

Colonial Rapacity and Political Corruption: Roots of African Underdevelopment and Misery

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1. Introduction-Although Africa is well endowed with natural resources, it is a continent in distress. European colonial rapacity left the continent in disarray and deplorable shape upon independence. Independence appears to have simply resulted in rapacious exchange of roles. Now Africans suffer and die needlessly due to the brazen and reckless looting and hoarding of the public treasuries by greedy and unconscionably corrupt public officials. Corruption has compounded the injustice of the colonial legacy, severely impoverished the average African, left the few infrastructures in ruins, and robbed the populace of the benefits of their national resources.
2. Sowing the seeds of social and economic misery- African countries under colonial rule.
3. Independence from Colonial Rule; New Leadership and the Continued Betrayal of a Continent.
4. The Effects of political corruption on African social and economic life.
5. The Role of the Western World in Fostering Political Corruption in Africa.
6. Potential Ways of Addressing Political Corruption in Africa.
7. Conclusions.

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University. The author dedicates this article to his mother Cecilia, and to the memory of his beloved father James. In addition, he dedicates this article to his children. Finally, the author thanks his co-author and brother Emmanuel, whose idea made this article possible.

INTRODUCTION

Although well-endowed with abundant mineral and human resources, Africa is a continent in distress.¹ First, the continent was colonized by Europeans who brutalized its inhabitants,² massacred any groups which dared to challenge their brutal rule,³ and then siphoned the natural resources to Europe.⁴ Second, after looting the treasures of the continent, and subjecting its inhabitants to the most gruesome treatment ever visited upon a people, the various colonial powers granted independence to the scattered nations of that continent, without preparing the new rulers to manage their

¹See, e.g., Wil Haygood, **Book Review, Big Men, Little People: The Leaders Who Defined Africa**, by Alec Russell, THE BOSTON GLOBE, Third Edition, February 21, 2001, at G6 (hereinafter, Haygood, Big Men, Little People)(noting the brazen robbery and looting of billions of dollars from the national treasuries by former African tyrants and despots such as Nigeria's Sani Abacha, the Congo's (formerly Zaire) Mobutu Sese Seko, Malawi's Hastings Kamuzu Banda, among others, while their people struggled and suffered under the sweltering injustice of crushing poverty and mismanagement). See also Mark Turner, **Africans Off Target in War on Poverty**, FINANCIAL TIMES (London), May 10, 1999, at 03 (highlighting the high cost of servicing the debts of African countries at the same time capital flight from the continent continues unabated); and **Conference Adopts Plan to Halve African Poverty**, THE DAILY YOMIRU (Tokyo), October 22, 1998, at pg. 1 (poignantly observing that "In Africa, about 240 million people, or 40 percent of the entire population, live on less than 1 dolla[r] a day, **which is the definition of extreme poverty.**")(emphasis added).

²See, e.g., Tom Masland, **The Forgotten Genocide**, NEWSWEEK, August 21, 2000(hereinafter, Masland, The Forgotten Genocide) (narrating the systematic and horrendous German extermination of the Hereros, an ethnic group in Namibia, then known as South-West Africa, in the early part of the twentieth century). According to the account, the German genocidal campaign reduced the population of the Hereros from 80,000 to 15,000 in 1910. The account notes that the German leader, Kaiser Wilhelm II hand picked the commander in charge of the brutal killing of the Hereros. After mercilessly slaughtering the hapless Hereros, the Germans allocated the few who survived as slave laborers to German companies, some of which still exist. Significantly, when the issue of reparations for the descendants of the Hereros came up recently, the German Foreign Ministry, still unrepentant and shameless, had the audacity to pout that there were no laws on the books during the genocide protecting "rebellious civilians"(emphasis on rebellious civilians in the original). See also, **Blue Book: The Preface; Cover Story 3: Namibia**, New African, February 1, 2002, (hereinafter, Blue Book)(providing an indept description of the German massacre of the Hereros, and the humiliation to which German farmers, protected by the German government, inflicted upon Africans in South-West Africa).

³See note 2, supra.

⁴See, e.g., Adam Hochschild, **King Leopold's Ghost** (Mariner Books. 1999), at 180(describing the arrival of huge quantities of rubber and ivory to Europe from the Congo, for which the 'natives' were paid nothing, or next to nothing). Hochschild observed that through slavery and forced labor, Europeans, especially the murderous Belgian monarch, King Leopold II, with the complicity of the British, reaped unheard of profits.

devastated economies and ethnic groups.⁵ In many instances, the departing colonial powers perpetuated their rape of the continent through the imposition of constitutions which preserved the privileges of the immigrant European population at the expense of the native inhabitants.⁶ Not surprisingly, some of the new African leaders emulated the brutality and savagery of the colonizers, and heaped misery, violence, and poverty upon their own.⁷ These unconscionable ‘leaders’ pitted ethnic groups against ethnic groups to preserve their political power,⁸ and lived in shameless luxury, while robbing their countries blind.⁹

⁵See, e.g., Rand Richards Cooper, **History as Tragedy: ‘Lumumba,’** COMMONWEAL, October 12, 2001, Vol. 128, No. 17, at pg. 17(hereinafter, Cooper, History as Tragedy) (observing that at the time of independence, the Belgians left the Congo[a country seventy-six times the size of Belgium] with “just seventeen African university graduates- and not a single lawyer, architect, engineer, or army officer among them.”). According to the commentator, “Belgian leaders schemed to ensure that the country’s vast exploitable resources-copper, diamonds, minerals-remained in European hands.” Id. See also Abdullahi A. An-Na’im, **The Contingent Universality of Human Rights: The Case of Freedom of Expression in African and Islamic Contexts**, 11 Emory Int’l L. Rev. 29, 55 (Spring 1997)(“After a long history of encouraging and institutionalizing European settlement of Kenya and the total subjugation of its native African population, Britain was finally forced to return the country to its own people with little preparation for democratic self-governance.”).

⁶ See generally Rahman Ford, Comment: Law, History, and the Colonial Discourse: Davies v. Commissioner and Zimbabwe as a Colonial Case Study, 45 How. L. J. 213 (Fall 2001).

⁷See, e.g., R.W. Johnson, **Lords of Misrule Who Condemn Africa to War, Famine, and Tyranny**, THE TIMES (of London), January 18, 2001 Features Section,(hereinafter, Johnson, Lords of Misrule) (highlighting the atrocities against the citizens, by former African leaders such as Mobutu Sese Seko of the Congo Republic, then known as Zaire under Mobutu, Idi Amin of Uganda, self-proclaimed emperor Jean Bedel Bokassa of the Central African Republic, and Macias Nguema of Equatorial Guinea, among others). See also, Cooper, History as Tragedy, supra note 5 (describing in graphic detail, Mobutu’s horrific murder of the first Prime Minister of the Congo, Patrice Lumumba, with the help of the C.I.A). According to the account of Lumumba’s senseless murder, the young [only thirty-six] and idealistic Prime Minister was overthrown less than three months after assuming power, viciously beaten by Mobutu’s thugs in the presence of United Nations diplomats who left him to his unfortunate fate, and then executed by firing squad, along with two associates. The three bodies were then dismembered and burned. See also Hochschild, supra note 4, at 302 (observing that “Less than two months after being named the Congo’s first democratically chosen prime minister, a U.S. National Security Council subcommittee on covert operations, which included CIA chief Allen Dulles, authorized his [Lumumba’s] assassination.” Hochschild continued, “the United States saw to it that he [Lumumba]never had a chance. Like millions of Congolese before him, he ended up dumped in an unmarked grave.”id.

⁸See, e.g., Jon Swain, **A Journey to Congo Reveals a Regime Collapsing into Lawlessness and Absurdity and a Country on the Slide**, THE SUNDAY TIMES (United Kingdom), August 13, 2000 (hereinafter, Swain, Regime Collapsing)(describing how former Congolese tyrant Mobutu Sese Seko exploited the ethnic divisions in his country to amass untold wealth at the expense of the public); See also William Pfaff, **Africa: Can a Formula for Stability and Progress be Found?** INTERNATIONAL HERALD TRIBUNE (Neuilly-sur-Seine, France), August 23, 1997 (“Leaders survive by constantly playing the tribal [ethnic] card, or by assuming absolute power and smothering dissent.”)(quotation in the original).

⁹See, e.g., John Edlin, **Zimbabwe’s Deadly Cancer**, THE TORONTO STAR, Sunday Second Edition, April 17, 1988, at P. H4 (hereinafter, Edlin, Zimbabwe’s Deadly Cancer) (observing that then President Mobutu

The culmination of the debauchery of colonial rule, and the unpreparedness and greed of many early African leaders, and their successors is the current situation in the continent where corruption is endemic,¹⁰ and has thrust the overwhelming majority of the populace into abject poverty and suffering.

This article examines the role of corruption in the emasculation of African economies and the attendant impoverishment of the populace beginning from the colonial period and continuing to the present. We contend that although colonialism, with its inhumanity and barbarism, robbed African countries of their natural resources, brutalized and humiliated the inhabitants,¹¹ and enthroned brazen robbery through unjust positive 'laws' and 'treaties'¹² the corrupt

Sese Seko of Zaire, now renamed the Congo Republic, "allegedly plundered billions of state income.") The article further noted that arguably, an esteemed and egalitarian leader such as Kwame Nkrumah of Ghana, amassed millions of dollars of ill gotten wealth by the time he was overthrown from power. See also, Bill Keller, **One of Africa's Last Dictators Bows to Democracy**, THE NEW YORK TIMES, Friday, Late Edition, May 20, 1994, at A1, column 3 (highlighting the opulence which surrounded the former President of Malawi, Dr. Hastings Kamuzu Banda, who led his country to independence). According to the Times article, then President Banda "traveled among his five official residences in a Learjet and a fleet of British luxury cars," even though his country was so poor that "most live without running water or electricity." Oblivious to his own moral decay in living in unbridled luxury and avarice, and apparently killing off his political opponents, Dr. Banda, according to the Times' article, "banned miniskirts, bell-bottomed pants and long hair on men as signs of moral decline, and outlawed the Simon and Garfunkel song "Cecilia" as an offense to the woman the unmarried President called his official hostess, Cecilia Tamanda Kadzamira."

¹⁰See, e.g., **Transparent Tables; Transparency International's Corruption Index**, OECD OBSERVER, April 1, 2000, at pg. 33 (noting that the two most corrupt countries on the index, Cameroon and Nigeria, were African countries). See also, James Rupert, **Nigeria's Strongman Dies: Abacha Oversaw Mass Corruption; In Nigeria, Corruption isn't Part of Government, it's the Object of Government, Political Scientist Says**, THE TORONTO STAR, Tuesday, June 9, 1998, Metro Edition, at A10 (hereinafter, Rupert, Nigeria's Strongman Dies)(announcing the sudden death of arguably the most corrupt and brutal of Nigeria's dictators, General Sani Abacha, under whose brutal and inhumane regime, billions of dollars were siphoned off by him and his cohorts to bank accounts in Europe. According to the Star article, under Abacha corruption became the object of the government itself, and the country was plunged into economic ruin. "Under Abacha, corruption took Nigeria further into economic collapse than in the past." Id.

¹¹See, e.g., **Blue Book**, supra note 2(describing the senseless German massacre of the Herero people of Namibia, and the insidious and humiliating practice of "parental chastisement," under which every German farmer exercised unbridled control over his 'native' servants. According to the account, these 'natives' were made servants against their will, robbed of their best lands, deprived of their livestock, subjected to rapes, torture, whippings, "cruelty of the most terrible nature," and generally regarded "as slaves without rights," and only "amenable to the lash." The accounts of the blue book were so damning of German atrocities against Africans that the British, Germans, and the South African governments agreed in 1926 to destroy the book. Id. But consistent with the Holy Book's injunction that everything that is hidden will be revealed[Matthew Chapter 10, Verse 26], a copy of the blue book survived and gives a chilling and horrific account of German mistreatment of Africans during colonial rule.

¹²See, e.g., Harry Sterling, **Britain's Hypocrisy in Zimbabwe**, THE TORONTO STAR, Sunday Edition, News Section (hereinafter, Sterling, Britain's Hypocrisy)(describing Britain's hypocritical insistence that compensation be paid to white farm owners before 'their lands' could be redistributed, the commentator, a former Canadian diplomat, notes that during colonial rule British authorities expropriated the best lands in Zimbabwe, then

practices and behaviors of African leaders since independence continues the brutalization of the average African, and ensures his or her crushing poverty and hopelessness. Corruption among African leaders and officials in turn is then, unfortunately and regrettably, aided and abetted by the banking and economic policies of the same colonial powers which initially heaped misery and savagery upon the continent, and helped ensure the despotism of some of the worst pretenders who branded themselves leaders.

To support our contentions and conclusions, we examine in depth, corruption in the form of licentious rapacity during European colonial rule,¹³ the extent of political corruption in many post independent African countries using published reports, studies, and surveys, and point out the level of looting of the public treasuries. We then analyze how these looting, and subsequent transfer of the public resources to western countries have brought several African economies to the brink of collapse. Finally, we offer some suggestions for chipping away at the enduring cancer that is corruption.

known as Rhodesia, and turned them over to white settlers). Although we condemn Zimbabwean President Robert Mugabe's cynical encouragement of vigilante action against white farmers in an effort to win re-election, the British lecturing on the rule of law with regard to the necessity of compensation to the beneficiaries of their unconscionable and murderous landgrab, is, as the commentator appropriately observed, the height of hypocrisy.

¹³Although the term 'corruption' embraces "the promise or payment of a benefit that induces a public official to breach a duty pertaining to a significant community interest," David Hess and Thomas W. Dunfee, **Symposium: Fighting International Corruption & Bribery in the 21st Century: Fighting Corruption: A Principled Approach; The C<2> Principles (Combating Corruption**, 33 *Cornell Int'l L.J.* 593, 595 (2000)(hereinafter, Hess and Dunfee, *Fighting Corruption*), the definition of corruption is much broader. Corruption includes, among others, "moral perversion," "depravity," and "rotteness." See Webster's Universal College Dictionary (Random House Inc. 2001), at pg. 182. Using the broader definition of corruption, it is clear, as this article will illustrate, that the colonial system was utterly corrupt.

Although corruption, in the broader context, includes colonial exploitation of African natural resources for the benefit of Europe, and the depraved treatment of Africans,¹⁴ the kind of corruption engaged in by various African leaders subsequent to independence, has exacerbated the effects of the colonial legacy, and plunged the African continent further into economic ruin and social misery. Political corruption in Africa after independence has turned the promise of a better life into a miserable present, and an uncertain future. It has impeded the fair administration of justice,¹⁵ contributed to unfair and unequal treatment of the citizenry,¹⁶ and left the average African without much hope. Compounding the effects of corruption are the Western banking and financial interests which have assisted and continues to assist unpatriotic,¹⁷ and corrupt and despotic African leaders in laundering their stolen proceeds,¹⁸ while turning a blind eye to the terrible effects of political corruption.

SOWING THE SEEDS OF CORRUPTION: AFRICAN COUNTRIES UNDER COLONIAL RULE.

¹⁴See supra note 13, and accompanying text.

¹⁵See, e.g., Philip C. Aka, **Nigeria: The Need for an Effective Policy of Ethnic Reconciliation in the New Century**, 14 Temp. Int'l & Comp. L. J. 327, 355-56 (Fall 2000)(hereinafter, Aka, Policy of Ethnic Reconciliation)(highlighting the pervasiveness of corruption among the Nigerian leadership, particularly the military regimes which have ruled Nigeria for most of the time since independence, and noting their propensity for violence against the citizenry, and unfair administration of justice, culminating in former dictator and utterly corrupt despot General Ibrahim Babangida's annulment of a fair election presumably won by Moshod Abiola).

¹⁶See Aka, Policy of Ethnic Reconciliation, supra note 15.

¹⁷We posit that corrupt African leaders are not only a bane to their fellow citizens, but are, in the true sense of the word, unpatriotic moral midgets without conscience, and indifferent to the abysmal conditions of their countries and subjects. See Webster's Universal College Dictionary (Random House, Inc. 2001), at pg. 580 (defining a patriot as "a person who loves, supports, and defends his or her country **and its interests**)(emphasis added). It is undisputable that it is in the interest of a nation to have well educated citizens, a well maintained and efficient bureaucracy, well maintained social and physical infrastructures, and a populace with a high standard of living. To the extent the rapaciousness of so-called African leaders has deprived Africans of these benefits, these corrupt and licentious 'leaders' are immeasurably unpatriotic.

¹⁸See, e.g., **The Lost Billions: The Inside Story of the Hunt from Lagos to New York to Geneva for an African Dictator's Stolen Loot**, NEWSWEEK INTERNATIONAL, March 13, 2000 (hereinafter, The Lost Billions)(describing in detail, the late Nigerian dictator and embodiment of corruption, General Sani Abacha's brazen robbery and fleecing of the Nigerian treasury, and the ease with which he stashed his loot in European and American banks, including in Citibank). The article further notes the ease with which the late Congolese tyrant Mobutu Sese Seko, and other leader-robbers and tyrants from the third world plundered their nations' treasuries and hid their loot "in Europe and the United States." See also Frank Vogl, **The Supply Side of Global Corruption**, FINANCE & DEVELOPMENT, Vol. 35, No. 2, Pg. 30 (June 1998)(hereinafter, Vogl, Supply Side of Global Corruption)(observing that many of the largest banks "all of which are headquartered in the leading industrial countries-are used in the global money laundering [of the proceeds of corruption]," and appropriately noting that "Money laundering is the handmaiden of international corruption," since "those who take bribes must find safe international financial channels through which they can bank their ill-gotten gains.").

Although corruption is a universal problem,¹⁹ and has been in existence for a very long time,²⁰ European colonization, contrary to prevailing myth, failed to bequeath democracy to African countries, but rather, left a legacy of authoritarian rule and plunder,²¹ and sowed the seeds for the vicious type of corruption now plaguing African countries.²² Using the pretext of bringing Christianity and civilization to the ‘natives’²³ European colonizers instead brought barbarism and unspeakable savagery to the Africans. Through brute force and greed, the colonizers ushered in slave labor,²⁴ divested the African of the ownership of his or her land and the resources therein,²⁵ enslaved men, women, and children,²⁶ and robbed the African of every ounce of dignity and human right.²⁷ While attacking the heinous Arab

¹⁹See, e.g., Ibrahim F.I. Shihata, **Corruption-A General Review with an Emphasis on the Role of the World Bank**, 15 Dick. J. Int’l L. 451, 458 (Spring 1997)(“corruption in one form or another exists in varying degrees in all human societies.”).

²⁰See, e.g., Kimberly Ann Elliott, **Perspective: The Problem of Corruption: A Tale of Two Countries**, 18 J. Intl. L. Bus. 524, 524 (Winter 1998).

²¹See Hochschild, supra note 4, at 301 (“the major legacy Europe left Africa was not democracy as it is practiced today in countries like England, France, and Belgium; it was authoritarian rule and plunder.”).

²²This statement in no way implies that there is a benevolent type of corruption.

²³See, e.g., Makau Mutua, **Savages, Victims, and Saviors: The Metaphor of Human Rights**, 42 Harv. Int’l L.J. 201, 235-36 (Winter 2001)(observing that although “Colonialism was driven by ignoble motives[page 236]...Positivists[including European missionaries] developed an elaborate vocabulary for denigrating these peoples[the colonized], presenting them as suitable objects for conquest, and legitimizing the most extreme violence against them,**all in the furtherance of the civilizing mission-the discharge of the white man’s burden.**”)(emphasis supplied).

²⁴See generally Hochschild, supra note 4. See in particular, page 129 where the author observes that while Leopold grandly issued edicts banning the slave trade[perhaps to burnish his duplicitious image as a great christian king and humanitarian] he encouraged and had in place, a system which enslaved the Congolese for cheap labor. See also page 125, where the author emphasized that unlike Protestant missionaries who hired and paid the porters at their service “the Congo state-at Leopold’s specific order-used forced labor.”

²⁵See id. at 117.

