriation of surplus capital from farmers to support industrialization. Modernizing nationalism is therefore associated with the preservation of dependence and neo-colonialism, as well as laying a foundation for the abolition of political opposition, repression of popular dissent, centralization of power and emasculation of civil society. See id.

209. Liberal political theory did not always tie political and economic freedom. For example, Macpherson’s contribution to the understanding of possessive individualism has been queried for suggesting that seventeenth century rights theorists/philosophers (especially Grotius, Hobbes and later Locke) wrote to legiti-
offering little or no hope to individuals who lack the economic and social means or capacities to make practical use of their freedoms.\textsuperscript{210} Freedom from state-imposed restraints on our liberties may be paper liberties for those without the means to exercise our judicially enshrined rights. This suggests a more functional definition of rights which guarantees the formal rights of equality, anti-discrimination and so forth but, in addition, ensures a minimum economic and social ability of individuals to exercise their rights.

A major goal of U.S. democracy promotion programs in electoral support to sub-Saharan African countries is based on the premise that political freedom is an important prerequisite for achieving representation in government. The government would in turn be responsible for delivering all of the social and economic capacities that people need to exercise their freedoms. Political freedoms are also important because they facilitate the conceptualization of the economic problems that the people theoretically charge the governments to execute.\textsuperscript{211} Participation through the right to vote is realized through the ballot box. Studies undertaken in a number of sub-Saharan African countries have shown a high correlation between relatively high growth rates and the presence of parliamentary institutions on the one hand, and lower growth rates and the absence of parliamentary institutions on the other.\textsuperscript{212} These and other studies which have shown a historical relationship between institutions of liberal democracy and capi-

mate market exchanges, while in fact they wrote to justify the right to resist constituted authority in terms of the natural right to self-defense. In Locke's theory, individuals not only had the right to defend themselves and others, but also the right to acquire, by means of labor, things necessary for preservation. While these earlier theorists wrote about the appropriation of political power by the state, Karl Marx wrote about the appropriation of labor power, which was one of the distinctive features of capitalism. See James Tully, \textit{The Possessive Individualism Thesis: A Reconsideration in the Light of Recent Scholarship, in Democracy and Possessive Individualism: The Intellectual Legacy of C.B. Macpherson} 19, 26-31 (Joseph H. Carens ed., 1993) (discussing Macpherson and possessive individualism). Unfortunately, there is little or no debate within the good governance agenda on the necessary relationship between economic and political freedom, or indeed the correlation between rights and duties. For example, in Locke's conception of rights, individuals have a right to defend both themselves and others. In addition, by delegating their authority to the government to protect their rights, they could withdraw the authority of the government if it betrayed its obligation to protect them. Of course, postcolonial theory has inspired new work in political theory that shows the coexistence of liberal political theory in the West with colonial expansion and imperialism in the non-European world.

\textsuperscript{210} See id. at 34-39 (discussing possessive self-interest in context of property distribution and capitalism).


talism give credence to the view that institutions of a free democratic society such as free speech, freedom of assembly and freedom of association enable people to challenge authoritarian governance, which is often associated with poor economic performance.213

The negative idea of freedom embraced in U.S. bilateral development programs and democracy promotion activities is also an important prerequisite to the establishment of an effective framework of accountability of political leadership. These negative freedoms are thought to be necessary to challenge leaders for their conduct as well as to sanction them through established channels of accountability. Leaders would therefore be theoretically dissuaded from acting in their personal interest and those of their friends against the public interest. Nonetheless, the self interest underlying the individualism associated with negative freedoms may be said to be in tension with the expectation that negative liberties will permit the existence of civil society groups to check the arbitrary exercise of power and the abuse of the public trust for private gain.214

Although the significance of political institutions need not be understated, questions of wealth, power, poverty, inequality and distribution of resources are issues of deep political controversy, conflict and struggle. They cannot adequately be addressed by negative conceptions of liberty. The narrow definition of political liberty in U.S. development cooperation policies and U.S. democracy promotion programs are therefore often cited as being inadequate for having little or no concern with advocacy for maximizing individual and collective welfare. Several theoretical justifications, not inconsistent with free markets and individual liberty, could form the basis of such an advocacy strategy. For example, rent theory suggests a possible basis for a functional idea of personal liberty.215

Robert Hale argued that revising property rights to secure maximum equality in a manner consistent with maintaining adequate incentives to produce was possible.216 Under a Halean rent theory, a person is entitled only to that which she has created with her own labor.217 Halean rent theory differs from neoclassical assumptions that justify entitlements

213. See id.


215. Other approaches include utilitarianism, under which wealth would be distributed in accordance with the greatest good for the greatest number. Progressive utilitarians argued that transferring incremental funds from the rich to the poor would increase aggregate well being. Idealists justified progressive social policies by arguing that because property was a creature of the state, private property ought to be protected only if it served the public interest.


