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REPRESENTATIONS OF AFRICA IN GOOD GOVERNANCE DISCOURSE: POLICING AND CONTAINING DISSIDENCE TO NEO-LIBERALISM

James Thuo Gathii*

I. INTRODUCTION

Good governance proposals are a product of a heterogeneous coalition of forces that include international financial institutions, western countries, and a variety of private actors. Although this diverse range of entities proceeds from specific, and at times contradictory, interests and orientations, in good governance they find a common way of framing the relationship between economic development and political freedom. The convergence on the concept of good governance arose, during the post-debt crisis and post-Cold War eras, amidst the backdrop of a general climate in favor of free markets and liberal democracy.

I identify good governance as the imposition by Western, industrialized nations and international agencies, of market governance – through the concepts of liberal democracy and a small state – on developing countries, especially those of sub-Saharan Africa. An underlying aim of this push for market governance is that of increasing the role of the private sector as the engine for economic growth and releasing market forces from what are considered to be the constraints

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or clutches of government-imposed regulatory controls. Releasing market forces within this framework is premised on the assumption that the role of public law should be that of protecting and enforcing the 'private rights' of property and freedom of contract from the redistributive interventionism of government control. Liberal democracy, on its part, presupposes periodic elections within a multi-party political system and is promoted as a necessary counterpart of the market governance program.

In this article, I use the terms good governance, neo-liberalism, and structural adjustment, interchangeably. The reform proposals of the good governance agenda are a re-conceptualization of the orthodox, structural adjustment or neo-liberal, macro-economic, reform programs designed by the Bretton Woods institutions and an array of public and private actors.¹ When these programs were initially implemented in sub-Saharan Africa, their critics noted that even though they were 'technically sound', attempts at macro-economic reform or stabilization would be unsuccessful unless attention was paid to the institutional, political, and administrative mechanisms necessary to support their successful implementation. In sum, good governance proposals are in part a reflection of the widening scope of structural adjustment (market) reforms that require modifications to, and re-alignment of, the institutional and administrative apparatuses of the sub-Saharan African state.²

¹ According to Nicholas Stern and Francisco Ferreira, 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 response to serious disequilibria, aiming both to restore macro-economic equilibrium and to improve microeconomic efficiency". Nicholas Stern & Francisco Ferreira, *The World Bank as an Intellectual Actor*, in *THE WORLD BANK: ITS FIRST HALF CENTURY* 523, 540 (Daves Kapur et al. eds., 1997). Paul Mosley, Jane Harrigan and John Toye note that even in its most doctrinaire days, the World Bank was not a 'neo-liberal' monolith: "For every research report vindicating the neo-liberal position, one could find another bank publication which looked more soberly at the social and technological constraints on development, and contemplated - without any sense of guilt or incongruity - some appropriate piecemeal social engineering", PAUL MOSLEY ET AL., *AID AND POWER: THE WORLD BANK AND POLICY-BASED LENDING* 24 (1991). Mosley, Harrigan and Toye also note that any attempt to summarize the policy preferences of the neo-liberal agenda "into one coherent and consistent package is bound to be misleading, and invite cries of 'straw man'". *Id.* at 11. Roberto Unger, identifies two forms of neo-liberalism in the rich industrial democracies, "one overtly intolerant of governmental activism in the economy and hostile to worker and welfare rights; the other a chastened, liberalized version of social democracy that is fast becoming the new center of gravity of Western politics". ROBERTO MANGABEIRA UNGER, *WHAT SHOULD LEGAL ANALYSIS BECOME?*, 9-10 (1996).

² For statements of these proposals from one of the Bretton Woods institutions, see *WORLD BANK, MANAGING DEVELOPMENT: THE GOVERNANCE DIMENSION - A DISCUSSION PAPER* (June 26, 1991);

Notwithstanding the well-intentioned basis for imposing these good governance proposals on sub-Saharan African economies, the proposals contain several significant shortcomings: First, these programs under-emphasize and hence undermine the social and economic rights of the African people; and second, they are based on an ethnocentric, individualistic bias which presupposes that the individual, rather than the community, is the center of African society. In sub-Saharan Africa, this assumption is for the most part inaccurate. Other critics of these market reform proposals view them as merely a continuation of the protracted and injurious legacy of colonial, neo-colonial, and imperial interference in African governments and their economies. Despite the oft-stated reservations and limitations of these programs, they have significant appeal which derives its legitimacy and power from the assumptions that the free market system and liberal democracy are universalizable principles. Nevertheless, while the literature in this area has been quick to recognize the ethnocentricity, cultural particularity and coercive imposition of these twin projects of global governance, it has to this date failed to acknowledge or even consider that they are based, at least in part, on underlying assumptions and unstated, disparaging and therefore implicitly racist stereotypes of the African state, its leadership, and its people. The good governance agenda presents its technical and economic jargon as an ideologically neutral and universal antidote to the 'turmoil', 'chaos', corruption, authoritarianism and 'disorder' of the post-colonial African experience.³ The invocation of such imagery

WORLD BANK, GOVERNANCE AND DEVELOPMENT (1992); WORLD BANK, GOVERNANCE: THE WORLD BANK'S EXPERIENCE (1994).

³ An underlying idea here is that identity politics is perceived as a threat not only to international security but to international economic order as well. The suggestion that anarchy and difference are somewhat correlated is rather simplistic. It serves to contain, rather than to acknowledge the challenge that identity politics presents in seeking to eliminate structural and cultural inequality. Anne Orford suggests that this envisioning of ethnic chaos (among other threats) has been used to justify continued Western intervention in the Third World in a bid to arrest the 'crisis' and restore the world to international peace and security. Anne Orford, *The Politics of Collective Security*, 17 MICH. J. INT'L L. 373 (1996). Robert Kaplan alleges that "what is occurring in West Africa and much of the underdeveloped world [is] the withering away of central governments, the rise of tribal and regional domains, the unchecked spread of disease, and the growing pervasiveness of war". Kaplan also describes African cities as filled with hovering, threatening bands of youth "like loose molecules in a very unstable social fluid, a fluid that was clearly on the verge of igniting". Robert Kaplan, *The Coming Anarchy* 273 THE ATLANTIC MONTHLY, February 1994 at 46. Kaplan's apocalyptic (although poorly substantiated) diagnosis typifies the picture generally presented in the popular media. George Ayittey cites Kaplan's article to support his own depiction of Africa as "inexorably mired in steaming squalor, misery, deprivation, and chaos. It is in the

has become key to legitimizing this neo-liberalism as the best, or perhaps the only alternative to sub-Saharan Africa's predicament.⁴

African governments that dare to resist this neo-liberal prescription of liberal democracy in favor of populist statecraft – which is less attuned to market governance, but more inclined by popular pressures to address questions of poverty, dependence, and social division that may require deviation from these neo-liberal prescriptions – are often discredited with denigrating epithets such as 'kleptocratic' state; 'vassal' state; 'vampire' state; 'receiver' state, 'prostrate' state, 'fictitious' state, 'collapsed' state, 'predatory' state, 'parasitic' state, 'neo-patrimonial' state, 'lame leviathan' and so on.⁵ This disparaging

throes of a seemingly incurable crisis". GEORGE B. N. AYITTEY, *AFRICA IN CHAOS* 6, 9 (1998). The continent is "wracked by a never-ending cycle of civil wars, carnage, chaos and instability . . . censorship, persecution, detention, arbitrary seizures of property, corruption, capital flight and tyranny". *Id.* at 8. "'Government', as it is known in the West, does not exist in much of Africa.... Dishonesty, thievery, and speculation pervade the public sector The African state has been reduced to a mafia-like bazaar . . . it is a 'state' hijacked by gangsters, crooks, and scoundrels". *Id.* at 150-51. "What one observes in many African countries is an 'artificial government' – 'government by deception', run by a phalanx of degreed bandits sporting Ray-Ban sunglasses and bazookas". *Id.* at 16. See also Henry A. Giroux, *Living Dangerously: Identity Politics and the New Cultural Racism: Towards A Pedagogy of Representation*, 7 *CULTURAL SURVIVAL*, January 1993, at 2-7; FRANK FUREDI, *THE NEW IDEOLOGY OF IMPERIALISM: RENEWING THE MORAL IMPERATIVE* (1994). For a rebuttal of Kaplan's views, see Charles W. Maynes, *The New Pessimism*, 100 *FOREIGN POLICY* Fall 1995, at 33.

⁴ My analysis is analogical and therefore indebted to Edward Said's analysis of Orientalism as a Western style of dominating, restructuring and having authority over non-European communities. EDWARD SAID, *ORIENTALISM* (1979). A major research theme in this and related research projects is to investigate how various cultural and other non-material forms of Western oppression evident in good governance proposals are: first, carried out in conjunction with Third World elites and, second, how these cultural and non-material forms of Western (or Euro-American) oppression of the developing world and the poor are inseparable from national and international economic disparities. See James Thuo Gathii, *EMPOWERING THE WEAK WHILE PROTECTING THE POWERFUL: A CRITIQUE OF GOOD GOVERNANCE PROPOSALS* (a thesis presented to the Committee on Graduate Studies of the Harvard Law School in partial fulfillment of the degree of Doctor of Juridical Science, April 1999).

⁵ Larry Diamond argues that without institutional rules and norms (all part of the good governance proposals), social and policy networks within the state become personalized networks of influence. Politics become personalized and patronage becomes essential to maintain power. In such a kleptocratic state, there is widespread predation and plunder of national resources, rent seeking, corruption, favoritism and oligopolistic entry and exit control. Larry Diamond, *The Globalization of Democracy*, in *GLOBAL TRANSFORMATION AND THE THIRD WORLD* 31 (Robert O. Slater et al. eds., 1993). However, perhaps popular presentations of the use of these derogatory terms are the most illustrative since they do not hide behind technocratic or reformist rationality. For example, William Petersen defines kleptocracy as "the typical government of the less developed world" where it is rule by thieves, and "in which (rulership) ambitious persons can better their lives through the perpetuation of government corruption and inefficiency." William Petersen, *The Social Roots of Hunger and Overpopulation*, *THE PUBLIC INTEREST*, Summer 1982, at 37. In Petersen's view therefore, "the root causes of the worldwide food shortage... are not lack of agricultural technology, but the weakness or absence of an innovative middle class, and the correlative dominance of grossly inefficient and corrupt governments. *Id.* See also Jennifer Hartman, Note, *Government by Thieves: Revealing the Monsters Behind the Kleptocratic Masks*, 24 *SYRACUSE J. INT'L L. & COM.* 157 (1997). The World Bank's report *Accelerated Development in Sub-Saharan Africa*
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set of imagery betrays the preconceptions that lurk beneath its apparent trendiness. In at least two specific ways, such preconceptions give way to notions of chaos, stereotypes, and assumptions about a particular history or view of post-colonial, sub-Saharan African statehood⁶; first, in giving credence to the undermining of the African state's public management and investment of resources, since they arguably pose dangers to the prevailing balance of rights and entitlements; and second, in lending legitimacy to placing limits on democratic controls of the economic sphere.

Good governance's use of this negative and inaccurate imagery also preempts the assertion of African distinctiveness as a form of resistance to these standardized, Western prescriptions of neo-liberal

would be an example of a very technocratic report (using criteria such as efficiency) arriving at the same conclusions of the agrarian crisis in sub-Saharan Africa without using equally disparaging epithets. The World Bank instead focuses on themes such as efficiency. WORLD BANK, *ACCELERATED DEVELOPMENT IN SUB-SAHARAN AFRICA* (1981). George B. N. Ayittey argues that the second generation of coup leaders in Africa after independence (in the 1970's) "soon turned out to be crocodile liberators, Swiss bank socialists, quack revolutionaries, and grasping kleptocrats. After independence true freedom never came to much of Africa. Nor did development." GEORGE B. N. AYITTEY, *supra* note 4, at 278. See also Robert Kaplan, *supra* note 4, at 44. In the United States, political science literature has heavily influenced the formulation of good governance proposals. Examples of this influential literature includes: John Waterbury, *Endemic and Planned Corruption in a Monarchical Regime*, 25 *WORLD POLITICS* 532 (1973); ROBERT H. JACKSON & CARL G. ROSBERG, *PERSONAL RULE IN BLACK AFRICA* (1982); THOMAS CALLAGHY, *THE STATE-SOCIETY STRUGGLE IN ZAIRE IN COMPARATIVE PERSPECTIVE* (1984); RICHARD SANDBROOK, *THE POLITICS OF AFRICAN ECONOMIC STAGNATION* (1986); RICHARD JOSEPH, *DEMOCRACY AND PREBENDAL POLITICS IN NIGERIA: THE RISE OF THE SECOND REPUBLIC* (1987); JEAN FRANCOIS BAYART, *THE STATE IN AFRICA: THE POLITICS OF THE BELLY* (Mary Harper et al. trans., 1993); JEAN FRANCOIS BAYART ET AL., *THE CRIMINALIZATION OF THE STATE IN AFRICA* (Stephen Ellis, trans., 1999); Rhoda Howard, *The Full-Belly Thesis: Should Economic Rights take Priority Over Civil and Political Rights? Evidence From Sub-Saharan Africa*, 5 *HUM. RTS. Q.* 467 (1983). See also Thomas Callaghy, *Political Passions and Economic Interests: Economic Reform and Political Structure in Africa*, in HEMMED IN: *RESPONSES TO AFRICA'S ECONOMIC DECLINE* (Thomas M. Callaghy & John Ravenhall, eds., 1993); Thomas Callaghy, *The State as Lame Leviathan: The Patrimonial-Administrative State in Africa*, in *AFRICAN STATES IN TRANSITION* (Zaki Ergas ed., 1987).