²⁶See, e.g., id. at 111 (reiterating missionary and lawyer George Washington Williams’ first hand narration of the Belgian Congo state’s buying and selling of slaves). See also id. at 161-63 (describing in graphic detail the kidnapping of men, women and children by Leopold’s officials in the Congo for the express purpose of compelling them to gather rubber pulp, a process described as so arduous and painful, since “A gatherer had to dry the syrup-like rubber so that it would coagulate, and often the only way to do so was to spread the substance on his arms, thighs, and chest,” id. at 161. The author further describes the slavish control of the inhabitants wherever the rubber vines grew as follows:

Wherever rubber vines grew, the population was tightly controlled. Usually you had to get a permit from the state[Congo free state] or company [corporation established by King Leopold, II of Belgium to run the Congo free state] agent in order to visit a friend or relative in another village. In some areas, you were

enslavement of Africans, European colonizers unleashed unimaginable cruelty against the African, which dwarfed the atrocities of the Arab slave raiders and traders²⁸ and rose to the level of a holocaust.²⁹

Prior to the Berlin Conference of 1885, which carved up Africa like a piece of cake for the European nations, major colonizers such as Britain, Germany, France, Portugal, and little, but profoundly vicious Belgium,³⁰ had already established enclaves in various African territories with the sole aims of plundering the continent's resources for the benefit of Europe, moral pretenses notwithstanding.³¹ Also, prior to the Berlin Conference, the United States, perhaps unwittingly, had given its imprimatur to the rape of the continent by the murderous and savage Belgian monarch, King Leopold II.³² Although prior to the arrival of European colonizers, Africans had made wars against each other, and

required to wear a numbered metal disk, attached to a cord around your neck, so that company agents could keep track of whether you had met your quota. Huge numbers of Africans were conscripted into this labor army: in 1906, the books of A.B.I.R. alone, responsible for only a small fraction of the Congo state's rubber production, listed forty-seven thousand rubber gatherers.

²⁷See *id.* at 176 (describing how indigenes of the Congo were brought to Europe and placed on exhibit at world fairs—just like animals). Hochschild describes in particular, the horrible fate of a Congolese midget, Ota Benga, who was displayed in the monkey house of New York's Bronx Zoo, where the helpless man was compelled to share his space with an orangutan. To compound the horror, zoo keepers scattered bones on the floor around the man to give spectators the impression that he was a human eating savage. By the time a group of African-American ministers rescued Benga from the zoo, the experience had left such a scare on Benga that he later committed suicide. Incredibly, and shockingly, the promoter of the exhibit was a former Presbyterian missionary. See *id.* See also *id.* at 166 (describing the parading of native Congolese who failed to use a designated toilet, and the smearing of the faces of the hapless victims with excrement).

²⁸See *id.* at 129 (noting that under the brutal rule of the Congo free state “soldiers [of African descent] and chiefs alike were flogged or hung for the slightest offense. They [African soldiers who mutinied due to the inhumane rule of King Leopold's men in the Congo free state] spoke of one white officer who shot sixty soldiers [Africans] in a single day because they refused to work on a Sunday, and of another who “with his own hands poured salt and pepper on the bloody wounds made by the chicotte[a wiper made from the dried hide of a hippopotamus] and ordered the sick from his post thrown alive into the Lualaba River.”“

²⁹See *id.* at 233 (concluding, based on a 1919 official Belgian government commission findings, ethnographic studies, and the 1924 territory wide census of the Congo, that about ten million Congolese died directly or indirectly as a result of Leopold's brutish rule in the territory).

³⁰Belgium is less than half the size of West Virginia. See Hochschild, *supra* note 4, at 36.

³¹See *id.* at 82-87.

³²See *id.* at 79-82 (observing that through the efforts of Alabama's U.S. Senator John Tyler Morgan, a former Confederate brigadier-general, and the lobbying activities of former U.S. Minister to Belgium under President Abraham Lincoln, [see page 58], Henry Shelton Sanford, the United States, during the presidency of Chester Arthur, became the first country to recognize Leopold's claim to the Congo [page 81]).

engaged in customary practices that were, by any objective measurement, atrocious, and of no redeeming value,³³ the arrival of European colonizers ushered in the absolute degradation of the African,³⁴ and a fast paced destruction of the African family. For example, during the period known as the rubber terror, husbands were compelled by force of arms to abandon their wives and children for extremely extended periods of time in search of wild rubber for the benefit of King Leopold II, and his minions.³⁵ To make matters worse, Leopold's men in the Congo would often hold the women and children hostage under the most inhumane and barbarous conditions until the men provided the demanded amount of rubber.³⁶ With regard to mining, husbands were forced to mine deep into the earth under life threatening conditions for extended periods of time while separated from their families.³⁷ These forced labor practices had the predictable effect of destroying the closeness and cohesiveness of the affected households. Peace of mind became a rare commodity, since the natives knew that the allegedly 'civilized' strangers could murder both adults and children for the most minor

³³See, e.g., H. Murray Hofmeyr, **Christian Mission and Colonialism in Southern Africa and African Response: Some Case Studies**, 14 Emory Int'l L. Rev. 1029, 1052(hereinafter, Hofmeyr, Christian Mission and Colonialism)(noting the observations of an African born missionary Klaas Koen about some of the devious practices among the indigenous people, such as the killing of the second child making up a twin "even when the first was born dead,"; the worshipping of animals, such as apes, which allegedly contained the spirits of the worshippers' ancestors; and the marriage of girls as young as nine years old by old men.

³⁴See, e.g., Hochschild, supra note 4, at 120-21 (noting the emotional and physical degradation and utter humiliation of the African at the hands of the colonizers. Not only was the African mercilessly lashed, severely punished for the most minor infraction, and literally worked to death, he or she was also demonized and assiduously treated as less than a full human being. The European colonizers held the opinion that "Africans were inferior beings; lazy, uncivilized, little better than animals,"id. at 121. See also Philip C. Aka, **The Military, Globalization, and Human Rights in Africa**, 18 N.Y.L. Sch. J. Hum. Rts. 361, 379 (hereinafter, Aka, Human Rights in Africa)("Colonial rule the way it unfolded in Africa has several features that negated even rudimentary notion[s] of human rights.").

³⁵See Hochschild, supra note 4, at 163 (relating the estimate by a colonial administrator in the Congo territory that in order to fill their quota "rubber gatherers had to spend twenty-four days a month [approximately 80% of their time] in the forest, where they built crude cages to sleep in for protection -not always successful - against leopards.").

³⁶See id. at 230 ("Untold thousands of people, women, children, and the elderly, died as hostages. Soldiers kept them in dirt compounds, often in chains, feeding them little or nothing until the men of a village brought in the demanded amount of rubber—something that might take weeks. In one stockade in 1899, prisoners were found to be dying at the rate of three to ten a day.")

³⁷See id. at 278-79. Among those mines to which hapless Africans were conscripted to work in were the heavily guarded Congo mine at Shinkolobwe, which allegedly produced more than eighty percent of the uranium used in the atomic bombs dropped on Hiroshima and Nagasaki during World War II. See id. at 279.

infraction.³⁸

Significantly, while the Africans received pittance, when paid at all for their labors, or worked or slaved to procure the abundant mineral resources,³⁹ many European administrators of colonized provinces amassed ill-gotten wealth at the expense of the impoverished and disenfranchised locals.⁴⁰ Equally reprehensible, almost none of the profits generated from the mineral resources were invested to educate and evangelize the ‘natives’.⁴¹ Rather, it appears that each time the African questioned the inhumanity of the colonizers, the colonizers resorted to the most extreme means of enforcing their unbridled rule, such as massacres and genocidal campaigns.⁴² Consider, for example, the German massacre of the Hereros in South Africa. When a misunderstanding arose between the German colonizers and the Hereros, the Germans under Kaiser Wilhelm II, deliberately set out to exterminate the Hereros. A German general, with the full support of the German leadership, gave the order to annihilate the Hereros, both men, women, and children.⁴³

³⁸See *id.* at 234 (describing the senseless bloodletting in the Congo. According to three particularly horrific accounts, one Congo free state official named Rene de Permentier had the ignoble and sadistic reputation of ordering the beheading of female prisoners for the simple offense of failing to properly sweep a courtyard. In another incident, “Two Force Publique officers [the Force Publique was the army raised to protect the Congo free state], Clement Brasseur and Leon Cerckel, once ordered a man hung from a palm tree by his feet while a fire was lit beneath him and he was cooked to death.” Yet, in another incident “Two missionaries found one post where prisoners were killed by having resin poured over their heads, then set on fire.”*id.*

³⁹See generally Joseph Conrad, **Heart of Darkness** (Penguin Books. U.S.A. 1999) at 74-75 (noting the next to nothing the natives got for their hard and miserable labor).

⁴⁰See, e.g., Hochschild, *supra* note 4, at 136-37:

For a white man, the Congo was also a place to get rich and to wield power. As a district commissioner, you might be running a district as big as all of Holland or Belgium. As a station chief, you might be a hundred miles away from the next white official; you could levy whatever taxes you chose in labor, ivory, or anything else, collect them however you wanted, and impose whatever punishments you liked...the Congo offered a chance for a great rise in status. Someone fated for a life as a small-town bank clerk or plumber in Europe could instead become a warlord, ivory merchant, big game hunter, and possessor of a harem.

⁴¹See *id.* at 110 (noting lawyer and missionary, Rev. Williams’ complaint to King Leopold about the Congo free state thusly “There were no schools and no hospitals except for a few sheds “not fit to be occupied by a horse””).

⁴²See notes 2 and 11 *supra*, and accompanying texts. See also Hofmeyr, **Christian Mission and Colonialism**, *supra* note 33, at 1046-47 (highlighting the British’s deliberate and callous provocation of a war with the Zulus during the late part of the 19th century, which resulted in 12,000 deaths).

⁴³See, e.g., Masland, **The Forgotten Genocide**, *supra* note 2 (observing that once the German war of 1904 to “exterminate the Herero herders...began, German officials made their intentions clear.” The writer quotes the German commander of the war, Gen. Lothar von Trotha, whom Kaiser Wilhelm II hand picked for the slaughter as saying “I find it most appropriate that the nation [Herero nation] perish.” According to the article, another German

After massacring the Hereros, the Germans herded the unfortunate survivors into essentially concentration camps, and then allocated them as slave laborers to German companies, some of which apparently, still exist.⁴⁴ The German extermination campaign against the Hereros resulted in the drastic reduction of their population from approximately 80,000 to 15,000 by 1906, a reduction of immense genocidal dimensions.⁴⁵ Following the British takeover of the previously German colonial territory, the British government commissioned its colonial administrator for South Africa, E.M.S George, to investigate the charges of extermination by the Germans.⁴⁶ In a report dubbed the ‘Blue Book’ the British administrator not only documented the German extermination of the Hereros, but also discovered that having exterminated the vast majority of the Hereros, the Germans stole their lands, forbade them from their natural occupation of maintaining farms and live stock, and then consigned the survivors to forced labor for the benefit of the replacement German farmers, who converted the Hereros’ lands to theirs.⁴⁷ However, despite the documentation of this German atrocity, which certainly ranks as crimes against humanity, King George VI of Britain, indicative of the barbaric collusion of the colonial powers to the detriment of the colonized, gave in to pressures from the German, and South Africa’s white governments, and ordered the destruction of the Blue Book.⁴⁸ But in lockstep fashion with the Biblical teaching that there is nothing hidden that will not be revealed,⁴⁹ a copy of the Blue Book was recently discovered with its findings of horrors.⁵⁰ Other German massacres of Africans during the vicious colonial period, included, among others, the brutal machine gunning of about 500 people of the Nyakyusa on December 2, 1897 in the Tanganyikan territory, now

officer documented in his diary “We had been explicitly told beforehand that this dealt with the extermination of a whole tribe; **nothing living was to be spared.**”(emphasis added).

⁴⁴See *id.*(according to the writer “In wretched camps by the seaports, the Herero died in droves of malnutrition, overwork and disease. The workers wore copper disks around their necks bearing numbers”).

⁴⁵See *id.*(calling the victims of the German massacre “the genocide victims history all but forgot.”)

⁴⁶See, e.g., **Blue Book**, *supra* note 2.

⁴⁷See *id.*

⁴⁸*Id.*

⁴⁹See the Gospel of Matthew, Chapter 10, Verse 26 (New Living Translation. Tyndale House Publishers, Inc. 1996)(“For the time is coming when everything will be revealed; all that is secret will be made public.”).

⁵⁰See **Blue Book**, *supra* note 2.

the mainland of the country of Tanzania.⁵¹

Neither the British, the Belgians, nor the French, major rivals to the Germans in the rape of Africa during the colonial period, refrained from atrocities against the Africans. On the contrary, consider the French massacre of thirty thousand Algerians at Setif during the Algerians' struggle for independence.⁵² Significantly, this massacre occurred on the same day, May 8, 1945, that the French public was celebrating the surrender of Nazi Germany⁵³ and the liberation of France by the allied powers. Thus, in a vicious irony, while the French were being liberated by others from Nazi barbarism, they were engaging in savagery and genocidal campaigns against the Algerians in order to maintain their colonial domination. Long before the massacre at Setif, the French had both enslaved and compelled Africans into forced labor in the Belgian Congo, while masquerading in Europe and other parts of the world as a civilizing and evangelizing influence in Africa.⁵⁴

⁵¹See Walusako Mwalilino, **In Defense of the Nyakyusa; Tanzanian People**, MONTHLY REVIEW, January 1994, Vol. 45; No. 8, at pg. 36.

⁵²See Ronald Koven, **National Memory: The Duty to Remember, the Need to Forget; Historical Memory in France; Special Feature**; Society, Vol. 32, No. 6, pg. 52 (September 1995)(assailing the French, particularly the government, for the habit of hiding the truth about French atrocities, and defeats from the public).

⁵³See id.

⁵⁴See Hochschild, *Leopold's Ghost*, supra note 4, at 280-81 (describing France's use of slave labor and mayhem to enforce its brutal rule in equatorial Africa). According to the account, France's rule was as equally vicious as Leopold's, and included the chaining of slaves, mistreatment of conscripted porters, and the massacre of the natives to compel increased production of wild rubber. The population loss of the French occupied territory was estimated at half, same as the holocaust orchestrated by Leopold's murderous rule[page 280].

Meanwhile, Britain, which was the major colonizer in the world during the colonial period, also maintained and held its African colonies through both brute force, and an unabashed policy of racial subjugation. The British established an all white government in South Africa,⁵⁵ and employed forced labor in its African colonies, perhaps not with the same viciousness as Belgium.⁵⁶ The British slaughtered thousands of Zulus during a war which the British deliberately and unjustifiably provoked.⁵⁷ Making a mockery of positive law, the British made possible the seizure of the best lands in South Africa, and ensured their transfers to Caucasian British immigrants.⁵⁸

As early as 1496 the English monarch granted a commission to a group known as the Cabots to discover countries then unknown to “Christian people,” and take possession of them in the name of the English monarch.⁵⁹ Under the guise of civilizing the natives of those countries ‘unknown to Christian people’, i.e., unknown to Europeans, the Europeans waged wars and conquered territories outside Europe, mostly in Africa and the Americas.⁶⁰ Then devising a legal fiction to justify and legitimize the fruits of their brutal conquests, the European powers came up with the concept of title to land and its resources through discovery.⁶¹ Title by discovery, more appropriately, by conquest, within European legal systems, vested the conquering colonial power with legal right to the land previously occupied by the natives and all the natural resources therein.⁶² The courts put their legal imprimatur to this legal subterfuge by declaring this concept a universally recognized principle,⁶³ ignoring the older principle, previously deemed universal, of

⁵⁵See *id.* at 273.

⁵⁶*Id.* at 210.

⁵⁷See Hofmeyr, **Christian Mission and Colonialism**, *supra* note 33, at 1046-47.

⁵⁸See, e.g., Sterling, **Britain’s Hypocrisy**, *supra* note 12 (noting that Europeans expropriated “great swaths of the continent[of Africa]” under the pretext of bringing so-called civilization to the inhabitants. The author emphasized in particular British expropriation of the best lands in the territory now known as Zimbabwe without payment of compensation to the native African owners, which they, the British authorities then granted to white settlers)

⁵⁹See **Johnson v. M’Intosh**, 21 U.S. (8 Wheat) 543 (1823).

⁶⁰See *id.*

⁶¹See *id.*

⁶²See *id.* See also, Jesse Dukeminier and James E. Krier, **Property** (Second. Edition, 1988.), at 12-14.

⁶³See **Johnson v. M’Intosh** 21 U.S. (8 Wheat) 543.

ownership by first possession.⁶⁴

Although the British colonial rule in Africa was perhaps, not as vicious as that of the Germans and the French, British rule nevertheless, was brutal, inhumane and roguish.⁶⁵ The British enthroned a divide and conquer system which pitted ethnic groups against each other in the interest of preserving the continent's vast natural resources for the benefit of the British empire.⁶⁶

However, the most brutal, vicious, licentious, and genocidal example of colonial rule in Africa certainly is the Belgian and King Leopold II's rule of the area that came to be known as the Congo free state. Although the term "free state" perhaps conjures up the image of a territory that was free of the ravages of its time, nothing could be farther from the truth. King Leopold II of Belgium, a reprobate by even the standards of his own era,⁶⁷ whose lust for extremely young teenage girls bordered on pedophilia,⁶⁸ schemed to acquire an undeserved reputation as a philanthropist and great humanitarian.⁶⁹ Having fooled the British, the French, Germany, and the great emerging power-the United States, about his true and dastard intentions for the Congo, Leopold established himself in the eyes of willing European and American media as a Christian monarch stridently opposed to the vicious Arab enslavement and mistreatment of Africans.⁷⁰

⁶⁴See Epstein, **Possession as the Root of Title**, 13 Ga. L. Rev. 1221, 1222 (1979), cited in Dukeminier and Krier, supra note 62, at 13.

⁶⁵See, e.g. Mark Olden, **Inside Story: Back to Rhodesia**, THE GUARDIAN (London), February 20, 2002, Guardian Features Pages, at 4(hereinafter, Olden, Back to Rhodesia)(the writer, great-grandson of a British citizen who was part of the early white settlers of then Rhodesia, now Zimbabwe, describing the savagery with which the British quelled African resistance to colonial rule, and the subsequent British implementation of a slave wage economy and the brutal seizure of the best lands from the Africans "under the guise of giving Africans the supposed vast benefits of western civilization."). One must ask, what benefits did the Africans derive from a supposedly 'civilized' British Empire which forced them virtually into slavery, and expropriated their best lands?

⁶⁶See, e.g. Aka, **Policy of Ethnic Reconciliation**, supra note 15, at 327, n. 40 (highlighting the destructive British practice of stereotyping various ethnic groups in order to enhance the disparities between them).

⁶⁷See Hochschild, supra note 4, at 88 (highlighting testimony in a London courtroom revealing King Leopold's payment for a steady supply of young prostitutes, some as young as ten).

⁶⁸See id. at 222 ("Leopold had long had a well-known taste for extremely young women," some as young as ten [see pg. 88] and lost his head over a sixteen year old prostitute, Caroline, whom he lavished expensive gifts on, including her installation "in a grand mansion, the Villa Vanderborght, across the way from the royal complex at Laeken, and built a pedestrian bridge over the street so that he could slip across at will for visits.").

⁶⁹See id. at 42-45.

⁷⁰See id. at 92-93.

Capitalizing on the European and American hatred of the Islamic Arabs, Leopold gained the favor of most European and American citizens, who may have considered themselves good Christians intent on supporting what was perceived as Leopold's noble endeavor to rescue Africans from the evils of slavery.⁷¹ With the support of apparently well-meaning, but naive throngs behind him, Leopold, with the full assistance of the explorer Morton Stanley, who was greatly hailed as among the greatest of African explorers,⁷² and the former American consul to Paris, Henry Shelton Sanford lobbied the United States President Chester Arthur, and Congress to recognize his claim to the Congo.⁷³ Leopold and his cohorts framed his future endeavor in the Congo as a purely humanitarian undertaking to rescue the 'natives' from Arab enslavement, and then, to set up states with Africans in charge of their destiny.⁷⁴ Leopold found a willing and supportive audience with the rabidly racist U.S. Senator Murray from the State of Alabama, who helped shepherd a bill through Congress lauding Leopold's intended mission in the Congo.⁷⁵ Through deliberate falsehoods about his intentions in the Congo, and expensive and sustained lobbying Leopold convinced the American government to become the first government to recognize his claim to the Congo.⁷⁶ Having obtained American recognition, Leopold schemed to convince the Germans and other European powers to follow suit. At the Berlin Conference European powers put their imprimatur to Leopold's claim to the Congo, a territory "bigger than England, France, Germany, Spain, and Italy combined...more than seventy-six times the size of Belgium itself."⁷⁷

After cementing his claim to the Congo, Leopold established forced labor in the Congo,⁷⁸ and went with unmitigated greed after the highly profitable trade in ivory. Getting ivory, of course, required the killings of elephants.