217. See Bargaining, Duress and Economic Liberty, supra note 216.
(goods and services) at prices determined in the market.\textsuperscript{218} Instead, entitlements under Halean rent theory lines are legitimate only when they are compensated at the cost of their supply.\textsuperscript{219} Any surplus above supply costs would then be considered an economic rent because it is produced in excess of the seller's costs.\textsuperscript{220} Consequently, rather than a seller becoming entitled to these economic rents, the community would own them and would be at liberty to redistribute them as it chooses. Rent theory understood this way is entirely consistent with the individualism of the marketplace that is argued to provide the entrepreneurship that drives capitalism. Rent theory does not, therefore, place the political utility of rights over and above their personal utility as does the conception of rights adopted in the U.S. democracy promotion programs.\textsuperscript{221}

The conceptions of rights in U.S. development cooperation programs is consistent with the support of free markets in structural adjustment programs. It is often cited for endorsing the radically unequal distribution of wealth in developing countries. As a framework of rights, negative liberties have the effect of preempting the exercise of bold legislative powers to address inequality, especially in the private sphere. This is because a regime of public law rights protects a private realm within which inequality is shielded from regulatory controls. This can be exacerbated by the fact that the rich and powerful could very well use their freedoms to gain access to enormous influence in society through concentrated ownership of the means of production and basic infrastructure, such as communication media, unless there were laws limiting such concentrations of societal power.

A weaker critique of negative conceptions of freedom is the advocacy for social and economic rights. Social and economic rights advocacy proceeds from the view that growth-based economic development does not necessarily result in the realization of social and economic rights. In fact, there is ample evidence to suggest that high growth rates have simultaneously co-existed with economic inequality.\textsuperscript{222} In other words, poorer people in the population cannot be expected to automatically benefit from the spread of markets or even the social safety nets associated with struc-

\begin{itemize}
  \item \textsuperscript{218} See id. at 624 (discussing development of so-called "market rate").
  \item \textsuperscript{219} See id. at 603-05 (analyzing merits of production cost-based pricing).
  \item \textsuperscript{220} See id.
  \item \textsuperscript{221} See id.
  \item \textsuperscript{222} See generally United Nations, Human Development Report (1990) (citing statistics showing several occurrences of high growth rates in nations with large degree of economic separation).
\end{itemize}
tural adjustment lending and bilateral development cooperation. Although notions such as social safety nets are not unimportant, they are retrospective efforts to deal with the social costs of adjustment. In addition, these notions are only marginally relative to the needs of those living below the poverty line. Social and economic rights activists do not address questions such as the distribution of unearned surplus. The social and economic rights critique of development as growth is primarily that private property and freedom of contract are inadequate guarantees of securing people's basic livelihood needs. Social and economic rights advocates thus seek to expand the good governance economic agenda through their advocacy for the redesign of structural adjustment programs to reduce their adverse impacts on social and economic entitlements, such as the right to medical care, education and food. Social and economic rights advocacy also proposes increased resource allocation to finance education and other social programs that could directly contribute to increased economic growth.

