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**THE CONTINUED SEARCH FOR APPROPRIATE STRUCTURES
FOR GOVERNANCE AND DEVELOPMENT IN AFRICA IN THE
21ST CENTURY: THE SENEGAMBIA CONFEDERATION IN
HISTORICAL AND COMPARATIVE PERSPECTIVE**

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Howard University that Dr. Olayiwola Abegunrin is co-editing. I thank Professor Abegunrin for the opportunity to participate in his volume without which I would not have had the motivation to explore the politics of Senegambia, which initially caught my attention from following news stories about the U.S. Government’s prosecution of four U.S. citizens born in Gambia for attempting, unsuccessfully, to overthrow the regime of now ex-President Yahya Jammeh. I also gratefully acknowledge the editorial staff of the *California Western International Journal* for their congeniality and able assistance in preparing this Article for publication. Their conscientious labor breathed a dose of succinctness into many pages of this piece.

I. INTRODUCTION

Development is a function of good government.¹ For this reason, or in spite of it, since the rise of new states in Africa (un-snugly superimposed on the numerous old societies in the region)² nearly sixty years ago,³ there has been a recurring debate regarding the appropriate

1. See Kemal Daviř, *Good Governance and Economic Performance*, Op-Ed, BROOKINGS (Mar. 13, 2014), <https://www.brookings.edu/opinions/good-governance-and-economic-performance/> (“It is the nature of governance that determines whether people deploy their talents and energy in pursuit of innovation, production, and job creation, or in rent seeking and lobbying for political protection.”); Barack Obama, *Remarks by the President to the Ghanaian Parliament*, WHITE HOUSE (July 11, 2009), <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-ghanaian-parliament> (stating that “[d]evelopment depends on good governance.”). For definition of *development*, see *infra* notes 92-99 and accompanying text.

2. See generally OLD SOCIETIES AND NEW STATES: THE QUEST FOR MODERNITY IN ASIA AND AFRICA (Clifford Geertz, ed., 1963).

3. This is counting from the Gold Coast’s independence as Ghana on March 6, 1957. Ghana was the first country in Sub-Saharan Africa to become independent. Idara Sunday Ikoh, *Ghana Independence 1957*, WEB CHRONOLOGY PROJECT (2016), <http://www.thenagain.info/WebChron/Africa/Ghana.html>. For more extended analysis, see F.M. BOURRET, *GHANA: THE ROAD TO INDEPENDENCE, 1919-57* (1960). Other countries soon followed. In 1960, famously called the year of Africa’s independence, 17 countries achieved independence. *1960: The Year of Independence*, FRANCE24 (Feb. 16, 2010), <http://www.france24.com/en/20100214-1960-year-independence>. These countries included Senegal, one of the two countries here under examination. These countries, in the order of their independence, were: Cameroon (Jan. 1); Togo (Apr. 27); Madagascar (June 26); Democratic Republic of the Congo, later Zaïre (June 30); Somalia (July 1); Benin (Aug. 1); Niger (Aug. 3); Upper Volta, later Burkina Faso (Aug. 5); Ivory Coast, later Côte d’Ivoire (Aug. 7); Chad (Aug. 11); Central African Republic (Aug. 13); Republic of the Congo (Aug. 15); Gabon (Aug. 17); Senegal (Aug. 20); Mali (Sept. 22); Nigeria (Oct. 1); and Mauritania (Nov. 28). *Id.* Senegal and Mali (then French Soudan) were previously granted independence on Jan. 17, 1959, as Federation of Mali, but the union was short-lived. *Id.* It was not until 1965 that The Gambia, the other of the two countries here under examination, won its own independence. And not until 1994 before black majority rule took place in South Africa, the last bastion of colonialism in the continent. More discussion on Senegal and The Gambia is included in Part II, the historical background of this paper. For brevity, this Article dispenses with formal practice by henceforth referring to The Gambia as simply “Gambia,” except when quoting other writers, whether in the text or footnotes.

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political system⁴ for the pursuit of African development.⁵ Because of the artificial boundaries European colonizers bequeathed to Africa,⁶ the continent has more landlocked countries—fifteen of them to be exact—than any other region in the world.⁷ Related to this impediment, several

4. A *political system* is the set of legal institutions that constitute a government or a state. D. Alan Heslop, *Political System*, ENCYCLOPEDIA BRITANNICA (Mar. 17, 2017), <https://www.britannica.com/topic/political-system>. It is part of the broader social system. *Id.* The term is used interchangeably in this Article with *government* or *the state*.

5. There is no suggestion that African leaders have always used the state to legitimately pursue development, for they do not always do so. Instead, as Professor Claude Ake most presciently pointed out many years ago, time and again, these leaders have (ab)used the state for purposes that have little to do with development. See CLAUDE AKE, *DEMOCRACY AND DEVELOPMENT IN AFRICA* (1996). According to Ake, the trouble with economic development in Africa “is not so much that development has failed as that it was never really on the agenda in the first place.” *Id.* at 1. To be sure, African leaders were not the only rulers who used the state illegitimately for purposes other than development. Instead, the colonial authorities before them did the same. See, e.g., Matthew Craven, *Between Law and History: The Berlin Conference of 1884-1885 and the Logic of Free Trade*, 3 LONDON REV. INT’L L. 31-59 (Mar. 10, 2015), <http://lrl.oxfordjournals.org/content/3/1/31.full>. One infamous moment was the Berlin Conference of 1885 designed for factors other than to benefit Africans (except arguably for the abolition of the slave trade). *Id.* The main purpose was to consolidate pacification to minimize friction among European authorities in their scramble for colonies in the continent. See, e.g., *id.*; MURIEL E. CHAMBERLAIN, *THE SCRAMBLE FOR AFRICA* (Pearson Education Ltd., 3d ed. 2010); STIG FÖRSTER ET AL., *BISMARCK, EUROPE, AND AFRICA: THE BERLIN AFRICA CONFERENCE 1884-1885 AND THE ONSET OF PARTITION* (1989).

6. *Artificial boundaries* refers to borders determined arbitrarily on maps by European capitals with no regard for geography (factors such as rivers, mountains, and related natural landmarks) and ethnic composition of the areas whose borders were designed. See Stelios Michalopoulos & Elias Papaioannou, *The Long-Run Effects of the Scramble for Africa* (Nat’l Bureau of Econ. Research, Working Paper No. 17620-11, 2011), <http://www.nber.org/papers/w17620>.

7. Landlocked states are countries which lack direct coastal access to the sea. These are: Botswana, Burkina Faso, Burundi, Central African Republic, Chad, Ethiopia, Lesotho, Malawi, Mali, Niger, Rwanda, Swaziland, Uganda, Zambia, and Zimbabwe. Matt Rosenberg, *How Many African Countries Are Landlocked? And Why Does It Matter*, ABOUT EDUCATION (Apr. 09, 2017), <http://geography.about.com/od/economic-geography/fl/How-Many-African-Countries-Are-Landlocked.htm>. See also PAUL COLLIER, *THE BOTTOM BILLION: WHY THE POOREST COUNTRIES ARE FAILING AND WHAT CAN BE DONE ABOUT IT* 51–63 (2007). A country’s level of access to water can have an enormous impact on its economy in many ways, three of which are most notable. These three negative impacts

economies in the continent are too small and fragmented to achieve economies of scale independently.⁸ Accordingly, in the years immediately following independence, there was much debate regarding appropriate political structures in the context of the capacity of these marginal states to economically develop.⁹ Regional economic integration schemes evolved in various parts of the continent in response to this concern.¹⁰ The proliferation coincided with the birth of

are less access to trade (it is cheaper to transport goods over water than over land), high transit costs, and increased dependence on “transit” neighbors (i.e. states with access to the sea or coast). Rosenberg, *supra*. The fifteen landlocked states do not include partially-landlocked states like Gambia, under scrutiny in this paper.

8. See Paul Collier & Tony Venables, *Trade and Economic Performance: Does Africa’s Fragmentation Matter?* Paper Presented at the Annual Bank Conference on Development Economics, Cape Town, S. Afr. (June 9-11, 2008), <http://siteresources.worldbank.org/INTABCDESOUAFR2008/Resources/TonyVenables.pdf>.