⁷¹See id.

⁷²Id. at 62-74.

⁷³Id. at 77-82.

⁷⁴See id. at 67(noting how Leopold fooled the Europeans and Americans with the illusion that the Congo would be a "confederation of free negro republics," with Africans ruling under the noble guidance of a benevolent Belgian king).

⁷⁵Id. at 80.

⁷⁶Id. at 81.

⁷⁷Id. at 87.

⁷⁸See id. at 118-129.

Thus, was born the mass slaughter of African elephants for the personal enrichment of Leopold.⁷⁹ Several years after the mad scramble for ivory had lessened a little bit, Leopold found a new source of wealth in the Congo, i.e., rubber pulp for export to Europe during the heyday of the industrial revolution. Because of the difficulty inherent in harvesting the pulp from the rubber vines, not many people were willing to engage in that vocation.⁸⁰ But since Leopold regarded the Congo and its African inhabitants, and the entire mineral resources as his own personal property, Leopold encouraged the enslavement of the inhabitants of the territory, and expanded the system of forced labor.⁸¹ With the inhabitants as either slaves, or forced laborers, Leopold's subordinates compelled the helpless 'natives' to collect rubber pulp under the gun, and under the constant threat of bloody whippings with the chicotte, a lash made from the raw hide of the hippopotamus.⁸² Due to Leopold's murderous greed for rubber, and his system of compensation which rewarded European underlings with commissions, in addition to fixed salaries, based on the amount of rubber collected within the areas under their control, cutting off the hands and ears of the natives in order to induce a greater supply of rubber became sanctioned official policy,⁸³ as well as the kidnapping of the natives for forced rubber supply.⁸⁴ Kidnapped married women were chained by the neck, and held as hostages under armed guards to compel their husbands to go into

⁷⁹Id. at 118 ("As the 1890s began, the work whose sanctity Leopold prized most highly was seizing all the ivory that could be found. Congo state officials and their African auxiliaries swept through the country on ivory raids, shooting elephants, buying tusks from villagers for a pittance, or simply confiscating them. Congo peoples had been hunting elephants for centuries, but now they were forbidden to sell or deliver ivory to anyone other than an agent of Leopold.").

⁸⁰Id. at 161 (describing the difficulty of harvesting rubber vines thusly "No payments of trinkets or brass wire were enough to make people stay in the flooded forest for days at a time to do work that was so arduous-and physically painful.").

⁸¹See id. at 160-63.

⁸²See Hochschild, *supra* note 4, at 120 (describing the chicotte as "a whip of raw, sun-dried hippopotamus hide, cut into a long sharp-edged cork-screwed strip. Usually the chicotte was applied to the victim's bare buttocks. Its blows would leave permanent scars; more than twenty-five strokes could mean unconsciousness; and a hundred or more-not an uncommon punishment-were often fatal.").

⁸³Id. at 165 ("the severing of hands was deliberate policy, as even high officials [of the Congo free state] would later admit."). Hochschild quoted one Congo free state official Charles Lemaire as confessing after his retirement "As soon as it was a question of rubber, I wrote to the government, 'To gather rubber in the district...one must cut off hands, noses and ears.'" (quotation in the original).

⁸⁴See id. (noting the official sanctioning of "hostage-taking."). In addition, Hochschild observed "If a village refused to submit to the rubber regime, state or company troops or their allies sometimes shot everyone in sight, so that nearby villages would get the message."

the forest to gather wild rubber for the benefit of Leopold.⁸⁵ Even little children were held as hostages, and sometimes their hands were cut off to force their fathers to brave the harsh elements of untamed and thick forests to gather wild rubber.⁸⁶

The reign of terror Leopold introduced into the Congo free state decimated countless number of entire villages, and encouraged the murderous villainy of Leopold's assistants such as Leon Rom, a district administrator in the Congo, who took pleasure in killing the natives for the slightest infringement, and decorated his garden with a row of about twenty-one severed African heads.⁸⁷

While Leopold's reign of terror was engulfing the Congo, none of the so-called missionaries or other Europeans and Americans who were witnesses to the unfolding genocide had the courage to tell the rest of the world about Leopold's murderous and rapacious rule in the Congo until the African-American minister, lawyer, journalist, and historian, George Washington Williams went to the Congo, and horrified by what he witnessed, penned an open letter to King Leopold II, which letter Williams also sent to newspapers in the United States and Europe.⁸⁸ Williams exposed the enslavement, murder, and rape of Africans in the Congo, and the utter falsity of Leopold's claims about the benevolence of his rule in the Congo.⁸⁹ After Williams' horrifying revelations, which included witnessing the enslavement, rape,

⁸⁵Id. at 161 (noting among the official practice of taking women and children as hostages to compel the men to gather rubber “‘If you were a male villager, resisting the order to gather rubber could mean death for your wife. She might die anyway, for in the stockades food was scarce and conditions were harsh.’”). Hochschild observed that oftentimes, the soldiers guarding the kidnaped women would unchain and then rape them.id. at 162.

⁸⁶See id. at 161.

⁸⁷Id. at 145. See also id. at 149 (describing a letter the governor general of the Congo free state sent back to Brussels, Belgium at the time Leon Rom was station chief at Stanley Falls complaining about “‘some agents who ‘‘have the reputation of having killed masses of people for petty reasons.’’”). See also Swain, **Regime Collapsing**, supra note 8 (in addition to assailing the rapacious rule of the late Congolese post-colonial dictator, Mobutu Sese Seko, the writer reiterated the unfortunate colonial history of the Congo, noting “‘The barbarism of the king’s [King Leopold, II, of Belgium] men was unequaled even by the ruthless colonial standards of the day. Human mutilation was practiced by the king’s men to account for every cartridge fired. They hacked off and smoked the hands, feet and private parts of the victims, presenting them to their commanders as evidence they had done their job well.’”).

⁸⁸See Hochschild, supra note 4, at 109-114.

⁸⁹See id. at 111 (containing Williams' observations about the cruel treatment and murder of Africans. He related his observations of white officers “‘shooting villagers, sometimes to capture their women, sometimes to intimidate the survivors into working as forced laborers, and sometimes for sport.’”). Williams' account contains a particularly chilling and haunting disregard for the life of the African displayed by the colonizers. According to him, on one occasion “‘Two Belgian Army Officers saw, from the deck of their steamer, a native in a canoe some distance away...The officers made a wager of [five British pound sterling] that they could hit the native with their

torture, and unmitigating humiliation of the Africans,⁹⁰ others such as the African-American missionary and explorer, Rev. William H. Sheppard, British consul and Irish patriot, Roger Casement, African businessman Hezekiah Andrew Shanu-originally from the present day Lagos, Nigeria, British investigative journalist, and later, member of parliament E.D. Morel, Baptist missionaries Rev. John Harris and his wife, Alice, and other men and women of goodwill, continued, at the risks of their lives and livelihood, the revelation of Leopold's sadistic hegemony in the Congo.⁹¹ Regrettably, by the time Leopold was compelled to transfer his 'ownership' of the Congo to the Belgian government at extremely profitable terms,⁹² an estimated ten million Congolese, a figure greater than the number of Jews killed under Nazi Germany's equally heinous atrocities, had died as a direct or indirect result of Leopold's genocidal rule.⁹³ Incredibly, and unfortunately, the brutalization and humiliation of the Congolese, with the exception of officially sanctioned enslavement, continued under the Belgian government until Congolese independence in 1960.⁹⁴

Colonial rule decimated the populations and structures of the African family,⁹⁵ and expropriated the vast

rifles. Three shots were fired and the native fell dead, pierced through the head," (quotation marks in the original).

⁹⁰See id. at 108-114.

⁹¹See generally id.

⁹²In March 1908 the deal transferring ownership of the Congo free state from Leopold to the Belgian government was formalized. As part of the deal, the Belgian government agreed to assume about 110 million francs worth of debt Leopold had saddled the Congo with through the issuing of bonds which greatly inured to the benefit of his teenage lover and former prostitute, Caroline. The Belgian government also agreed to spend an estimated 45.5 million francs on the king's pet projects, which included making his palace among the most luxurious in Europe. Adding to the repugnancy of the deal, the Belgian government agreed to pay Leopold 50 million francs "as a mark of gratitude for his great sacrifices made for the Congo," and then set out to extract the 50 million francs from the blood and sweat of the Congolese. See id. at 259 (quotation marks in the original).

⁹³See id. at 233.

⁹⁴See Tom Mbakwe, **Physician Heal Thyself; Around Africa-Africa/Belgium; Brief Article**, NEW AFRICAN, January 1, 2002, at 15(hereinafter, Mbakwe, Physician Heal Thyself) (noting criticisms against Belgium's stance of exercising universal jurisdiction against foreigners in the prosecution of human rights abuses "wherever they were committed," while ignoring its own role in the mass killings of the Congolese during colonial rule). Although we concur with, and in fact applaud Belgium's current sensitivity to human rights abuses, wherever they occur, it is clear that Belgium's colonial rule was mired by repression and unbridled cruelty against the African colonial subjects. Belgium's continued refusal, therefore, to even acknowledge its active participation in the genocide of its African subjects in the Congo while claiming a moral and legal right under universal jurisdiction to prosecute crimes against humanity, smacks of sheer hypocrisy.

⁹⁵See, e.g., Aka, Human Rights in Africa, supra note 34, at 380 (observing that the whole process [of forced labor during colonial rule] removed great numbers of men from rural life, turned farmers into wage-workers and ruined rural stability and peace.").

resources of that continent for the benefit of Europe. Massive statues, buildings, museums, and other evidence of material wealth, can still be found in many European cities from Belgium to London, all made possible by the blood and sweat of the mistreated, humiliated, and ultimately, forgotten throngs of Africans during colonial rule.⁹⁶ It is indeed difficult to examine the colonial period and find evidence of pure humanitarianism.⁹⁷ Although many missionaries went to Africa with a sincere desire to spread the gospel and extend Christian love and charity, and many sacrificed their lives for the cause, their objectives were constantly thwarted by the brutal regimes of leaders such as Leopold, whose underlings had no qualms kidnapping boys and girls from mission stations,⁹⁸ thereby making it almost impossible for the ‘natives’ to align themselves with a religion to which their cruel oppressors were identified with.⁹⁹

In achieving the aims of their conquests the colonial rulers left the inhabitants of the colonized African territories, particularly the few elites, with the unmistakable impression that all that mattered was power and the audacity to use it for personal gains to the detriment of the populace.¹⁰⁰ The colonial rulers also left the unmistakable impression that force equals right.¹⁰¹

The lessons of enrichment through power acquisition and brute force was not lost on the Africans battling colonial rule. Although most of the nationalists such as Kwame Nkrumah of the Coast, renamed Ghana upon

⁹⁶See e.g., Hochschild, *supra* note 4, at 293-94.

⁹⁷See, e.g., Aka, *Human Rights in Africa*, *supra* note 34, at 381 (“In sum, European colonial rule in Africa was marked by the abuse of Africans’ individual and collective rights... It also left in its wake negative legacies in politics, economics, and social lives with ruinous consequences for human rights in Africa.”).

⁹⁸See, e.g., Hochschild, *supra* note 4, at 125-26 (noting the angry observations of a Swedish missionary, C.N. Borrisson, that an official of the Congo free state, a Belgian named Eugene Rommel “imprisoned women when the people refused to transport [supplies] and to sell him goods below market prices...He was not ashamed to come by our station [missionary station] and abduct our school girls...and treat them in despicable ways.”). The missionary continued, that one day, he and another missionary “went to a neighboring village and helped release three poor women whom his [Rommel’s]soldiers had imprisoned because one of them had asked for the return of a stone jug which had been taken from her.” *id.* Thus, in addition to the brazen abduction of school girls from missionary houses, and presumably, raping them, King Leopold’s minions in the Congo also engaged in shameless acts of robbery, among other vices.

⁹⁹See generally Hofmeyr, **Christian Mission and Colonialism**, *supra* note 33, at 1072-73.

¹⁰⁰See Aka, *Human Rights in Africa*, *supra* note 34, at 379 (“The entire architecture of colonial rule, like that of military rule down the road in the continent, was built and maintained solely and completely on naked force”).

¹⁰¹See *id.*

independence, Kenneth Kaunda of Zambia, Jomoh Kenyatta of Kenya, and Julius Nyerere of Tanzania, among others, arguably, had the noble intentions of casting off the colonial yoke, and improving the lots of their fellow Africans, many soon adopted the greed and violence of the departing colonizers upon independence. In addition, contemporaries and subsequent leaders such as Joseph Desire Mobutu, later renamed Mobutu Sese Seko, of the Congo Republic, named Zaire under Mobutu, Felix Houphouet-Boigny of the Ivory Coast, Jean Bedel Bokassa of the central African Republic, who later dubbed himself emperor, and Macias Nguema of the Equatorial Guinea internalized the lessons of brute force and power acquisition so embedded in the colonial systems.¹⁰² This core of ‘leaders’ and others of their ilk appeared to have prepared themselves upon independence to continue the looting of their countries’ resources begun under colonial rule.

INDEPENDENCE FROM COLONIAL RULE:NEW LEADERSHIP AND THE CONTINUED BETRAYAL OF A CONTINENT.

¹⁰²See, e.g., Aka, Human Rights in Africa, *supra* note 34, at 387 (highlighting the abusiveness and egregiousness of the regimes of Jean-Bedel Bokassa and Francisco Macias Nguema “Bokassa brutally murdered over 100 schoolchildren for the “political offenses” of defying his orders and mouthing “death to the Emperor.” Following an unsuccessful coup against his government, a thoroughly insecure Macias Nguema perpetrated rounds of non-stop purges, carried out political executions of persons he suspected opposed his regime, and caused the exile of over 100,000 in a population of approximately 300,000 people.”)(quotations on political offenses and death to the emperor in the original, internal citations omitted). See also, Howard W. French, **Les Faux Complots d’Houphouet-Boigny: The Fake Plots of Houphouet Boigny:Review**[of book of same title written by Samba Diarra], FOREIGN POLICY, March 22, 1999, page 115 (observing that although in the later part of his life, Boigny “worked tirelessly at promoting an image of himself as an apostle of peace” including “building the world’s largest basilica near where the Assabou prison once stood and giving asylum to political refugees from all over the continent [of Africa],” from the earliest days of his administration, he intimidated, arrested, banished, and executed all whom he deemed a threat to his power by “conjuring a steady stream of traitors.”). According to this account of the early rule of Boigny, he master minded the brutal beating and eventual death of the first president of the Supreme Court of the Ivory Coast, Ernest Boka, who had “refused [in 1964] to condemn political detainees against whom there was no evidence.”

Independence brought with it a sense of relief from colonial oppression and barbarism, and the hope of a better future for the newly liberated peoples of Africa.¹⁰³ Independence meant that the African now controlled his or her destiny, and could enjoy the abundance of the natural minerals under the African soil, so the thought went. Citizens must have danced in the streets of the newly independent countries, and sung the praises of the indigenous leaders who had dared to oppose the oppressors and eventually win independence for their countries. Illiterate parents must have looked with pride and optimism to the day when their children would obtain the educational benefits denied them under colonial rule. People in the villages must have rejoiced at the prospect of electrification and pipe borne water for their hamlets, while city folks must have bristled with hope and high expectation at the prospect of paved roads, central sewer systems, equipped and fully staffed high schools and universities. In all, both the city and rural folks must have looked to a better future governed by leaders who had their interests at heart, and with whom they could relate.

The expectations of the people for a better life after many African countries gained independence in the 1950s and 1960s were quickly replaced with sectional violence,¹⁰⁴ and the rise of military dictatorships.¹⁰⁵ Soon nations became ethnic enclaves within states. In Nigeria, for example, sectional violence, encouraged by the leaders of the regional political parties formed along ethnic loyalties, soon became the order of the day.¹⁰⁶ This culminated in political violence, assassinations and counter assassinations, and a near collapse of the newly independent nation.¹⁰⁷ In addition, accusations of public embezzlement, nepotism, and waste of public resources reached a deafening crescendo. Seizing the emerging sense of free for all as an excuse, the military stepped in with a bloody military coup in January 1966.¹⁰⁸

¹⁰³See, e.g., Aka, **Human Rights in Africa**, supra note 34, at 382 (noting, for example, the renewed hope for improved human rights in Africa which accompanied the achievement of political independence).

¹⁰⁴See id. at 388-89.

¹⁰⁵See id. at 406 (“Coups d’ etats and military rule became a feature of African politics just about the moment African countries became independent,” additionally noting “By the late 1960s, about two-fifths of African states had come under military rule and coups had effectively replaced elections as a method of changing government in the continent.”).

¹⁰⁶See Philip C. Aka, **The “Dividend of Democracy”**: Analyzing U.S. Support for Nigerian Democratization, 22 Boston Coll. Third World L. J. 225, 229 (Spring 2002) (hereinafter, Aka, Dividend of Democracy) (observing that “From the outset [of political independence], the [Nigerian] political system came under severe stress brought about by ethnic rivalry.”).

¹⁰⁷See, e.g., Aka, **Policy of Ethnic Reconciliation**, supra note 15, at 333.

¹⁰⁸See id.

An equally bloody counter military coup took place six months later.¹⁰⁹ The resulting uproar and violence led to the Nigerian-Biafran civil war which estimatedly claimed more than two million lives in the ensuing bloodbath, most of them Ibos and other groups from the eastern part of Nigeria¹¹⁰ and decimated the little physical infrastructure in existence shortly after the country's independence.¹¹¹

As conflicts were brewing in Nigeria, other newly independent African countries, such as Ghana and the Congo Republic, began to descend into corruption, and sectional rivalry. In the case of Nkrumah of Ghana, his fiery nationalism which had helped lead his country to independence, soon gave way to arrogance and a demand for godlike respect from his fellow citizens.¹¹² In 1966, after nine years of increasingly autocratic rule, first, as Prime Minister, and then as President for life, Nkrumah was overthrown in a military coup.¹¹³ After his overthrow, evidence surfaced that in addition to his sway over his country's affairs, Nkrumah had enriched himself to the tune of millions of dollars at the young nation's expense.¹¹⁴ Nkrumah was banished into exile by the new military dictatorship.¹¹⁵ But over the years the new leaders of Ghana have not done better to eradicate corruption.¹¹⁶

¹⁰⁹See id.

¹¹⁰See id.

¹¹¹See id. at 333 (observing "The Biafran war of 1967-70 is ranked as "the bloodiest civil war of the 20th century." The conflict consumed what precious little physical infrastructures the country accumulated over its barely seven years of independence(as of the date the war began). It claimed an estimated two million lives, most of them Igbo and other Easterners trying to secede from Nigeria and form a separate independent Republic of Biafra."(quotation in bloodiest civil war of the 20th century in the original, internal citation omitted).

¹¹²See, e.g., **Bush Telegraph on African Statesmen**, THE DAILY TELEGRAPH, November 5, 1996, at pg. 21 (hereinafter, Bush Telegraph)(observing that soon after becoming the leader of the newly independent country of Ghana, Nkrumah asked his followers to refer to him as Osagyefo, a term which means redeemer, and announced that the opinion of his country men and women may not differ from his).

¹¹³See, e.g., the Columbia Encyclopedia (Columbia University Press, Sixth Edition, 2000)(hereinafter, Columbia Encyclopedia), at pg. 1122.

¹¹⁴See, e.g., Edlin, **Zimbabwe's Deadly Cancer**, supra note 9(indicating that Nkrumah was virtually penniless in 1957 when he became the leader of the newly independent Ghana, but had amassed millions of dollars by the time he was overthrown nine years later in a military coup).