⁶ Thandika Mkandawire similarly argues that "the socially constructed representation of Africa is encoded by these epithets which in themselves do not describe something 'out there' whose characteristics inhere in the epithets but is an outcrop of an underlying discourse", Thandika Mkandawire, *The Social Sciences in Africa: Breaking Local Barriers and Negotiating International Presence*, The Bashorun M. K. O. Abiola Distinguished Lecture Presented to the 1996 African Studies Association Annual Meeting, 40 *AFRICAN STUDIES REVIEW* September 1997, at 33. These derogatory epithets are in part a reflection of what Chandra Mohanty observes to be the work of hegemonic institutions constantly working "through the power of representations and social practices to produce, codify and even re-write histories of race and colonialism in the name of difference". Chandra Mohanty, *On Race and Voice: Challenges for Liberal Education in the 1990's*, 12 *CULTURAL INQUIRY*, 184 (1989/90). Also republished in *BEYOND A DREAM DEFERRED: MULTICULTURALISM EDUCATION AND THE POLITICS OF EXCELLENCE* 41-65, (Becky W. Thompson & Sangeeta Tyagi, eds., 1993). An excellent overview of the ways in which Western anthropological and missionary interpretations of African life and thought introduced distortions for both Westerners and Africans is V. Y. MUDIMBE, *THE INVENTION OF AFRICA: GNOSIS, PHILOSOPHY, AND THE ORDER OF KNOWLEDGE* (1988).

economic reform and liberal democracy. Moreover, the use of African distinctiveness is undermined in part through the discrediting of economic or political projects – justified on the basis of sub-Saharan Africa's particular historical, colonial and neo-colonial, experience and its position in the global capitalist order. Through the propagation of these condescending images of the African State, its politicians, and its people, the free market and liberal-democratic proposals are represented as rational and universal projects necessary to replace the particular character of the nationalist economic and political policies within the African continent. Central to the promotion of neo-liberalism, therefore, is the dismissal of Africa's unique and distinctive appeal, primarily through the evocation of these racially-coded meanings within the neo-liberal discourse. This ideological critique, colored by its inherent racial bias, is as fundamental to the 'do-good, interventionist' agenda as its commitment to imposing liberal democracy and to reshaping the role of government in the economy. For example, neo-liberals argue that under the right market conditions, Africans respond to economic incentives just as 'everyone else' – presumably those living in Western industrial economies. In this way neo-liberal market reforms are uncritically justified.

This view of Africans and their lack of economic progress is uncritical since it is based on a number of problematic assumptions. First that the lack of economic rationality among Africans is one of the single most important factors which explains the lack of economic progress in Africa. This assumption ignores other significant factors that present barriers to economic progress in Africa. Two of the most important factors that are ignored are the continent's location in the international capitalist order and its indebtedness to Western capital. Second, this view of Africans assumes that poor economic governance and political authoritarianism necessarily mean that Africans are denied economic rationality. The assumption that African economic and political governance necessarily holds African citizens in economic and political bondage is overstated. This overstatement can be safely said to be construed so that market governance and liberal democracy can then be promoted as safe antidotes to Africa's economic and political problems.

Neo-liberal prescriptions for economic and political freedom are therefore based on these images of failure, lack of political free will and economic rationality. As further justification for their programs, good governance advocates remind the African leadership of its undesirable past; they intimate that if the reforms are not adopted, *in toto*, that the African state is destined to return to economic and political self-destruction. In so doing, neo-liberalism adopts a universalism hostile to claims of exceptionalism and particularism, that serves to undercut African claims of distinctiveness as a basis for selective incorporation or outright rejection of the universalist projects of free markets and liberal democracy.

This article is an attempt to shed new light on the relationship between neo-liberalism and African identity. In analyzing the problems (and failures) of the African economic and political experience, neo-liberalism has laid the blame exclusively at the feet of African ideologies, institutions, and practices.⁷ In so doing, however, it has completely ignored the significant, external factors such as: the long, drawn-out, and undeniably detrimental effects of colonialism and subjugation; the attenuated and adversarial history of the Cold War that constantly pitted the East against the West with developing countries such as those of sub-Saharan Africa torn in between; the continuous flow of costly arms that fueled new and pre-existing animosities – all in societies more in need of a better future for their people than war. This neo-liberal strategy of labeling African criticism or opposition to free market reforms and liberal democratic prescriptions as opening the door to an undesirable past has ominous implications: it can only serve to stifle and suppress creative African participation in its political and economic process. Local African resistance is being regarded as conservatism and an unwillingness to

⁷ This argument is thus contrary to a consistent liberal tendency to examine North-South relations outside the dynamics of race, ideology and Northern industrial and political power. As Ashis Nandy notes, the histories produced out of the oppression, violence and cultural dislocation of colonialism and imperialism were “corrupt sciences and psychopathic technologies, which reduced major civilizations to empty belief.” ASHIS NANDY, *THE INTIMATE ENEMY: LOSS AND RECOVERY OF SELF UNDER COLONIALISM* xii (1983). This new social consciousness in Asia and Africa in effect reduced the West not merely to “a geographical and temporal entity, but to a psychological category – everywhere in and out of the West, in structures and in minds. Conventional anti-colonialism may therefore be an apology for colonization of minds”. *Id.* See also FRANTZ FANON, *THE WRETCHED OF THE EARTH* (Constance Farrington trans., 1963).

change its old destructive ways, rather than as a (justifiable) desire to modify or break loose from these 'non-negotiable' programs.

In addition, by discouraging the use of African identity as a basis for resistance to neo-liberalism, these proposals seek to seduce the African democrat to surrender her identity. In writing this article, I resist this neo-liberal impulse and argue in favor of consolidating the ideological and practical power of invoking difference (or strategic exceptionalism/essentialism) as a viable basis for resisting such hegemonic projects.⁸ In making this argument, I draw inspiration from post-colonial African international legal scholarship which invokes the concept of distinctiveness in order to resist the Eurocentric, condescending assumptions of international law that were utilized to foster the colonial subjugation of Africa. In doing so, these scholars assert a sense of African, personal and historical agency which the Eurocentric and colonial character of international law has denied and erased. However, this argument is not simply one of putting a glossy and positive image on the African persona. Rather, it is a dialectical project of engaging and overcoming untoward dimensions associated with that persona while simultaneously seeking to extend, deepen, transform and democratize it as well as the structural and institutional environment within which it operates both on the national and international scene.

Following a strand of argument from critical-race theory, I argue that the construction of social norms and racial mythology in the neo-liberal discourse of good governance promotes the interest of global capital in alliance with its Third World elites.⁹ The self-serving nature of good governance literature also seeks to discredit popular democracy and distributional policies in Africa and the promotion of markets and foreign investment in particular.¹⁰ Just as critical-race theorists point out how racist mythologies feed on themselves in the

⁸ GAYATRI SPIVAK, *THE POST COLONIAL CRITIC: INTERVIEWS, STRATEGIES, DIALOGUES* (Sarah Harasym ed., 1991). See GAYATRI SPIVAK, *OUTSIDE IN THE TEACHING MACHINE* 13 (1993). See also JUDITH BUTLER, *GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY* (1990). (Butler argues in favor of strategic provisionality.)

⁹ For a critical race theorist writing in this vein see, Richard Delgado, *Rodrigo's Second Chronicle: The Economics and Politics of Race*, 91 MICH. L. REV. 1183 (1993). For a related article, see Naomi R. Cahn, *Representing Race Outside of Explicitly Racialized Contexts*, 95 MICH. L. REV. 965 (1997).

¹⁰ See J. J. Barya, *The New Political Conditionalities of Aid: An Independent View From Africa*, 24 INST. DEV. STUD. (IDS) BULL. 16 (1993).

interest of their promoters, so does good governance find it necessary to firm up its credibility by using these disparaging images of the African states. After all, these negative and exaggerated images of a greedy and self-serving leadership and its dependent-minded citizenry, only serve to impede African economic and political progress.

Another way in which these images may be said to be self-serving is their apparent intention "to contain difference without awakening the dangerous concepts of power and oppression".¹¹ In this sense, good governance entrenches the subordination of sub-Saharan Africa by criticizing and suppressing democratic forces seeking the elimination of structural and cultural inequality, and silencing, policing, and discouraging opposition to the neo-liberal agenda.¹² However, I resist the temptation to adopt a simplistic posture of African innocence, authenticity or homogeneity versus White or Western guilt; instead, my central concern is to investigate how the African persona has once again emerged so powerfully as a marker of deficit, thereby justifying neo-liberal reform.

This generalized and adverse portrayal of Africa, Africans and African leadership does not stand up to close scrutiny. There are examples of other African countries that have experienced moments of relative economic success and political peace. For example, Botswana and Mauritius have both enjoyed sustained economic growth and political tranquility.¹³ There is therefore no generalized African

¹¹ Joe Kincheloe, *Introduction*, in HENRY A. GIROUX, *LIVING DANGEROUSLY: MULTICULTURALISM AND THE POLITICS OF DIFFERENCE* 8 (1993).

¹² Richard Delgado and Jean Stefancic argue that in the United States, perceptions that 'American' culture is under threat are accompanied by a rising waves of nativism. Some of the images most often invoked in the media and in discussions on 'international' and American national security include violent ethnic hatreds, warfare, authoritarian dictatorship, terrorism, aggressive nationalism and the drug trade. Racial and ethnic identity in particular is treated as deviations from the abstract or rational individual who is able to contain and control personality excesses. These images in turn lend credibility to the portrayal of the West as being under siege. Richard Delgado and Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills*, 77 CORNELL L. REV. 1258, 1270-1275 (1992).

¹³ For an interpretation of Botswana's exceptionalism, see PAULINE PETERS, *DIVIDING THE COMMONS: POLITICS, POLICY AND CULTURE IN BOTSWANA* (1994). For a discussion of military takeovers, clientelism and praetorianism in Africa, see SAMUEL DECALO, *COUPS AND ARMY RULE IN AFRICA* (1976); CRAWFORD YOUNG, *THE AFRICAN COLONIAL STATE IN COMPARATIVE PERSPECTIVE* (1994); *COLLAPSED STATES: THE DISINTEGRATION AND RESTORATION OF LEGITIMATE AUTHORITY*, (I. William Zartman, ed., 1995). Makau Wa Mutua, *Putting Humpty Dumpty Back Together Again: The Dilemmas of the Post Colonial African State*, 21 BROOK. J. INT'L L. 505 (1995) (book review); *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 MICH. J. INT'L L. 1113 (1995).

experience although the images I discuss in this article seem to suggest as much.¹⁴

II. NEO-LIBERALISM AND ITS DENIGRATION OF PUBLIC MANAGEMENT OF RESOURCES: JUSTIFYING A SMALL STATE AS ALTERNATIVE AND IDEAL THEORY OF THE AFRICAN STATE

In this part of the article, I explore how neo-liberalism degrades public or government management of, and investment in, the economy by its invocation of disparaging references to the African State. This commitment to specific and narrow definitions of free markets has been justified as much on the basis of the failures of the post-colonial, sub-Saharan African State as on any other grounds. An example of the contempt shown for the African State is the view that it is obsessed with re-distributive struggles, corruption, and matters of the belly, to the exclusion of economic growth and development. As a result, politics in the African State is portrayed as being “driven by these visceral concerns – no commitment, no morality, no solidarity beyond the most primordial”.¹⁵ As we have seen, neo-liberal criticisms of the African State and its style of economic development after independence discredits the positive aspects of governmental intervention, designed to redress issues such as poverty and economic inequality. This is because the good governance agenda insists on its own specific and narrow definitions of free markets, and the result is a threat to public and potentially beneficial controls of the marketplace. The next section will therefore discuss how the neo-liberal commitment to free markets defines public controls of the market place as threats to its market reform agenda.

A. How Good Governance Discredits State Management of Its Resources While Loosening Public Controls Over the Economy

The derogatory epithets applied to the postcolonial state in governance literature assume that distributional and consumption pressures are an inherent characteristic of its authoritarian politics.

¹⁴ Michael Chege, *What's Right with Africa?*, 93 CURRENT HIST. 193 (1994); Michael Chege, *Remembering Africa*, FOREIGN AFFAIRS, AMERICA & THE WORLD 1991/92, at 146.

¹⁵ Thandika Mkandawire, *supra* note 6, at 31.

Consequently, restraining these distributional pressures in favor of productive investment is regarded as central to the neo-liberal economic reform agenda. Thus, distributional politics must be upstaged by the "ascendance of 'economic logic' in policy making".¹⁶

Another aspect of the economic reform agenda is the limitation of the African State's discretionary control over resources, since, according to the agenda, experience has shown that it "encourages pervasive regulatory intervention and arbitrary bureaucratic meddling in markets. The incessant unpredictable budgetary demands of patronage politics subvert accountability and probity in state finance".¹⁷ This same literature describes the African State as imprisoned by rapacious forces in all spheres of the economy, particularly in agriculture and industry. According to this view, these same self-destructive forces permeate the entire fabric of the economy as they seek to secure and/or maintain opportunities for access to patronage, resources and rent seeking.¹⁸ It is this predatory 'dynamic' that in turn undermines the emergence of 'autonomous domestic capitalist forces'.¹⁹ African politics is depicted as nothing less than a 'dynamic' of securing and protecting avenues to largesse!²⁰

¹⁶ Peter M. Lewis, *Economic Reform and Political Transition in Africa: The Quest for a Politics of Development*, 49 *WORLD POLITICS* 92, 124 (1996) (book review) quoting Thomas Callaghy, *Political Passions and Economic Interests: Economic Reform and Political Structure in Africa*, *supra* note 5.