9. See BASIL DAVIDSON, *MODERN AFRICA: A SOCIAL AND POLITICAL HISTORY* 218–45 (3d ed. 1994) (portraying “questions about development” among various “progress and failure” emanating from new governments). In retrospect, given the urgent need for development, it was a debate tinged with much irony. For example, Tanzanian leader, Julius Nyerere, advised that Africans “must run” while the rest of the world walks if the region stood any chance of bridging the gap in development between it and the rest of the world. See generally WILLIAM EDGETT SMITH, *WE MUST RUN WHILE THEY WALK: A PORTRAIT OF AFRICA’S JULIUS NYERERE* (1971).

10. See Trudi Hartzenberg, *Regional Integration in Africa* (World Trade Organization, Staff Working Paper ERSD-2011-14, 2011) (stating, *inter alia*, that “African governments have concluded a very large number of regional integration arrangements, several of which have significant membership overlap”); Tesfaye Dinka & Walter Kennes, *Africa’s Regional Integration Arrangements: History and Challenges*, *Discussion Paper No. 74*, EUROPEAN CENTER FOR DEV. POLICY MANAGEMENT (Sept. 2007), <http://ecdpm.org/publications/africas-regional-integration-arrangements-history-challenges/>; Olufemi A. Babarinde, *Regionalism and African Foreign Policies*, *AFRICAN FOREIGN POLICIES* 215–48 (Stephen Wright, ed., 1999) (surveying the impacts of regional integration on African foreign policies). See also Caroline Ko, *Regional Integration is a Must for Africa*, *WORLD ECON. FORUM* (May 10, 2013), <https://www.weforum.org/agenda/2013/05/regional-integration-is-a-must-for-africa/>. These economic communities include: East African Community (EAC), originally formed in 1967, collapsed in 1977, and revived in 2000 (in fact the history of the organization dates back to 1917, as indicated in *infra* note 25); the Economic Community of West African States (ECOWAS), formed in 1975; the Southern African Development Community (SADC), formed in 1980 originally as South African Development Coordinating Conference (SADCC); the Economic Community of Central African States (ECCAS), founded in 1983; the Intergovernmental Authority on Development (IGAD), founded in 1986; the Arab

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the U.N. Economic Commission for Africa (ECA) in 1958, soon after Ghana's independence in 1957.¹¹ The ECA is charged with the mission of promoting economic and social development in Africa, fostering intra-regional economic integration, and galvanizing cooperation for Africa's development.¹²

Then came the "lost decade of the 1980s" when Africa fell behind the rest of the world in many areas of general living standards, including access to education and healthcare.¹³ In actuality, this period spanned close to one generation from 1970 to 1995. During that lost decade,

Maghreb Union (UMA), founded in 1989; the Community of Sahel-Saharan States (CEN-SAD), founded in 1993; and, the Common Market for Eastern and Southern Africa (COMESA), formed in 1994. For detailed information on these communities, see PHILIP C. AKA, HUMAN RIGHTS IN NIGERIA'S EXTERNAL RELATIONS: BUILDING THE RECORD OF A MORAL SUPERPOWER 227–43 (2017). Gambia and Senegal, the two countries here under examination, are founding members of ECOWAS, the key economic community in West Africa. *Id.* at 229 (Table 10.1); *see also Economic Community of West African States*, INT'L DEMOCRACY WATCH, <http://www.internationaldemocracywatch.org/index.php/economic-community-of-west-african-states->.

11. *See* KWAME AKONOR, AFRICAN ECONOMIC INSTITUTIONS 11 (2009).

12. *Overview*, United Nations Economic Commission for Africa, <http://www.uneca.org/pages/overview> (last visited Apr. 12, 2017). To realize these goals, the ECA conducts various activities, including collecting data on African development and providing advisory services in key thematic fields, among them macro-economic policy, regional integration and trade, and governance. *Id.*

13. *See* John Darnton, "Lost Decade" Drains Africa's Vitality, NY TIMES (June 19, 1994), <http://www.nytimes.com/1994/06/19/world/lost-decade-drains-africa-s-vitality.html?pagewanted=all>. It was an era marked by structural adjustment programs (and resultant belt-tightening programs with negative consequences for healthcare, education and other social programs) on many African economies, imposed in return for loans by international monetary institutions, specifically the International Monetary Fund, and the International Bank for Reconstruction and Development, more famously known as the World Bank. *See, e.g.,* Fraser Logan, *Did Structural Adjustment Programs Assist African Development?*, E-INT'L RELATIONS STUDENTS (Jan. 13, 2015), <http://www.e-ir.info/2015/01/13/did-structural-adjustment-programmes-assist-african-development/>; Franz Heidhues & Gideon Obare, *Lessons from Structural Adjustment Programs and Their Effects in Africa*, in 1 Q. J. INT'L AGRIC. 55–64 (2011), <http://ageconsearch.umn.edu/bitstream/155490/2/4Heidhues.pdf>. *See also* H. W. Singer, *The 1980s: A Lost Decade—Development in Reverse?*, in GROWTH AND EXTERNAL DEBT MANAGEMENT 46–56 (H. W. Singer & Soumitra Sharma, eds., 1989); A THOUSAND FLOWERS: SOCIAL STRUGGLES AGAINST STRUCTURAL ADJUSTMENT IN AFRICAN UNIVERSITIES (Silvia Federici et al., eds., 2000).

alternately referred to in this Article as “locust years,” real per capita income nearly doubled in all world regions, except for Black Africa, which instead declined.¹⁴ In the period since the lost decade, the political-structure debate turned into a debate regarding whether there was *any chance left* in the capacity of African states to engender development.¹⁵

The discourse chimed with the important works of Professors Robert H. Jackson and Carl G. Rosberg on the non-institutionalized nature of leadership in Africa as well as the lack of legitimacy of African states. Regarding the first, Jackson and Rosberg argued that rather than institutions, such as political parties, government in Africa is often governed by personal rule.¹⁶ For Professors Jackson and

14. See, e.g., UNITED NATIONS CONFERENCE ON TRADE & DEVELOPMENT, ECONOMIC DEVELOPMENT IN AFRICA: PERFORMANCE, PROSPECTS AND POLICY ISSUES, *passim* (2001), <http://unctad.org/en/Docs/pogdsafricad1.en.pdf>. “Locust years” or “years of locust” is a Biblical expression that denotes period of economic hardship. RANDOM HOUSE UNABRIDGED DICT. (1997), <https://www.infoplease.com/dictionary/locust-years>. Two germane sections in the Bible are: Joel 2:25 which reads, “I will restore to you the years the swarming locust has eaten”; and Genesis 41: 1–37 where Joseph interpreted for the Pharaoh of Egypt two interlinked dreams, one involving seven years of bountiful harvests followed by seven years of severe famine, which he wisely solved with advice for the Pharaoh to store grain during the bountiful years in preparation for the lean years. Unlike ancient Egypt, Africa endured economic famine unprecedented by any bountiful harvests, and there was no perceivable restoration of any years that the proverbial swarming locust devoured. Part III.B, *infra*, lays out the context for this famine within the meaning of this Article.

15. See AKE, *supra* note 5, *passim*.

16. See generally ROBERT H. JACKSON & CARL G. ROSBERG, PERSONAL RULE IN BLACK AFRICA: PRINCE, AUTOCRAT, PROPHET, TYRANT (1982). The categories of autocrat and tyrants should be obvious, leaving *princes* and *prophets* as the only two categories needing elaboration. *Prince* is a nomenclature Professors Jackson and Rosberg set aside for nondemocratic leaders, such as Jomo Kenyatta of Kenya; Haile Selassie of Ethiopia; two rulers of Liberia, William Tubman and William Tolbert; and, for our purpose here, Leopold Senghor of Senegal. While there are important variations among them, what these leaders had in common was their ability to amass state power during their period in office to the diminishment of the constitutional order that they inherited when they came into office. *Prophet* whose list is thin in Africa included, most notably, Kwame Nkrumah of Ghana, and Julius Nyerere of Tanzania. While again, there are variations among them, political prophets are visionaries who worked to reshape their societies. One of the weaknesses of the Jackson-Rosberg theory is that none of the categories fits an African leader like Dawda Jawara who,

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Rosberg, lack of domestic legitimacy refers to the reality that many weak states in Africa persist out of *juridical* factors embedded in international law rather than out of a capacity to perform the domestic *empirical* functions of a state, met when a national government (the entity in international law which represents the state) exercises effective “control over the people, organizations, and activities within [its] territorial jurisdiction”¹⁷

Notable improvements came after the lost decade of the 1980s. For example, in 2011, the *Economist* branded Africa a “hopeful continent,”¹⁸ after declaring the region “hopeless” little over one decade before.¹⁹ However, progress remains uneven and non-robust.²⁰ Several narratives reflect this assessment. Some analysts advocate “grassroots development efforts that build on domestic cultural institutions” as the

although he remained in office for nearly three decades, did not wield power as a “big man” to the detriment of the evolution of institutions and the rule of law.