¹¹⁵See, e.g., UNITED PRESS INTERNATIONAL, March 27, 1984 (observing that when Nkrumah was exiled in 1966, President Sekou Toure of Guinea offered him his presidential palace).

¹¹⁶See, e.g., George B.N. Ayittey, **How the Multilateral Institutions Compounded Africa's Economic Crisis**, 30 Law & Pol'y Int'l Bus. 585, 589 (Summer 1999)(hereinafter, Ayittey, Multilateral Institutions)(stressing "In Rawling's[President Jerry Rawling] Ghana, people are employed or promoted not because they deserve- or are

Meanwhile, in the Congo Republic, a young colonel named Joseph-Desire Mobutu, chief of staff to the new and first Prime Minister Patrice Lumumba, with the help of the Central Intelligence Agency (“CIA”), seized power.¹¹⁷ With the approval of U.S. President Dwight D. Eisenhower, Mobutu butchered the equally young, and idealistic Lumumba.¹¹⁸ On assuming power, Mobutu clamped down on public dissent,¹¹⁹ and treated opposition to his rule with contempt and harsh retribution.¹²⁰ Perhaps to assuage his ego, which later became legendary for its arrogance, Mobutu changed his name to Mobutu Sese Seko Kuku Ngbendu Wa Za Banga, which roughly translates to “the cock [roaster] that leaves no hens alone.”¹²¹

In a striking and ironic resemblance to the rapacity of King Leopold II, Mobutu treated the vast resources of the Congo as his personal property, and dealt with the nation’s public treasury as his piggy bank by continuously stealing enormous amounts from the public treasury, allegedly to the tune of billions of dollars.¹²² Even though the Belgians had left behind very few infrastructures that could benefit the new nation, and left the populace severely uneducated, Mobutu, just as King Leopold had done decades before him, failed to invest the public’s money into the modernization and expansion of the public infrastructures necessary for a better standard of living for his people. Further, Mobutu failed to usher in policies and programs to educate the masses of his people and improve their lot. Rather, in Leopoldian

qualified for the posts, but because they are relatives, tribesmen, party members or friends. Those Ghanaians who do not fall in any of these categories pay huge bribes to get employed or promoted, or are left to suffer and rot...Public properties or assets-vehicles, buildings, businesses, machinery, even ships-are sold out to party members, friends, relatives, etc. for peanuts. Almost all the P/NDC[party then in power] top people are alleged to have put up mansions, each costing hundreds of millions of cedis.”

¹¹⁷See **Problems with Current U.S. Policy**, FOREIGN POLICY IN FOCUS, April 5, 2000, Vol. 5; No. 10, Pg. 2 (hereinafter, **Problems with Current U.S. Policy**)(noting that the United States “installed Mobutu in power and kept him there for more than 30 years”).

¹¹⁸See, e.g., Cooper, **History as Tragedy**, supra note 5(describing the harrowing murder and dismemberment of Patrice Lumumba and his associates, after having been viciously beaten in the presence of United Nations diplomats and journalists). See also **Problems with Current U.S. Policy**, supra note 117(emphasizing “the Eisenhower administration authorized the murder of Prime Minister Patrice Lumumba, who had been voted into office just months earlier in the territory’s [Congo’s] first-ever democratic election.”).

¹¹⁹See Swain, **Regime Collapsing**, supra note 87.

¹²⁰See id.

¹²¹See **Bush Telegraph**, supra note 112.

¹²²See Swain, **Regime Collapsing**, supra note 87.

fashion, Mobutu siphoned the riches of the Congo to Europe, and the United States, where he hid them for his personal use in European and American banks and real estate.¹²³ Preoccupied with personal greed, and lacking a positive vision for his mineral rich nation, Mobutu overall, failed to invest in the social welfare of his own people.¹²⁴ While soldiers and civil servants remained unpaid for months, Mobutu indulged in excesses, and lavished the public's money on himself, his family members, and all who were willing to go along with, and support his brazen looting of the national treasury.¹²⁵

Mobutu's stealing and waste of the Congo's abundant resources knew no bounds. Consider this display of unconscionable excess: when one of Mobutu's daughters got married, a chartered plane ferried the wedding cake, estimated at more than thirteen feet, from Paris to Mobutu's estate in northern Congo at the cost of sixty-five thousand dollars to the nation.¹²⁶ To maintain his illegitimate and corruption riddled rule, Mobutu killed and imprisoned opponents with impunity, and silenced any opposition to his despotism.¹²⁷ Safely in power with the assistance and blessing of the United States,¹²⁸ Mobutu became incredibly arrogant and self-serving.¹²⁹ To crown his arrogance, and underscore his lack of vision for his country, Mobutu renamed the Congo Republic in 1971 to 'Zaire,' a term that was a

¹²³See *id.*(poignantly observing "A French government minister famously called President Mobutu Sese Seko of Zaire [now renamed Democratic Republic of the Congo]'a walking bank account in a leopard-skin cap.' It is an apt description of an African leader who plundered the wealth of his country so much that he has been hailed as the inventor of kleptocracy, or government by theft...he plundered the state's coffers, imprisoned his opponents, built a palace in the jungle and bought chateaux and villas in Europe.").

¹²⁴See *id.*

¹²⁵See, e.g., Hesh Kestin, **God and Man in Zaire**, FORBES, November 18, 1985, at pg. 100(hereinafter, Kestin, *God and Man in Zaire*). See also George Packer, **In the Footsteps of Mr. Kurtz: Living on the Brink of Disaster in Mobutu's Congo; Review; Book Review**, MOTHER JONES, July 1, 2001, Vol. 26; No. 4, Pg. 77(hereinafter, Packer, *In the Footsteps of Mr. Kurtz*)

¹²⁶See Packer, *In the Footsteps of Mr. Kurtz*, supra note 125, at 77 (observing that "The scale of Mobutu's theft was staggering, suggesting the imperial excesses of Rome or Persia," and noting that the transportation of "his daughter's four-meter-high [over thirteen feet-since one meter equals 3.28 feet] meringue-and-cream wedding cake from Paris to Mobutu's private estate in northern Zaire cost \$65,000.").

¹²⁷See Swain, *Regime Collapsing*, supra note 87(recalling overhearing Mobutu "utter, The horror! The horror! As he recoiled from a pile of massacred bodies during a rebellion in southern Zaire.").

¹²⁸See Packer, *In the Footsteps of Mr. Kurtz*, supra note 125, at 77 (emphasizing that the U.S. installed Mobutu in power, and then "prolonged Mobutu's rule by providing more than \$300 million in weapons and \$100 million in military training.").

¹²⁹See Kestin, *God and Man in Zaire*, supra note 125, at 100.

Belgian corruption of the Congolese name for the Congo river.¹³⁰ Mobutu also renamed one of the largest lakes in Congo after himself.¹³¹ Tragically, while Mobutu was indulging his ego, robbing his country blind, and extravagantly spending on himself and his family, his country men and women were wallowing in utter misery and poverty,¹³² and the infant mortality rate was skyrocketing because of a virtually nonexistent health care system.¹³³

While Mobutu was busy ruining and impoverishing his mineral rich nation through unbridled corruption and looting, ‘leaders’ in smaller countries such as the Central African Republic, Malawi, Equatorial Guinea, Gabon, Guinea, Uganda, Togo, and Liberia continued the regrettable and regressive trend. In the Central African Republic, despot Jean Bedel Bokassa, who came to power through a military coup in December 1965,¹³⁴ expropriated the public’s money with consistent frequency for his personal benefit at the expense of his impoverished subjects. To satisfy his self aggrandizement, Bokassa declared himself emperor.¹³⁵ During his coronation in 1977, which he modeled after that of France’s emperor Napoleon Bonaparte, Bokassa reportedly spent about thirty million US dollars-approximately twenty percent of his impoverished country’s gross national product.¹³⁶ While Bokassa spent lavishly on himself, and indulged

¹³⁰See Hochschild, supra note 4 at 54(observing “Curiously, it was a Portuguese corruption of this word [the word referred to is ‘Nzere’ the local name given to the Congo river by the inhabitants along its banks-according to the author, ‘Nzere’ means “the river that swallows all rivers”], Zaire, that Congo dictator Mobutu Sese Seko picked when he renamed his country in 1971.”

¹³¹See id.at 304(observing that Mobutu changed the name of the lake to Lake Mobutu Sese Seko).

¹³²See Kestin, *God and Man in Zaire*, supra note 125 (describing the utter hopelessness of the average Congolese, then known as Zaire, including low ranking military and police officers, the writer commented “Is it then any wonder that a soldier will stop you at a roadblock and say “I haven’t eaten today.” He really hasn’t eaten. Nor has the traffic cop enough to feed his family; nor the tax official who takes his payment in cash enough to buy medicines for his kid. It is the Zairean in the street who is doubly the victim here; first, because theft higher up keeps him close to starvation; second, because it forces him to become a thief as well.”).

¹³³See id (“The nation has such useful assets as half the world’s cobalt and a quarter of its industrial diamonds[Zaire leads in production of both], plus untold reserves of gold, oil, copper and uranium. **But all this is scant help to the village children who die of illnesses like measles because no one seems able to come up with the 7-cent-a-dose inoculations needed to save them...**As many as one child in two dies here before the age of 5 as a result of common illnesses made lethal by a diet based on manioc, a soapy tuber as lacking in nutrition as it is in taste.”)(emphasis added).

¹³⁴See, e.g., *The Columbia Encyclopedia*, at 510.

¹³⁵See, e.g., **Bush Telegraph**, supra note 112.

¹³⁶See id (“Bokassa’s coronation ceremony (as “Emperor”) in 1977 cost \$30 million, a fifth of his country’s revenues, and was attended by 3, 500 foreign guests.”)(quotation on as Emperor in the original).

his excesses, which included sitting on an eagle shaped throne,¹³⁷ his subjects lacked the most basic necessities of modern living. To ensure his depraved rule, Bokassa became increasingly diabolical, going as far as killing over a hundred school children in one act of showing off the extent of his power.¹³⁸ To crown his arrogance and sense of self-importance the murderous tyrant compared himself to Christ.¹³⁹

In Malawi Hastings Kamuzu Banda who had struggled to overcome his humble background,¹⁴⁰ by earning a medical degree from a notable American medical college,¹⁴¹ helped his country gain independence. Banda went on to become the first president of an independent Malawi. Soon after assuming the presidency Banda apparently forgot how impoverished his small landlocked country was.¹⁴² Seemingly oblivious to the serious infrastructural needs of his country, and perhaps believing that he was indispensable to Malawi, Banda proclaimed himself president for life, and built a personality cult around himself.¹⁴³ He ensured that his face appeared on banknotes and coins, and on the walls of public offices.¹⁴⁴ To crown his arrogant and selfish belief in his indispensability to Malawi, Banda consolidated most of government power into his own hands by assuming the positions, of Minister of Agriculture, Foreign Affairs, Justice

¹³⁷See id (“Highlights [of Bokassa’s coronation] included an eagle-shaped throne. A crown containing 2,000 diamonds was worth an estimated \$ 5 million.”).

¹³⁸See Aka, Human Rights in Africa, supra note 34, at 387 (“Bokassa brutally murdered over 100 schoolchildren for the “political offenses” of defying his orders and mouthing “Death to the Emperor.”)(quotation in the original).

¹³⁹See Bush Telegraph, supra note 112.

¹⁴⁰See Chris McGreal, **The Elite Tree of Knowledge; Kamuzu Academy the Eton of Africa was Founded by the Leader Who Helped Free His Country from Colonial Rule. But it Offers a Classical English Education and the Students’ Native Tongue is Forbidden**, THE GUARDIAN (London), June 28, 1993, Pg. 2 (hereinafter, McGreal, Elite Tree of Knowledge)(observing that Kamuzu Banda “left at an early age to work the gold mines of South Africa.”).

¹⁴¹See Keller, supra note 9 (noting that Dr. Banda earned a medical degree from Meharry Medical College in Tennessee).

¹⁴²See id (observing that Malawi is a land-locked country “whose 9.7 million people [as of 1994] are among the poorest in the world.”).

¹⁴³Id.

¹⁴⁴See id (“His [Banda’s] face appears on coins and banknotes, on the walls of every shop and office, and on the bright cloth worn by the ululating women who are bused out to greet him at every staged stop on his itinerary.”).

and Public Works, and the rector of the University of Malawi, among other positions.¹⁴⁵ Continuing the obsession with himself, Banda proclaimed himself the Conqueror.¹⁴⁶ The title would perhaps have been appropriate if he had chosen the best men and women to help him manage his impoverished nation, and actually come up with effective policies and the necessary budgets to educate his vastly under-educated people, and improve the crumbling or nonexistent infrastructures. Rather, Banda's obsession with his own self-importance and monopolization of the top government positions was only the beginning. Shamelessly professing moral purity, while simultaneously maintaining a mistress whose first name was Cecilia, Banda banned in the 1960s the song 'Cecilia' by Simon and Garfunkel, and jailed many who dared to sing it, on the ground that the song was an affront to his mistress.¹⁴⁷ He followed his hypocritical moral crusade by banning miniskirts for women and long hair on men as signs of moral decline.¹⁴⁸

¹⁴⁵See *id.*(in addition to the mentioned positions, Banda was “the trustee of a state monopoly that controls tobacco farms, factories, oil, banking and insurance, ...and the dominant figure in the local Presbyterian Church of Scotland.”).

¹⁴⁶See **Bush Telegraph**, *supra* note 112.

¹⁴⁷See *id.*

¹⁴⁸See Keller, *supra* note 9.

It would perhaps have been easier to forget Banda's self obsession with his own importance, and his moralizing double-standard as the eccentricities of an outdated despot, but for the fact that Banda totally ruined the hopes of the vast majority of his people through his corruption. In a nation where most of the people live without running water or electricity due to his inept policies, President Banda maintained five official residences, and traveled to each residence in a Lear jet and a fleet of British luxury cars.¹⁴⁹ Instead of concentrating on educational infrastructures for the vast masses of his uneducated people, Banda built a lavishly equipped academy which he, in typical fashion, named the Kamuzu Academy.¹⁵⁰ In a country sweltering with the injustice of under-education and lack of educational resources, Banda poured the equivalent of half the educational budget for the entire country into this academy,¹⁵¹ which provided, as of the time he was still in power, an education hardly relevant to the problems of Malawi. The curriculum of the academy, which was dubbed the Eton of Africa, consisted of a compulsory diet of Latin, ancient Greek and European history, and other staples of a purely classic European education.¹⁵² In lockstep fashion with his utter indifference to the concerns of his people, and in a practice reminiscent of colonialism and slavery, the Kamuzu Academy forbade its Malawian students from speaking their own native tongues.¹⁵³ Even more insidious, and reflective of his very low opinion of his own people, Banda reiterated and reemphasized his slavish belief that no Malawian was sufficiently educated, and fit to teach at the academy funded with the sweat and blood of Malawians.¹⁵⁴ Banda not only squandered Malawi's meager resources on projects such as the Kamuzu Academy, which spent per each pupil approximately eight hundred and fifty seven times the amount spent per child for education for the rest of the population,¹⁵⁵ but he jailed and killed anyone who

¹⁴⁹See id ("Dr. Banda's official style was imperial. In a country where most live without running water or electricity, he traveled among his five official residences in a Lear jet and a fleet of British luxury cars.").

¹⁵⁰See McGreal, **Elite Tree of Knowledge**, supra note 140.

¹⁵¹See id.

¹⁵²See id.

¹⁵³Id(noting that the academy emerged "with prejudices about the superiority of western culture instilled in him [Banda] over the decades...As one peers through at the sprawling red brick school, Africa vanishes...The students are forbidden to speak their African mother tongues. They are taught of the Trojan Horse but not of Kenyatta.").

¹⁵⁴See id ("Banda has said publicly he does not consider any Malawian fit to teach at the Kamuzu Academy. They do not have the education, he says. Most of the teachers are British.").

¹⁵⁵See id (observing that the Kamuzu Academy spent the equivalent of 6,000 British pound sterling per

questioned his despotic and corrupt rule until he was deposed in a general election in 1994 after thirty years in power.¹⁵⁶

In the very small,¹⁵⁷ but highly impoverished nation of Equatorial Guinea,¹⁵⁸ Francisco Macias Nguema ushered in a very vicious and corrupt regime soon after independence in 1968 from Spain.¹⁵⁹ Only two years after independence Nguema banned all political parties, except his own, United National Party (“PUN”).¹⁶⁰ Within another two years, or four years after independence, Nguema proclaimed himself president for life.¹⁶¹ In a pogrom worthy of Russia’s Joseph Stalin and Cambodia’s Pol Pot, Nguema reportedly killed up to eighty thousand of his fellow citizens, mostly intellectuals and all whom he deemed a threat to his murderous rule.¹⁶² Not content with killing ordinary citizens, Nguema carried his murderous mission to his cabinet ministers, and senior civil servants, most of whom he had killed.¹⁶³ Death squads reportedly roamed the countryside killing and raping all those opposed or perceived to be opposed to Nguema.¹⁶⁴ On top of this vast waste of precious human life, Nguema demanded godlike respect by ordering the hanging of his picture beside every altar of every church and the singing of his name at every service.¹⁶⁵ Further,

students, at the same time Malawi was spending less than 7 pounds sterling “per year per child on education for the rest of the population.”).

¹⁵⁶See Keller, *supra* note 9

¹⁵⁷ See, e.g., Matthew Engel, **Saturday Opinion: Brute Watch; They Just Don’t Make Dictators Like They Used to in the Good Old Days of Idi**, THE GUARDIAN (London), February 20, 1999 (hereinafter, Engel, Brute Watch)(“...Equatorial Guinea is an obscure dot on and off the coast of West Africa, with 400,000[as of 1999] (and, at last count, five doctors.)” (brackets around five doctors in the original).

¹⁵⁸See Cesar A. Chelala, **Growing Pains in Equatorial Guinea**, SWISS REVIEW OF WORLD AFFAIRS, August 1993 (hereinafter, Growing Pains in Equatorial Guinea)(noting that Equatorial Guinea “has the sad reputation of being one of the world’s least developed countries.”).

¹⁵⁹See Columbia Encyclopedia, *supra* note 113, at page 920(observing that Equatorial Guinea obtained limited autonomy from Spain in 1963, but gained full independence in 1968).

¹⁶⁰See *id.*

¹⁶¹See Chelala, Growing Pains in Equatorial Guinea, *supra* note 158.

¹⁶²See Columbia Encyclopedia, *supra* note 113, at 920.

¹⁶³See, e.g., **The Prince of Fear**, NEWSWEEK, December 20, 1976, United States Edition, at page 48 (emphasizing that about two-thirds of the ministers and senior civil servants either disappeared or died under the murderous rule of Nguema).

¹⁶⁴See *id.*

¹⁶⁵See *id.*

Nguema ushered in corruption of the highest order. He reportedly literally hid bags of the public's money in a bamboo hut next to his house.¹⁶⁶ Through his massive theft of public money Nguema further impoverished his already poor nation, failed to make conditions conducive for developing his country, and led it to the brink of penury.¹⁶⁷ The extent of Nguema's wanton and callous rule was such that he was toppled in a bloody military coup and summarily executed by his own nephew, Lt. Colonel Teodoro Obiang Nguema Mbasogo.¹⁶⁸ Although Mbasogo initially tried to alleviate the economic hardship in his country,¹⁶⁹ his rule soon spiraled into a brutal dictatorship immersed in corruption and noted for its crushing of any opposition.¹⁷⁰ Not surprisingly, since coming to power in 1979 Mbasogo has tenaciously and most viciously clung to power.¹⁷¹ The misrule in Equatorial Guinea has left that country not only economically ruined, but with an atrocious health system with an equally horrendous infant mortality rate.¹⁷²

In 1963, barely three years after independence from France, Gnassingbe Eyadema joined a group of soldiers who overthrew and murdered the first president of post colonial Togo Republic, Sylvanus Olympio.¹⁷³ Four years later, Eyadema took over power.¹⁷⁴ With the loyal support of the military, most of whose commanders he chose through

¹⁶⁶See, e.g., Blaine Harden, **The Suffering Continent; The First Dance of Freedom-Black Africa in the Postwar Era** (book Review), THE WASHINGTON POST, March 3, 1985-Book World Section, at pg. 11(hereinafter, Harden, *The Suffering Continent*)(“Equatorial Guinea’s Macias Nguema stashed the national treasury in a bamboo hut next to his house.”).