¹⁷ Peter M. Lewis, *supra* note 16, at 100.

¹⁸ See JOHN MUKUM MBAKU, *INSTITUTIONS AND REFORM IN AFRICA: THE PUBLIC CHOICE PERSPECTIVE* (1997). Robert Bates is a leading example of a rational choice approach in the interpretation of economic performance in Sub-Saharan Africa. See ROBERT H. BATES, *ESSAYS ON THE POLITICAL ECONOMY OF RURAL AFRICA* (1983); ROBERT H. BATES, *MARKETS AND STATES IN TROPICAL AFRICA: THE POLITICAL BASIS OF AGRICULTURAL POLICIES* (1981). See also, Howard Stein and Ernest J. Wilson III, *Robert Bates, Rational Choice and the Political Economy of Development in Africa*, 21 *WORLD DEVELOPMENT* 1033 (1993); M. Bienefeld, *Analysing the Politics of African State Policy: Some Thoughts on Robert Bates' Work*, 17 *INST. DEV. STUD. (IDS) BULL.* 1 (1986); Michael Chege, *Time to Put Away the Heroic Stereotypes*, *TIMES LITERARY SUPPLEMENT*, Jan. 3, 1997, at 14 (book review). See also, LARS UDEHN, *THE LIMITS OF PUBLIC CHOICE: A SOCIOLOGICAL CRITIQUE OF THE ECONOMIC THEORY OF POLITICS* 181 (1996); DONALD P. GREEN & IAN SHAPIRO, *PATHOLOGIES OF RATIONAL CHOICE: A CRITIQUE OF APPLICATIONS IN POLITICAL SCIENCE* (1994).

¹⁹ Peter M. Lewis, *supra* note 16, at 101.

²⁰ For example, see JEAN FRANCOIS BAYART, *THE STATE IN AFRICA: THE POLITICS OF THE BELLY*, *supra* note 6. However, Thandika Mkandawire argues that the problems of accumulation (or of acquiring largesse) are smaller relative to capital flight. In his view, attempts to get rid of corruption paradoxically turn into a perverse incentive – ill-gotten wealth is shuttled from the continent into the West for safekeeping. Thandika Mkandawire, *Beyond Crisis: Towards Democratic States in Africa* (Paper presented at the Council for the Development of Social Science research in Africa, 1995). See also Michael Chege, *Where the Goat Eats*, *TIMES LITERARY SUPPLEMENT*, Feb. 9, 1996, at 4845 (book review of JEAN FRANCOIS BAYART, *THE STATE IN AFRICA: THE POLITICS OF THE BELLY* (1993) and other titles).

The ascendance of the agenda of limiting state management and investment of resources in sub-Saharan Africa is therefore accompanied by a simultaneous deprecation of the African State as a corrupt feudal order. As such, these states are regarded as weak or inefficient, to the extent that they are unable to provide an adequate infrastructure, a predictable legal framework, and sound economic and financial policies. These states are thus characterized by their

[c]apricious mismanagement, weak judicial systems, inefficiency, and pervasive corruption in the public sector, as well as their inability to prevent widespread evasion of laws and regulations. Africa's bloated and overextended state is like a 'lame leviathan', unable to provide stable and effective political and economic governance.²¹

In my view, it is not accidental that this negative portrayal of the post-colonial, African state discredits populist statecraft committed to social welfare guarantees which are considered inconsistent with the neo-liberal prescriptions of market governance, a small state or government that possesses little or no power of distribution, and liberal democracy.

The disparaging images of the post colonial African State lurk within neo-liberal accounts of the post colonial sub-Saharan African State in at least three ways. First, in appropriately discrediting predatory politics; second, in simultaneously discrediting all forms of public management of resources, especially those sensitive to questions of poverty, dependence and social division that may require deviation from the neo-liberal prescriptions of market governance; and third, in the contemptuous portrayal of the African state that strongly resonates as a justification for the neo-liberal small state whose role is primarily confined to providing a framework for the rule of law, protection and enforcement of property rights and enforcement of contracts.

The capacity building (or simply state capacity) dimension of the World Bank's good governance agenda is based on this idea of a small

²¹ Shalendra D. Sharma, *The Politics of Africa's Economic Stagnation*, 20 FLETCHER F. WORLD AFF., Winter/Spring 1996, at 165, 168 (book review).

efficient state with weakened powers of resource allocation.²² The idea of a state with weakened powers of allocation arises from a 'generalized contempt for public management of resources' and enterprise that characterizes the neo-liberal discourse.²³ Capacity building is preoccupied with the necessity of a highly competent bureaucracy (referring to administrative and technical competencies, presumably to replace the scarce administrative and technical resources of sub-Saharan African public sectors) as a key factor in the implementation of neo-liberal economic reform.

The World Bank's good governance agenda attributes the present economic crisis of sub-Saharan Africa to past political arbitrariness and economic inefficiency (or predatory politics in other literature on governance) of structures of governance. Capacity building connotes improving the government's ability to effectively manage its resources for development. Capacity building is seen as the antidote to the dismal performance of sub-Saharan African economies in good governance literature, especially that promoted by the World Bank. In reality, this theme of capacity building really refers to the neo-liberal commitment to a small and efficient state, providing a framework for market governance, as opposed to public management of the economy. The illegitimacy of the state's role in managing the economy is exaggerated by the stigmatization of those things the neo-liberals do not believe the state should be managing. The state is defined as corrupt and inefficient especially in cases involving regulatory controls of the economy. In defining state involvement in the economy as invariably inimical to the efficient use of resources (unless such intervention was market supporting), this argument lays the basis for market reforms or good governance proposals as antidotes to inefficient allocation of resources through the state. Similarly, legal regimes in these states came to be regarded as the root of corrupt and inefficient governance. One major feature of good governance proposals is therefore that of seeking to eliminate state capacities that

²² WORLD BANK, *MANAGING DEVELOPMENT: THE GOVERNANCE DIMENSION – A DISCUSSION PAPER*; WORLD BANK, *GOVERNANCE AND DEVELOPMENT* *supra* note 3; WORLD BANK, *GOVERNANCE: THE WORLD BANK'S EXPERIENCE*, *supra* note 3. *See also*, MAMADOU DIA, *A GOVERNANCE APPROACH TO CIVIL SERVICE REFORM IN SUB-SAHARAN AFRICA* (1993); Frischtak Leila, *Governance and Economic Reform in Developing Countries* (World Bank Technical Paper No. 254, 1994).

²³ HENRY VELTMEYER ET AL., *NEO-LIBERALISM AND CLASS CONFLICT IN LATIN AMERICA: A COMPARATIVE PERSPECTIVE ON THE POLITICAL ECONOMY OF STRUCTURAL ADJUSTMENT* 69 (1997).

promote corruption and inefficiency and to build new capacities that promote development and economic growth.

The rest of this section will address the manner in which the understandable criticism of predatory politics or past arbitrariness and inefficiency *par* the World Bank, has simultaneously served to discredit all or most forms of public management of resources for social welfare. This criticism is over-inclusive to the extent to which it undermines the African State's pursuit of distributional policies intended to address poverty, dependence and social division as illegitimate interventions in the economy, under the contemptuous label of predatory politics.²⁴ Prior to the debt crisis, both the World Bank and the International Monetary Fund (IMF) supported or acquiesced to the pursuit of interventionist policies, such as import substitution and other economic programs (such as public education and health) that, it was argued, required government involvement in the economy.²⁵

²⁴ James Ferguson, *From African Socialism to Scientific Capitalism: Reflections on the Legitimation Crisis in IMF-Ruled Africa*, in *DEBATING DEVELOPMENT DISCOURSE: INSTITUTIONAL AND POPULAR PERSPECTIVES*, 137 (David B. Moore & Gerald J. Schmitz, eds., 1995). The World Bank argues that the "public funds required for the provision of services in this traditional fashion [free basic services such as sanitation, safe water, modern health care, and education] exceed by far what governments are able to generate now or are likely to generate in the next several decades". WORLD BANK, *ACCELERATED DEVELOPMENT IN SUB-SAHARAN AFRICA: AN AGENDA FOR CHANGE*, *supra* note 6, at 43. This analysis says nothing of the overriding imperative in policy reform to generate revenue for debt repayment at the expense of all other needs for revenue. In addition, as Ferguson notes presumes that "African consumers are willing to give up other expenditures to buy such services as bus transport, irrigation water, health care, and education." No attention is given to those who can hardly afford these services, even granted that one agrees with the Bank's analysis on the need to privatize especially those services and do away with those subsidies enjoyed by a few at the expense of the majority. Teresa Hayter and Catherine Watson note that the "Bank's predilections clearly lie in the direction of the neo-classical 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". TERESA HAYTER & CATHERINE WATSON, *AID: RHETORIC AND REALITY* 140 (1985). The Bank's rationale for preferring market as opposed to government determination of prices is based on the view that markets allow competition and result in gains in efficiency. The Bank hence advocates the removal of subsidies and price controls since these are regarded as undesirable 'distortions'. Such reforms are also thought of as desirable since they reduce government spending, a 'virtue' promoted by these institutions, notwithstanding the resulting rise in prices of essential commodities especially, for the poor.

²⁵ Nicholas Stern & Francisco Ferreira, *supra* note 1, at 537-47.

B. Background to Postcolonial African State Interventionist Policies, Both as a Production Strategy and as a Commitment to Distributive Justice

While it may be true that corruption, mismanagement and inefficient economic governance have characterized postcolonial African states, the distributional policies referred to above have been a central and positive part of a postcolonial commitment to equality and justice. Undoubtedly, predatory politics have betrayed this commitment, but it is mistaken to discredit or submerge distributional justice with the discredited predatory politics or arbitrary and inefficient governance of post colonial African states. In addition, it is important to point out that state involvement in the economy was not simply justified on the basis of a commitment to distributional justice, but rather as a distinctive view of production and investment. This distinctive view of state involvement in production and investment has been most recently successful in Northeast and Southeast Asia, although the World Bank and the IMF do not recommend it to Africa.²⁶

In the immediate postcolonial period, nearly all sub-Saharan African governments rejected limited constitutional governments and market economies as inadequate to manage the widespread inequalities produced under colonial rule, and the massive task of nation building in diverse ethnic and religious groups that had lived under the divide and rule policies of colonial governors.

This postcolonial commitment was also echoed in the Keynesian consensus (which was by no means a homogeneous view of thought and practice)²⁷ of the post World War II period, which was adopted by

²⁶ Neo-liberal prescriptions do not prescribe a production strategy for African states as such. Instead, its prescriptions are designed to ensure a global system of free movement of capital as a precondition for its optimal allocation. Hence the prescriptions recommend the deregulation of the economy and the privatization of state owned firms. These proposals ignore how successful economies in East Asia were accompanied by heavy state involvement in allocation of credit subject to performance standards. This is a path African states could very well follow but it is a foreclosed alternative in the good governance proposals. See ALICE H. AMSDEN, *ASIA'S NEXT GIANT: SOUTH KOREA AND LATE INDUSTRIALIZATION* (1989). For an articulation of this view in the African context, see *infra* note 40 and accompanying text. See also Alice H. Amsden, *Why Isn't the World Bank Experimenting with the East Asian Model to Develop?: Review of the East Asian Miracle*, 22 *WORLD DEV.* 627 (1994).

²⁷ For a treatment of the heterogeneous character of the Keynesian 'consensus' during both its heyday and crisis, see GEOFFREY PILLING, *THE CRISIS OF KEYNESIAN ECONOMICS: A MARXIST VIEW* (1986).

economic managers particularly in Western Europe, but was also an influential inspiration of the economic programs of several Western oriented sub-Saharan African economies.²⁸ The attraction of Keynesianism was that it could be mobilized to give credibility to the use of fiscal policy to remove inequalities of wealth while, at the same time, boosting consumption through re-distributive measures such as public works.²⁹ In other words, there was a convergence in the structuralist³⁰/nationalist consensus of the desirability of direct government control of the economy adopted by postcolonial governments and the goals of social democracy or the welfare state as instituted in Western Europe during the inter-war period. The structuralists/nationalists held the belief that the newly independent governments of sub-Saharan Africa should correct the flaws of the market economy so that prosperity and equality would not be solely dependent on the market. This view was partly inspired by anti-colonial struggles that rejected a reduced role for the state in the economy.³¹ In addition, African nationalist leadership invoked notions

²⁸ Peter A. Hall, *The Political Power of Economic Ideas: Keynesianism Across Nations*, 1989, in THE POLICY CONSEQUENCES OF JOHN MAYNARD KEYNES (Harold Wattel ed., 1985).

²⁹ Keynesian economics served to justify deficit spending to combat high unemployment and excess capacity without crowding out other production. Hence, Keynesian economics departed from classical or Marshallian economics which regards resolving unemployment through public works programs as a means of diverting savings that would otherwise go to private investment. Classical economics is thus based on a spontaneously adjusting mechanism (the interest rate) that would bring into equilibrium the quantity of savings supplied through foregone consumption (savings) and the quantity of investment demanded by entrepreneurs.

³⁰ Structuralism is an economic view of the world identified for regarding change in the international economic order in favor of developing countries through the free movement of capital and goods as inhibited by obstacles, constraints and bottlenecks. This view therefore holds that, to overcome these hurdles, various forms of direct government control are necessary to promote economic development. Structuralists consider transforming the structural context as a prerequisite for real development.