17. Robert H. Jackson & Carl G. Rosberg, *Why Africa’s Weak States Persist: The Empirical and the Juridical in Statehood*, 35 *WORLD POLITICS* 1 (1982). Jackson and Rosberg observed that “[i]f the persistence of a state were primarily the result of empirical statehood,” several “African countries would clearly not qualify as states some of the time.” *Id.* at 3. For them the independence of these states “reveals the assumption of the contemporary international community that even countries of very questionable viability and capacities can be preserved by a benevolent international society.” *Id.* at 16.

18. *The Hopeful Continent: Africa Rising*, *ECONOMIST* (Dec. 3, 2011), <http://www.economist.com/node/21541015> (stating that after “decades of slow growth, Africa has a real chance to follow the footsteps of” strong economies in Asia, such as those of China and India). The magazine observed that six of the world’s ten fastest-growing countries were in Africa. *Id.*

19. *Hopeless Africa*, *ECONOMIST* (May 13, 2000), <http://www.economist.com/node/333429>. Unending wars and natural disasters factored heavily in the magazine’s assessment of the African condition as hopeless. *Id.* Since 1980, about 30 wars have been fought in Africa, resulting in millions of deaths and millions more displaced. *See generally* *WORLD HEALTH ORGANIZATION, WORLD REPORT ON VIOLENCE AND HEALTH* (Etienne G. Krug et al., eds., 2002).

20. *See, e.g.,* Susan Lund & Arend van Wamelen, *Lions on the Move: 10 Things You Don’t Know about Africa’s Booming Economy*, *FOREIGN POLICY* (Sept. 1, 2012), <http://foreignpolicy.com/2012/09/01/lions-on-the-move/> (concluding that Africa’s future looks bright, but that the continent has ways to go to achieve sustainable progress).

way forward for African states,²¹ while others contend that it is about time African states govern themselves using indigenous political structures and ideologies that are adapted to modern times.²² Yet others have analyzed the role of deeply-rooted pre-colonial ethnic institutions in shaping comparative regional development within African countries.²³ Most recently, former U.S. President, Barack Obama, advised that Africa “needs strong institutions,” not strongmen.²⁴ Topping it all, some East African leaders have proposed an economic union, the East African Community (EAC), made up of Burundi, Kenya, Rwanda, Tanzania, Uganda, and possibly the newly-independent South Sudan; collectively, these states are projected to create an integrated market of about 120 million people.²⁵ This would create, in market size, the second-largest state, after Nigeria, fourth-largest in Africa, and seventeenth-largest in the world.²⁶

21. Geoffrey E. Schneider, *Comparative Institutional Advantage and the Appropriate Development Model for Sub-Saharan Africa*, 37 FORUM FOR SOCIAL ECON. 115–24 (2008).

22. DANIEL T. OSABU-KLE, COMPATIBLE CULTURAL DEMOCRACY: THE KEY TO DEVELOPMENT IN AFRICA 25 (2000).

23. Stelios Michalopoulos & Elias Papaioannou, *Pre-Colonial Ethnic Institutions and Contemporary African Development*, 81 ECONOMETRICA 113–52 (2013) (analyzing the role of deeply-rooted pre-colonial ethnic institutions in shaping comparative regional development within African countries).

24. Obama, *supra* note 1.

25. *East African Community (EAC)*, AFRICAN UNION, <http://www.au.int/en/recs/eac> (last visited Apr. 12, 2017); Conor Gaffey, *Uganda’s Museveni Wants to Create an East African Superstate*, NEWSWEEK (Feb. 10, 2016), <http://www.newsweek.com/ugandas-museveni-wants-create-east-african-superstate-424975>. The treaty establishing the EAC was signed in 1999. But the history of the organization goes back to 1917 when Kenya and Uganda, still dependent countries, formed a Customs Union that Tanganyika (later on Tanzania) joined in 1927. *History of the EAC*, EAST AFRICAN COMMUNITY, <http://www.eac.int/about/EAC-history> (last visited Apr. 12, 2017).

26. See Gaffey, *supra* note 25. The context for Yoweri Museveni’s views was a news conference ahead of presidential elections in Uganda on Feb. 18, 2016, which Museveni, Uganda’s leader since 1986, won, extending his 30-year rule. But this is a consistent theme for Museveni who indicated, circa 2011, while commenting on the importance of economic integration in East Africa, that “East Africa would ensure the future of black people more than just Uganda. Uganda is going to develop, Uganda is going to become a modern country—but a small one.” *Uganda’s Yoweri Museveni in Profile*, BBC NEWS AFRICA (May 12, 2011), www.bbc.com/news/world-africa-12421747.

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This Article joins the list of studies on the debate regarding appropriate governance structure for development in Africa in the 21st century, using the Senegambia Confederation (1982-1989) as a case study. Its argument is as follows: Redrawing Africa's artificial borders is necessary to achieve development in the continent in this century; however, that option is a grand strategy that is far-fetched even as the need for development within the region remains as dire as ever. For the time being, while still keeping that ultimate option in mind, more midrange measures are worth trying. Within the context of these midrange measures, a proper formula for governance and development in Africa, in this Article conveniently equated with *political engineering*, must go hand in hand with attitudinal changes (*cultural engineering*), plus *political* (or governmental) *performance*. Each of these key terms is elaborated later below.

Senegal and Gambia are among the small number of politically stable countries in Africa; Senegal is one of the few countries in Africa that has never experienced a military takeover of power.²⁷ Gambia was not so lucky. There, the military, "the internal opponent most feared by African rulers,"²⁸ seized power in 1994, after a failed attempt in 1981.²⁹ However, the relative stability of the two states obscures issues, including deficiencies in political engineering, cultural engineering, and governmental performance, which the failure of the Senegambia Confederation importantly brings to the fore.

The ensuing conversation falls into three main sections. The first is a historical background account necessary to properly understand the politics of Senegambia, including past events that ineluctably shaped those politics.³⁰ The second is a description of the Senegambia confederation that ties the political experiment to the economic difficulties in Africa during the 1980s. The third is a delineation of several lessons to be drawn from the failure of the political experiment regarding appropriate structures for economic development and prospects for the future.

27. Danielle Resnick, *Lessons from Africa's Democratic Upheavals*, UNITED NATIONS UNIVERSITY (Apr. 26, 2012), <http://unu.edu/publications/articles/lessons-from-africa-s-democratic-upheavals.html>.

28. Jackson & Rosberg, *supra* note 17, at 8.

29. See *infra* notes 136, 170, and 190.

30. See FRANK L. WILSON, *CONCEPTS AND ISSUES IN COMPARATIVE POLITICS: AN INTRODUCTION TO COMPARATIVE ANALYSIS* 17 (1996).

II. HISTORICAL BACKGROUND

Background histories are important because every story has a starting point, and past events have a tendency to shape contemporary politics.³¹ A conceivable way to approach the conversation, which this section adopts, is to survey colonial attitudes toward development in Senegambia, including efforts made, or lack thereof, to integrate Senegal and Gambia before their respective independences in the 1960s. But first, a statement on basic data regarding the two countries.

A. *Basic Data Relating to Senegal and Gambia*

Senegal is a state which surrounds Gambia on three sides. Senegal is bordered on the north by Mauritania, on the south by Guinea and Guinea-Bissau, on the east by Mali, and on the west by the Atlantic Ocean.³² Like its neighbor Gambia, Senegal is named after River Senegal, which courses through the country.³³ Similarly, the Casamance region within Senegal is named after the River Casamance, south of the Gambian River.³⁴ The Casamance region campaigned for a separate state predating the independence of Senegal.³⁵ Senegal is a land of 79,951 square miles, slightly smaller in land area than South Dakota in the United States,³⁶ with a population of nearly 16 million

31. *Id.*

32. *Senegal*, INFOPLEASE, <http://www.infoplease.com/country/senegal.html> (last visited May 01, 2017) [hereinafter *Senegal*, INFOPLEASE].