Countries emerging from authoritarian forms of governance, however, are often advised not to adopt social and economic rights in their constitutions for a variety of reasons. First, their citizens are told that certain social and economic rights might involve government interference with free markets as a constitutional requirement. For example, provisions requiring paid overtime, paid parental leave or paid holidays are argued to constitute undue interference with the free operation of the labor market. Second, these rights are non-justiciable and would be of no relevance because courts could not enforce them. Ultimately, guaranteeing these rights without the prospect of enforcement would result in degrading the efficacy of rights in the public consciousness. Third, the recognition of social and economic rights might work against displacing the sense of entitlement to government protection, which would, in effect discourage individual enterprise. Finally, it is argued that the lack of resources to make social and economic rights a reality may turn them into paper liberties.223

The underlying premise of U.S. democracy and human rights promotion abroad is based on this particular view of rights—citizens being left alone by the government, rather than having a right to have the government fund or otherwise assist in any given social pursuit or project.224


224. This position is consistent with the United States opposition to ratifying the International Covenant on Social and Economic Rights ("ICECSR"). During the drafting process, the United States proposed an amendment to Article 2 the then draft ICECSR, with a view to watering down the normative protection of so-
Here, social welfare is regarded as the automatic reflex of economic progress, where economic progress is synonymous with leaving individuals and private actors to pursue their interests without interference from the state. Social welfare is assumed to follow from the benefits of such an unrestricted free market policy. Nonetheless, good governance economic policies simultaneously require government cutbacks of social expenditures in areas such as health, education, worker benefits and rights, among others. Consequently, it is not possible to isolate issues relating to economic and social democracy from political liberty or the absence of restrictions on individual liberty.

Isolating issues of political liberty from those relating to social and economic rights is a structure-preserving, rather than structure-transforming, political project. It is structure-preserving to the extent that struggles for social and economic justice and mass participation against inequalities at the personal, national and international levels challenge the status quo by embracing a more comprehensive idea of freedom than the narrow definition of freedom as "the absence of government interference with individual rights."

The democracy promotion programs of the United States and other Western countries are also structure-preserving because their effect is to retain the elite-based and undemocratic status quo of sub-Saharan African countries. Electoral politics, as promoted in democracy promotion programs, result in polyarchies or elite-dominated governments because they do little or nothing to encourage mass aspirations for redressing inequality and the undemocratic character of international decision-making. Although national elections give an upper hand and control of the electoral process to those with more resources, the technical nature of structural adjustment programs results in placing the direction of social and economic reform to foreign and local experts. Local political scientists and various local reformist groups, individuals and intellectuals are often mobilized to provide the detailed, local knowledge from the "bottom" that...
could be iminical to the success of these programs designed from the "top." The non-elite are thus alienated from the decision-making processes, in addition to becoming the subjects of experimentation, exclusion and repression in the process of structural adjustment programs.

This new model of democracy promotion in U.S. foreign policy has been interpreted as a new stage in its global domination. Although during the Cold War, the United States retained its super-power status through a foreign policy that endorsed coercive domination through militaristic and discreet interventionism, in the post-Cold War period, democracy promotion represents a continuity of the maintenance of the U.S. position through consensual mechanisms, which involve an alliance with Third World elites who gain legitimacy by having jumped through the hoops of competitive elections with widespread citizen participation. Finally, this new model of exporting democracy promotion in part represents the ideological victory of free market capitalism as a replacement of alternative visions of social and political life, including the egalitarian aspects of the welfare state.

C. Economic Stagnation Requires Removal of Corrupt and Inefficient Governance

The ideological commitment to free markets has been fueled by explanations of economic stagnation, particularly in sub-Saharan Africa. This commitment has involved interpreting governmental controls of economic activity as explanations of economic stagnation and as iminical not only to individual liberty; but also to economic growth. Consequently, insights made in neoclassical economic theory demonstrating the impact of governmental control on economic activity were appropriated to justify orthodox structural adjustment reform by the World Bank. In addition, public choice analysis made similar observations. The work of neoclassical economics and public choice theorists coincided in developing a very cynical view of Third World states. This view holds that "self interested [Third World] state rulers, lacking much in the way of institutional constraints, maximize their own welfare at the public's expense." Consequently,


227. Mosley, supra note 183, at 18; see Howard Stein & Ernest J. Wilson III, The Political Economy of Robert Bates: A Critical Reading of Rational Choice in Africa, 21 World Dev. 6 (1991) (noting that in Robert Bates' earlier work, he seemed to accept that "the Zambian government was an independent actor committed to a program of rapid and pervasive economic development." A decade later "he sees the state captured by an urban-based coalition which supports policies detrimental to agriculture and therefore to economic development." Stein and Wilson III, supra at 1036.
good governance prescriptions reject the possibility of sub-Saharan African governments intervening in their own economy because they might suffer the greater evil of despotic power.