¹⁶⁷See Chelala, *Growing Pains in Equatorial Guinea*, supra note 158 (“During his [Nguema’s] reign most foreign industries left the country, which resulted in drastically diminished returns from the three main exports: cocoa, timber and coffee.”).

¹⁶⁸See Engel, *Brute Watch*, supra note 157 (“President Teodor Obiang Nguema M’basago took power by murdering his uncle, President Nguema, himself a world-class mass murderer, in 1979.”).

¹⁶⁹See Chelala, *Growing Pains in Equatorial Guinea*, supra note 158.

¹⁷⁰See id.

¹⁷¹Id.

¹⁷²See id (“Health conditions in Equatorial Guinea are generally poor, despite a bountiful nature, especially on the island of Bioko. In 1990 the infant mortality rate was estimated at 125 per thousand life births, a modest improvement over the 1980 estimate of 140.”). See also Engel, *Brute Watch*, supra note 157(observing that “at last count [Equatorial Guinea has] five doctors,” in the entire country).

¹⁷³See **Togo; A General Well Dug In**, THE ECONOMIST, August 21, 1993, U.K. Edition, at pg. 44.

¹⁷⁴See id.

nepotism and favoritism,¹⁷⁵ and the support of France,¹⁷⁶ Eyadema has earned the dubious distinction of being “the longest-serving African president still in office.”¹⁷⁷ Through intimidation and murder Eyadema has maintained his long hold on power.¹⁷⁸ Although forced in 1991 by western creditors to acquiesce to political pluralism,¹⁷⁹ President Eyadema has continued to rule Togo through intimidation and the inflation of the electoral rolls to his favor.¹⁸⁰ Determined to maintain power at all costs, Eyadema has turned Togo into his personal fiefdom-dishing out the best government jobs and opportunities to members of his minority ethnic group-the Kabye, and overwhelmingly staffing the military with his cronies,¹⁸¹ with hardly any consideration for meritocracy, and the welfare of the entire Togolese people.

The same corruption and determination to hold on to power at all costs to the utter detriment of the citizens goes on in war torn Liberia, Gabon, and Zimbabwe, among other small to medium sized African countries. Liberia is an example of rampant corruption resulting in the unimaginable misery of the populace. President William Tolbert, Jr. embodied the worst of nepotism and favoritism by employing his relatives without regard for qualifications and putting them in high government positions. Tolbert installed one of his brothers as the president of the Liberian Senate,¹⁸² and another as the Finance Minister.¹⁸³ He installed his sister Mayor of Bedel City and two of his daughters as Presidential

¹⁷⁵Id.

¹⁷⁶See **Not Too Together in Togo**, THE ECONOMIST, December 7, 1991, U.K. Edition, at pg. 90(hereinafter, Not Too Together in Togo).

¹⁷⁷See Paul Michaud, **The Eyadema Dilema; Around Africa-Togo**, NEW AFRICAN, October 1, 2001, at pg. 15.

¹⁷⁸See Not Too Together in Togo, supra note 176 (highlighting the beating of the Prime Minister Kokou Koffigoh by soldiers for having the nerve to criticize President Eyadema, and the killing of perhaps more than fifty people around the Prime Minister’s residence).

¹⁷⁹See **Togo; A General Well Dug In**, THE ECONOMIST, August 21, 1993, International Edition, at pg. 34.

¹⁸⁰See id.

¹⁸¹See, e.g., **Togo: And to Return**, THE ECONOMIST, September 5, 1992, U.K. Edition, at pg. 67. See also Michaud, supra note 177.

¹⁸²See, e.g., Jide Ajani, **AAGM: Four Years After: Between Kudirat Abiola and Sani Abacha**, VANGUARD (Nigeria), June 7, 2002.

¹⁸³See id.

Physician and Deputy Minister of Education, respectively.¹⁸⁴ He appointed his son Ambassador at Large and various sons-in-law and brothers-in-law to some of the highest positions in the country.¹⁸⁵

Along came Master Sergeant Samuel Kanyon Doe who assassinated Tolbert in a bloody *coup de tat* and promised to make things better for the average Liberian.¹⁸⁶ Alas, the endless breaking of promises in Africa. Instead of improving conditions for Liberians, Doe who later self promoted himself from Master-Sergeant to what he termed Commander-General, turned Liberia into his private estate through blatant misrule.¹⁸⁷ Not surprisingly, Doe's misrule fueled a rebellion against his regime. Spearheading the rebellion against Doe were his former minister, Charles Taylor, and rebel leader/warlord Yommie Johnson.¹⁸⁸ The ensuing rebellion culminated in a civil war known for its extreme violence and cruelty.¹⁸⁹

After the capture and brutal murder of Doe by Yommie Johnson,¹⁹⁰ Charles Taylor somehow rose up to the head of the pack, and became the President of Liberia in 1997.¹⁹¹ However, instead of tackling the infrastructural and other problems of Liberia, Taylor continued the saga of misery and despair of Liberia. In exchange for the profits from ill-gotten diamonds, Taylor championed the cause of an insidious rebel group in neighboring Sierra Leone known for its Leopoldian practice of cutting off the limbs of ordinary citizens who failed to profess their undivided loyalty to the

¹⁸⁴Id.

¹⁸⁵Id.(noting “His four sons-in-law were Deputy Minister of Public Works, Commissioner for Immigration, Minister of Defence and Board Member of Air Liberia, respectively. One brother-in-law was in the Liberian Senate, while another was the Mayor of Liberia and yet another was the Ambassador to Guinea.”).

¹⁸⁶See id.

¹⁸⁷Id (emphasizing Doe “ran the country like a private estate. At the height of his misrule, Liberians were at the receiving end, with no food, no water and no fuel. The country was running on virtually nothing.”).

¹⁸⁸Id.

¹⁸⁹See, e.g., Ken Silverstein, **Good Press for Dictators**, THE AMERICAN PROSPECT, April 9, 2001, at pg. 17 (quoting human rights commentator Kenneth Cain for the proposition that the Liberian civil war was “a relentless campaign of sadistic, wanton violence unimaginable to those unfamiliar with the details of man’s capacity to visit the abyss.”).

¹⁹⁰See Ajani, supra note 182.

¹⁹¹See Silverstein, supra note 189.

rebels.¹⁹² In addition to this sadistic support, Taylor continues to rule Liberia through intimidation, torture, and murder.¹⁹³ Meanwhile, the case of Gabon is another example of corruption and incompetent leadership run amok. “Upon formal independence from France in 1960, Gabon, the size of Connecticut, possessed the greatest economic potential in black Africa. With a small population and rich in oil and other resources, Gabon appeared destined for prosperity.”¹⁹⁴ Yet Gabon’s enormous potential has been squandered under the incompetent and tyrannical rule of President Omar Bongo who came to power in 1967.¹⁹⁵

Since coming to power in 1967, Bongo has allegedly won five elections-in 1973, 1979, 1986, 1993, and 1998, all through highly questionable means.¹⁹⁶ For example, while maintaining the facade of a democratic election in 1998, Bongo allegedly engineered the printing of massive “numbers of false identity documents to permit multiple voting by Bongo’s supporters,”¹⁹⁷ and ensured his reelection by passing “a law returning many election functions to the Interior Ministry, which is a police and security agency.”¹⁹⁸ During his thirty-five years of autocratic and corrupt rule, Bongo

¹⁹²See Barney Mthombothi, **Expose These Rogues**, FINANCIAL MAIL (South Africa) March 24, 2000 (“Liberian President Charles Taylor, who is the very embodiment of the term warlord, is the benefactor of the despicable Foday Sankoh, whose rebels have been cutting off peoples['] limbs in nearby Sierra Leone. Sankoh[']s rebels control most of the diamond-rich areas, and most of these have found their way to the open market through Liberia, which isn[']t known for its diamonds.”); See also Silverstein, supra note 189 (“In Foreign policy, Taylor is chiefly known for his support of the Revolutionary United Front, a rebel group in neighboring Sierra Leone that routinely amputates the hands, legs, ears, and lips of anyone who opposes it.”).

¹⁹³See Silverstein, supra note 189 (describing the brutal torture and murder of opposition leader Samuel Dokie and his wife, niece, and cousin. According to the account, prominent opposition leader Dokie, his wife, niece, and cousin were kidnaped by security forces on their way to a wedding. The four were then tortured and killed. Dokie’s eyes were gouged out, and he was then burned and beheaded).

¹⁹⁴George B.N. Ayittey, **A Summit to Legitimize a Corrupt Regime? Africa: American Participants in Gabon Should Ask Hard Questions About Human Rights**, LOS ANGELES TIMES, May 25, 1993, at Part B, Page 7(hereinafter, Ayittey, Summit to Legitimize Corrupt Regime)(decrying the failure of African-American participants two years earlier in a conference in the Ivory Coast to speak out against corrupt leadership in Africa, and imploring African-Americans attending a conference in Gabon slated to open May 25, 1993 to use the opportunity to press for human rights and democratization).

¹⁹⁵See Ajani, supra note 182.

¹⁹⁶See Baffour Ankomah, **Should All These go as Well? Zimbabwe Analysis; Response to Article by Bram Postumus in This Issue, P.26; Cover Story**, NEW AFRICAN, February 1, 2002, at pg. 28.

¹⁹⁷See James Rupert, **Gabon’s Bongo Latest Strongman to Maintain Grip**,(hereinafter, Rupert, Gabon’s Bongo) THE WASHINGTON POST, December 10, 1998, at A58.

¹⁹⁸Id.

has overseen the building of a \$139 million palace in the capital Libreville for his use while his country is essentially bankrupt and the citizens wallow in abject poverty.¹⁹⁹

Unperturbed by his incompetent running of the country, Bongo ran roughshod over human rights. He ordered the killing of Gabonese citizens who dared protest the lack of basic necessities of life such as electricity and clean water.²⁰⁰ Adding insult to injury, Bongo's payments, ostensibly with the public's money, to an Italian designer for the procurement of prostitutes from Italy for his use,²⁰¹ did not faze this shameless corrupt autocrat from producing a movie portraying himself "as a saintly figure."²⁰²

After independence from Britain in 1980 Robert Mugabe was genuinely hailed as a freedom fighter and national hero who helped throw off the yolk of colonial subjugation and tyranny.²⁰³ With his status as a national hero, and in the words of Nobel Peace Laureate Archbishop Desmond Tutu "one of the most highly qualified and most able leaders,"²⁰⁴ Mugabe became the leader of Zimbabwe. Mugabe inherited a reasonably prosperous country, by African standards, with

¹⁹⁹See Ayittey, *Summit to Legitimize Corrupt Regime*, supra note 194 ("Gabon is essentially bankrupt. Corruption and mismanagement have impoverished the people and saddled the country with the world's highest per capita indebtedness. Income from the 1970s oil boom disappeared into private bank accounts, profligate projects like the 1977 Organization of African Unity summit and President Omar Bongo's \$139-million palace in Libreville.").

²⁰⁰See Ayittey, *Summit to Legitimize Corrupt Regime*, supra note 194. See also Bill Schiller, **Mulroney's Gabon Gaffe Proved Costly**, THE TORONTO STAR, October 20, 1991, at B4 (referring to President Omar Bongo as "an unsavory central African leader with a history of human rights abuse," while also noting that "Bongo lives in lavish surroundings while his citizens suffer in squalor.").

²⁰¹See **Love Me, Love My Job; For Prime Ministers and Presidents, True Love's Course Does Not Always Run Smooth**, THE INDEPENDENT (London), September 3, 1996, at Page 3 ("Last year an Italian-born fashion designer, Francesco Smalto, was fined pounds 78,000 for supplying prostitutes to the president of west [is central, not west] African state of Gabon during sales trips there. The court was told that Smalto recruited women on several occasions between 1990 and 1993 to fly to Gabon...Bongo did not deny Smalto's pimping...").

²⁰²See Alex Duval Smith, **In Foreign Parts: For All the Airbrushed Posters, Africans Still Prefer Humility**, THE INDEPENDENT (London), November 4, 2000, at Page 18 (noting the humility of Ivory Coast's leader Laurent Gbagbo in a continent "infested with personality cults, past and present," such as Gabon's Omar Bongo, Malawi's former tyrant Hastings Banda, Libya's Muammar Gaddafi, and Congo's former tyrant and kleptocrat- Mobutu Sese Seko, among others).

²⁰³See, e.g., Cynthia Tucker, **Freedom Fighter in Zimbabwe Turns Oppressor**, THE ATLANTA JOURNAL AND CONSTITUTION, April 30, 2000, Editorial, at 7C.

²⁰⁴See Rachel L. Swarns, **The World: Power in Black and White; Mugabe's Real Foes Aren't the Ones He Denounces**, THE NEW YORK TIMES, April 30, 2000, Section 4, at Page 3 (hereinafter, Swarns, *Mugabe's Real Foes*).

a black middle class ready to assume the mantle of leadership across the political landscape.²⁰⁵ In the early years of his administration President Mugabe worked to improve the conditions of his people by, among others, expanding access to education.²⁰⁶ But soon thereafter, his lust for power and determination to crush all credible oppositions got the better of him. Barely three years after independence, Mugabe ordered a brutal assault against the Ndebele, an ethnic group loyal to his main political rival, Joshua Nkomo.²⁰⁷ Perhaps emboldened by the ability of his security operatives to crush those hostile to his regime, as exemplified by the brutality against the Ndebele, Mugabe began to tarnish his earlier accomplishments. He ignored growing corruption within his government and rewarded his cronies handsomely.²⁰⁸ The tragic result was the utter and complete reversal of fortune of a once vibrant and highly promising nation. By 1999, Mugabe's misrule had reportedly resulted in an eye-popping inflation rate of about 70%, while unemployment reached a staggering 50% in the year 2000.²⁰⁹

²⁰⁵See Tucker, *supra* note 203 (observing that at independence, Mugabe inherited a reasonably well run country[if one discounts the repression of the black majority] “And there was an educated black middle-class to step into positions of leadership.”).

²⁰⁶See Tucker, *supra* note 203.

²⁰⁷See *id.*

²⁰⁸*Id.*

²⁰⁹See *id.*

Intent on maintaining power at all costs, after realizing the precipitous drop in his government's support among the black majority, Mugabe desperately sought to divert attention from the bankruptcy of his policies by supporting a constitutional amendment giving him expansive powers to seize lands belonging to white citizens without the payment of compensation.²¹⁰ When that amendment failed, Mugabe came up with a facade to get ride of those who had voted against the amendment.²¹¹ Mugabe and his government engaged and continue to engage in waging an ill-advised, unlawful, and race-baiting land reform campaign against the few white farmers who had, either willingly or unwillingly, been the beneficiaries of colonial Britain's mischievous and unconscionable land-grab of native lands. Even though he had lost the attempted constitutional amendment to confiscate lands without compensation, Mugabe failed to pursue other viable legal alternatives to the land reform issue. Although Britain had robbed natives of their lands during its colonial occupation, and shamelessly transferred ownership of these lands to whites, thus making land reform mandatory and justified under an independent Zimbabwe,²¹² Mugabe failed to pursue legal avenues after the aborted constitutional amendment, such as initiating an amendment that would, for example, allow the government to condemn lands through the power of eminent domain with a consequent payment for reasonable value, and resale of same to blacks at affordable rates. Rather, Mugabe chose to support lawless takeover of lands, which has resulted in the killing of hundreds of Zimbabweans, mostly blacks opposed to Mugabe's irrational policies, at the hands of Mugabe's thugs²¹³ and its near ostracism within the international community.²¹⁴

Also, during the March 2002 presidential election, Mugabe hijacked the electioneering process by encouraging violence and murder against members and supporters of his main presidential rival, Morgan Tsvangirai.²¹⁵ The result of the 2002 presidential election was the alleged reelection of the aging Mugabe under conditions so atrocious, and so

²¹⁰See Swarns, *Mugabe's Real Foes*, supra note 204.

²¹¹See *id.*

²¹²See generally *id.* Also, see generally Hochschild, supra note 4.

²¹³See Swarns, *Mugabe's Real Foes*, supra note 204.

²¹⁴See, e.g., **From Hero to Thug**, LOS ANGELES TIMES, March 8, 2002, Part 2, at 16.

²¹⁵See *id.*

lacking in democratic participation that it could not be deemed fair.²¹⁶ The tempestuous decline of the Zimbabwean economy, and the free wheeling corruption by President Mugabe's government, appears to leave the fate of this young and once vibrant country uncertain.

The crowning example of governmental corruption and betrayal of the hopes of the citizenry in Africa appears to be Nigeria, due to its size,²¹⁷ and its abundance of mineral resources.²¹⁸ Nigeria gained its independence from Britain on October 1, 1960.²¹⁹ Following the failure of a single party to garner a majority of the votes during the 1959 general elections held in anticipation of independence, and the subsequent formation of a government by the northern based Northern People's Congress ("NPC"), led by Ahmadu Bello, and the National Convention of Nigerian Citizens ("NCNC"), led by Nnamdi Azikiwe, Abubakar Tafewa Balewa, a northerner, was selected as the first Prime Minister, while Nnamdi Azikiwe, an easterner, was selected as the Governor-General.²²⁰ When in 1963 Nigeria became a republic, Azikiwe was made the first president of the new nation.²²¹ Barely three years after independence political wrangling among and between the different political parties built around ethnic loyalties, severely tested the stability of the young nation.²²²

The tensions among the parties and the politicians perhaps sowed the seeds for the first military coup in January

²¹⁶See id.

²¹⁷Nigeria is the most populous country in Africa, with a 1995 estimated population of more than 101 million people. See Columbia Encyclopedia, supra note 113, at 2017.

²¹⁸See, e.g., Anthony Goldman and William Wallis, **Survey-Nigeria: Treading Water as the Frustrations Rise with Politicians Under Pressure to Spend Their Way Out of Trouble Before Electioneering Takes Over**, FINANCIAL TIMES (London), Survey Section-Nigeria, at pg.1 (highlighting Nigeria's status as Africa's leading oil producer), March 30, 2001; Elizabeth Taylor, **A Nation on the Brink; Journalist Karl Maier Discusses His Book About the Troubled West African Country of Nigeria**, CHICAGO TRIBUNE, Sunday, September 24, 2000, Chicagoland Final Edition, at C3 (hereinafter, Taylor, *A Nation on the Brink*)(noting that Nigeria is "a country with abundant resources"); David Orr, **Blast Victims Were Scrambling for Fuel**, THE TIMES (London)(decriing the deaths of hundreds of Nigerians who died when a fuel pipeline exploded while these people were scrambling for leaking fuel in a country which the writer observed "is the world's sixth largest producer of crude, with an output of about two million barrels a day."), October, 20 1998.

²¹⁹ See Columbia Encyclopedia, supra note 113, at 2017.

²²⁰See id.

²²¹Id.

²²²See Aka, *Dividend of Democracy*, supra note 106, at 229.

1966, led by Ibo army officers, which resulted in the deaths of the Prime Minister, Balewa; the Northern Premier Ahmadu Bello; and the Western Premier S.I. Akintola.²²³ An Ibo Major-General, Johnson T.U. Aguiyi-Ironsi became military dictator.²²⁴ An equally bloody and brutal counter military coup six months later-July 1966 by Hausa army officers led to the death of Aguiyi-Ironsi, the massacre of the Ibos in the northern part of Nigeria, and the placement of Lt. Col. Yakubu Gowon as military dictator.²²⁵ According to one scholarly estimate, about thirty-thousand Ibos were massacred in the aftermath of the bloody counter-military coup.²²⁶ The culmination of the initial coup, counter coup, and massacres of the Ibos was the brutal and excessively violent Nigerian-Biafran civil war, which reputedly ranks as the most brutal civil war of the twentieth century.²²⁷

From 1966 through 1975 Yakubu Gowon ruled Nigeria, until he was overthrown in a bloodless coup by Gen. Murtala Mohamed and a group of officers which promised a return to civilian rule.²²⁸ Barely a year into his administration, Mohamed was assassinated in a bloody coup.²²⁹ Mohamed's deputy, Gen. Olusegun Obasanjo was chosen by the military to succeed the murdered Gen. Mohamed.²³⁰ Obasanjo stayed in office just long enough to oversee the general election and hand over power in 1979 to a civilian elected president, Shehu Shagari.²³¹

Considering Nigeria's post independence history, Shagari inherited a relatively stable political and economically vibrant country.²³² However, Shagari's indecisiveness soon provided the impetus to divisive and corrupt

²²³See Columbia Encyclopedia, supra note 113, at 2018.