33. *Senegal*, COUNTRIES AND THEIR CULTURES, <http://www.everyculture.com/Sa-Th/Senegal.html> (last visited Apr. 21, 2017) (As the story goes, the country takes its name from River Senegal, in turn, an adaptation of the Wolof term *Sunugal*, meaning “our dugout canoe,” colloquially “we are all in the same boat.”).

34. *Casamance Region, Senegal*, ENCYCLOPEDIA BRITANNICA (Sept. 28, 2006), <https://www.britannica.com/place/Casamance>.

35. See, e.g., Toma Serna, *Casamance: Neither War nor Peace*, INSIGHT ON CONFLICT (Dec. 9, 2015), <https://www.insightonconflict.org/blog/2015/12/casamance-neither-war-nor-peace/>; AÏSSATOU FALL, UNDERSTANDING THE CASAMANCE CONFLICT: A BACKGROUND MONOGRAPH NO. 7 (Kofi Annan Int’l Peacekeeping Training Ctr ed., 2011).

36. *Senegal*, INFOPLEASE *supra* note 32.

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residents.³⁷ It is a predominantly rural country of limited natural resources whose main sources of foreign exchange are agriculture (fish, peanuts, and cotton), phosphate, and increasingly, tourism.³⁸ In 2015, the country's gross domestic product (GDP) was nearly \$14 billion USD, accounting for 0.02 percent of the world economy.³⁹

Senegal gained independence from France in June of 1960 as part of the Mali Federation (joining Senegal and then French Soudan) and in its own right as a separate entity in August of the same year, following its withdrawal from the federation.⁴⁰ However, the date Senegalese citizens observe as their "national" day is April 4, 1960, the date France signed the transfer of power instrument of the Mali Federation.⁴¹ French presence in Senegal dates back to the seventeenth century and includes milestones dates such as 1638 when the French built their first trading station at the mouth of the Senegal River; 1659 when they founded Saint Louis (soon to become a key slave trading port) at the mouth of the same river; 1677 when they took over the island of Goree, takeoff points for slaves shipped into the New World during the Middle Passage; 1895 when Senegal became part of French West Africa;⁴² and 1946 when, together with other French colonies in West Africa, Senegal became an overseas territory of France.⁴³

37. *Senegal Population (Live)*, WORLD METERS, <http://www.worldometers.info/world-population/senegal-population/> (last visited Apr. 12, 2017); *Senegal*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/sg.html> (last visited May 01, 2017).

38. *Senegal*, WORLD MARK ENCYCLOPEDIA OF NATIONS (2007), <http://www.encyclopedia.com/places/africa/senegal-political-geography/senegal>.

39. *Senegal GDP*, TRADING ECONOMICS, www.tradingeconomics.com/senegal/gdp (last visited May 01, 2017).

40. *See Senegal: History*, INFOPLEASE, <http://www.infoplease.com/encyclopedia/world/senegal-country-africa-history.html> (last visited Apr. 27, 2017).

41. *See Senegal*, THE WORLD FACTBOOK, *supra* note 37.

42. *Senegal: History*, *supra* note 40; *History of Senegal*, HISTORY WORLD, <http://www.historyworld.net/wrldhis/plaintexthistories.asp?historyid=ac64> (last visited Apr. 27, 2017).

43. *See* ROBERT ALDRICH, GREATER FRANCE: A HISTORY OF FRENCH OVERSEAS EXPANSION (1996).

Since its independence, Senegal has operated a mixed presidential-parliamentary system of government⁴⁴ bequeathed to it by France. It is a dual-executive arrangement featuring a president and a prime minister, each vested with significant decision making powers where, in some cases, as Senegal arguably exemplifies, “the president has even greater constitutional powers than the president of the United States, while the legislature has fewer powers than the U.S. Congress.”⁴⁵ For much of its history after independence, Senegal operated a one-party system dominated by the Parti Socialiste du Sénégal (Socialist Party of Senegal).⁴⁶ The situation changed in 1976 when the government allowed other political parties to compete for power, although a true multiparty system evolved only beginning in April of 1981 when lingering restrictions on multiparty competition were lifted.⁴⁷

Senegal is a unitary state of one central government and fourteen regions, plus numerous local governments.⁴⁸ The fourteen regions are: Dakar, Diourbel, Fatick, Kaffrine, Kaolack, Kédougou, Kolda, Louga, Matam, Saint-Louis, Sédhiou, Tambacounda, Thiès, and Ziguinchor.⁴⁹ Kolda and Ziguinchor are located in the Casamance province,⁵⁰ site of the conflict that forms a flashpoint in Senegalese politics,⁵¹ and to which we return shortly. Senegal is made up of about seventeen ethnic groups,⁵² among them, in order of numerical strength: the Wolof,

44. On this system of government, see MICHAEL J. SODARO, *COMPARATIVE POLITICS: A GLOBAL INTRODUCTION* 203–05 (3d ed. 2008).

45. *Id.* at 203.

46. See Marilyn Schoenle, *Senegalese Politics and the Socialist Party*, PREZI (Dec. 3, 2014), <https://prezi.com/agcm8eeyhgjm/senegalese-politics-and-the-socialist-party/>; John Farmer, *Democratic Party Assumes Office as President of Senegal*, WORLD SOCIALIST WEB SITE (Apr. 5, 2000), <https://www.wsws.org/en/articles/2000/04/sene-a05.html>.

47. See Christof Hartmann, *Senegal's Party System: The Limits of Formal Regulation*, 17 *DEMOCRATIZATION* 769–86 (2010).

48. *Senegal: Government and Society*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/place/Senegal/Government-and-society> (last visited Apr. 12, 2017).

49. *Regions of Senegal*, STATOIDS (June 30, 2015), <http://www.statoids.com/usn.html>.

50. See FALL, *supra* note 35, at 8 (map).

51. See FALL, *supra* note 35.

52. An *ethnic group* is “a named social category of people based on subjective perceptions of shared attributes, such as common ancestry or heritage, history,

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making up over 43 percent of the population; the Pular, accounting for nearly 24 percent; the Serer (closely related to the Wolof), nearly 15 percent; the Diola, nearly 4 percent (but forming about 60 percent of the Casamance); and the Mandinka or Malinké (some of whom are found in the Casamance), approximately 3 percent.⁵³

Regarding the Casamance conflict, the dispute pits the Diola people, the dominant ethnic group in Casamance, agitating for separate statehood from Senegal against the Senegalese government which is determined to keep the state unified.⁵⁴ On the Casamance side, the face of the campaign for independence is the Movement des Forces Democratiques de la Casamance (MFDC), whose agitation for regional autonomy, dating back to 1947, was initially peaceful but turned violent in 1982.⁵⁵ The Diolas, the moving force behind the agitation, base their struggle on factors that include the “historical autonomy of the Casamance province.”⁵⁶ Casamance had a strategic value for European colonialists as a “trading point for slaves, wax, ivory, and rice.”⁵⁷ Topographically, the region differs in important respects from the rest of Senegal: “it gets more rain,” while its landscapes, including areas of rain forest, and beaches “are a major tourist attraction.”⁵⁸ Moreover, Casamance culture “leans more towards the south and Guinea, rather than the north of Senegal itself.”⁵⁹ The French secured the territory from the Portuguese in exchange for another territory.⁶⁰

homeland, and language that set its people apart from other groups.” JAMES PEOPLE & GARRICK BAILEY, *HUMANITY: AN INTRODUCTION TO CULTURAL ANTHROPOLOGY* 389 (9th ed. 2012). Unlike other cleavages, such as religion, ethnicity “cut[s] across socioeconomic class differences, drawing members from all strata of the population.” *Id.*

53. *Senegal*, *WORLD MARK ENCYCLOPEDIA OF NATIONS*, *supra* note 38; FALL, *supra* note 35, at 8.

54. *See* FALL, *supra* note 35, *passim*.