³¹ From the late 1950's to the late 1960's, Western economists, just like African nationalists, thought that the free market was unsuited for newly independent African countries. For a sampling of how these development economists departed from classical economics in their policy prescriptions, see ALBERT O. HIRSCHMAN, *ESSAYS IN TRESPASSING: ECONOMICS TO POLITICS AND BEYOND* (1981) (especially the chapter on "The Rise and Decline of Development Economics".) Some of the most cited critiques of state involvement in the economy written during the ascendant moment of development economics in the 1960's and 1970's were by Peter Bauer. See PETER BAUER, *WEST AFRICAN TRADE* (1963); *A DISSENT ON DEVELOPMENT* (1976); *REALITY AND RHETORIC* (1984). The critique of development economics displaced development economics as a *dirigiste dogma*. Some of the leading attacks on development economics (which advocated for a very limited role for government and an extended role for markets in development) in this period were: DEPAAK LAL, *THE POVERTY OF DEVELOPMENT ECONOMICS* (1984); IAN LITTLE, *ECONOMIC DEVELOPMENT* (1982); BELA BALASSA, *STUDIES IN TRADE LIBERALIZATION* (1967); ANNE O. KRUEGER, *DEVELOPMENT WITH TRADE* (1988). Other researchers that had, for a long time, marshaled evidence on the failure of the state, which in effect justified free market reforms in developing countries, include the trade economist Jagdish Bhagwati. See, e.g., Jagdish Bhagwati, *Trade*

of African socialism predicated on solidaristic and communitarian ideals as an anti-colonial engagement with the coercive realities of the rugged individualism embedded in dominant visions of the liberal international economic order.³² Other reasons why the newly independent countries in the post-World War II era rejected free markets as an option included the export pessimism experienced in developed countries and the success of the Soviet Union which, through economic planning, despite being a relatively underdeveloped country, had become a great power in just one generation. Furthermore, the leadership's desire to promote faith in the need to industrialize, the availability of cheap and abundant labor, and

Liberalization among LDC's, Trade Theory and GATT Rules, in VALUE, CAPITAL AND GROWTH: PAPERS IN HONOR OF SIR JOHN HICKS (J. N. Wolfe ed., 1968). Together, the work of these academics (perhaps unwittingly) echoed the dominant conservative economic policies of the Thatcher and Reagan governments across the Atlantic in two Northern industrial economies, while the Bretton Woods institutions and the GATT/WTO simultaneously imposed free market reforms on sub-Saharan African economies. The work of these academics also simultaneously displaced the paradigm of development that had been advocated by development economists with widespread acceptability only a few years before.

³² Countries such as Ethiopia under Emperor Haile Selassie, Ghana under Nkuruma, Guinea under Sekou Toure and Tanzania under Nyerere initially adopted a philosophy of African socialism that presumed traditional African societies would accommodate socialism 'naturally' without conflict or tension, only to revise this approach and adopt variations of scientific socialism (such as Leninist Marxism) as experience proved them wrong. For a review, see *SOCIALISM IN SUB-SAHARAN AFRICA: A NEW ASSESSMENT* (Carl G. Rosberg and Thomas M. Callaghy, eds., 1979). In the Kenyan case, see *REPUBLIC OF KENYA, AFRICAN SOCIALISM AND ITS APPLICATION TO PLANNING IN KENYA* (Sessional Paper Number 10, 1965). This document outlined Kenya's brand of African socialism to include: political equality; social justice; human dignity including freedom of conscience; freedom from want, disease and exploitation; equal opportunities; and growing per capita income, equitably distributed. This so-called socialist paper was drafted by an American economist serving as a consultant, perhaps illustrating the sheer manipulability of socialist rhetoric to fit the nationalist coalition within the Kenyatta government that was basically an accumulating class within the strictures of a neo-colonial capitalist economy in the periphery. 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* (1975); *JARAMOGI OGINGA-ODINGA, NOT YET UHURU* (1968). Both Odinga and Kaggia lament the betrayal of the radical nationalist goals by the Kenyatta government by serving the wealthy elite at the expense of the poor and peripheral communities. See also *TOWARDS SOCIALISM IN TANZANIA* (B. U. Mwanasusu & Cranford Pratt, eds., 1979); *AHMED MOHIDDIN, AFRICAN SOCIALISM IN TWO COUNTRIES* (1980); *JULIUS K. NYERERE, FREEDOM AND SOCIALISM* (1968); *Ujamaa: The Basis of African Socialism, in JULIUS K. NYERERE, FREEDOM AND UNITY* (1967); *THE ARUSHA DECLARATION AFTER TEN YEARS* (1979); *POLITICS AND PUBLIC POLICY IN KENYA AND TANZANIA* (Joel D. Barkan, ed., 1984); Michael Chege, *Swapping Development Strategies: Kenya and Tanzania After Their Founding Fathers, in POLITICAL DEVELOPMENT AND THE NEW REALISM IN SUB-SAHARAN AFRICA 247* (David E. Apter & Carl G. Rosberg eds., 1994); P. Anyang' Nyong'o, *State and Society Relations in Kenya: The Disintegration of the Nationalist Coalitions and the Rise of Presidential Authoritarianism, 1963-1978*, 88 *AFRICAN AFFAIRS* 229 (1989).

multinational corporations³³ all contributed to the newly independent state's desire to take a more active role in the economy.³⁴

In marked contrast to the neo-liberal model of the small state, the post-World War II Keynesian consensus assigned the government a major role in enterprise and public management of resources. A key characteristic of Keynesian economics was its contribution to explaining how to calculate the size of the national income and levels of unemployment, inflation and growth. Briefly, Maynard Keynes' contribution to the study of national income was in part the theory that income determination was predicated upon a perception of investment demand that had a multiplier effect on consumption and economic output as determined by the level of demand.³⁵ As such, Keynes re-oriented the earlier Marshallian analysis that focused primarily on the study of marginal utilities and costs in price determination in individual markets. In contrast, Keynes focused on the interaction of flows of national savings and investment that determine the level of national output and employment. Keynesian analysis, therefore, shifted attention from the marginalist view of micro-maximization – moving the understanding of motivation from an individual to a group-centered perception of behavior. Moreover, he rejected the theory that the price mechanism was a pre-condition for the determination and existence of economic order.

Through its focus on the study of the business cycle, Keynesianism, unlike “marginalism”, also introduced the concepts of

³³ See, e.g., Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (1965).

³⁴ W. Arthur Lewis, *Economic Development With Unlimited Supplies of Labor*, in *THE ECONOMICS OF UNDERDEVELOPMENT* (A. N. Agarwala & S. P. Singh eds., 1958); Hollis Chenery, *Comparative Advantage and Development Policy*, in *STRUCTURAL CHANGE AND DEVELOPMENT* 275 (World Bank, 1979). For a radical critique of these theories of underdevelopment (albeit these were more to the left of the classical modernization theories that presupposed development was the transition from traditional to modern society), see SAMIR AMIN, *ACCUMULATION ON A WORLD SCALE: A CRITIQUE OF THE THEORY OF UNDERDEVELOPMENT*, (Brian Pearce, trans., 1974) (Especially chapter one).

³⁵ One of his seminal contributions was, JOHN MAYNARD KEYNES, *THE GENERAL THEORY OF EMPLOYMENT, INTEREST AND MONEY* (1936). For his collected writings see, *THE COLLECTED WRITINGS OF JOHN MAYNARD KEYNES* (Austin Robinson ed., 1971). Alfred Marshall, by contrast, whose work is credited with the marginalist revolution that preceded the Keynesian consensus, focused on the price determination of capital and consumption goods. His work ignored a major Keynesian insight, the distinction between consumption and investment with respect to their respective demanders. In Marshall's view, momentum and progress of the economy arose from utility maximization, a natural tendency for the movement or expansion of economic life, except when this natural tendency of economic expansion was 'paralyzed'. Robert Heilbroner & William Milberg, *The Crisis of Vision in Modern Economic Thought* (1995).

uncertainty and contingency (market failure) as part of the social experience. Instead of perceiving economic action and order as the result of spontaneity or law-like explanations – as in the marginalist view, where price analysis was regarded as an order-bestowing process, or economics as an ordering calculus – Keynesianism looked to motivations, such as precaution, foresight, calculation, shortsightedness, ostentation, and extravagance. This shift from utility-maximization to propensities expanded the possibility for empirical investigation of consumption, income ratios, interest rates, investment, expenditure, and so on, that were limited under the assumptions of marginalism or Marshallian analysis. The study of market failure and its relationship to unemployment laid the foundation for utilizing the government as an active generator of economic activity. Under Keynesianism, then, economic policy was understood not so much as being subject to the spontaneous direction or whims of the market but rather as a reflection of socio-economic considerations.³⁶

Development economists, or structuralists, who studied postcolonial economies concurred with the Keynesian consensus and nationalist leadership (especially in countries allied to the West) that addressing social and economic problems required placing economic management in the hands of the state.³⁷ The structuralists went even further than the Keynesians; they argued that in the postcolonial context, great socio-economic questions – such as poverty, powerlessness, massive income inequalities, ‘natural’ monopolies, pre-capitalist traditions, and factor immobility – could not be surrendered to the market. It was also important for the state to become involved, not only to help determine the course of social change and to chart and implement a strategy for rapid economic growth, but also to improve income distribution, the redistribution of assets and, through price and wage controls, to manipulate the return to different types of labor and capital controls.³⁸ Today, structuralists still argue against unrestricted, free trade for developing countries, especially in view of the export pessimism of the Great Depression and the post-World War II era,

³⁶ This and the preceding paragraph closely tracks ROBERT HEILBRONER & WILLIAM MILBERG, *id.*

³⁷ For a definition of the structuralists, *see supra* note 31.

³⁸ *See* MICHAEL TODARO, *ECONOMIC DEVELOPMENT IN THE THIRD WORLD* (1985); GERALD MIEIR, *LEADING ISSUES IN ECONOMIC DEVELOPMENT* (1986).

although selective interpretations of the success of the East-Asian economies through growth in their exports is often cited as support for the opposite view.³⁹

***C. Neo-Liberalism: Reversing State Interventionist Policies –
Imposing the Small State as Alternative Production and
Distributional Model***

The idea of a small, efficient state is in part a reversal of the critical role that the state played in both the Keynesian and the structuralist/nationalist consensus. Good governance, as embraced by the Bretton Woods institutions in particular, now embraces the neo-liberal approach for the resolution of social problems. Just as in marginalism and Marshallian analysis, this neo-liberal approach focuses on individual choices, on the microcosm; government involvement in the economy not only undermines the impartiality of the invisible hand of the market place, but individual liberty as well.

This methodology has been re-introduced mainly through public-choice inspired analysis.⁴⁰ Public-choice theorists hold that the needs of citizens can best be met through the market place, except perhaps for essential public goods. In this view, very specific notions of the market, or capitalism, comprise the most efficient system of allocating resources, while liberal democracy is the political regime that best suits the dignity of all citizens. Democracy, within the neo-liberal view, is deemed to be simply a method for the selection of government, a view that I will contest in the third part of this paper.

Neo-liberal economics, in fact, adopts the Marshallian notion of spontaneity; as a result of the unintended actions of individuals, the price mechanism can generate an economic order. However, the theory goes even further by contending that the market (or price

³⁹ One of the best articulations of the structuralist view to come from Africa is from the ECONOMIC COMMISSION FOR AFRICA, *AFRICAN ALTERNATIVE TO STRUCTURAL ADJUSTMENT PROGRAMMES (AAF-SAP): A FRAMEWORK FOR TRANSFORMATION AND RECOVERY* (Apr. 10, 1989). For a friendly critique of this structuralist view, see MICHAEL BARRATT BROWN, *AFRICA'S CHOICES AFTER THIRTY YEARS OF THE WORLD BANK 179-87* (1995). See also note 27 and accompanying text.

⁴⁰ Robert Heilbroner and William Milberg argue that within macro-economic thinking at the present time, there has been a series of efforts to re-establish neo-classical thought or Marshallian analysis as the dominant approach to issues of income determination, unemployment, inflation and growth. ROBERT HEILBRONER & WILLIAM MILBERG, *supra* note 35.

mechanism) bestows not only economic order but political order as well. Moreover, the literature on good governance adopts the theories of Friedrich Hayek and Milton Friedman to support their contention that the market provides a spontaneous basis for economic and political order. According to Hayek, the market produces a special kind of spontaneous order "through people acting within the rules of the laws of property, tort and contract".⁴¹ In his view, the role of government is specific: to provide a framework for the rule of law within which individual freedom could be realized. His view of government is therefore a limited one, confined to providing only those goods that the market could not efficiently provide. The market is a pre-condition of this individualism that is broadly associated with public-choice approaches and regards the state as the sum of its individual members acting collectively.⁴² Thus, spontaneous order emerges as individuals in the marketplace enter into voluntary exchanges with each another.

This public-choice concept of the state is a fundamental departure from the Keynesian welfare-state consensus, or that of the postcolonial structuralist view upheld by development economists. According to these economists, the state existed not as a result of spontaneous order, but rather of conscious social construction designed for the welfare of society.⁴³ In contrast, neo-liberals view the market not only as "the best mechanism for resource allocation, but also as the best mechanism for political decision making and for social interaction generally; the yardstick with which to measure the value of all social institutions".⁴⁴ This prescription of a limited state is based on the proclaimed supremacy of the market and individual freedom; the market becomes the linchpin, not only because it maximizes individual freedom but it also makes individual choice possible. By adopting some of the basic tenets of public-choice theory, neo-liberalism

⁴¹ Perhaps the best example is WORLD BANK, *ACCELERATED DEVELOPMENT IN SUB-SAHARAN AFRICA: AN AGENDA FOR CHANGE*, *supra* note 5. For a critique of the Marshallian view and its Hayekian assumptions in the African context, see KIDANE MENGISTEAB, *GLOBALIZATION AND AUTOCENTRICITY IN AFRICA'S DEVELOPMENT IN THE 21ST CENTURY*, especially at 127-50 (1996).