Perhaps the ideological commitment of these insights of neoclassical economics is best exemplified by their indeterminacy: their conclusions "cannot simply be read off from its neoclassical starting point." It is therefore possible that reliance on criteria such as efficiency embodies concealed political choices because there is no single or definitive conclusion that can be drawn from such abstract criterion. For example, in his initial research, Mancur Olson demonstrated how self-interested individuals will not voluntarily sacrifice or organize themselves in order to promote group interest. In his later work he argued that interest groups "reduce efficiency and aggregate income in the societies where they operate and make political life more divisive." Hence, while in the earlier work he was merely observing the "logical inconsistency of assuming that self interested individuals will voluntarily sacrifice in order to promote group aims," a decade later, these groups change "from being unproblematic to being the critical source of socio-economic ills, . . . [while] the logical flaw which Olson originally spotted in interest group theory has dropped progressively out of sight."

In another example which shows how "radically different conclusions can be generated from the same set of abstract principles as a result of different assumptions about the conditions under which they are supposed to apply," studies on trade controls conducted in the 1970s were retrospectively reinterpreted in the 1990s in alignment with the neo-liberal view that "trade controls are the underpinning of corrupt and inefficient regimes." When these studies were undertaken in the 1970s, however, they merely indicated that import substituting industrialization involved "higher economic costs than had been previously calculated." The finding that protectionism or economic controls imposed high costs to the economies of developing countries through mechanisms such as licensing regimes at the time did not arrive at the conclusion embraced today in neo-liberal economic circles that trade controls are the underpinning of corrupt and efficient regimes. Anne Krueger, who published one study showing the economic costs of protectionism, "explicitly declined to

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228. Mosley, supra note 183, at 15.
230. Id. at 16 (citing Mancur Olson, The Rise and Decline of Nations (1982)).
231. Id.
232. Id. (quoting Barry Hindess, Choice, Rationality and Social Theory 20-21 (1988)).
233. Id. at 18.
234. Id. at 17 (citing Anne Krueger, The Political Economy of the Rent Seeking Society, 64 Am. Econ. Rev. 291 (1974)).
draw any conclusions from her study of rent seeking.  In addition, her rent seeking theory was not a cynical critique of corrupt regimes, but an analysis of impersonal competition for resources that was reinterpreted as self-interested maximization of interests on the part of Third World regimes in the new political economy approach, which is often adopted lock, stock and barrel in good governance prescriptions.

D. The International as a Neutral Arena for Resolution of National Economic Collapse

Another source of an impetus for the ascendancy of a cynical idea of the African state arose from neo-Marxist critiques of the sub-Saharan African state "as an entity merely pretending a real concern for the public interest and national welfare." Neo-Marxist scholars argued that African states were instruments of the ruling class. Hence, their analysis of the postcolonial state coincided with that of the new political economists who regarded economic regulations as the underpinning of irretrievably corrupt sub-Saharan African regimes. The coincidence of this class-inspired critique of the state with that of the new political economy, which also shared this view, albeit from a rational self-interest perspective, gave enormous ideological credibility to the neo-liberal, anti-statist agenda. Unsurprisingly, both schools of thought also shared a focus on explanatory factors exclusively within national contexts as the source of the economic crisis facing developing countries, especially those from Africa. One would think that it is paradoxical that neo-Marxist critiques coincided with neo-liberal critiques of the postcolonial sub-Saharan African state. Popular opinion would perhaps be that Marxists are generally critical of domination. It is important to remember, however, that Marxists generally like neo-liberals and, unlike dependency theorists, are not only Eurocentric in their world view, but are mainly concerned with class dependency instead

235. Id. As Vice President in Charge of Economics and Research at the World Bank, Anne Krueger is said to have "been mainly interested in using the Bank’s research capabilities . . . to prove the thesis that developing countries can be turned into export platforms, exporting labor intensive manufactured products and other ‘non-traditional’ products such as fruits and flowers to the West, as well as their more traditional raw materials and primary products." HAYTER & WATSON, supra note 162, at 130 (discussing benefits of aid in trade with foreign nations).