55. *Id.* at 4. The MFDC was founded in Mar. 1947 by Emile Badiane, a politician and Casamance native. It evolved as a political party that worked for “more recognition, development and inclusion of the Casamance” people in post-colonial Senegal. *Id.* at 17 n.43.

56. *Id.* at 4.

57. *Id.* at 6.

58. *Id.*

59. *Id.* at 8.

60. *Id.* at 5.

Casamance had an experience of colonialism different from the rest of Senegal. Because of violent resistance against French rule by the Diolas, the region was managed as a colony on its own, separate from the rest of Senegal from 1854 to 1939 and was not integrated with the rest of the state until the end of the colonial period.⁶¹ Their decentralized and egalitarian character, vis-à-vis the centralized hierarchical structure of the rest of Senegal to the North, together with their history of resistance to foreign rule, makes the Diolas non-amenable to easy governance.⁶²

Lastly, despite its ethnic diversity, Senegalese society “exhibits a generally high degree of cultural homogeneity to which the Casamance [region] seems to be an exception.”⁶³ And, although part of a heavily Muslim state, the region is minimally Islamized with a substantial number of Christians and/or adherents of traditional religions.⁶⁴

Gambia is surrounded by Senegal in all geographic corners, except for the respite of an outlet to the Atlantic Ocean on the West⁶⁵ that blocks complete encirclement—a feature on the map that gives the country the look of “a banana in the teeth of Senegal.”⁶⁶ It is named

61. *Id.* at 6.

62. *Id.* at 5, n.7, 6, and 15.

63. *Id.* at 8.

64. *Id.* at 8–9.

65. See *West Africa Map*, MAPS OF THE WORLD, <http://www.mapsofworld.com/africa/regions/western-africa-map.html> (last visited Mar. 11, 2017).

66. Christopher W. Nordlinger, *Africa’s Senegambia: A Confederation More of Form than Substance*, CHRISTIAN SCI. MONITOR (Jan. 6, 1983), <http://www.csmonitor.com/1983/0106/010652.html>. Given the landlocked character of many countries in Africa, referred to in the introduction of this Article, encirclement inside the borders of another country is a geopolitical feature *not* unique to Gambia. Instead, more or less similarly-situated countries in Africa include Lesotho, and Swaziland, both of which are enclaves within South Africa; Malawi, surrounded by Mozambique, Tanzania, and Zambia; and Cabinda, an Angolan territory sandwiched in between the Republic of Congo, and the Democratic Republic of the Congo, formerly Zaïre. See *Southern Africa Region Map*, MAPS OF THE WORLD, <http://www.mapsofworld.com/africa/regions/southern-africa-map.html> (last visited Mar. 11, 2017) (Lesotho and Swaziland); *Malawi*, WORLD ATLAS, <http://www.worldatlas.com/webimage/countrys/africa/mw.htm> (last visited Mar. 11, 2017); Ken Jennings, *Cabinda: The Tiny Oil-Rich Corner of Africa Everyone’s Fighting For*, CONDE NAST TRAVELER (June 1, 2016),

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after River Gambia, which courses through the state for 200 miles and connects to the Atlantic Ocean.⁶⁷ Gambia is 4,363 square miles, about twice the land area of Delaware State in the United States,⁶⁸ with a population in 2016 of almost 2.1 million people.⁶⁹

Like Senegal, Gambia is a state of limited natural resources whose main sources of foreign exchange are agriculture (including livestock), tourism, informal trade around its borders involving re-exports of products (that its neighbors regard as smuggling), remittances from Gambians abroad, and foreign assistance.⁷⁰ In 2014, the year for which information is available, Gambia had a GDP of approximately \$85 million USD, accounting for less than 0.01 percent of the world economy.⁷¹

Gambia gained independence from the United Kingdom on February 18, 1965, after 72 years of British colonial control, counting from 1893 when Britain imposed indirect rule on the territory.⁷² It became a republic in 1970 in a move to eliminate or minimize lingering vestiges of its British colonial past, most notably retention of the Queen

<http://www.cntraveler.com/stories/2016-06-01/cabinda-the-tiny-oil-rich-corner-of-africa>.

67. See generally *Gambia*, INFOPLEASE.COM, <http://www.infoplease.com/country/gambia.html> (last visited Mar. 12, 2017). There was something about colonial authorities and rivers. Although some overlap occurred in their spheres of influence, French trade centered around key landmarks that include the Senegal River, while English trade centered on the Gambian River. Edmun B. Richmond, *Senegambia and the Confederation: History, Expectations, and Disillusions*, 10 J. THIRD WORLD STUD. 172, 176 (1993).

68. *Gambia*, *supra* note 67.

69. *Gambia Population (Live)*, WORLDMETERS, <http://www.worldometers.info/world-population/gambiapopulation/> (last visited Mar. 12, 2017); *The Gambia*, THE WORLD FACTBOOK (Jan. 12, 2017), <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/ga.html>.

70. See *Gambian GDP Annual Growth Rate*, TRADING ECONOMICS, www.tradingeconomics.com/gambia/gdp-growth-annual (last visited Mar. 12, 2017); *Senegal GDP Annual Growth Rate*, TRADING ECONOMICS, <http://www.tradingeconomics.com/senegal/gdp-growth-annual> (last visited Mar. 12, 2017).

71. *Gambia GDP 1966-2016*, TRADING ECONOMICS, www.tradingeconomics.com/gambia/gdp (last visited Mar. 12, 2017).

72. *Colonial System of Administration in Gambia*, Indirect Rule in the Gambia Protectorate, ACCESS GAMBIA, <http://www.accessgambia.com/information/colonial-government.html> (last visited May 3, 2017).

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of England as governor-general of the state.⁷³ British presence in the land dates back to 1587 when British traders visited the area,⁷⁴ and subsequently established the colony of Gambia in 1816.⁷⁵ Highlights of British presence include a conference in Paris in 1889 where France ceded control of the Gambia River to the U.K.,⁷⁶ and declaration of the colony as a protectorate in 1900.⁷⁷

Following independence, Gambia operated a parliamentary system of government for several years before changing into a modified presidential system in the aftermath of its achievement of republican status in 1970.⁷⁸ For the first thirty years after independence, Gambia was a multiparty state where the ruling party held sway,⁷⁹ but only nominally multiparty since the democratic experiment that has followed the successful military coup in 1994. That era came to a close on January 19, 2017, with the inauguration of Adama Barrow as Gambia's third president.⁸⁰ Gambia is home to multiple ethnic groups, including

73. *Gambia, The History*, COMMONWEALTH, thecommonwealth.org/our-member-countries/gambia/history (last visited Mar. 12, 2017).

74. *Colonial History*, GAMBIA.COM, <http://www.ttag.gm/colonial-history.php> (last visited Mar. 12, 2017).

75. GODFREY MWAKIKAGILE, *ETHNIC DIVERSITY AND INTEGRATION IN THE GAMBIA: THE LAND, THE PEOPLE, AND THE CULTURE* 14 (2010).

76. *History: Precolonial History*, British Protectorate, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/place/The-Gambia/History> (last visited Mar. 3, 2017).

77. MWAKIKAGILE, *supra* note 75, at 15.

78. OUSMAN A.S. JAMMEH, *THE CONSTITUTIONAL LAW OF THE GAMBIA: 1965-2010*, 5 (2011) (observing that although it contains features of a conventional presidential system, Gambia's constitutional order and electoral system lack the full measure of separation of powers found in the classic presidential system). For features distinguishing the parliamentary and presidential electoral systems, see SODARO, *supra* note 44, at 194–203. One key anchor of that distinction is that in the parliamentary system, executive power is divided between a president who holds ceremonial powers as head of state and a prime minister vested with real powers as head of government, whereas in a presidential system, the president is both head of state and head of government. *See id.* at 194, 196.