⁴² C. B. MACPHERSON, *THE POLITICAL THEORY OF POSSESSIVE INDIVIDUALISM, HOBBS TO LOCKE* (1962).

⁴³ Udehn reminds us that public choice was a movement against welfare economics. LARS UDEHN, *supra* note 18, at 181.

⁴⁴ David Beetham, *Four Theorems About the Market and Democracy*, 23 *EURO. J. POL. RES.* 187, 188 (1993).

concludes that individual choice is not possible under any conditions except those of the market.

This view emanates from the well-known forerunner of public-choice theory – the *Arrow Theorem* – that holds that “no voting rule [or democracy] can transform the preferences of individuals into a consistent set of preferences for the community as a whole”.⁴⁵ This theory further rejects the principle that social welfare or collective choices can be derived from the preferences of individuals. If social welfare or collective choices could be derived in that fashion, the argument continues, then they would merely “reflect the preference of the welfare economist himself”.⁴⁶ In sum, because unanimity is impossible where people have different preferences, *Arrow’s Theorem* rejects, *in toto*, the possibility of social welfare.⁴⁷ The public-choice approach derived its concept of spontaneous order directly from *Arrow’s Theorem*. It therefore follows, according to public-choice advocates, that democracy must be imposed or dictatorial. After all, there is no way to aggregate individual preferences into social choice. Not even the market, which is itself a spontaneous order, is a mechanism for social choice.

The implications of the neo-liberal prescription – that markets are superior to democracy in resource-allocation/enterprise, and in creating social, political and economic order – are worrisome to the social democrat. First, because neo-liberalism embraces a radical individualism opposed to popular sovereignty. In this view,

⁴⁵ LARS UDEHN, *supra* note 18, at 179. Arrow’s theorem, also known as the general possibility theorem, holds that: “if we exclude the possibility of interpersonal comparisons of utility, then the only methods of passing from individual tastes to social preferences which will be satisfactory and which will be defined for a wide range of sets of individual orderings are either imposed or dictatorial.” KENNETH ARROW, *SOCIAL CHOICE AND INDIVIDUAL VALUES* 59 (1951). See also DUNCAN BLACK, *THE THEORY OF COMMITTEES AND ELECTIONS* (1958).

⁴⁶ LARS UDEHN, *supra* note 18, at 179. The only case under which there could be unanimous consent, according to this argument, is in the case of provision of public goods, where it would be possible to change the otherwise efficient workings of the market. Social choice, therefore, should be minimized to situations of unanimous choice. *Id.*

⁴⁷ Jurgen Habermas proposes an alternative and preferable way of thinking about how to reach agreement in society. In his view, communicative action or mutual understanding can be promoted since it is possible to change people’s preferences and beliefs through argument and debate between free and equal citizens in a public sphere. However, preconditions for communicative action rarely obtain in many sub-Saharan African countries, although this by no means discredits communicative action or any radical democratic alternative to the public choice critique of democracy. JURGEN HABERMAS, *THE THEORY OF COMMUNICATIVE ACTION, (VOL. 1: REASON AND THE RATIONALIZATION OF SOCIETY; VOL. 2: LIFEWORLD AND SYSTEM: A CRITIQUE OF FUNCTIONALIST REASON)* (1981).

individuals are held to have fixed and unchanging preferences that can only find their fullest expression in a market society. Second, because individual liberty is conceived of as limiting state authority within a regime of rules for property, tort and contract. And third, because the market is superior to democracy as a method of resource allocation, liberty trumps other values such as equality, social security and redistributive policies.⁴⁸

Neo-liberalism is also hostile to social spending because it is regarded as an inefficient cost to the economy, it promotes dependence and it represents a departure from the structuralist/nationalist and Keynesian welfare state consensus, all of which acknowledge that social spending is a legitimate policy to rectify disadvantage. Since, according to this theory, social spending endangers individual liberty, the preferred method is for the market to allocate/invest resources for their most efficient use, thus obviating the need for any distributive role.⁴⁹

In general, while the neo-liberal agenda is replete with examples of using safety nets to help the poor, the needy, and the so-called losers in the adjustment process, it is not inaccurate to conclude that it is opposed to all forms of wealth redistribution. In fact Hayek, whose work is often used to justify neo-liberalism, subscribes to the view that justice is merely procedural. He further avers that intervention in the economy, for the purpose of promoting social justice, simply undermines 'the justice of the market', resulting in the confiscation of wealth from the more successful; prolonging the dependence of the needy; entrenching 'the special powers of organized interest groups', and eventually overriding individual freedom.⁵⁰ In its beginning phases during the early 80's, neo-liberalism was heavily criticized for failing to consider the 'human dimension' and thus failing to work towards the reduction of social dislocation and suffering in several developing countries.⁵¹ The social, economic and political activism

⁴⁸ J. ROLAND PENNOCK, *DEMOCRATIC POLITICAL THEORY*, ch. II (1979).

⁴⁹ An excellent critique of this shortcoming in the context of economic restructuring is included in Kerry Rittich, *Recharacterizing Restructuring: Gender and Distribution in the Legal Structures of Market Reform* (1998) (unpublished S.J.D. dissertation, Harvard Law School)

⁵⁰ Christopher Pierson, *Democracy, Markets and Capital: Are There Necessary Economic Limits to Democracy*, in *PROSPECTS FOR DEMOCRACY: NORTH, SOUTH, EAST, WEST* 181 (David Held, ed., 1993).

⁵¹ UNICEF commissioned one of the major mainstream critiques of IMF austerity programs. GIOVANNI CORNEA, RICHARD JOLLY AND FRANCIS STEWART, *ADJUSTMENT WITH A HUMAN FACE*:

popularly known as the African food riots and resultant social activist movements in Latin America coincided with the implementation of the harshest elements of the free-market system throughout the 80's and into the 90's.⁵² It is therefore not unexpected that, although many aspects of the neo-liberal reforms are socially disadvantageous (as in the reduction of social spending in education, health and public housing), these reforms incorporate social safety nets which provide temporarily for those who lose out the most. In effect, these safety nets serve to cushion the potentially damaging impact of the reform process and, as a result, the inevitable protests.⁵³ Moreover, social

PROTECTING THE VULNERABLE AND PROMOTING GROWTH (1987). See also UNDP, HUMAN DEVELOPMENT REPORT (1993). The Bretton Woods institutions tacked on social safety nets within the strictures of the neo-liberal agenda, without fundamentally re-altering it, following criticism of the program's inattention to social justice issues. For example, the IMF notes that while "fiscal policy is a key avenue for dealing with social aspects of adjustment, the (IMF's) Interim Committee also places importance to improving the quality and composition of fiscal adjustment, by reducing unproductive spending while ensuring adequate basic investment in infrastructure." IMF, SOCIAL DIMENSIONS OF THE IMF'S POLICY DIALOGUE 1 (Aug., 1997), quoting IMF, DECLARATION ON A PARTNERSHIP FOR A SUSTAINABLE GLOBAL GROWTH (1996). According to the IMF, it is a fact that "an economy ridden with imbalances and rigidities to a high quality growth path is always difficult. Some policies that are necessary for this transition may hurt some of the society's vulnerable groups in the short run. With the governments concerned, the IMF is making serious efforts to contain and mitigate such adverse effects and to introduce appropriate social safety net measures Fiscal adjustment is critical in the design of IMF-supported adjustment programs and in its policy advice on social issues. The composition of government expenditures reflects social priorities and such expenditures are being targeted more specifically to meet the needs of the poor. In the process, the IMF maintains a dialogue with the World Bank and United Nations agencies to identify key areas where public expenditure must be maintained or even increased if necessary – and where nonproductive spending (including military spending) can be reduced – so that investments in human capital, such as basic health care and primary education are not displaced". IMF, SOCIAL DIMENSIONS, at 2. For a review of how the Bretton Woods institutions have re-oriented the neo-liberal agenda to address political and intellectual challenges, see Eboe Hutchful, *Adjustment In Africa And Fifty Years Of Bretton Woods Institutions: Change or Consolidation*, XVI CANADIAN JOURNAL OF DEVELOPMENT STUDIES 412 (1995). For a statement of the continuing revision of structural adjustment programs, see World Bank, *Moving Forward Where There is Consensus & Rethinking Adjustment Where There is Less Success-And Less Consensus*, in ADJUSTMENT IN AFRICA: REFORMS, RESULTS AND THE ROAD AHEAD 184-208 (1994). For a statement of the revised statement of the Washington consensus incorporating a social dimension, see John Williamson, *The Emerging Development Consensus*, in GLOBAL CHANGE, REGIONAL RESPONSE: THE NEW INTERNATIONAL CONTEXT OF DEVELOPMENT (Barbara Stallings, ed., 1995), (initially published in Global Studies Program, University of Wisconsin, Working Paper No. 5 in the Series on Development at A Crossroads: Uncertain Paths to Sustainability, September 1994).

⁵² See Susan Eckstein, *Power and Popular Protest in Latin America*, in POWER AND POPULAR PROTEST: LATIN AMERICAN SOCIAL MOVEMENTS, (Susan Eckstein, ed., 1989); John Walton, *Debt, Protest and the State in Latin America*, in Eckstein, POWER AND POPULAR PROTEST, *id.* at 329. For an account of the complexity of African social movements (discounting simplifications of protests as merely cultural, religious or apolitical) see M. Mamdani, T. Mkandawire and Wamba-dia-Wamba, *Social Movements, Social Transformation And the Struggle for Democracy in Africa*, Working Paper No. 1/88, CODESRIA, 1988.

⁵³ M. de Larosiere, then Managing Director of the IMF, in a speech to ECOSOC, 4 July, 1986, for example, stated that "programmes of adjustment cannot be effective unless they command the support of

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safety nets are deemed to be an acceptable response since they (the social safety nets) do not shake up the balance of political and economic power in society⁵⁴, and especially since they do not require radical surgery in the structural relations of wealth and power. As such, they are attractive both to the local elites and Western capital.⁵⁵ In short, these safety nets are left beyond public or democratic control since, according to the neo-liberal prescriptions, legislatures cannot be trusted to redistribute resources. After all, the liberal democratic component of neo-liberal proposals confines democratic practices to the political sphere without simultaneously extending them to the economic sphere, where peoples' most fundamental interests, especially in deeply unequal societies, are constituted.⁵⁶ We now turn to the limitations of the liberal democratic project as embraced in neo-liberal or good governance proposals.

III. THE AUTONOMOUS STATE AND THE INSULATION OF NEO-LIBERALISM FROM POPULAR FORCES

As we have seen, neo-liberalism is as obsessed with the concept of individual liberty as it is uncomfortable with popular sovereignty and state intervention in the economy. It fears that governmental intervention in the economy only leads to out-of-control spending, budget deficits, and other vices which, unless held in check, would inevitably undermine individual freedom. In one extreme version,

government and of public opinion. Yet this support will be progressively harder to obtain without some payoff in terms of growth while human conditions are deteriorating". Advocates for social and economic rights argued that "political democracy without a safety net for the vulnerable and the weak curtails and impairs the principle of social justice and does not meet the standards and the scope of the international bill of rights". See, Theo Van Boven, *Human Rights and Rights of Peoples*, 6 EUR. J. INT'L L. 470 (1995); See also Ian Martin, *The New World Order: Opportunity or Threat for Human Rights* (A lecture by the Edward Smith visiting fellow presented by the Harvard Law School Human Rights Program, 1993).

⁵⁴ According to Henry Veltmeyer, James Petras and Steve Vieux, one of the major aims of structural adjustment programs is to enable indebted low income countries to service their external debt, without regard to social welfare, resulting in massive transfers of resources from low income developing countries to high income countries. HENRY VELTMEYER ET AL., *supra* note 23, at 16. In this context, social safety nets are an important padding against social protest in response to government withdrawal from providing important social support, in areas such as education and health, since they involve minimal expenditure compared to providing free education and health like was the case before.

⁵⁵ Kerry Rittich, argues that neo-liberalism is a hodge potch of proposals that are internally inconsistent as well as contradictory with each other. It is therefore unsurprising that social safety nets could be part of the programmatic proposals of neo-liberalism. Kerry Rittich, *supra* note 49.

⁵⁶ See Christopher Pierson, *Democracy, Markets and Capital: Are There Necessary Economic Limits to Democracy?*, XL POLITICAL STUDIES 83-98 (1992).

popular democracy is regarded as the “Road to Serfdom”.⁵⁷ Hence, a second way in which disparaging images of the post-colonial sub-Saharan African State are deployed in good governance debates is in justifying the insulation of neo-liberal economic reform from popular forces.⁵⁸ The neo-liberal commitment to individual freedom adopts individual choices as the basis for the resolution of social problems and is thus dismissive of the *demos*. But individual choices merely focus on the microcosm. This view presents a very confining approach to the resolution of social problems such as poverty and economic disadvantage, which are structural and systemic rather than accidental or reflective of individual pathology. The neo-liberal view that collective decisions involve coercion and cannot satisfy all individual preferences is yet another reason why these Westerners prefer the market to satisfy social needs.