²²⁴See id.

²²⁵See id.

²²⁶See Aka, Policy of Ethnic Reconciliation, supra note 15, at 333.

²²⁷See id, citing A.H.M Kirk-Greene, Crisis and Conflict in Nigeria: A Documentary Sourcebook 1966-1969, Volume 1: January 1966-July 1967, p. 333 (1971).

²²⁸See The Columbia Encyclopedia, supra note 113, at 2018.

²²⁹See id.

²³⁰See id. See also, **Under New Management**, THE ECONOMIST, January 15, 2002, US Edition(hereinafter, Under New Management).

²³¹See **Under New Management**, supra note 230.

²³²See, e.g., **Nigeria; Second Chance for Democracy**, NEWSWEEK, United States Edition, March 30, 1981, at pg. 42 (hereinafter, Second Chance for Democracy)("Shagari inherited a relatively stable political and

politicians in the country, particularly within his party, to foment ethnic conflicts and destabilize the new democracy.²³³ Despite the new government's slogan of attacking corruption, political corruption erupted with unbridled ferocity.²³⁴ Regrettably, leading the pack of corrupt officialdom was one of President Shagari's closest associates, and brother-in-law, Transportation Minister Umaru Dikko, who allegedly stole up to a billion dollars from the national treasury.²³⁵ While officials under Shagari were preoccupied with robbing the country blind, massive unemployment and staggering inflation were making the lives of the average Nigerian unbearable.²³⁶ At the same time, the rate of crime was going through the roof.²³⁷ Adding to the crippling social and economic problems was the soaring foreign debt which had climbed to \$20 billion by January 1984.²³⁸ Notwithstanding the woes facing the country, as a result of Shagari's inept rule, government officials continued to gorge on Learjets and Mercedes limousines, in apparent indifference to the misery of the average citizen.²³⁹ Seeing an excuse for a military comeback, the military overthrew the Shagari administration on New Year's eve, December 31, 1983 in a near bloodless coup, barely four months after Shagari had

economic situation...by the time civilian government was restored, Nigeria was snapping out of a deep recession, mostly thanks to oil production. Shagari was given as good a start as he could expect.”).

²³³See *id.*

²³⁴See *id.* (noting that corruption was fast on the rise, and had began undermining the confidence of foreign investors in the country, thereby weakening the economy).

²³⁵See, e.g., Robert B. Cullen and Tony Clijton, **Britain; the Cargo-Crate Kidnaping**, NEWSWEEK, United States Edition, July 16, 1984, at pg. 36 (observing that President Shagari's close associate, and brother-in-law, Umaru Dikko, was part of corrupt officials who “siphoned anywhere from \$5 billion to \$16 billion out of the country,” before Shagari was overthrown. According to the account “Dikko, the president's brother-in-law, allegedly got a large share [of the stolen loot]-perhaps a billion dollars.”). See also John Moody and Alastair Matheson, **Triumph of the Troublemaker; The Man Beyond [Behind] Many Coups Finally Puts Himself in Power**, TIME, U.S. Edition, September 9, 1985, at pg. 48 (hereinafter, Moody & Matheson, *Triumph of the Troublemaker*) (“The Shagari regime's tolerance of corruption only added to the country's woes. In 1983 alone, according to Oil Minister Tam David-West, \$1 billion in petroleum was secretly diverted from state oil terminals to foreign tankers, with Nigerian businessmen and politicians taking the profits. Some reports say \$1 million a day was skimmed from the public treasury. Transport Minister Dikko reportedly amassed a \$1 billion fortune, much of it outside the country.”).

²³⁶See *Second Chance for Democracy*, *supra* note 232 (“Inflation is running at more than 20 percent a year, and although there are no statistics on unemployment, everyone agrees that it is massive.”).

²³⁷See *id.*

²³⁸See, e.g., Craig Cannine & Ray Wilkinson, **After the ‘Velvet Glove’ Coup**, NEWSWEEK, United States Edition, January 20, 1984, at pg. 58.

²³⁹See *id.*

won reelection to a second term.²⁴⁰ At the head of the military junta which overthrew President Shagari was a 42-year-old Major.

Gen., Mohammed Buhari.²⁴¹ The suffering citizens resigned themselves to the new leadership, which promised a vigorous fight against corruption, and the restoration of basic amenities, such as drinking water and electricity for all.²⁴²

However, perceived as heavy-handed, and largely ineffective in reviving the lumbering economy and wiping out endemic corruption, Buhari was overthrown by 44 year old Army Chief of Staff Gen. Ibrahim Babangida in September 1985.²⁴³ Upon taking the helm, Babangida, who allegedly had also been behind the overthrow of Gen. Gowon and President Shagari,²⁴⁴ repealed a draconian edict promulgated by the Buhari regime which had banned criticism of the government.²⁴⁵ In addition, Babangida released several journalists and political prisoners apparently jailed under the draconian edict, and promised to reopen stalled talks with the International Monetary Fund, with a view towards jump starting the moribund economy.²⁴⁶ Babangida won over the Nigerian public with charm and a disarming smile.²⁴⁷ He even managed to charm the then British Prime Minister Margaret Thatcher, who befriended and invited him on a state visit to Britain.²⁴⁸ However, while Babangida maintained an appearance of humility and cheerfulness,²⁴⁹ he was busy

²⁴⁰See *id.*(observing that the only fatality during the coup was a brigadier “killed during a scuffle to arrest President Shehu Shagari”).

²⁴¹See *id.*

²⁴²*Id.*

²⁴³See Moody & Matheson, **Triumph of the Troublemaker**, *supra* note 235.

²⁴⁴See *id.*

²⁴⁵*Id.*

²⁴⁶See *id.*

²⁴⁷See, e.g., Richard Dowden, **General Who Keeps Nigeria in Line: President Ibrahim Babangida of Nigeria Arrives in Britain on Tuesday for a State Visit. Richard Dowden Met the Quietly Spoken Leader of One of Africa’s Most Fractious Nations in Lagos**, THE INDEPENDENT (London), May 6, 1989, Foreign News, at pg. 12.

²⁴⁸See *id.*

²⁴⁹See *id.*

robbing his country blind. Corruption flourished under his roguish regime.²⁵⁰ According to one survey of the wealth of African leaders, Babangida amassed billions of dollars during his shameless dictatorship.²⁵¹ He also ordered the executions of many people, many of whom were suspected of, or accused of plotting coups against his brutish regime.²⁵² According to both Nigerian and international human rights groups, torture, arbitrary detentions, and the silencing of voices of dissent flourished under the Babangida cabal.²⁵³

Babangida's seemingly cheerful disposition while he was busy ruining his nation, earned him the adorable nickname 'IBB' in many Nigerian newspapers.²⁵⁴ However, journalists with enough vision and foresight to wade through his facade, and brave enough to attempt to expose the ingrained corruption within his administration, met with unpleasant endings, including death. Such was the outcome for the eminent journalist Dele Giwa, who met his tragic and young end when a letter bomb delivered by agents of the Babangida regime blew him to bits.²⁵⁵

When public opinion strongly demanded a return to civilian rule, Babangida promised elections. But time and again he called off the proposed dates for a return to civilian rule, leading, in the words of a commentator, to the worst

²⁵⁰See, e.g., **Nigerian Ex-Leader Steers Vote; Former Strongman Puts Funds Behind His Choice**, THE DALLAS MORNING NEWS, February 26, 1999, at 29A (hereinafter, Nigerian Ex-leader Steers Vote) (“[Babangida] plunged Nigeria into years of corruption and decay...”); Michael Peel, **Smiling Enigma May Return to Fore Nigerian Politics Pro-democracy Campaigners Concerned Over Legal Move Against President Obasanjo by Former Mili**, FINANCIAL TIMES (London) July 2, 2002, at pg. 10 (relating details of a lawsuit filed by former president Babangida challenging the constitutionality of a panel appointed under the current president Olusegun Obasanjo to investigate corruption and other crimes under previous administrations, while accurately observing that under Babangida corruption flourished).

²⁵¹See Nigerian Ex-leader Steers Vote, supra note 250 (highlighting the results of a 1997 survey by the French weekly L'Evenement du jeudi, which estimated Babangida's net worth at six billion dollars).

²⁵²See id(noting that Babangida ordered more than 80 executions).

²⁵³See, e.g., Robert M. Press, **Nigerians Challenge State On Abuses**, THE CHRISTIAN SCIENCE MONITOR, July 23, 1992, at pg. 5 (“according to Nigerian and international human rights groups, and the United States State Department's human rights report on Nigeria in 1991, the Babangida regime regularly tortures suspects in police custody, arbitrarily detains citizens, and tries to silence its most vocal critics, including journalists and human rights leaders.”).

²⁵⁴See, e.g., Neil Henry, **Nigeria Confronts Obstacles in the Road to Democracy**, THE WASHINGTON POST, December 21, 1989, at A39.

²⁵⁵See Aka, Human Rights in Africa, supra note 34, at 410(observing that during the Babangida regime “Dele Giwa...one of the founders of Newswatch, an independent and fearless Nigerian weekly, was blown into pieces as he unsuspectingly tried to open a parcel bomb sent to him by individuals many in the country believe to be secret security agents of the [Babangida] government.”).

act of political chicanery ever visited upon a people.²⁵⁶ When finally in 1989 Babangida called for the formation of political parties, the apparent deep yearning for a return to democratic politics yielded about eighty political associations.²⁵⁷ The Babangida regime whittled the number down to six political associations, and eventually banned all the new political parties, electing instead to create and impose two political parties upon the country.²⁵⁸ Wealthy businessman Moshod Abiola, who hailed from southern Nigeria, became the flag bearer for one of the two government created parties. When the presidential elections were eventually held in 1993, Abiola won.²⁵⁹ However, Babangida gave short shrift to the hopes of millions of Nigerians by annulling the election.²⁶⁰

The intense outrage over the annulment apparently resulted in Babangida's resignation,²⁶¹ and ushered in the short-lived and virtually powerless interim administration of Ernest Shonekan. Shortly after the inauguration of the interim government, another army general, Sani Abacha, summarily overthrew the new government and installed himself president. Abacha imprisoned Abiola for having the temerity to claim the presidency which rightfully and legally belonged to Abiola.²⁶²

²⁵⁶See *id.* at 356.

²⁵⁷See Henry, *supra* note 254.

²⁵⁸See *id.*

²⁵⁹See Peel, *supra* note 250.

²⁶⁰See *id.*

²⁶¹*Id.*

²⁶²See Aka, *Human Rights in Africa*, *supra* note 34, at 410.

Although corruption during and after independence had left the mineral rich nation severely underdeveloped, and crippled the hopes of a once vibrant people, Abacha's ascent to the top leadership position marked perhaps the worst period to date in Nigerian post-independence history, with the exception of the brutal civil war. Abacha ushered in a dictatorship which was unprecedented in its callousness, both in the mistreatment of the citizens, and the brazen looting of the national treasury. First, Abacha and his minions killed anyone seen as a threat or a potential threat to his murderous regime.²⁶³ Second, to ensure the absolute silence of any and all voices of opposition to or criticism of his despotism, the Abacha regime imprisoned countless number of Nigerians, including retired Gen. Obasanjo who had peacefully handed over power to civilian president Shehu Shagari. When the voices of dissent refused to be stilled, as was the case with the legitimate protests of the Ogoni people, Abacha ordered the hanging of their leader, the eminent writer Ken Sarowiwa, notwithstanding pleas from world leaders.²⁶⁴ Third, having thoroughly stifled voices of dissent, Abacha and his band of rogues engaged in a systematic and sustained looting of the national treasury,²⁶⁵ and ushered in unprecedented political corruption.²⁶⁶

Abacha and his aides literally loaded up Central Bank of Nigeria trucks with the public's money for their own private use, and awarded about one billion dollars to front companies.²⁶⁷ When Abacha and his men were not busy physically stealing from the Central Bank and looting the treasury through phony contracts, Abacha's chief security

²⁶³See, e.g., Ajani, *supra* note 182 (“During his [Abacha's] reign, many people were mysteriously killed...The list is endless.”). Highlighting the Abacha government's brutal murder of Mrs. Abiola, whose husband had won the presidential election of 1993-only to be clamped in jail where he died on the eve of his release, the writer appropriately observed that former dictator Sani Abacha “put Nigeria on [the] edge of the precipice.”*id.*

²⁶⁴See Aka, **Policy of Ethnic Reconciliation**, *supra* note 15, at 345.

²⁶⁵See Hugh Dellios, **In Nigeria, the Art of the Steal; Many Hope New Ruler Can End Kickback Era**, CHICAGO TRIBUNE, July 7, 1998, at pg. 1 (hereinafter, Dellios, *Art of the Steal*)(highlighting the systematic looting of the Nigerian economy by the then recently deceased “kingpin of corruption, dictator Sani Abacha,” and his cronies).

²⁶⁶See *id.* (“From the presidential palace in Abuja to police roadblocks that have become nothing but tollgates, “chopping”[bribery] and “dashing”[another term for bribery in Nigeria] are what greases the economy in Nigeria. The first is making sure you get a percentage of every deal that crosses your path, and the second is taking a bribe from every person over whom you have sway.”)(quotation on chopping and dashing in the original). See also Rupert, *Nigeria's Strongman Dies*, *supra* note 10 (observing that while Nigeria's former dictator and murderous despot Sani Abacha “was less known-but in terms of his legacy to Nigeria, perhaps more important-[he was well known] for overseeing a web of corruption that Nigerians and oil industry sources say has plundered billions of dollars from the economy.”).

²⁶⁷See, e.g., *The Lost Billions*, *supra* note 18.

officer Mallam Quazo, at the behest of his boss, was busy inventing imaginary foreign enemies for the nation, and then using them as an excuse to order the transfer of millions of dollars to foreign bank accounts controlled by Abacha and his aides under the pretext of fighting these imaginary enemies of Nigeria.²⁶⁸

Although Nigeria is an oil rich nation, and a member of the Petroleum Exporting Countries (“OPEC”), the Abacha regime ensured the scarcity of fuel within Nigeria through a web of corrupt practices. First, Abacha and his top aides supervised the sale of crude oil by the state-owned oil company-the Nigerian National Petroleum Corporation (“NNPC”), and ensured that they got a portion of the sales revenue.²⁶⁹ Second, Abacha and his aides intentionally starved the NNPC of money intended to convert crude oil to gasoline so that Nigeria would have to import refined crude oil such as gasoline, creating an opportunity for Abacha and his assistants to get kickbacks from the importers.²⁷⁰ Third, Abacha ensured that his supporters obtained government subsidized gasoline, which these supporters then either sold on the black market in Nigeria, or diverted to neighboring countries at astronomical profits.²⁷¹ The fuel shortage became so dire that many citizens resorted to the highly dangerous practice of rupturing fuel pipelines laid by oil companies in a desperate attempt to get fuel.²⁷² The tragic result was the predictable explosion of a ruptured fuel line, resulting in

²⁶⁸See id:

Abacha even turned Nigeria’s democracy movement to his financial advantage by having his national-security adviser “urgently” demand money from the Nigerian Treasury to fight critics overseas. “America has gone berserk and seems to leave no stone unturned in ridiculing this nation,” the adviser, Ismaila Gwarzo, wrote in a 1994 memo asking that \$30 million be wired to a Geneva account. Millions more were withdrawn in cash for “covert purposes,” and delivered to Abacha and his cronies in Central Bank trucks. According to President Obasanjo, most of the looted money was transferred abroad.

²⁶⁹See, e.g., Rupert, **Nigeria’s Strongman Dies**, supra note 10 (“in a business that generated a daily river of cash, Abacha and several associates supervised every sale of Nigerian crude by the state-owned oil company[Nigerian National Petroleum Corporation-NNPC], the sources said, sluicing off an unknown percentage of the \$10 billion (U.S.) Per year that Nigeria earns on average in crude oil sales.”).

²⁷⁰See id.

²⁷¹See id. See also Under New Management, supra note 230.(commending the new administration of President Olusegun Obasanjo for taking steps to curb rampant political corruption, while observing “Under Abacha [the murderous former military dictator of Nigeria], pumps ran dry and the president’s friends made fortunes cornering supplies at the low official price and selling them at the much higher black-market rate. Day-long queues formed outside petrol stations. For the citizens of one of the world’s largest oil-producing countries, not being able to buy fuel was perhaps the worst humiliation. Mr. Obasanjo all but ended it with a few honest appointments.”).

²⁷²See Orr, supra note 218(although Orr appropriately observed that “decades of government mismanagement and corruption have led to almost perpetual fuel shortages,” the Abacha regime’s capricious rule greatly exacerbated the crisis).

hundreds of deaths.²⁷³

In addition to virtually destroying the effectiveness of the NNPC in supplying fuel to Nigerians, Abacha made corruption the cornerstone of his roguish regime. Abacha ensured that he and his aides got kickbacks from every and all significant government contracts,²⁷⁴ thus making it virtually impossible for honest businesspeople and companies to thrive.²⁷⁵ While Abacha and his group were gorging on the nation's wealth, his government ignored crumbling public infrastructures and failed to generate new ones.²⁷⁶ Power outage which was almost a regular feature of the Nigerian economy, worsened with the near abandonment of the national electric company known as the National Electric Power Authority ("NEPA").²⁷⁷ Other public infrastructures remained without adequate maintenance and dilapidated,²⁷⁸ while mistreatment of college teachers and lack of adequate funding for their salaries and institutions resulted in intermittent closings of the institutions of higher learning.²⁷⁹

²⁷³See *id.* ("Those killed at the weekend were trying to collect leaking fuel when they were caught in the blast, apparently caused by a spark from a cigarette. Many had become saturated by inflammable liquid when engulfed by the inferno. Witnesses said that the scene-near the town of Jesse, 180 miles southeast of the biggest city, Lagos-was littered with corpses. Among the dead were many women and children who had been using bottles and buckets to hold fuel.").

²⁷⁴See Rupert, Nigeria's Strongman Dies, *supra* note 10.

²⁷⁵See, e.g., Dellios, *Art of the Steal*, *supra* note 265 ("The Berlin-based group[the international corruption watchdog, Transparency International]reported that here and in other corrupt countries, ministers will accept cuts of 5 percent on \$20 million deals, while heads of state hold out for 5 percent on \$200 million deals."). This systemic corruption, shamelessly fueled and promoted under the Abacha cabal led one Nigerian businessman in the *Tribune* article to lament "In a society so entrenched in corruption, it is difficult to operate." *id.*

²⁷⁶See Rupert, Nigeria's Strongman Dies, *supra* note 10 ("Under Abacha, corruption took Nigeria further into economic collapse than in the past. Besides the collapse in fuel distribution, the telephone network is decaying. The electrical grid is failing. Almost no part of Lagos, the steaming, teeming financial and commercial capital gets electricity all day, and vast tracts of the city of 8 million never get power at all.").

²⁷⁷See *id.*

²⁷⁸See, e.g., Taylor, *A Nation on the Brink*, *supra* note 218 (In the interview, journalist and author of a book on Nigeria entitled "This House Has Fallen: Midnight in Nigeria," Kral Maier described, among others, the terrible communication system in Nigeria while he was a journalist there thusly "The phones were just catastrophic. They are still difficult [but now] they're much, much better").