79. MWAKIKAGILE, *supra* note 75, at 21.

80. *See* Tim Cocks, *Gambia's New President Adama Barrow Inaugurated after Being Forced into Exile by Yahya Jammeh*, INDEPENDENT (Feb. 18, 2017, 23:50 GMT), <http://www.independent.co.uk/news/world/africa/gambia-president-adama-barrow-returns-from-exile-senegal-yahya-jammeh-a7587966.html>; *Gambia's Yahya Jammeh Loses Election to Adama Barrow*, AL JAZEERA (Dec. 2, 2016),

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in order of numerousness: the Mandinka or Malinké, forming 42 percent of the population; the Fula, 18 percent; the Wolof, 16 percent; the Jola, 10 percent; the Seraluleh, 7 percent; and the Serer, little over 3 percent.⁸¹ Gambia is a unitary state made up of one central government, five regions, two municipalities,⁸² and numerous local governments. The regions are West Coast River, Lower River, North River, Central River, and Upper River.⁸³ The two municipalities are Banjul and Kanifing.⁸⁴

Africa is a region with an immense ethnic consciousness, indicated most notably by being inhabited by about 2,000 ethnic groups.⁸⁵ Gambia and Senegal have multiple ethnic nationalities in common, including the Wolof, the Serer, and the Malinké, among others.⁸⁶ The breakdown of Senegal's four leaders since the state's independence, including the ethnic identity of each leader, is as follows: Léopold S. Senghor, Serer; Abdou Diouf, Wolof; Abdoulaye Wade, Wolof; and Macky Sall, Pular.⁸⁷ Gambia has had three leaders since its

<http://www.aljazeera.com/news/2016/12/gambia-yahya-jammeh-loses-election-adama-barrow-161202130519550.html>. Barrow is Gambia's third president since independence after Dawda K. Jawara (1970-94, but before then from 1965 until 1970 as prime minister), and Yahya Jammeh (1996-2017, with the first two years before 1996 as military dictator). See *Gambia, The*, RULERS, <http://www.rulers.org/rulg1.html#gambia> (last visited May 3, 2017).

81. *The Gambia*, WORLDMARK ENCYCLOPEDIA OF NATIONS (2007), <http://www.encyclopedia.com/places/africa/gambian-political-geography/gambia>; *The Gambia*, THE WORLD FACTBOOK, *supra* note 69.

82. *Overview: UNICEF in the Gambia*, UNICEF, <http://www.unicef.org/gambia/overview.html> (last visited Mar. 12, 2017).

83. *Id.*

84. *Id.*

85. Christine Mungai, *Africa's Borders Split Over 177 Ethnic Groups and Their 'Real' Lines Aren't Where You Think*, MAIL & GUARDIAN AFR. (Jan. 13, 2015), <http://mgafrica.com/article/2015-01-09-africas-real-borders-are-not-where-you-think>.

86. See, e.g., Ebou Momar Taal, *Senegambian Ethnic Groups: Common Origins and Cultural Affinities Factors and Forces of National Unity, Peace and Stability*, POINT (Apr. 22, 2010), <http://thepoint.gm/africa/gambia/article/senegambian-ethnic-groups-common-origins-and-cultural-affinities-factors-and-forces-of-national-unity>.

87. See STEPHEN SNOOK ET AL., DEMOCRACY, HUMAN RIGHTS, AND GOVERNANCE OF ASSESSMENT OF SENEGAL: FINAL REPORT 4-5 (USAID, 2013), http://pdf.usaid.gov/pdf_docs/pnaec828.pdf (commenting on "ethnicity and ethnic relations in Senegal"). The takeaway from the discussion is that, for the most part,

independence: Dawda K. Jawara, who is Wolof;⁸⁸ Yahya Jammeh, who is Jola;⁸⁹ and Barrow, who is Fula.⁹⁰ In Africa, a leader's ethnic identity is important because of the tendency of other groups to accuse the ethnic group whose member is at the helm of "ethnic domination," especially when, as is often the case, the leader skews distribution of limited infrastructure and government benefits to favor his own ethnic group at the expense of other groups.⁹¹

B. Colonial Attitudes toward Development in Senegambia

Development is the broad process of using human and natural resources (people and things) to produce more wealth and build a better system of production⁹² in an attempt to improve the quality of life of

unlike in many other states in Africa, ethnic relations among Senegal's major ethnic groups, including those of the state's leaders, "are marked by social harmony." *Id.* at 2–3. Various reasons accounting for this harmony, according to scholars, include: "the nation-building policies of the first head of state, Léopold Sedar Senghor, the impact of the Wolof language, intermarriage, the cosmopolitanism of the city of Dakar . . . a tradition of democracy and Pan-Africanism[.]" and the mellowing influence of Islam made possible by its expression through brotherhoods. *Id.* at 3.

88. ALEXANDER KEESE, ETHNICITY AND THE COLONIAL STATE: FINDING AND REPRESENTING GROUP IDENTIFICATION IN A COASTAL WEST AFRICAN AND GLOBAL PERSPECTIVE: 1850-1960 151 (2015) (suggesting that Jawara is Wolof).

89. *Yahya Jammeh (former President of The Gambia)*, Background Information, ACCESS GAMBIA, <http://www.accessgambia.com/information/yahya-jammeh.html> (last visited May 3, 2017).

90. *See Gambia: Gambia's UDP Says It Has Nominated a "Fulani Real Estate Businessman" as a Presidential Candidate!*, FREEDOM NEWSPAPER ONLINE (Feb. 10, 2017), <http://www.freedomnewspaper.com/gambia-gambias-udp-says-it-has-nominated-a-fulani-real-estate-businessman-as-a-presidential-candidate/>. The acronym UDP stands for the United Democratic Party, a coalition of seven opposition parties that fielded Barrow as their common candidate for president in the election against longtime ruler Yahya Jammeh, held Dec. 1, 2016, that Jammeh lost, scoring 37 percent of all votes cast to Barrow's 45 percent. Lea Albrecht, *Adama Barrow: The Gambia's Next President*, DEUTSCHE WELLE (Jan. 20, 2017), <http://www.dw.com/en/adama-barrow-the-gambias-next-president/a-36620649>.

91. *See generally* GODFREY MWAKIKAGILE, ETHNIC POLITICS IN KENYA AND NIGERIA (2001). *Cf.* STEPHEN SNOOK ET AL., *supra* note 87, at 2 (pointing out that in Senegal, "[u]nlike in other parts of Africa, ethnic tensions have had little influence on politics.").

92. DAVIDSON, *supra* note 9, at 224.

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citizens.⁹³ It is “the process by which people create and recreate themselves and their life circumstances to realize higher levels of civilization in accordance with their own choices and values.”⁹⁴ Scholars go as far as to equate development with democracy.⁹⁵ As Professor Ake seminally argued, “[D]emocracy is part of what development is about”⁹⁶ Ake dispelled the notion that development was positively correlated with the type of authoritarianism practiced in newly industrialized countries of East Asia, such as China, Hong Kong, Singapore, South Korea, and Taiwan.⁹⁷ Instead, “because democracy is part of the very meaning of political development . . . [a] case for authoritarianism’s being positively correlated to development does not really arise”⁹⁸

The essence of this definition of development is that, though often conveniently measured in material economic terms, all development ranges well beyond economic growth to critically embrace political and social dimensions.⁹⁹ Consistent with this larger notion, development took place in precolonial Africa,¹⁰⁰ some under political structures different from latter-day colonial institutions.¹⁰¹ Precolonial Africa consisted of centralized political systems, decentralized political systems, and in-between political systems that combined features of the centralized and decentralized systems.¹⁰² The Wolof people utilized a

93. F.I. Kabuya, *Development Ideas in Post-Independence: Sub-Saharan Africa*, 3 J. DEV. & AGRIC. ECONS. 2 (Jan. 2011).

94. AKE, *supra* note 5, at 125.

95. *See id. passim*.

96. *Id.* at 158.

97. *Id.* at 94, 127–29, 156–68.

98. *Id.* at 127. Ake explains that, following independence, many African leaders chose to inherit, unchanged, the political system bequeathed to them by the departing colonial authorities, rather than transform that system “in accordance with the democratic aspirations of the nationalist movement.” *Id.* at 116.

99. *See* DAVIDSON, *supra* note 9, at 225 (highlighting several key requirements embedded in the process of development); *see also* AKE, *supra* note 5, at 16.

100. *See* DAVIDSON, *supra* note 9, at 265.

101. *See* WALTER RODNEY, *HOW EUROPE UNDERDEVELOPED AFRICA* 69 (1981) (discussing “[h]ow Africa Developed before the Coming of the Europeans—Up to the Fifteenth Century.”). *See also id.* at 73–92 (commenting on Africa’s contribution to European capitalist development during the precolonial period).