In at least two critical ways, this agenda further seeks to insulate neo-liberal economic reform and the present distribution of wealth and entitlement from the control of the *demos*: first, through the concept of an *autonomous state*, committing the state to insulating itself from special-interest groups seeking special ‘favors’ or ‘privileges’; second, through the neo-liberal commitment to liberal democracy and the creation, protection, and maintenance of a system of rights to protect individual freedom. In this section I will first demonstrate how public-choice inspired critiques of special interest group activity in the governance literature lead to the prescription of an autonomous state. Second, I will examine how, based on its fear of the *demos*, good governance’s liberal-democratic commitment disenfranchises solidaristic approaches to the democratic management of society.

⁵⁷ FRIEDRICH A. VON HAYEK, *THE ROAD TO SERFDOM* 100 (1944); *THE CONSTITUTION OF LIBERTY* 460 (1960); *STUDIES IN PHILOSOPHY, POLITICS AND ECONOMICS* 145 (1969). See also J. L. TALMON, *THE ORIGINS OF TOTALITARIAN DEMOCRACY* (1960). For a sympathetic application of this idea in the context of Eastern and Central Europe, see Reuven Brenner, *The Long Road From Serfdom and How to Shorten It*, 17 *CANADIAN BUS. L. J.* 195 (1990).

⁵⁸ Thomas Callaghy, *Political Passions and Economic Interests: Economic Reform and Political Structure in Africa*, *supra* note 5, at 484. A critical evaluation of neo-liberal reform in Latin America confirms my claim that neo-liberalism aims at insulating the government from distributional coalitions that may capsize economic reform. See Hector E. Schamis, *Distributional Coalitions and the Politics of Economic Reform in Latin America*, 51 *WORLD POLITICS* 236 (1999).

***A. State Autonomy in the Governance Agenda: Proscribing
Democratic Control of the Economy***

Public-choice critiques of the state, that are adopted in much of the World Bank's literature on economic 'failure' in Sub-Saharan Africa, take the view that governments have become hostage to interest groups which undermine entrepreneurship and enterprise.⁵⁹ In this view, because 'big' and benevolent government has failed, the good governance agenda seeks to provide new ways of improving the operation of government. Public-choice approaches are skeptical of democratic governance since they regard it as being too susceptible to 'favorite' constituencies who subsequently exert improper influence in the design of economic policies.⁶⁰ Such policies, it is argued, often depart from the prescribed neo-liberal economic reform package. One economist at the World Bank's research department in the 1980's therefore recommended that "a courageous, ruthless and perhaps undemocratic government is required to ride roughshod over... newly-created special interest groups".⁶¹ In Williamson's view, it is undesirable to reconcile the interests of civil society with those of the state since the implementation of the reform process would be hijacked by demagogues and populists. Such leadership would, in his view, re-introduce the discredited policies of the past.⁶²

Reflecting on Williamson's theories, against the backdrop of the popular discontent and resistance to the implementation of neo-liberal economic or structural adjustment policies, there is a deep suspicion among those supporting these programs that populist and demagogic leaders would emerge. One implication of his analysis is that these reforms presume, and in fact require, strong executive leadership capable of both suffocating civil society and undermining the rather

⁵⁹ PAUL MOSLEY ET AL., *supra* note 2.

⁶⁰ ROBERT BATES, *MARKETS AND STATES IN TROPICAL AFRICA*, *supra* note 18 is one of the best statement marshalling a combination of approaches, including public choice theory to explain how special interest groups influence decision making on economic issues. In part, Bates argues that although protection if interest groups is economically inefficient, it is politically rational.

⁶¹ DEEPAK LAL, *supra* note 31, at 33.

⁶² John Williamson, *Democracy and the 'Washington Consensus'* 21 *WORLD DEVELOPMENT* 1329, 1330 (1993). John Williamson is often associated with having coined the term 'Washington Consensus' and to have begun the task of systematically laying down the basic elements of neo-liberal economic reform. See John Williamson, *What Washington Means by Policy Reform*, in *LATIN AMERICAN ADJUSTMENT: HOW MUCH HAS HAPPENED?* 5 (John Williamson ed., 1990).

narrow ideals of liberal democracy embodied in a peripheral way in the good governance agenda as defined by the World Bank.

It is noteworthy, but not unexpected, that this agenda does not expressly refer to insulating neo-liberal programs from societal pressure. Instead, reference is made to *state autonomy*. Either way, this autonomy refers to the insulation of the agenda from attempts to replace it or derail its implementation. According to the World Bank, the main function of external aid is to ensure that governments "sustain reforms against the opposition of those who are adversely affected".⁶³ Good governance, then, is not primarily concerned with democracy as a value, but with "getting the politics of development policy right".⁶⁴ For these reasons, the ideas of state autonomy and state capacity have been criticized for being "exclusively institutional" categories without simultaneously having any connection to social relations and civil society.⁶⁵ In effect, state capacity is regarded as merely embodying the interest of its managers rather than a "wider galaxy, struggles within 'civil society'".⁶⁶

The World Bank's adoption of a public-choice approach to interpreting economic performance in sub-Saharan Africa came in its 1981 report, *Accelerated Development in Sub-Saharan Africa: An Agenda for Action*.⁶⁷ The timing of the report coincided with an expanding public-choice literature which argued, at the time, that the best way to understand slow economic growth rates in sub-Saharan Africa was to focus on domestic policy deficiencies and administrative constraints which had been instituted in response to popular pressure, to satisfy certain constituencies or obtain their support.⁶⁸ For example,

⁶³ WORLD BANK, TOWARD SUSTAINED DEVELOPMENT IN SUB-SAHARAN AFRICA (1984).

⁶⁴ Gerald J. Schmitz, *Democratization and Demystification: Deconstructing 'Governance' as Development Paradigm*, in DEBATING DEVELOPMENT DISCOURSE, *supra* note 24. Paul Mosley, Jane Harrigan and John Toye note that the original goal of neo-liberalism was not democracy, but to reduce political intervention in markets and to shrink the public sector. The idea was "a dramatic shift away from a pluralist, participatory ideal of politics and towards an authoritarian and technocratic ideal based on a small and highly efficient government." PAUL MOSLEY ET AL., *supra* note 1, at 16.

⁶⁵ Gerald J. Schmitz, *supra* note 24.

⁶⁶ *Id.*

⁶⁷ WORLD BANK, ACCELERATED DEVELOPMENT IN SUB-SAHARAN AFRICA: AN AGENDA FOR CHANGE, *supra* note 5. For brief commentary along these lines see PAUL MOSLEY ET AL., *supra* note 1, at 23-24.

⁶⁸ For a general overview of this trend see PETER GIBBON ET AL., AUTHORITARIANISM, DEMOCRACY, AND ADJUSTMENT: THE POLITICS OF ECONOMIC REFORM IN AFRICA 9-18 (1992); and generally, Howard Stein and Ernest J. Wilson III, *Robert Bates, Rational Choice and the Political Economy of Development in Africa*, *supra* note 18; M. Bienefeld, *supra* note 18.

some of the public-choice scholarship argues that the maintenance of agricultural marketing monopolies, or state-owned enterprises, was politically rewarding but interfered with the proper functioning of market-based systems sensitive to changes in demand and supply. African governments received political rewards from such marketing monopolies which were otherwise economically tilted against farming interests, since they provided opportunities for the government to appoint political patrons on their boards to appease, obtain, or guarantee electoral or political support.⁶⁹

Various approaches to public-choice theory have been adopted in governance literature. However, in my brief discussion here, I refer to very particular applications of public choice analysis.⁷⁰ I do not intend to go into a theoretical or empirical analysis of the various public-choice approaches⁷¹; instead, I begin by pointing out some of the core assumptions: first, that actors pursue goals; second, that these goals reflect their self interest; third, that choices are conscious and are made by individuals; fourth, that preferences are consistent and stable; fifth,

⁶⁹ A major thesis developed in ROBERT BATES, *MARKETS AND STATES IN TROPICAL AFRICA*, *supra* note 18 is that although such monopolies provided politically attractive avenues for the appointment of clients, who would then provide a regime with the required legitimacy, they turned out to be economically inefficient. Bates also argues that governments maintained below market prices for agricultural products to avoid urban based riots against high prices. In the context of Zimbabwe, Tor Skalnes has argued the opposite was the case. Skalnes' explanation lies in his observation that while "commercial farmers deplored the end of agricultural subsidies with the beginning of the country's structural adjustment programs in 1990, even though they secured higher incomes due to currency depreciation; industry by contrast sought the end of exchange controls while small scale African farmers resisted freer agricultural pricing, since it drove up food prices. African labor unions were completely marginalized, because of the declining real wages and the elimination of food subsidies". TOR SKALNES, *THE POLITICS OF ECONOMIC REFORM IN ZIMBABWE* (1995) *quoted in* Michael Chege, *Time to Put Away the Heroic Stereotypes*, *supra* note 18, at 14. For arguments on political survival, *see also* Henry S. Bienen & Mark Gersovitz, *Economic Stabilization, Conditionality, and Political Stability*, 39 *INT'L ORGANIZATION* 729 (1985); Jeffrey Herbst, *Structural Adjustment of Politics in Africa*, 18 *WORLD DEVELOPMENT* 949 (1990); and Richard Sandbrooke, *Economic Crisis, Structural Adjustment and the State in Africa*, in *THE IMF AND THE SOUTH: THE SOCIAL IMPACT OF CRISIS AND ADJUSTMENT* (Dharam Ghai ed., 1991).

⁷⁰ For such analysis *see* LARS UDEHN, *supra* note 18, at 9; DONALD P. GREEN & IAN SHAPIRO, *supra* note 18.

⁷¹ Lars Udehn notes the various approaches to public choice include: "the Virginia (Buchanan, Tullock, Tollison, Wagner, Brennan), Rochester (Riker, Ordeshook, Ferejohn, Fiorina, Shepsle) and Bloomington (Elinor and Vincent Ostrom) Schools of public choice, the Chicago (Becker, Stigler, Peltman) School of political economy, Antony Downs' economic theory of democracy, Mancur Olsen's logic of collective action, and all applications of the economic theory of politics". LARS UDEHN, *supra* note 18, at 9.

that these preferences maximize expected utility; and sixth, that individuals possess 'extensive information' about alternatives.⁷²

My purpose in discussing public-choice theory is to demonstrate two implications of the application of some of its core assumptions in sub-Saharan Africa: first, that its applications justify a departure from notions of deliberative or participatory democracy which are viewed as being inconsistent with a very particular style of liberal democracy that is hostile to public management of resources and investment; and second, that these applications are ideologically tilted in favor of market solutions as the best antidote to governmental failure in sub-Saharan Africa.

Public-choice analysis is primarily based on the methodological individualism of neo-classical economics. The behavior of individuals is presumed to conform to a particular set of rules which are essentially premised on materialist motivations, that is that people behave just as selfishly in their private lives as they do within the marketplace and the political sphere. For public-choice theorists, the essence of methodological individualism is to discount the view that people in the public arena or in the marketplace and political sphere behave altruistically or for the benefit of society.⁷³ As such, governments that responded to popular demands to establish economic guarantees, such as free basic education or health care, have become incapable of controlling their economic performance. They argue that privatization of basic education and health care will avoid governmental collapse. Such public-choice inspired analysis ignores the fact that even within market economies, competitive pressures similarly drive out altruistic and other-interest impulses. Some scholars have in fact argued that notwithstanding the theoretical sophistication of rational-choice (more broadly public-choice) theory, the empirical work supporting some of their major hypotheses, such as

⁷² LARS UDEHN, *supra* note 18, at 368. Udehn, however, notes that some of these assumptions have not been adhered to consistently in public choice approaches. For example, he notes "a recent tendency to define self interest in a vacuous sense, as compatible with altruism . . . [while] [o]rthodox public choice... definitely operates with the definition of 'self-interest' as 'selfishness'" at 35.

⁷³ The only difference between individual behavior in the public and private spheres, according to public choice theorists, is the "constraints and rules under which the individual operates, which are critical for the rational calculation of interest". PETER SELF, *GOVERNMENT BY THE MARKET?: THE POLITICS OF PUBLIC CHOICE* 2 (1993).

the dysfunctional effect of social spending on economic growth, is ill-founded.⁷⁴

Another assumption of the proponents of public-choice theory is that of rationality – that a reasonable individual will be a rational maximizer. Consequently, if the price of a product increases, because of higher costs, less of it will be demanded since consumers will find it more expensive. Notwithstanding the fact that not all individuals act in such a rational manner all the time, public choice theory assumes that there are enough people who act rationally in the market place as to make predictions possible based on aggregate choices as opposed to individual psychology.⁷⁵

Public-choice advocates argue that rationality is closely related to self-interest since self-interest “seems to offer a simple and plausible basis for defining the scope of rationality”.⁷⁶ Rationality is thus inferred from the economic assumptions of the consistency of individual preferences, since consistency expresses an individual’s utility. Public-choice theory therefore proceeds from the notion of rationality as a pattern of logical consistency whereby individuals pursue egocentric goals. Economists such as Amartya Sen have noted that this concept of rationality, based upon materialist views of self-interest, is overly narrow since its presumption that individual preferences can be represented on a one-dimensional scale excludes personal goals motivated by other impulses such as moral standards (as opposed to selfish ones) or long, versus short-term interests.⁷⁷ Further, the concept of the rationality of human behavior ignores

⁷⁴ Donald P. Green and Ian Shapiro agree that rational choice theorists have yet to explain empirical realities. However, in reviewing their work, Margaret Levi claims that rational choice theorists have an improved theory that acknowledges the role for information, norms, and institutions. She also claims that by focusing exclusively on application of rational choice to North America, Green and Shapiro ignore important contributions in economic history and comparative politics. In Levi’s view, no alternative methodology, other than rational choice theory in the social sciences, comes closer to demonstrating the empirical power of its theory. DONALD P. GREEN & IAN SHAPIRO, *PATHOLOGIES OF RATIONAL CHOICE. A CRITIQUE OF APPLICATIONS IN POLITICAL SCIENCE*, *supra* note 18, reviewed in Margaret Levi, Note, 110 *POL. SCI. Q.* 326 (1995). For additional reviews of the Green and Shapiro book, see Kristen Renwick Monroe, Review Article, 25 *POL. THEORY* 289-295 (1997); Russell Hardin, Review Article, 101 *AMER. J. SOC.* 745-77 (1995).