²⁷⁹See Philip C. Aka, **Education, Economic Development, and Return to Democratic Politics in Nigeria**, 18 *J. Third World Stud.* 21, 24, (Spring 2001)(hereinafter, Aka, *Return to Democratic Politics*)(highlighting the neglect of public education in Nigeria, beginning with the inept and corrupt government of Shehu Shagari in the early 1980s and culminating in the near destruction of the educational system during the roguish and murderous governments of Generals Ibrahim Babangida, and Sani Abacha. Aka observed:

Under Gen. Babangida (1985-1993) and Gen. Abacha (1993-98), universities and other institutions of

When public outcry reached a crescendo, Abacha and his group simply resorted to their well-established practice of murder and intimidation of dissenters. Such was the fate of the eminent writer Ken Saro-wiwa who championed the legitimate complaints of the Ogoni people, an ethnic group within an area of Nigeria where a vast amount of the oil wealth comes from, but which has been left highly impoverished, severely underdeveloped, and ecologically decimated.²⁸⁰ When Abacha could no longer tolerate Sarowiwa's strident public appeals for the fair treatment of his people, Abacha had him hanged, despite urgent and fervent pleas from prominent Nigerians and some world leaders.²⁸¹ Such was life under the Abacha regime.

Under Abacha's deplorable and regrettable regime, unemployment soared,²⁸² while crime skyrocketed.²⁸³ In addition, government infrastructures rotted from lack of maintenance and care, while generals and civilians in bed with the corrupt military cabal flaunted their ill-gotten wealth with impunity,²⁸⁴ and siphoned the nation's riches to money laundering havens in Europe and the United States,²⁸⁵ with financial institutions in London, New York, and other

higher learning were regularly closed down, sometimes for an entire year, and teachers' salaries, what little of them the hyper-inflationary economy did not wipe out, remained unpaid for several months on end. These unfavorable conditions of work were coupled with harsh repressiveness (internal citation omitted).

²⁸⁰See, e.g., Crawford Young, **The Impossible Necessity of Nigeria; A Struggle for Nationhood**, FOREIGN AFFAIRS, November/December 1996, at 139 ("Ogoni discontent germinated in the deepening conviction that Ogoniland's ecosystem had been ravaged in pursuit of oil production, the revenues from which accrued entirely to the Nigeria state[which the brutal despot Sani Abacha and his cabal shamelessly misappropriated], with little benefit returned to the Ogoni community."); Aka, Policy of Ethnic Reconciliation, supra note 15, at 347 (describing the destruction of the ecosystem within Ogoniland, including the fact that "Shell[Shell Oil Corp] had been operating in the area going back to the "late 1950s, resulting in the pollution of a stream, destruction of farm crops, and other losses to property. The community had received little or no compensation, while villagers called for social amenities such as the provision of electricity."")(quoting Jedrezej G. Frynas, **Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities** 55 (2000)).

²⁸¹See Aka, Policy of Ethnic reconciliation, supra note 15, at 345.

²⁸²See Rupert, Nigeria's Strongman Dies, supra note 10 (highlighting the deplorable condition of the Nigerian masses under the brutal Abacha cabal, with "unemployment...estimated by analysts to be at least 25 percent[a very conservative estimate indeed]. Millions of Nigerians survive on ingenuity and doggedness as street vendors, curbside fix-it men, prostitutes, subsistence farmers.").

²⁸³See Taylor, A Nation on the Brink, supra note 218; Dellios, Art of the Steal, supra note 265.

²⁸⁴See, e.g., Dellios, Art of the Steal, supra note 265. See also Orr, supra note 218.

²⁸⁵See, e.g., Peter Capella, **Lawyers Seek Freeze on Abacha's UK Accounts**, THE GUARDIAN (London), June 8, 2000, at pg. 26 (hereinafter, Capella, Abacha's UK Accounts)("The Nigerian authorities are trying to recover billions of dollars siphoned from Nigeria's economy during the five years of General Abacha's military dictatorship...Assets frozen in Switzerland and Luxembourg turned out to be 10 times greater than expected.").

Western cities and countries acting as the conduits.²⁸⁶ Abacha's regime is notable for its reckless disregard for the life and liberty of the average Nigerian, and his brazen and shameless conversion of the national treasury to his personal piggy bank.²⁸⁷ By the time Abacha suddenly died in 1998 allegedly during a Niagra fueled tryst with foreign prostitutes,²⁸⁸ he had reportedly robbed the nation of more than six billion dollars within his relatively short stay in office,²⁸⁹ thus surpassing the rapacity of even the embodiment of kleptocracy-Mobutu Sese Seko of the Congo Republic.²⁹⁰ Although corrupt rule had fostered an economic and social tragedy upon Nigeria during and after independence, the Abacha regime was a complete nightmare of killings and unparalleled looting of the national treasury.²⁹¹ Abacha's capricious regime was, without a doubt, the most savage and unpatriotic of all post colonial governments in Nigeria's history.²⁹² It epitomized the basest of human greed, and encapsulated the meanness of an

²⁸⁶See, e.g., Timothy O'Brien, **Panel to Focus on U.S. Bank and Deposits by Africans**, THE NEW YORK TIMES, November 5, 1999, at A11 ("The accounts controlled by General Abacha's sons were in London and New York."); Fiona Fleck, **Swiss Banks Launder Their Tarnished Image**, SCOTLAND ON SUNDAY, November 25, 2001, at pg. 22 (narrating the laundering of corrupt money in Switzerland by dictators Sani Abacha, Mobutu Sese Seko of the Congo Republic, and Slobodan Milosevic of Serbia, among others).

²⁸⁷See Ajani, supra note 182. ("During his [Abacha's] reign, many people were mysteriously killed. Pa Alfred Rewane, Kudi Abiola, Suliat Adedeji, the attempted murder of Alex Ibru. The list is endless."); Dellios, Art of the Steal, supra note 265 (observing that Abacha reputedly looted more than six billion dollars from the Nigerian oil sector, in a country where millions struggle every day to merely survive, and the homeless and beggars abound).

²⁸⁸See, e.g., The Lost Billions, supra note 18 ("On June 8, 1998, as he [Abacha] was about to depart on a state visit, the general got an urge. He left his marble state-house at 4 a.m., and had his driver take him to a nearby villa. The details are murky, but according to authoritative Nigerian sources, the 53-year-old military dictator died there during a Viagra-fueled orgy with three Indian prostitutes.").

²⁸⁹See Dellios, Art of the Steal, supra note 265 ("Abacha is widely reported to have "chopped" [taken proceeds of bribery] more than \$6 billion from the nation's oil wealth.").

²⁹⁰It is estimated that Mobutu robbed his country of about \$4 billion during his lengthy ruinous and murderous rule, which left his mineral rich country of the Congo Republic in tatters. See, e.g., Jimmy Burns, Mark Huband, & Michael Holman, **Mobutu Built a Fortune of \$4bn from Looted Aid**, FINANCIAL TIMES (London), May 12, 1997, Front Page (hereinafter, Burns, Huband, & Holman, Fortune of \$4bn from Looted Aid) ("Thirty years of embezzlement by Zaire's ruling elite allowed President Mobutu Sese Seko to accumulate a fortune which peaked at \$4bn ...in the mid 1980s, an FT [Financial Times] investigation reveals."). However, compared to Abacha who allegedly robbed Nigeria of \$6 billion during only five years of rapacious and murderous rule, Abacha appears to have gained the title of the most greedy and rapacious kleptocrat to date in Africa. See, e.g., See Dellios, Art of the Steal, supra note 265 ... ("Abacha is widely reported to have "chopped" [taken proceeds of bribery] more than \$6 billion from the nation's oil wealth.").

²⁹¹See supra notes 287 and 290 and accompanying texts.

²⁹²See, e.g., Aka, Dividend of Democracy, supra note 106, at 232 ("Sani Abacha, was the most crudely repressive [military regime] of them all.").

unpatriotic ‘leader’ bent on wrecking the entire nation for his own personal profit.

THE EFFECTS OF POLITICAL CORRUPTION ON AFRICAN SOCIAL AND ECONOMIC LIFE

Although colonialism, as chronicled in this article, wreaked havoc on African lives and property, and virtually crippled the development of the continent because of the enormous colonial looting and siphoning to Europe and the Americas of Africa’s human and material resources, post-independence corruption has not only exacerbated Africa’s woes, but has become the albatross of the continent, and the greatest impediment to development.²⁹³ Through corrupt practices, a few greedy and unconscionable ‘leaders’ and people with connection to the ‘leaders’ have stolen and converted to their private uses, enormous amounts of the public’s wealth and resources. The result is the unavailability of funds and resources for critically needed public infrastructures, such as stable electricity generating sources and well-maintained roads;²⁹⁴ well-equipped and clean medical facilities, among others.²⁹⁵ In turn, due to unreliable power supply in many African countries, the wheels of industry virtually grind to a standstill or a crawl every day of the week,

²⁹³Notwithstanding the endemic corruption within many African countries, some countries such as Botswana and Mauritius, among few others, are quite well managed. See, e.g., Philip C. Aka, **Africa in the New World Order: The Trouble with the Notion of African Marginalization**, 9 Tulane J. of Int’l & Comp. Law 187, 200 (Spring 2001)(hereinafter, Aka, Trouble with African Marginalization)

²⁹⁴See, e.g., Dellios, Art of the Steal, supra note 265 (decrying the deplorable condition of the roads in Lagos, Nigeria, while late dictator Sani Abacha and his band of rogues shamelessly plundered the nation’s resources). See also, Under New Management, supra note 230 (noting that due to the sad legacy of a series of dictatorships in Nigeria’s history with their penchant for virulent corruption “The roads are pitted with potholes and clogged with rubbish. Telephone and power lines work intermittently at best, and often not at all. Factories are idle.”).

²⁹⁵See, e.g., Jonathan Dimbleby, **A Decade Ago, Life Expectancy in Uganda was 48 Years and Rising; Today it is 43 Years and Falling. That is Russian Roulette Without the Choice**, SCOTLAND ON SUNDAY, August 12, 2001, at pg. 15 (hereinafter, Dimbleby, Russian Roulette Without the Choice)(noting that he could have chosen almost any African city and found the same conditions, the writer describes the appalling condition of a hospital apparently intended to serve a population of 178, 000 people. According to the disturbing account, the hospital was supposed to have seven doctors, but in reality, had only three full-time doctors. Of the three doctors, only one was actively attempting to attend to the over one hundred patients in all stages of illness. Neither a nurse, nor a pharmacist was in sight, even though the hospital was supposed to have 60 nurses. Even more disturbing, the hospital had no drugs to dispense. See also, Kimani, **Health and Medicine: Why Doctors are Fleeing Down South**, AFRICA NEWS, July 5, 2001 (decrying the decrepit condition of Kenyan hospitals, particularly public hospitals “most of which lack syringes, gloves, gowns and masks,” and drugs, and the abysmal salaries paid to physicians, which in turn has compelled many to emigrate to countries in South Africa for greener pastures). According to the account, “In May last year, for instance, doctors working at the Machakos District Hospital were so frustrated by watching their patients die from curable diseases they went on strike to compel the ministry [of health] to supply their institution with drugs.” The chairman of the Surgical Society of Kenya, Malaki Warambo, “complained that he did not understand the rationale behind the Government spending money to train surgeons, only to post them to decrepit hospitals without any surgical equipment or medical supplies.”

depriving these nations of economic growth and opportunities.²⁹⁶ Factories sit idly, and/or produce at severely below capacity, making it virtually impossible for companies to hire or expand employment opportunities for millions yearning for jobs.²⁹⁷ The tragic result is severe underemployment and unemployment,²⁹⁸ which has propelled many to lives of crime, debauchery, and incredible misery.²⁹⁹ In addition, the resulting lack of opportunities and favorable job environments have led to massive brain of African intellectuals to other continents.³⁰⁰

In addition, the absence of stable supplies of electricity in many countries, due to lack of funds for the maintenance and upgrade of electrical grids,³⁰¹ has made life indisputably difficult for most Africans. Imagine baking in

²⁹⁶See, e.g., **Constraints Stunt Growth of Firms**, THE EAST AFRICAN, August 17, 1999 (describing the ruinous economic consequences of unstable power supply on industry in Uganda, which is typical of many other African countries). According to the article “A total of 91 operating days are lost by firms due to power shortages a year.”

²⁹⁷See id. See also Erich Ogoso-Opolot, **80pc of Ugandan Firms Give Bribes-World Bank Report**, AFRICA NEWS, September 21, 2000 (narrating the gauntlet of bribes companies pay in order to carry out their work, and the corresponding effect on anemic investment expansion and, loss of government revenue for public projects); **Under New Management**, THE ECONOMIST (U.S. Edition), January 15, 2000 (emphasizing that as a result of shameless military misrule and unbridled corruption in Nigeria, particularly under the misbegotten Abacha cabal “The roads are pitted with potholes and clogged with rubbish. Telephone and power lines work intermittently at best, and often not at all. Factories are idle.”).

²⁹⁸See, e.g., Davan Maharaj, **Kenya’s Big Man is Being Belittled: President Moi has Ruled Since 1978. Now a Lame Duck, He is Being Scorned Even by Allies for Trying to Pick a Successor ‘Who Can be Guided,’** LOS ANGELES TIMES, (Sunday Home Edition), August 18, 2002, pg. 1 Foreign Desk (noting “the meager wages of those fortunate enough to have[jobs],” while “President Daniel Arap Moi, a power-wielding autocrat who once silenced his critics by jailing them,” and “reputed to be one of the richest men in East Africa” schemes to handpick a successor who would not have the guts to investigate Moi’s rapacious rule which has left Kenya in economic and social tatters). See also **Zimbabwe; US\$570m Could be Lost to Tobacco Ban**, AFRICA NEWS, February 8, 2001 (highlighting Zimbabwe’s “debilitating fuel and power shortages,” with attendant “unemployment of 60 percent,” while it struggles with threats to its tobacco industry which is its “single largest foreign currency earner, accounting for 30 percent of its annual export receipts.”).

²⁹⁹See, e.g., Maharaj, supra note 298 (observing that infrastructural collapse and poverty have resulted in a crime epidemic within the Kenyan capital Nairobi such that many people now refer to it as “Nairobbery.”)(emphasis in the original). See also Dellios, Art of the Steal, supra note 265 (noting that many people were succumbing to fraud and corruption as a way of survival in a society that had been racked by rampant misrule, particularly during the murderous and ruinous Abacha regime).

³⁰⁰See, e.g., Aka, Return to Democratic Politics, supra note 279, (sadly observing that due to lack of opportunities in the country of Nigeria, and the shameful lack of resources for educational institutions, educated Nigerians emigrate in droves to other countries and continents, while institutions of higher learning “including even the likes of Ibadan and Nsukka [The University of Nigeria at Ibadan, and the University of Nigeria at Nsukka] do without qualified faculty.”).

³⁰¹See supra note 294 and accompanying text.

the African heat in a sprawling metropolis such as Lagos without the benefit of your air conditioner, because the electricity, when available, is constantly interrupted. Imagine traffic control lights, where and when installed, remaining nonfunctional during busy rush hour traffic because of the absence of electricity. Imagine medical equipment remaining unusable and idle, while the seriously and critically ill go without necessary and needed treatment in hospitals and clinics and die needlessly, because of the absence of reliable power supply. Such is life in many African cities and towns.³⁰²

Meanwhile, take the case of road maintenance. Due to the absence of needed funds, which corrupt officials and ‘business people’ have stolen and siphoned away to countries in other continents, many roads in African cities, towns, and villages remain death traps for motorists because of lack of proper maintenance, or in some instances, the complete absence of maintenance.³⁰³

Take the matter of medical equipment and supplies. Millions of Africans die needlessly every year from easily treatable and curable diseases such as typhoid, malaria, and measles, among others, due to the absence of needed medical supplies and equipment.³⁰⁴ Regrettably, medical equipment and supplies remain absent even when they have been provided for in government budgets.³⁰⁵ When purchased, medical equipments remain uncared for in many places, because the officials in charge of the maintenance funds simply pocket the funds, without regard for the lives and health that would be destroyed by the absence of properly maintained medical equipment.³⁰⁶

In addition to the foregoing problems generated by corruption, the compromised abilities of the governments to maintain, upgrade, and expand needed infrastructures which are necessary for economic development and expansion because of the continuous siphoning of the public wealth by a few unconscionable groups and individuals, has greatly contributed to the chronic brain drain in many African countries. Brain drain in this context involve situations where the best and the brightest of the teachers and other professionals emigrate to foreign countries, usually to Europe, and the

³⁰²See id.

³⁰³See Under New Management, supra note 230.

³⁰⁴See, Dimpleby, Russian Roulette Without the Choice, supra note 295; Kimani, supra note 295.

³⁰⁵See id.

³⁰⁶See, e.g., Kimani, supra note 295 (noting the apparent indifference of the Kenyan Ministry of Health to the abysmal lack of medical equipments in public hospitals).

United States in search of better opportunities.³⁰⁷ Most of the best African minds may be found on the faculties of European and American universities and colleges, and in various other professional fields in these places.³⁰⁸

Meanwhile, the high cost of living in proportion to poor salaries, and the continued adverse effects of governmental corruption and plundering continually exert a powerful pressure on those professionals who remain behind to join the bandwagon of corrupt practices or wallow in misery.³⁰⁹

Political corruption within African countries has so undermined the confidence of the governed that virtual states of anarchy exist in many places. Anarchy in this sense refers to the inclination of most people to disobey the existing laws on the books, and to the belief that survival depends on ‘everyone for himself or herself.’ The end result is a belief among many that honesty impoverishes and brings misery, while embezzlement of public funds is an acceptable way of wealth acquisition.³¹⁰

In effect, corruption has undermined the effective implementation of the rule of law in many societies, and led to the moral debauchery of the citizenry, who see no benefit in striving for a clean existence.³¹¹ While some may disagree with our assessment of the effect of corruption on the rule of law in many African societies, it is abundantly clear that intentional and cavalier violations of the laws on the books by the political leadership, and the citizenry, as is the case in many of these societies, cannot be equated with conduct that is consistent with the rule of law. The rule of law, at a minimum, requires compliance with, and enforcement of reasonable rules and regulations implemented for the benefit of society. Many of the countries within this mineral rich continent do not qualify as nations under the rule of

³⁰⁷See Aka, **Return to Democratic Politics**, supra note 279, at 25 (describing brain drain as a massive exodus of highly trained professionals from their country of origin to other countries in search of better opportunities)..

³⁰⁸See id.

³⁰⁹See generally id.

³¹⁰See, e.g., Under New Management, supra note 230 (“For as long as most Nigerians can remember, the rewards for honesty and industry have been miserable, whereas corruption has paid magnificently.”). The tragic consequences of corruption is that it not only undermines confidence in the rewards of honesty and hard work, “corruption distorts market forces, undermines the rule of law, erodes public trust, and, ultimately, threatens political stability,” Nancy Zucker, **The Law, Expectation, and Reality in the Marketplace: The Problems of and Responses to Corruption**, 30 Law & Pol’y Int’l Bus. 139, 140 (1999)(hereinafter, Zucker, Problems of and Responses to Corruption).

³¹¹See id.

law to the extent the dictators and tyrants chronicled in this article robbed and continue to rob their countries blind without fear of punishment, and orchestrated the murders of many.

The point which we stress is that corruption in Africa has been, and continues to be a threat to the health and well-being of the average African, and without a doubt, continues the severe underdevelopment of that continent. Corruption in Africa is not an esoteric subject suitable only for occasional academic commentary, but is a debilitating and destabilizing influence on the entire continent. It has deprived the average African of the benefits of the enormous wealth and resources of that continent, while enriching a few unconscionable groups and individuals. Corruption has so pervaded many African countries that even banking institutions, which would be expected to guide their assets and those of their customers, have been known to lend indiscriminately to their major share holders, and directors without regard to their abilities to repay loans.³¹² The endemic corruption in the African continent, and the resulting infrastructural inadequacy and underdevelopment has predictably scarred off foreign investors,³¹³ thus making it even harder to realistically anticipate any economic boom in the foreseeable future.

THE ROLE OF THE WEST IN FOSTERING POLITICAL CORRUPTION IN AFRICA

³¹²See Konyin Ajayi & Simisola Ososamii, **On the Trail of a Spetre-Destabilization of Developing and Transitional Economies: A Case Study of Corruption in Nigeria**, 15 Dick. J. Int'l L. 545, 559 (Spring 1997)(regarding the banking crisis in Nigeria in the 1990s, the writers observed that “In some instances, about 80% of the bad loans given by banks were given to its majority shareholders, directors, or promoters.”)