236. See HAYTER & WATSON, supra note 162, at 130 (analyzing rent seeking theory of Third World aid).

237. WORLD BANK, supra note 137, at 20.

238. See MOSLEY, supra note 183, at 20 ("[I]t is] highly misleading to ignore the influence that neo-Marxism exerted on the NPE. The success of neo-Marxism in discrediting the assumption of the benevolent state paved the way down which the New Right moved triumphantly in the 1980s. The NPE is new specifically in succession to the ‘old’ political economy of Marxism.")
of national dependency. Nonetheless, some dependency theorists have tried to wed Marxism and dependency.299

These analyses of the new political economy and of neo-Marxists helped to discredit alternative interpretations of the economic crisis that focused on the pressures that the international capitalist context exerts upon developing countries. Dependency theorists, for example, explained the economic predicament of developing country economies on at least two major bases: first, as a result of their position within the international capitalist economy, which made them vulnerable due to disadvantageous terms of trade for their unprocessed or raw materials240 and changes in international prices because of reliance on a few exports and reliance on one or a few trading partners and suppliers of aid, investment and loans; second, as a result of the conflict between the interests of transnational corporations and the developmental needs of developing countries.241

The good governance commitment to free markets disputes a major assumption of dependency theory—that the distribution of gains from trade between more and less developed countries disadvantages less developed countries. As already noted above, the World Bank has made the highly contestable claim that the success of the East Asian economies disproves the necessity for developing countries to protect themselves from their vulnerability to international forces inimical to their economic advancement. The non-negotiable nature of the economic programs imposed upon African countries by International Financial Institutions and northern industrial countries arose in part as a result of the same type of factors to which dependency analysts have already alluded.

VIII. Conclusion

Modernizing nationalism was a viable ideology to the extent that it mediated between a Western left-liberal, Keynesian-inspired welfare state and African nationalism. That mediation or synthesis is evident in the combination of the modernizing, as opposed to Westernizing, and the egalitarian commitments such as redistribution adopted by nationalists in the immediate post-independence era.242 These egalitarian commitments became a formidable check to the economic aggrandizement of


240. See Cardoso and Faletto, supra note 99, at 2-3 (discussing role of export industry in underdevelopment).

241. See Amin, supra note 101, at 23-47 (discussing influence of corporations on developing nations); Frank, supra note 101, at 63-71 (noting impact of international corporations on Chile and Brazil); Robert I. Rhodes, The Development of Underdevelopment, in IMPERIALISM AND UNDERDEVELOPMENT 1070 (1970) (discussing corporations and underdeveloped countries).

242. See Samuel Huntington, supra note 80, at 22 (drawing distinction between modernization and Westernization).
postcolonial elites. Nonetheless, the good governance agenda has largely resulted in discrediting and abandoning these egalitarian commitments. In the good governance agenda, economic aggrandizement by elites will presumably be checked by free elections, a free press, a civil society free of governmental controls and an independent judiciary in ways that were often rejected in whole or in part by modernizing nationalists. On the whole, however, it seems more accurate to say that both modernizing nationalism and good governance are comparably vulnerable to elite exploitation than to say that only modernizing nationalism was. Just as in modernizing nationalism, the upholding of the role of the state allowed authoritarian rulers opportunities for exploitation, in good governance, the upholding of the private sector allows crony capitalists the same opportunities for exploitation in the good governance era.

One of the good governance proposals designed to eradicate corruption is the deregulation of the economy. One assumption underlying the proposal that deregulation can act as an antidote to corruption is that it would reduce the scope of official discretion and therefore opportunities for corruption. Rather than reducing corruption, however, recent research evidence on deregulation and liberalization in South Korea and China has shown how these reforms redefined corrupt relationships away from those initiated and controlled by state actors to those initiated and controlled by private actors. Sub-Saharan African economies are no exceptions. In other words, deregulation and liberalization in those contexts succeeded in privatizing, not reducing corruption. Rolling back the state in the economy only displaces corruption from the state to the marketplace. In this sense, good governance proposals are as vulnerable to abuse or exploitation by ruling elites as the various policies of modernizing nationalism.