102. *See* Charles Lumpkins, *Precolonial African Politics and Government*, PENN STATE UNIVERSITY COLLEGE OF LIBERAL ARTS,

centralized system, ruled by a king (called *burba*, meaning ruler) who exercised both political and religious power.¹⁰³ At the height of its reign, circa the fourteen century, the Wolof Empire developed satellite states, most notably Cayor.¹⁰⁴ In contrast, the Diolas were egalitarian people who rejected and still reject centralized authority.¹⁰⁵ The same is true of the Mandinkos whose political system consisted of nominal kingdoms rooted in villages, and governed by elders.¹⁰⁶ Mandinko “kings” were non-absolute leaders who shared taxes they collected with village heads and made major decisions, such as declarations of war, that were subject to approval by a council of elders from leading families in the kingdom.¹⁰⁷ An example of a system in-between these two types is the Mandinkos, an egalitarian people, whose origins date back to Manding (Kangaba), one of the states of ancient Mali Empire.¹⁰⁸

<http://elearning.la.psu.edu/afam/100/lesson-2-part1/african-roots-of-african-american-life-under-slavery/pre-colonial-african-politics-and-government> (last visited Apr. 12, 2017); Otumfuo Osei Tutu II, Traditional Sys. of Governance and the Mod. St, Keynote Address at the Fourth Afr. Dev. F., Addis Ababa, Ethiopia (Oct. 12, 2004), <http://dspace.africaportal.org/jspui/bitstream/123456789/10101/1/Traditional%20Systems%20of%20Governance%20and%20the%20Modern%20State.pdf?1>; *Module Twenty Three, Activity Two: History of Senegal*, EXPLORING AFRICA, <http://exploringafrica.matrix.msu.edu/module-twenty-three-activity-two/> (last visited May 3, 2017).

103. *Wolof Empire*, ENCYCLOPEDIA BRITANNICA (1998), <https://www.britannica.com/place/Wolof-empire>.

104. *Id.*

105. *See supra* notes 62–64 and accompanying text.

106. *The Mandinko of The Gambia*, 12 CONSTITUTIONAL RIGHTS FOUNDATION (2000), <http://www.crf-usa.org/bill-of-rights-in-action/bria-12-1-c-the-mandinko-of-the-gambia>.

107. *Id.* This feature calls to mind the “king in every man” republicanism of the Igbo people in present-day Nigeria who organized themselves into more than 2,000 kingless villages. *See* RICHARD N. HENDERSON, *THE KING IN EVERY MAN: EVOLUTIONARY TRENDS IN ONITSHA IBO SOCIETY AND CULTURE, passim* (1972); ELIZABETH ISICHEI, *THE IBO PEOPLE AND THE EUROPEANS: THE GENESIS OF A RELATIONSHIP—TO 1906* 47 (1973).

108. (*Mandingo*) *Mandinka Tribe in Gambia*, ACCESS GAMBIA, <http://www.accessgambia.com/information/mandinka.html> (last visited May 3, 2017). Outside Senegambia, an example of such in-between governmental arrangements occurred in some parts of Yorubaland in present-day Nigeria that were “centralized with some measure of republicanism.” Mojeed Olujinmi A. Alabi, *Law Making in Pre-Colonial Yorubaland*, in *THE YORUBA IN TRANSITION: HISTORY, VALUES, AND MODERNITY* 112, 122 (Toyin Falola & Ann Genova, eds., 2006).

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Compared to precolonial Africa, little development took place in colonial Africa, including the areas known today as Senegal and Gambia. Wherever it existed in Africa, colonialism was “imposed by violence, and maintained by its potential capacity for violence.”¹⁰⁹ As a corollary, rather than being vehicles for galvanizing development, colonial institutions were primarily “structures of exploitation, despotism, and degradation.”¹¹⁰ European colonizers had no real plan to develop their African colonies beyond utilizing their raw materials for European industrialization.¹¹¹ France in particular did a poor job integrating the Casamance into the rest of Senegal, to the detriment of nation-building in the post-independence period.¹¹²

Next to the territories that became Senegal and Gambia, “[t]he logical thing for any pragmatic state-building enterprise would have been to” make the two separate territories one country.¹¹³ French and British colonial authorities recognized the impediments Gambia’s location posed, as a semi-enclave within Senegal, to the progress of the two countries.¹¹⁴ Both colonizers made feeble attempts to fix the

109. ELIZABETH ISICHEI, *A HISTORY OF THE IGBO PEOPLE* 119 (1976). *See also* Philip C. Aka, *The Military, Globalization, and Human Rights in Africa*, 18 J. HUM. RTS. 361, 379 (2002) (observing that “[t]he entire architecture of colonial rule . . . was built and maintained solely and completely on naked force designed to crush any and every ‘native’ resistance to external domination.”).

110. Robert Fatton, Jr., *Liberal Democracy in Africa*, 105 POL. SCI. Q. 455, 457 (1990).

111. *See, e.g.*, D.K. Fieldhouse, *Colonialism: Economic Aspects*, INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES (2008), <http://www.encyclopedia.com/history/modern-europe/ancient-history-middle-ages-and-feudalism/colonialism>.

112. *See supra* note 61 and accompanying text; *see also* *Government, in NIGERIA: A COUNTRY STUDY* (Helen Chapin Metz, ed., 1991) (A similar story took place in Nigeria where, through their policy of indirect rule, British colonial authorities perpetrated the separate development of the northern and southern portions of the country, with negative consequences for political stability decades after independence.).

113. Nicodemus Fru Awasom, *The Sene-Gambia in Historical and Contemporary Perspectives*, in *NATION-STATES AND THE CHALLENGES OF REGIONAL INTEGRATION IN WEST AFRICA: THE CASE OF THE GAMBIA* 47 (Siga Fatima Jagne, ed., 2010).

114. *See id.* For Senegal, an independent Gambia would obstruct communication between northern and southern Senegal and minimize utilization of the navigable River Gambia as a route into the interior as far as Mali. In this sense,

problem, but neither went far enough. During the second half of the nineteenth century, there was a proposal, ultimately unsuccessful, aimed at unifying the region, involving France trading another West African holding for Gambia.¹¹⁵ There were also informal talks designed to correct the problem that, in the assessment of one analyst, “focused on association between the two territories as a technical rather than a political matter.”¹¹⁶

The overall result was colonial overlords, in important respects, joined hands to bring Senegal and Gambia together.¹¹⁷ However, they did not work equally or collaboratively to fix the “banana in the teeth of Senegal” problem they created by integrating the two territories before handing over political control.¹¹⁸ Under the concept of self-development “people either develop themselves, or they do not develop at all.”¹¹⁹ In other words, little development in the real sense took place under colonial rule in Senegambia or any other portion of Africa.¹²⁰

Gambia prevents Senegal from realizing its full economic potentials. For Gambia, its location inside Senegal and small size create a dependence on Senegal for realizing its economic development—and security.

115. Richmond, *supra* note 67, at 177.

116. Awasom, *supra* note 113, at 47–48.

117. See *supra* Part II.A. (outlining the basic data relating to Gambia and Senegal).

118. Jackson & Rosberg, *supra* note 17, at 14. In their important work, Professors Jackson and Rosberg maintained that “[a]t independence . . . there were . . . very few traditional African states to whom sovereignty could revert. Consequently, there was little choice but to establish independence in terms of the colonial entities.” They added in a footnote that “French West Africa[,] rather than its constituent units—Senegal, Mali Upper Volta, Ivory Coast, etc.—could have been one state had Africans been able to agree to it; Nigeria could have been more than one.” *Id.* at 14, n.14. This is implausible. The colonial overlords who created this problem in the first place were in a much better position to fix it than the nationalist leaders preoccupied at independence with preserving the fragile unity they garnered from the decolonization struggle, given the ethnic awareness that was a byproduct of that struggle.

119. DAVIDSON, *supra* note 9, at 265.

120. RODNEY, *supra* note 101, at 93–146 (commenting on factors, including the slave trade, at the root of African underdevelopment); *id.* at 147–202 (commenting on aspects of Africa’s contribution to the capitalist development of Europe, such as expatriation of African surplus, to the detriment of the continent); and *id.* at 203–82 (portraying colonialism in itself, including “education for underdevelopment,” and “development by contradiction,” as “a system for under developing Africa.”).