³¹³See Ayittey, *Multilateral Institutions*, supra note 116, at 599 (emphasizing that obstructive bureaucracy, “unreliable water and electricity supplies, demands for bribes, and a collapsed infrastructure,” among other factors, have deterred foreign investors, and even investment by the same leaders who have amassed ill-gotten wealth through corrupt practices).

Although the reprehensible conduct of African ‘leaders’ such as the late Sani Abacha of Nigeria, and Mobutu Sese Seko of the Congo Republic, among others, can neither be excused, justified, nor be found to possess any redeeming value, it is also a sad fact that the rapacity of these unconscionable rogues were made possible by western actions and policies. Take for example Mobutu. Despite virtually treating his people as slaves, robbing his country blind, and maintaining his roguish and brutal rule through murder and torture, the United States government, through the C.I.A., kept him in power for more than thirty years by training and equipping troops loyal to him with millions of dollars of taxpayer money.³¹⁴ Even when it was obvious that Mobutu was destroying his country through his shameless expropriation of the nation’s wealth and resources he remained a darling of the United States government.³¹⁵ Meanwhile, governmental and financial institutions in the western world made it possible for Mobutu to continue stealing and laundering stolen billions.³¹⁶

Although some may argue that the tensions and alliances of the cold war justified western support for Mobutu, insofar as he was seen squarely within the western ideological camp, such a position would be specious at best. Mobutu’s unbridled stealing and corrupt practices gave capitalism a bad image, and in no way, in our humble opinion, advanced the ideals allegedly cherished by the western camp during the cold war, i.e., capitalism, democracy, and a free society infused by the ideals of life, liberty, and the pursuit of happiness.

³¹⁴See, e.g., **Problems with Current U.S. Policy**, 5 FOREIGN POLICY IN FOCUS 2, (April 5, 2000).

³¹⁵See *id.*

³¹⁶See, e.g., Burns, Huband & Holman, Fortune of \$4bn from Looted Aid, *supra* note 290 (“Western government and financial institutions supported and provided aid to Mr. Mobutu from even before he seized power in 1965, in spite of clear evidence that the national wealth was being systematically stolen.”).

Take another example, that of Nigeria's Abacha. Abacha, as we have set forth above, embodied the worst of any leader. He maintained a regime unparalleled in Nigeria in its brutality and stealing. Yet, even this meanest of kleptocrats found a safe haven for his stolen billions in American and European banks.³¹⁷ Although, western governments curtailed their contacts with the Abacha regime,³¹⁸ these same governments failed to hear no evil, and see no evil, while their financial institutions were laundering, sheltering, and profiting from Abacha's stolen billions.³¹⁹ Apparently, these western countries did not care that Abacha was laundering billions of dollars into their financial institutions, while the vast majority of Nigerians were wallowing in abject poverty and misery.

The unfortunate reality is that despots like Mobutu, Abacha, and the others chronicled in this article, were able to rob their suffering countries of billions of dollars and profit from their looting because western institutions protected their ill-gotten wealth. Since robbers of national treasuries must hide their loot somewhere, and since their continued looting is dependent upon assurance, either explicit or implicit that the nations where they hide their booty will offer protection,³²⁰ almost without exception, the African despots chronicled in this article were able to steal from their unfortunate subjects because they knew that western institutions would protect their stolen wealth. Regrettably, western nations, not only laundered the stolen wealth of these 'leader-robbers' but in many instances, actively ensured their continued rule through military support and training.³²¹

³¹⁷See, e.g., Capella, Abacha's UK Accounts, supra note 285 ("The Nigerian authorities are trying to recover billions of dollars siphoned from Nigeria's economy during the five years of General Abacha's military dictatorship. So far more than Dollars 1.2 bn has been frozen in banks in Switzerland and Luxembourg, but Britain is believed to have been the focal point of transactions that spanned more than 100 accounts in several countries. Nigerian sources say they have evidence that some of the 20-30 accounts held in Britain were in General Abacha's own name."); Rena Singer, **New Ways to Monitor Kleptocrats**, THE CHRISTIAN SCIENCE MONITOR, December 27, 2000, at 6 (observing that during Abacha's five years of dictatorial rule "his family and friends are accused of diverting billions of dollars from the Treasury to private accounts in Europe and the US.").

³¹⁸See, e.g., Aka, Dividend of Democracy, supra note 106, at 257.

³¹⁹See, e.g., supra notes 316 and 317 and accompanying texts.

³²⁰See, e.g., Vogl, Supply Side of Global Corruption, supra note 18 (observing that multinational corporations which are major payers of bribes to government officials, apparently assist those officials to hide their loot since "those who take bribes must find safe international financial channels through which they can bank their ill-gotten gains

³²¹See, e.g., Problems with Current U.S. Policy, supra note 117 (stressing how U.S. and French support propped up the vicious regime of Mobutu Sese Seko of the Congo Republic, formerly known as Zaire, and also, how French support for the dictator Juvenal Habyarimana in Rwanda made possible the 1994 genocide in that country). See also **Togo's Takeaway Economy**, THE ECONOMIST (June 16, 1990) (chronicling French support for

We posit that perhaps the extent of corruption among the despots mentioned in this article would have been less, or even substantially less, if there was no assurance that their loot could be laundered in western countries and protected. If the west had acted with the same appropriate zeal it displays in fighting money laundering from drug dealers in dealing with the loot of African despots we would perhaps, not have the present level of underdevelopment and misery in Africa, which have been caused in large part by the absence of wealth and resources siphoned to Europe and America by corrupt ‘leaders.’³²² African corruption appears to be of the worst kind imaginable in any region of the world, since the proceeds of corruption are siphoned to wealthy countries in the west, leaving the already impoverished African countries without desperately needed resources and investment.³²³

POTENTIAL WAYS OF ADDRESSING POLITICAL CORRUPTION IN AFRICA

Over the years many commentators have offered excellent suggestions on dealing with corruption in general. These suggestions have ranged from calling on multinational corporations to adopt codes of conduct prohibiting their employees, agents, and representatives from paying bribes,³²⁴ since corporations constitute the primary group of bribe payers,³²⁵ to calls for the vigorous enforcement of the United States Foreign Corrupt Practices Act, which prohibits U.S. citizens and corporations from, among other things, paying a bribe to a foreign official to secure a contract.³²⁶ These are excellent suggestions. Although we do not pretend to have a magic wand for solving the problem of corruption in

Togolese dictator General Gnassingbe Eyadema , including physically rescuing him from a coup, even as his incipient misrule plunged his countrymen and women into abject poverty).

³²²See, e.g., Taylor, A Nation on the Brink, supra note 218 (appropriately observing that African corruption is of the worst kind imaginable, because the proceeds of corruption are “actually sent to banks in the United States or Switzerland or Britain...ripping the guts out of the country, because there can be no investment,” unlike corruption in the United States where the proceeds of corruption stays within the US economy).

³²³See id.

³²⁴See, e.g., Thomas W. Dunfee & David Hess, **Perspectives: Getting from Salbu to the “Tipping Point”: The Role of Corporate Action Within a Portfolio of Anti-Corruption Strategies**, 21 J. Intl. L. Bus. 471, 474-478 (Winter 2001).

³²⁵See id. at 474. See also Graham Lawton, **Fighting Back Against the Bribery Culture; Multinational Chemical Companies**, Chemistry and Industry [Magazine], December 7, 1998, No. 23, at Pg. 957 (observing that “Some multinational companies routinely set aside 20% of their foreign project budgets to pay bribes,” and noting that “some companies have been known to bribe environmental enforcement officials to overlook pollution.”).

³²⁶See generally Beverly Earle, **The United States Foreign Practices Act and the OECD Anti-Bribery Recommendation: When Moral Suasion Won’t Work, Try the Money Argument**, 14 Dick. J. Int’l L. 207 (Winter 1996).

Africa, we strongly believe that the following measures we recommend, if effectively and properly implemented, will nicely compliment the aforementioned suggestions by other commentators, and go a long way in curbing the pervasive rapacity among African leaders, and substantially increase the prospect for Africa's economic and social development.

First, crucial to discouraging the type of enormous looting perpetrated by the likes of Abacha and Mobutu, are measures to ensure that stolen loot do not find a safe haven. As we have already intimated, 'leader-robbers' must of necessity find a place to hide their stolen millions and billions, and be assured, either explicitly or implicitly, that their loot will be safe.³²⁷ Thus, we applaud the recent international movement toward the criminalization of bribery in transnational commerce. We applaud particularly the Organization for Economic Cooperation and Development ("OECD") Convention on Combating Bribery of Foreign Public Officials in International Business Transactions "which entered into force on February 15, 1999."³²⁸ The OECD Convention "requires signatories to criminalize the bribery of any foreign public official and prohibit accounting practices that facilitate the payment or concealment of bribes."³²⁹

Some other conventions worthy of praise include the Organization of American States ("OAS") Inter-American Convention against Corruption, adopted in 1996, which "requires all signatories to criminalize bribery," and "provides for financial disclosure and transparency in accounting practices, as well as asset seizure, extradition, and international cooperation in the collection of evidence."³³⁰ And the 1996 United Nations General Assembly Declaration Against Corruption and Bribery in International Transactions which "calls for countries to eliminate tax deductions for bribes and to criminalize bribery," and "encourages cooperation between countries in sharing information necessary for criminal investigations and other legal proceedings."³³¹ We applaud these conventions, and advocacy groups such as Transparency International ("TI") which advocate the vigorous enforcement of anti-corruption practices to "reduce money laundering and facilitate the return to developing countries any money illegally obtained by corrupt public

³²⁷See Vogl, Supply Side of Global Corruption, supra note 18.

³²⁸See Dunfee and Hess, Fighting Corruption, supra note 13, at 602.

³²⁹See id(internal citation omitted).

³³⁰See id. at 603.

³³¹See id. at 603-604.

officials,³³² because we believe that corruption in Africa should be seen as an international problem worthy of attack through international treaties and cooperation.

We believe that western nations, which are the major launderers of the loot of corrupt African leaders, have an obligation to help address the suffocating effect of corruption on ordinary Africans. To that end, these countries have an obligation to loosen some of their laws, which make it very difficult to trace, impound, and freeze stolen assets from abroad, i.e., from corrupt leaders.³³³ As it stands now, it is pure hypocrisy for western nations to decry the poverty of African nations, and to preach the golden virtues of a free and democratic society, while doing virtually nothing to actively combat corruption, and support progressive leaders such as Nigeria's President Olusegun Obasanjo who appear to be serious about dealing with political corruption. Having cuddled and helped dictators like Mobutu and Eyadema maintain power at the expense of the well-being of their unfortunate subjects, the least western nations can do for Africans in this new world order is to actively help relatively anti-corruption crusading leaders track down and recover the billions stolen from their national treasuries.

Through instruments such as the OECD and OAS' conventions, and the United Nation's declaration against corruption, the international community, particularly the economically and militarily powerful nations of the west, should criminalize and actively police the laundering of the proceeds of corruption, just as is the case with the laundering of drug money, and proceeds from terrorist organizations. Although such measures may not stop the incipient corruption among African 'leaders' it may cause them to pause before stealing and siphoning to western nations

³³²See id. at 605.

³³³See, e.g., Fiona Fleck, **Swiss Banks Launder Their Tarnished Image**, SCOTLAND ON SUNDAY, November 25, 2001, at 22 ("For decades, it [Switzerland] was the country where the ill-gotten gains of the Mafia and corrupt dictators were salted away, safe in the knowledge that their money would be safe from investigation."); Tom Meghie, **When the Walls Came Tumbling Down on the Money Laundering Capital of the World**, MAIL ON SUNDAY, July 16, 2000 ("For decades, strict banking secrecy, allied to a cunning in hiding money and an obstructive attitude to appeals for help from foreign tax authorities and governments, has earned the little principality [of Liechtenstein] a reputation as an attractive place for money laundering...German intelligence agents say one of the main banks in Liechtenstein is also believed to have held accounts for the late, corrupt Zairean president Joseph Mobutu and Colombian drug boss Pablo Escobar"); Alan Beattie, **Money Laundering Approach 'Threatens City' Corruption Investigation MPs Call for Changes in Law to make it Easier to Freeze Suspicious Assets from Oversea**, FINANCIAL TIMES (London), April 4, 2001, at 2 (lamenting the regrettable silence and complicity of the British government in safeguarding the proceeds of corruption from poor countries, the writer observed "The Home Office [a government department] has yet to respond to a request made last June by the Nigerian government for assistance in tracing Dollars 1bn (Pounds 700m) of funds stolen under the regime of the late General Sani Abacha. A lawyer told the committee [the House of Commons' International Development Committee] that evidence to back a similar request from Pakistan under its last democratic government had sat in the Home Office for 2 ½ years.").

the treasuries of their impoverished nations.

Second, western nations such as Britain, Switzerland, Liechtenstein, and to an extent, the United States, which serve as havens for laundered proceeds of corruption,³³⁴ if they are genuinely interested in the plight of Africans, must reexamine their banking and other financial laws which seem to attract treasury looting tyrants from Africa and other regions of the less developed world. It is easy to pout that only Africans can solve their own problems. But the reality is different. Africa's problems are not only due to the actions of Africans, as various sections of this article have made clear.³³⁵ Accordingly, any solution to the problem of corruption in Africa requires the assistance of the international community, particularly of the nations where the loots are laundered, if such a measure is to have any chance of success. Any combination of effective measures to address corruption in Africa must include making it harder for looters such as the Abachas and the Mobutus to launder their loot outside their countries.

³³⁴See supra note 333 and accompanying text.

³³⁵In addition to the sections in this article addressing the role of the Europeans and the Americans in the economic woes of Africa, see also Aka, **Trouble with African Marginalization**, supra note 293)(appropriately emphasizing that the western countries also bear responsibility “for the exploitation that came with colonization, and for some of the economic inequalities seen today in developing countries.”).

Third, the new African Union (AU) which recently replaced the moribund and ineffective Organization of African Unity (“OAU”),³³⁶ must abandon the AOU’s handoff approach which allowed murderous tyrants to flourish without the fear of outside intervention or interference.³³⁷ To that end, the AU needs either a standing military force, or a provision for mobilizing a force to oust leaders when their misrule, i.e., tactics, ineptitude, and robbery, etc., endanger the social and economic viability of an African country. The main objection to such an approach, however, may be a fear that such a measure may compromise the sovereignty of the implicated country. While such a criticism may have some merit, we must not lose sight of the objectives of the doctrine of sovereignty. This cherished doctrine, in our opinion, is intended to protect the right of a nation to determine its own fate and to be free from interference by other countries with its internal concerns. The doctrine, however, is not absolute. Eminent writers over time have recognized the necessity of humanitarian intervention when a state treats its own people “in such a way as to deny their fundamental human rights and to shock the conscience of mankind.”³³⁸ Humanitarian intervention has gained so much acceptance among respectable writers, and even governments, that it is deemed “traditionally a part of international law,”³³⁹ even though Article 2(4) of the Charter of the United Nations (UN), appears to prohibit humanitarian intervention.³⁴⁰ In the words of one particularly perceptive scholar of human rights “How a country treats its own citizens is no longer exclusively its internal affairs but rather has emerged today as the legitimate business of the world.”³⁴¹

³³⁶See, e.g., Rachel L. Swarns, **African Leaders Drop Old Group for One That Has Power**, THE NEW YORK TIMES ON THE WEB, July 9, 2002 (hereinafter, Swarns, Leaders Drop Old Group) (“Unlike the Organization of African Unity, the new group will have the right to intervene with member states in cases of genocide, war crimes or gross violations of human rights. Its members must promise to hold free elections and to allow opposition parties to campaign freely.”). Despite the requirement that member states must promise to hold free elections, it is doubtful whether this requirement will be enforced, since one of the influential founders of the new body, Muammar el-Qaddafi “the Libyan leader...has yet to hold elections during his more than 30 years in power,” id.).

³³⁷See, e.g., Aka, **Human Rights in Africa**, supra note 34, at 394-95 (highlighting the silence of the OAU in the face of atrocious human rights abuses by despotic African ‘leaders.’).

³³⁸See, e.g., Gerhard von Glahn, **Law Among Nations: An Introduction to Public International Law** (Fourth Edition. 1981) (MacMillian Publishing Company, New York) at 165 (referencing Grotius, Vattel, and Westlake).

³³⁹See id. at 166.

³⁴⁰See id.

³⁴¹See Aka, **Human Rights in Africa**, supra note 34, at 369

We agree with the concept of humanitarian intervention as a means of wresting the reins of power from leaders who brazenly steal from their poor countries, thus depriving their unfortunate subjects the fundamental right to the resources of their own nations. The AU, in order to serve as a check on rampant misrule in Africa, must have an avenue, and the will to humanely intervene in African countries to remove the likes of Abacha, Nguema, and Mobutu, among others. The protection of African citizens must take precedence over the right of corrupt tyrants to use sovereignty as an excuse to mistreat their own people and escape action by the international community.³⁴² For what good came out of a strict adherence to respect for sovereignty while Nguema of Equatorial Guinea and Pol Pot of Cambodia were massacring and dehumanizing their own people? Would it not have been more logical, humane, and sensible to have saved the millions of innocents who perished under the murderous and barbarous rules of Nguema and Pol Pot, instead of the hands-off approach which allowed the senseless carnage to continue until it was too late? Fourth, foreign aid constitutes a substantial part of the money coming into African countries each year.³⁴³ Some commentators have appropriately observed that donated funds, have in some instances, exacerbated the problem of corruption in Africa, because of lack of accountability for the donated resources.³⁴⁴ Donors must not compound the problem of corruption in Africa with lax oversight of donated resources. To that end, we implore donors to insist on accountability, and in some instances, insist on being allowed to physically supervise the bidding and awarding of contracts involving donated funds. These donors, in appropriate situations, may also insist on physically supervising contractors' performances under the contracts. Although this proposal runs the risk of diminishing the donee countries' sense of control over their internal affairs, as we have previously indicated, concerns over the doctrine of sovereignty, while appropriate, must not be allowed as an excuse for robbing despots to continue the looting of resources that belongs to the public. Thus, we applaud the recent and emerging realization by organizations such as Transparency International, which stridently

³⁴²See id. at 367 (emphasizing that "Sovereignty needs to be creatively reconciled with human rights, rather than pose barriers to human rights enjoyment."). In addition, it is heartening to hear important African leaders such as Nigeria's Olusegun Obasanjo, South Africa's Thabo Mbeki, and Senegal's president strongly advocate the view "that sovereignty no longer be used as a shield to hide gross official misconduct," Rachel L. Swarns, *supra* note 336.

³⁴³See, e.g., Ayittey, **Multilateral Institutions**, *supra* note 116, at 597 (noting that over 12 billion dollars in foreign aid is pumped annually into Africa).

³⁴⁴See id. at 597-98

advocate the indispensability of accountability in government and international aid programs.³⁴⁵ To the extent donors of foreign aid intend their gifts to benefit the vast majority of the intended beneficiaries, it behooves them to explore the best ways of utilizing the donated resources to directly impact the lives of the intended beneficiaries by insisting on strict accountability. In light of the deplorable record of widespread political corruption in Africa, donors must abandon the notion that the political leaders are better suited to utilize donated resources for the benefit of their subjects. Although there is a genuine concern that some of the strings currently attached to foreign aid are counterproductive,³⁴⁶ such a concern does not obviate the need for reasonable and necessary accountability over donated resources to ensure their effective utilization.

CONCLUSIONS

Although colonialism, with its inhumane and barbarous ways, robbed African societies of their natural resources, and subjected Africans to cruel and humiliating treatment, the licentious rapacity of many post-colonial African leaders continues the brutalization of the average African, and ensures crushing poverty among the vast majority of the inhabitants of that continent. We believe that the international community, particularly the western countries which supported the rule of these despotic robbers, and helped launder their loot, have an obligation to help combat corruption in Africa. Although it is easy to assert that only Africans can solve their own problems, it is also indisputable that the international community, particularly western nations, contributed to Africa's number one problem—corruption by actively supporting brazenly corrupt and murderous African leaders, and then helping protect their ill-gotten wealth. To that end, Africa needs all the help it can get in addressing the enduring cancer within the continent—political corruption.

³⁴⁵See, e.g., Zucker, Problems of and Responses to Corruption, *supra* note 310.

³⁴⁶See generally Ayittey, Multilateral Institutions, *supra* note 116.