⁷⁵ PETER SELF, *supra* note 73, at 8.

⁷⁶ *Id.* at 9.

⁷⁷ AMARTYA SEN, *CHOICE, WELFARE AND MEASUREMENT* 82-104 (1982) as quoted by PETER SELF, *supra* note 73, at 9.

human 'nature' in all its 'complexity' and contingency.⁷⁸ As such, its 'cultural policy towards workers,' emphasizes "individual outlooks over collective, private problems over social, clientelistic relations over solidarity, mass spectacles over community organized cultural events".⁷⁹

My argument, then, is that state autonomy connotes the insulation of the state from the efforts of civil society to counter-balance governmental power. It also implies the erection of a strong political center, an implication supported by the agenda of capacity-building or the concept of a small efficient state. The question arises, then, whether this contradicts the declared liberal-democratic intentions of the good governance agenda and their accompanying assumptions that civil society serves to counter-balance the power of the state and its programs. I tackle this question in the next section.

B. Liberal Democracy: Placing Limits on the Demos

It may at first glance appear paradoxical that the World Bank's governance agenda embraces liberal democracy while simultaneously employing strong-arm tactics to suppress any governmental opposition to its programs, especially that which seeks to re-distribute wealth and entitlement. Such a contradiction may also be found in the view that democratically elected governments cannot be trusted to determine prices and economic policies since this would result in re-distributive, as opposed to wealth-maximizing, economic policies. A close examination of these reforms, however, reveals no such paradox.

The good governance agenda adopts a view of liberty based on state establishment and enforcement of a rule-of-law regime within which individual rights to liberty, property, and enforcement of

⁷⁸ Howard Stein & Ernest J. Wilson III, *The Political Economy of Robert Bates: A Critical Reading of Rational Choice in Africa* *supra* note 18, at 1035. These authors further note that Bates "provides a traditional elite-coalitional analysis of political economy behavior. Where the individual enters, he or she is merely the cipher for the objectified interest of the particular group – larger farmers, industrialists, politicians, civil servants – these are the true actors in Bates' political universe. Moreover, they are all collective actors not individual ones. The individual as an actor has little existence outside of his existence as a group actor." *Id.* at 1046.

⁷⁹ Veltmeyer and his co-authors, James Petra and Steve Vieux, argue that neo-liberalism promotes "class cohesion at the top, fragmentation in the middle, atomization at the bottom." HENRY VELTMEYER ET AL., *supra* note 23.

contracts is observed.⁸⁰ This perception is intimately tied to questions of “prerogative, authority, obedience, arbitrary power, and reason of state, about limited government, property, due process, rule of law, and fundamental law”⁸¹, all of which resonate in the neo-liberalism mantra described in the previous sections. In this view, liberal democracy is a competitive struggle for the people’s vote where there is a guaranteed universal franchise, a rule-of-law framework, and protection of individual rights. The role of government is thus limited to creating a limited system of rights and undertaking activities required to enforce and/or protect these rights. Because this merely involves the establishment of standards of conduct, this is, in effect, simply procedural rather than substantive justice. I refer to this minimalist view of the state as “market constitutionalism”.

This contrasts with an alternative vision of liberty where exclusion “from the common activity from which decisions are made and the deeds done that affect the lives of all, is a kind of servitude. Participation is also the fundamental and indispensable condition of virtue. Without it the highest virtue, civic virtue never comes to life”.⁸² In this alternate view, (social) democracy is founded on a solidaristic desire for freedom, defined in participatory and communal rather than in individualist terms; it is not merely a form of elected or representative government, as under neo-liberalism, but rather a way of life, a vehicle for collective self-expression and self-determination. Under market constitutionalism, however, the redistribution of wealth in order to create a more just and equal society, is not deemed to be an acceptable or legitimate goal since redistribution involves violating individual property rights and individual freedom and choice.

Another way to look at this alternative view of democracy is that distributive or welfare policies are not regarded as unnecessary interventions in the economy which limit individual freedom and choice, or undermine the incentives that private ownership of resources provides to spur entrepreneurship and self-discipline. As

⁸⁰ See WORLD BANK, GOVERNANCE AND DEVELOPMENT (1992), *supra* note 2; WORLD BANK, GOVERNANCE: THE WORLD BANK’S EXPERIENCE (1994), *supra* note 2.

⁸¹ JACK H. HEXTER, ON HISTORIANS: REAPPRAISALS OF SOME OF THE MAKERS OF MODERN HISTORY 302 (1979).

⁸² *Id.* at 294.

such, under this conception of democracy, the neo-liberal reservations to governmental intervention for the public welfare are refuted.

In a broad and general sense, the good governance notion of freedom is negative.⁸³ Negative freedoms refer to restraints on governmental interference of private rights; they are embraced as prerequisites to imposing accountability on the political leadership, so that leaders may be kept accountable through established channels such as independent judiciaries. Leaders would therefore be theoretically discouraged from acting in their personal interest, and those of their friends, and contrary to the public interest. However, the self-interestedness associated with the individualism that underlies this negative concept of freedom may be said to be in conflict with the expectation that these negative freedoms would permit civil-society groups to check the arbitrary exercise of power and the abuse of the public trust for private gain.⁸⁴

While I do not doubt the significance of holding leaders accountable, questions of wealth, power, poverty, inequality and distribution of resources are issues of deep political controversy, conflict and struggle. These questions cannot be sufficiently addressed through these negative conceptions of liberty that is insufficient to call attention to the need for maximizing individual and collective welfare. There are, however, several theoretical justifications, which are not inconsistent with free markets and individual liberty, which could form the basis of such an advocacy strategy. As an example, rent theory suggests a possible basis for a functional idea of personal liberty.⁸⁵ Robert Hale argued that it is possible to revise property rights in order to secure maximum equality in a manner consistent with maintaining adequate incentives to produce.⁸⁶ Under a Hlean rent theory, a

⁸³ Why I characterize the negative conception of freedom in neo-liberal discourse as general is because, as already noted, neo-liberalism accommodates notions such as social safety nets, albeit at the margins. Consequently, neo-liberal notions of freedom may be said to be broader than only negative, although negative conceptions of freedom underlie most of the economic and political proposals.

⁸⁴ DAVID BEETHAM, *HUMAN RIGHTS AND DEMOCRACY: A MULTIFACETED RELATIONSHIP* 21 (1995).

⁸⁵ Other approaches include utilitarianism, under which wealth would be distributed in accordance with the greatest good to 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 since property was a creature of the state, private property ought to be protected only if it served the public interest.

⁸⁶ Robert Hale, *Coercion and Distribution in a Supposedly Non-Coercive State*, 38 *POL. SCI. Q.* 470 (1923); *Bargaining, Duress and Economic Liberty*, 43 *COLUM. L. REV.* 605 (1943).

person is only entitled to that which she has created with her own labor. This differs from neo-classical assumptions that justify entitlements (goods and services) at prices that are determined in the market; it follows that entitlements are legitimate only when they are compensated on a cost basis. Any surplus would then be considered an economic rent since it is produced in excess of the seller's costs. Consequently, rather than a seller becoming entitled to these economic rents, the community would own them and would be free to redistribute them as it chose. In this manner, rent theory is entirely consistent with the market individualism which is argued to provide the entrepreneurship that drives capitalism; and it does not place the political utility of rights over and above their social utility in the same way that the negative concept of rights adopted in the liberal democratic component of the neo-liberal prescriptions does.⁸⁷

C. Is there a new relationship between the electoral process, markets and the legitimacy of the State?

Neo-liberal proposals denigrate one of the central sources of governmental legitimacy in a democracy – the government's responsiveness and commitment to the satisfaction of electoral demands for subsidized, fundamental services, such as basic health and education, which, in unequal societies, are often out of reach for ordinary citizens. This criticism only serves to undermine political free-will, resulting in the political disenfranchisement. Curiously, the attack on the use of large-scale social programs to redress social and political inequality appears to be based not on any empirical data but rather on the argument that governmental intervention, no matter how successful, runs contrary to the neo-liberal concepts of democracy and the free-market system.

The good governance agenda provides two alternative primary avenues through which governmental legitimacy in sub-Saharan

⁸⁷ The idea that the political utility of rights may overrun other personal advantages that rights holders may derive from them is made by Amartya Sen, *Freedoms and Needs*, THE NEW REPUBLIC, Jan. 10-17, 1993 at 36. In his view, the real issue in thinking about political rights and other needs is not the absolute precedence of personal liberty, but whether a person's liberty should be given more importance than other types of advantages such as incomes. Hence he says that "political rights are not [therefore] symmetrical with other sources of individual advantage; and the safeguarding of political rights would have the procedural priority that follows from this asymmetry." *Id.*

Africa must be derived. First, through market constitutionalism – the view that the state’s role should be largely confined to establishing a rule-of-law regime that safeguards property, adequately compensates for torts, and enforces contracts. Citizens can then enter into contracts and apply their entrepreneurial skills in trade, commerce, and other economically productive activities free from governmental inhibitions. Second, through the belief that liberal democracy is the antidote to the political authoritarianism of the postcolonial African State. Here, liberal democracy primarily refers to universal franchise, the right to vote, and protection of individual rights within a free market economy.

Consequently, good governance debates proceed from the assumption that the essence of democratic governance rests on a formal structure, or a determinate set of necessary relations, rather than on the aims and purposes of the local polity.⁸⁸ The good governance agenda proceeds by discrediting and rejecting an alternative radical view of democracy: the view that governmental legitimacy flows from its commitment to respond to electoral demands for provision of basic services, especially for economically disenfranchised citizens. It is in this sense that the good governance agenda rejects and discredits the view that governmental legitimacy, especially for economically disenfranchised people, arises in part from satisfying electoral demands for provision of basic services that help “attach people to the system”.⁸⁹

Under the good governance agenda, governmental legitimacy must instead be derived from a commitment to liberal democracy (the universal franchise, right to vote, and protection of individual rights within a free market economy), free markets, and the rejection of state-sponsored development initiatives. A significant reason why liberal democracy and market reform have claimed a radical, liberating potential – as the new markers of legitimate governance in sub-Saharan Africa – is the perceived intention of the African governments, during the 60’s and 70’s, to sacrifice individual liberty in

⁸⁸ For a critique of attempts to build models of democracy as if this constituted the essence of democracy, see Paul Corcoran, *Limits of Democratic Theory*, in DEMOCRACY THEORY AND PRACTICE 20-22 (Graeme Duncan ed., 1983).

⁸⁹ Provision of basic services in response to electoral demands, or from a commitment to address inequalities in society, is often regarded as capable of conferring “democratic legitimacy upon the democratic apparatus as a whole”. Graeme Duncan, *Introduction*, in DEMOCRACY THEORY AND PRACTICE *supra* note 88, at 4.

order to attain economic growth.⁹⁰ The popularization of one party governance within which the popular or general will surpasses the individual will has been criticized for repressing individual liberty and constraining the effective exercise of entrepreneurship in trade and commerce and participation in political life.⁹¹ This repression of individual will is also attacked for understating internal differences based on sex, gender, class and ethnic background within sub-Saharan African states.

In the early 1990s, the popularization of the good governance agenda clearly benefited from the fortuitous demise and alleged failure of the Soviet communist regime and its state-run economy. However, the euphoric and apocalyptic message of the radical, liberating potential of markets and liberal democracy camouflages the ways in which market reforms can undermine other sources of democratic legitimacy for these governments – particularly, their ability or commitment to respond to the fundamental, economic and political needs of their citizenry. These types of initiatives, rather than being entrusted to the African governments, are for the most part relegated to foreign and local non-governmental actors and to the market place. By placing the responsibility for these initiatives in the hands of others, thereby depriving African states of the opportunity to demonstrate that they can successfully satisfy the political and economic needs of their constituents, it may be said that the neo-liberals have undermined African governmental authority and promoted a pervasive fear of popular politics.

Another way that Western reformers deal with the issues of poverty and inequality, having already criticized and discredited the role of the African state, is to seek to transform the “economic mentality” of the citizenry in at least two ways. First, they presume that their neo-liberal proposals will imbue the people with a desire to

⁹⁰ See Issa Shivji, *Human Rights and Development: A Fragmented Discourse* (Paper presented at the Workshop on Fundamental Rights and Freedoms and Public Order in Tanzania, Dar es Salaam, April 1995). See also JAGDISH BHAGWATI, *THE ECONOMICS OF UNDERDEVELOPED COUNTRIES* (1966); Atul Kohli, *Democracy and Development*, in *DEVELOPMENT STRATEGIES RECONSIDERED* 156 (John P. Lewis and Valeriana Kallab, eds., 1986); Jagdish Bhagwati, *Democracy and Development*, 3 *J. OF DEMOCRACY* 37 (1992); *The New Thinking on Development*, 6 *J. OF DEMOCRACY* 50 (1995); Kivutha Kibwana, *Human Rights and/or Economic Development: Challenges and Response*, 1993 *THIRD WORLD LEGAL STUDIES*, 43; CLAUDE AKE, *THE DEMOCRATIZATION OF DIS-EMPOWERMENT IN AFRICA* (1994); *DEMOCRACY AND DEVELOPMENT IN AFRICA* (1996).