For this reason, it would seem reasonable to argue that to be a viable development policy, the good governance agenda has to be less than a wish list of Western governments and the Bretton Woods institutions. Good governance needs a synthesis such as the one adopted by modernizing nationalists, if it is to retain long-term relevance in Africa. One outcome that has partially transformed the good governance agenda from being a conservative ideology and pragmatic program is the space it has provided to Left-liberal opposition in the press, legislature and civil society. Many sub-Saharan African countries have permitted the presence of such left-liberal opposition within the overall good governance reforms. Nonetheless, the left-liberal opposition in many of these countries has been heavily limited by governments where such opposition has not been divided and weak. Rarely, however, have these new opposition movements challenged the strong bias against guarantees of social welfare and entitlements in good governance programs. The good governance agenda protects the status quo from such challenges through its claims that guarantees of social welfare generate inefficiencies and turn into licenses for governmental mismanagement and corruption.
Notwithstanding these limitations, a left-liberal opposition has its utility. Its presence ensures that the corruption and the abuse of private power that result from the unleashing of the market associated with liberalization is monitored. Hence, although the good governance agenda falls far short of attacking the basic institutional, social and political contexts that sustain social dependence and inequality, it nevertheless provides space for left liberal progressive politics through the press, civil society groups and the judiciary.

Another major theme in this article has been illustrating that although economic growth remains an important objective in sub-Saharan Africa, the World Bank’s pervasive use of free market concepts, such as efficiency, conceals the political nature of the choices embedded in and the interests served by these reforms.243 A major example is that these concepts simultaneously require dispensing with regulatory controls in the economy aimed at achieving social reform or intended to protect sub-Saharan African economies from international competition.

The good governance agenda is in a large measure predicated upon using the public law and policy framework to facilitate freedom of contract and exchange in the private sphere. It thus involves putting in place institutions which work under a predetermined discourse of legal rights and entitlements that presumably guarantee economic and political freedom.

Yet good governance is also a discourse amenable to manipulation by progressive, social reformers for the achievement of a more egalitarian and solidaristic society which is radically democratic and committed to individual and collective emancipation from hierarchies of racism, meritocracy, sexism, colonialism and neocolonialism. Many gallant struggles across sub-Saharan Africa have attached themselves to the good governance agenda, hoping, and at times succeeding, in expanding its democratizing possibilities. These initiatives, however, are subject to co-optation, capture and bureaucratization. The good governance agenda is generally a very technocratic agenda of social and economic reform, heavily relying on expertise. As such, it demobilizes the efforts of social movements from its scope.

Good governance is thus like modernizing nationalism—an indeterminate set of ideas and praxis. Just as there are similarities between good governance and modernizing nationalism, so are there similarities in the outcomes between states and markets. While the good governance agenda presupposes that markets will displace states in the economy, I have argued that the coercion that characterizes regulatory interventions

243. See Hayter & Wilson, supra note 162, at 244 (discussing political motivations of aid). The new development economists emphasize that improper government intervention in the marketplace for reasons other than those concerning market failure has resulted in establishment of institutions such as marketing boards, which produce low quality and high priced goods and services resulting in the misallocation of resources and in creating opportunities for corruption and rent seeking. See id.
in the economy by the state is no less significant than the coercion that characterizes interactions between market actors. This also holds true for transactions between countries, and between countries and multinational corporations, as dependency theorists hold.

There is yet another significant continuity. It is the genealogy between Hegel’s distorted, racist image of Africa and the assumptions of modernization theorists about the necessity of modernizing Africa in order to salvage it from the presumed problem of backward traditions. There are discontinuities as well. While dependency theorists see Africa and other developing regions as passive and inert regions of developed country’s economic exploitation, good governance, like modernization theory, traces Africa’s economic backwardness to the agency of the African peoples, their leadership and ideologies. Indeed, the genealogy from Hegel’s image of Africa to modernization and dependency theory, and ultimately to the good governance agenda, is a complex amalgam of continuities and discontinuities of both material and non-material explanation.

The implication that arises from the foregoing observation is the significance of going beyond traditional and contemporary Eurocentric conceptions of Africa, the state, market, tradition and modernity. A richer telling of these stories must transcend these given grounds of telling. Their complex interweaving, narratives of power, distribution, history, culture and identity that are simultaneously deployed and erased must become an integral part of a new richer, subtler telling. Finally, just as neither of the four moments of my genealogy can be a magic bullet explanation of Africa’s economic and political predicaments, neither can any single variation or variegation of all of them.