⁹¹ PETER BAUER, *A DISSENT ON DEVELOPMENT*, *supra* note 31.

better themselves economically; and second, they also presuppose that their proposals will convince the people to achieve their goals independently rather than looking to the government for help. In brief, the neo-liberal prescription is to establish initiatives that promote self-interest and entrepreneurship while simultaneously lessening the populace's financial dependence on the state. By proceeding in this fashion, however, the neo-liberals have adopted a view of liberal democracy that doesn't accept popular participation or democratization of the marketplace and the economy. By placing these spheres beyond the *demos*, neo-liberalism may be said to have promoted a pervasive fear of popular politics and thereby undermined social democratic controls on economic hierarchy and division.

Throughout the world, many human rights activists seek to deepen and expand the neo-liberal's notion of negative liberty.⁹² However, many governments and the World Bank have easily co-opted participatory initiatives that look to transcend the neo-liberal agenda of creating a system of rights leading them to undertake activities required to enforce and/or protect these procedural rights. The World Bank, for example, promotes participatory initiatives only within the limits of preordained projects to "deliver 'political sustainability' for neo-liberal policies".⁹³

Within the good governance agenda, then, citizen participation has at least two meanings: first, involvement in elections through exercising the right to vote; second, promoting citizen involvement within pre-defined, neo-liberal economic programs. Under the second example, participation has a variety of restrictive and instrumental connotations related to ensuring the success of neo-liberalism – for example, the promotion of self-reliant entrepreneurship. Here, the

⁹² S. KOTHARI AND H. SETHI, *RETHINKING HUMAN RIGHTS: CHALLENGES FOR THEORY AND ACTION* (1989); KEBA M'BAYE, *EMERGENCE OF THE RIGHT TO DEVELOPMENT AS A HUMAN RIGHT IN THE CONTEXT OF THE NEW INTERNATIONAL ECONOMIC ORDER* (1978); ISSA SHIVJI, *THE CONCEPT OF HUMAN RIGHTS IN AFRICA* (1989); Philip Alston, *Out of the Abyss: The Challenges Confronting the New U. N. Committee on Economic, Social and Cultural Rights*, 9 HUM. RTS. Q. 332 (1987); Philip Alston and Gerald Quinn, *The Nature and Scope of States' Parties' Obligations Under the International Covenant on Economic, Social and Cultural Rights*, 9 HUM. RTS. Q. 156, 162 (1987); J. Oloka-Onyango, *Beyond the Rhetoric: Reinvigorating the Struggle for Economic and Social Rights in Africa*, 26 CAL. W. INT'L L.J. 1, 7 (1995).

⁹³ Gerald J. Schmitz, *supra* note 24, at 73. This is also a major theme of my article, *Good Governance as a Counter-Insurgency Agenda to Oppositional and Transformative Social Projects in International Law*, *supra* note *.

World Bank argues that the poor are its 'customers.' It tries to transform their 'culture of dependence' into entrepreneurs or "customers in good standing who must be enabled to pay for the costs for what they see will bring them betterment with their time, labor and capital".⁹⁴

For several reasons, this concept of the poor is problematic. As Gerald Schmitz argues, this view is apolitical since it says nothing about the present distributional patterns of wealth and entitlements; these are taken for granted, as is political power and questions of hierarchy and class within the societies where the poor live. It therefore reduces the poor to mere beneficiaries of pre-designed projects. Their agency to struggle for change is either ignored or understated. Instead, within the capitalist order imposed by neo-liberalism, the poor must rely on promoting their entrepreneurial skills, which underestimates the structural impediments to emancipation as well as the restrictive conditions within which individuals presumably make free choices and exercise or sharpen their entrepreneurial skills. These conditions of hierarchy, social division, and inequality are not questioned, but are rather entrenched by neo-liberalism.

The World Bank's good governance agenda can therefore be regarded as a rhetorical commitment (and an ideological strategy) intended to co-opt the legitimacy of the struggle for democratization and human rights in sub-Saharan Africa that may paradoxically have been targeted against neo-liberalism in the first place. This agenda cannot therefore be understood as simply opening the door to popular participation; but rather, attention must be paid to its socially and economically disenfranchising impacts. This is very significant, especially in view of the fact that there is no overriding commitment to remake the policies and institutional contexts that have made such disenfranchisement possible.

In another sense, the liberal-democratic elements of the good governance agenda replay an oft-stated fear of popular democracy – self-interested, greedy, and powerful leaders representing the "democratically strong" ignorant masses. Here, the use of the disparaging images of unruly Africans helps to justify the fear of the

⁹⁴ Lawrence Salmen, *Reducing Poverty: An Institutional Perspective*, in POVERTY AND SOCIAL POLICY SERIES 23 (World Bank Paper No. 1, 1992) quoted in Gerald J. Schmitz, *supra* note 24, at 73.

demos. However, this fear of the masses is of course not specific to the African context, but rather it is a general characteristic of a specific strand or lineage of Western liberal democracy where rule by the masses or the *demos* was regarded as a 'perversion of polity'. It proceeds from an individualistic ethic that merely proclaims that power resides in the people, "once upon a time, or occasionally or simply notionally".⁹⁵ Throughout the history of Western liberal-democracy, this ethic was reflected by the exclusion of marginalized groups such as women, non-White or European people, lower classes, the un-propertied, and the uneducated from the franchise.⁹⁶ This differs from a solidaristic concept of democracy in which people actively rule in whole or in part not only through electoral systems, but also through forms of direct democracy or plebiscites. In addition, such a solidaristic conception of democracy is not confined to the political supremacy of the political sphere as an arena for the maximization of individual freedom; instead, it reaches out to the economic sphere which is insulated from the *demos* within specific lineages of market constitutionalism/liberal democracy such as the one adopted by neo-liberalism.

The liberal-democratic fear of the *demos* also arises from its association of democracy with instability, partisanship, inclination to tyranny, prioritization of cultural over cosmopolitan or secular values, divisiveness, and vicious behavior. All these features have historically characterized debates on democracy from Plato and Aristotle. The neo-liberal adoption of the fear of the *demos* in its liberal-democratic model is therefore consistent with the tradition of thought that has justified the oligarchical rule by a few wise people to avoid the 'mean and fractious spirit' that characterizes democratic rule.⁹⁷

The reproduction of the fear of the *demos* in Africa takes the peculiar form of invoking disparaging images of the poor in conjunction with self-serving leaders who horde undeserved wealth, thereby undermining the common good. As we saw with the public-choice orientation, this reinforces the neo-liberal preoccupation with

⁹⁵ Paul Corcoran, *supra* note 88, at 14.

⁹⁶ Will Kymlicka, *Liberal Complacencies*, 22 BOSTON REVIEW, Oct./Nov. 1997, at 29-30. *See also*, WILL KYMLICKA, *MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS* (1995); *LIBERALISM, COMMUNITY AND CULTURE* (1989).

⁹⁷ Paul Corcoran, *supra* note 88, at 17.

disproving the possibility of a common good or the public interest. The advocates of these conservative, economic reform programs, in order to legitimize themselves and the underlying, liberal-democratic model, feel compelled to invoke only negative or disparaging African images because, in the process, they tend to denigrate far-reaching programs of political, economic and social emancipation.

IV. CONCLUSION

I have argued that good governance literature in general, and the World Bank in particular, represents an ideological position that seeks to refute the socialist, Keynesian-welfare, and re-distributive/social justice oriented nationalist economic policies of the post-colonial African state. This argument is advanced by resort to disparaging and inaccurate images of the African State, its political leadership, and its citizenry. The argument is flawed in at least two other major respects. First, in the manner in which good governance literature attributes responsibility for the lack of economic development in Africa solely to the policies, ideologies and practices of the postcolonial state, corrupt leaders and lazy Africans. While good governance literature correctly attributes fault to past corruption and mismanagement, it fails to acknowledge and take into account the external factors, such as the inexorable impact of the colonial period, the location of the continent in the fringes of the international capitalist order, or the devastating divisiveness of the Cold-War period. Second, good governance literature criticizes prior development approaches and recommends a new approach, the effect of which is to disable governmental capacity to enhance social justice which had been part of the previous approach to development. In essence, the good governance agenda, by obsessing on the negative aspects of the African political and economic experience, fails to see anything positive in the previous approach to development. Similarly, because the African experience in all its complexity does not fit squarely into the overly (and improperly) narrow definition of democracy, African nationalist projects designed to protect local resources and interests are inaccurately regarded as repressing individual initiative, encouraging corruption, and discouraging foreign investment. When the good

governance agenda only views the African experience through the telescope of neo-liberalism, it unfairly prejudices an entire continent by painting all of Africa with one brush stroke (or set of images) and failing to see the whole picture – one that contains positive as well as negative experiences.

The negative portrayal of the African state as incessantly preoccupied with re-distributive rather than productive struggles is in part explicable by the adoption of public-choice-inspired analysis which seeks to explain how African states have been held hostage by conflicting, yet powerful, interest groups. In essence, this scholarship by and large argues that the African State lacks autonomy from groups whose interests are directly in conflict with those that want to reform the economy.⁹⁸

As embraced by good governance advocates, the concepts of state autonomy and liberal-democracy seek to insulate economic policy-making from popular demands since such forces are regarded as capable of derailing the process or holding neo-liberal economic reform hostage, by requiring high social spending, bloated budgets, and ever-increasing deficits. In addition to the very unflattering descriptions of the African State and its leadership, good governance literature has advanced similarly negative and unfair portrayals of Africans as lazy citizens, awaiting governmental handouts. These observations refute any assumption or assertion that good governance proposals are technically, culturally and ideologically neutral. To lend credibility to its proposals, the neo-liberal discourse on good governance also plays upon specific unflattering memories of a chaotic African past. “It is not a simple straightforward process, but a questions of ‘seizing hold’ of these fragmentary images as they occur in order to understand why certain narratives continue to mediate important political questions”.⁹⁹ In an attempt to legitimize the new ‘order’, these memories and images, although fragmentary and specific, are invoked as unchanging realities.

In a similar fashion, under colonialism, nationalist leadership invoked specific images of the past in order to challenge those aspects

⁹⁸ See Part II (i) and (ii) above.

⁹⁹ Vron Ware, *Moments of Danger: Race, Gender, and Memories of an Empire*, 31 HISTORY AND THEORY 116, 131 (1992).

of the status quo established by colonial rule that they did not regard to be aligned with their interests.¹⁰⁰ Neo-liberalism, like these nationalist invocations, depicts the postcolonial order as a failed *Africanist* experiment. In this sense, therefore, neo-liberals are not the first to bring up the past. What is specific to neo-liberalism, however, is its reliance on the inaccurate and disparaging images referred to throughout this article as justification for its conservative, political and economic programs. The World Bank's good governance agenda, in particular, seeks to hold itself out as a secularizing and liberating universal project, rather than as a project embodying a specific Western lineage of political and economic thought.¹⁰¹

In this sense, good governance is as much a cultural project or paradigm as it is a technocratic, economic program. Presenting it in these terms reveals the underlying racist stereotyping of post-colonial, sub-Saharan African states, their politicians, and their citizens. Its technical and economic jargon is therefore representative of the inherent Euro-American hegemony, laden with specific and biased values, ideas and meanings. In constructing its agenda in these terms, its understanding of the world and its received wisdom conveys these values and concepts as immutable truths. In this sense, therefore, good governance demonstrates that power and knowledge are inseparable from social convention and practice.¹⁰²

In order to justify neo-liberalism as the antidote – to introduce the regularity of law as an organizing principle, to suppress the disorder of the post-colonial African state, and to tame the *demos* as Africa evolves toward a more ideal and perfect system – the good governance proposals conjure up these powerful images of disorder, chaos, and anarchy as characteristic of sub-Saharan African statehood. These images are then used by the neo-liberals to police the unruly character of African governance and *demos*. This positioning in turn justifies

¹⁰⁰ For my thoughts see James Thuo, Gathii, *International Law and Eurocentricity*, 9 EUR. J. INT'L L. 184 (1998).

¹⁰¹ David Kennedy, *New Approaches to Comparative Law: Comparativism and International Governance*, 1997 UTAH L. REV. 545 (1997).

¹⁰² PETER L. BERGER & THOMAS LUCKMANN, *THE SOCIAL CONSTRUCTION OF REALITY: A TREATISE IN THE SOCIOLOGY OF KNOWLEDGE* (1966); JOSEPH CAMPBELL WITH BILL MOYERS, *THE POWER OF MYTH* (Betty Sue Flowers, ed., 1988); MICHEL FOUCAULT, *POWER AND KNOWLEDGE* (R. Gordon, trans., 1980).

authoritarian modes of policing and suppressing opposition in order to contain and control this character.

In conclusion, as I have demonstrated, these disparaging and prejudicial images of Africa are operating silently yet powerfully within the discourses of neo-liberal economic reform. Their use tends to provide legitimacy to specific projects of neo-liberal economic reform. Good governance then is the vehicle through which these often racist and hidden operations of neo-liberalism are constructed in a commonsensical way. In this way, good governance reinforces certain deeply embedded assumptions and prejudices about cultural difference. These attitudes which constitute an important part of cultural and non-material forms of oppression of non-western societies, are inseparable from the oppression that arises from international economic disparities between rich industrial countries and poor non-industrialized countries such as those of sub-Saharan Africa.