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Given its scarcity during the colonial era, a hunger for development gripped Africa following independence. This was dictated, as Julius Nyerere advised, not just by the need to run while others walked.¹²¹ But, there was also a need to augment the region's social services that received inadequate attention during the colonial period, like healthcare and education.¹²² However, many of the economies bequeathed to the new states lacked the capacity needed for any development, whether political, economic, or social. Historian Basil Davidson delicately summarized the scenario:

Africa's economies had been small in scale. They suited the needs of many hundreds of self-supplying and mostly rural communities. There had been no industrial revolution, no reliance on the manufacture of machine-made goods, and no need for imports of good. Being self-reliant, Africans were sheltered from the shocks and strains of the world market and its fluctuating prices. Now, in the new period of worldwide industrialism, all that was changed. There could be no going back to the past.¹²³

One way around this problem was regional economic integration. This acted as a tool by pooling resources and creating larger markets that were necessary to stimulate production while growing trade and investment.¹²⁴ Arguably this was part of the impetuses behind the formation of the ECA.¹²⁵ A pan-Africanist motif signified the dedication to a "larger unity transcending ethnic and national differences" and stimulated the formation of the Organization for African Unity in 1963.¹²⁶ But there was also an economic objective at

121. See DAVIDSON, *supra* note 9.

122. *Id.* at 218. See also ELIZABETH ISICHEI, *A HISTORY OF THE IGBO PEOPLE* 199 (1976) (As the Nigerian historian Elizabeth Isichei poignantly notes in her work on Igbo history, "[t]he important thing to the historian of Igboland is the sobering reflection that after half a century of colonial rule and mission, over 80 percent of the population was illiterate.").

123. DAVIDSON, *supra* note 9, at 218.

124. African Dev. Bank Group, *Integration Represents Significant Opportunities for Landlocked and Small Island Countries of Southern Africa* (Oct. 8, 2013), <http://www.afdb.org/en/news-and-events/article/integration-represents-significant-opportunities-for-landlocked-and-small-island-countries-of-southern-africa-12338/>.

125. See *supra* notes 11–12.

126. OAU Charter, preamble, May 26, 1963, http://www.au2002.gov.za/docs/key_oau/oau_charter.pdf. The organization

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work. Through economic integration, the continent's fragmented economies stand a better chance of being transmuted "into one strong, robust, diversified[,] and resilient economy[.]"¹²⁷ that is "supported by a first-class trans-boundary infrastructure; a highly educated, flexible and mobile workforce; financial capital that is highly mobile; sound health facilities; and peace and security."¹²⁸

III. THE SENEGAMBIA CONFEDERATION AND THE LOCUST YEARS OF AFRICAN ECONOMIC DEVELOPMENT

A. *Particulars of the Union Agreement*

In February of 1982, Senegal and Gambia entered into the Senegambia Confederation,¹²⁹ an agreement designed to strengthen longstanding political and economic ties between the two states that predated their respective independences.¹³⁰ Specifically, the

metamorphosed into the African Union, effective 2000. *See Constitutive Act of the Africa Union* (2000), http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf; *AU in a Nutshell*, AFRICAN UNION, <http://www.au.int/en/about/nutshell>.

127. Joe Atta-Mensah II, *Africa's Quest for Deeper Integration*, AFRICA UP CLOSE (Nov. 8, 2013), <https://africaupclose.wilsoncenter.org/africas-quest-for-deeper-integration/>.

128. *Id.*

129. *See Agreement Between The Republic of the Gambia and the Republic of Senegal Concerning the Establishment of the Senegambia Confederation*, Clause 1 (Dec. 17, 1981), http://www.gambia.dk/senegambia_confederation.html (indicating that "[b]y this Agreement a Confederation of the Republic of The Gambia and the Republic of Senegal is constituted with the name of the Senegambia Confederation") [hereinafter *Senegambia Confederation Agreement*]. The name *Senegambia* has a long history in the literature on Senegal-Gambia relations. As early as 1765, the British used the term to refer to their settlements in the two areas, Saint Louis and Gorée Island in Senegal and James Island in Gambia. The term remained in use until 1783 when, under the Treaty of Versailles, Britain ceded Saint Louis to France. It came into more vogue or usage beginning in 1982 following the union between Senegal and Gambia. *See Senegambia Origins*, ACCESS GAMBIA, <http://www.accessgambia.com/information/senegambia-meaning.html> (last visited Apr. 12, 2017).

130. *See* JEGGAN C. SENGHOR, THE POLITICS OF SENEGAMBIAN INTEGRATION, 1958-1974 15 (2008); Jeggan C. Senghor, *Senegalo-Gambian Relations: Continuities in the Past and Future*, PAMBAZUKA NEWS (May 8, 2012), <http://www.pambazuka.org/governance/senegalo-%E2%80%93-gambian-relations->

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Confederation was designed to (1) integrate armed security forces, promote economic and monetary cooperation, and coordinate policies in a number of areas including foreign policy and communications;¹³¹ and (2) “establish an institutional framework, consistent with national sovereignty and democratic principles, within which these [goals] may be gradually realized.”¹³² It was the brainchild of Abdou Diouf of Senegal and Dawda K. Jawara of Gambia,¹³³ then leaders of their respective countries.¹³⁴ The Confederation reflected the substance of the Kaur Declaration, an announcement made by the two leaders on December 12, 1981.¹³⁵

Entrance into the Senegambia Confederation took place in the aftermath of a coup in Gambia that Senegalese troops put down.¹³⁶ The

continuities-past-and-future (chronicling six phases in Gambian-Senegalese relations, beginning with the first phase from 1958 to 1967; Senghor points out the Senegambia Confederation is phase three of these relations).

131. Senegambia Confederation Agreement, *supra* note 129, preamble.

132. *Id.*

133. Jawara led Gambia from 1962 to 1994, while Diouf led Senegal from 1981 to 2000. For biographies of the two leaders, see *Sir Dawda Kairaba Jawara, President of The Gambia*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/biography/Dawda-Kairaba-Jawara>; *Abdou Diouf, President of Senegal*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/biography/Abdou-Diouf> (last visited Apr. 12, 2017).

134. See Senegambia Confederation Agreement, *supra* note 129.

135. The declaration is named after the city in Senegal where the announcement was made. Details on this declaration are provided in OMAR A. TOURAY, *THE GAMBIA AND THE WORLD: A HISTORY OF THE FOREIGN POLICY OF AFRICA'S SMALLEST STATE, 1965-1999* 108-09 (2000).

136. See Hassoum Ceesay, *1981 Coup: Tragedy that Befalls The Gambia*, DAILY OBSERVER (Feb. 17, 2015), <http://archives.chicagotribune.com/1981/07/31/page/6/article/coup-in-gambia-reported-quelled>; Andrew F. Clark, *Gambia, The: Relations with Senegal*, WORLDHISTORY BIZ (Feb. 10, 2015), <http://www.worldhistory.biz/sundries/48777-gambia-the-relations-with-senegal.html>; D.L. Chandler, *Gambia President Dawda Jawara Ousted from Power on This Day in 1994*, FACE2FACE AFRICA (July 22, 2014), <https://face2faceafrica.com/article/dawda-jawara-the-gambia>; Steve Fishman, *Gambia: Tiny Silver of a Country Still Shaking after Coup Attempt*, CHRISTIAN SCI. MONITOR (Aug. 14, 1981), <http://www.csmonitor.com/1981/0814/081452.html>; Associated Press, *Coup in Gambia Reported Quelled*, CHI. TRIB. (July 31, 1981), <http://archives.chicagotribune.com/1981/07/31/page/6/article/coup-in-gambia-reported-quelled>. See also Pranay B. Gupte, *Gambia Enters Union with Senegal on Wary Note*, NY TIMES (Feb. 1, 1982), <http://archives.chicagotribune.com/>

agreement complemented, rather than displaced, membership of the contracting parties in existing international organizations, including ECOWAS.¹³⁷ Moreover, the union was driven by hard realities on the ground, including an awareness that the two countries “constitute[d] a single people divided into two States by the vicissitudes of History.”¹³⁸

The union was greeted with considerable euphoria in the contracting countries. Gambian President Jawara praised the agreement as a major step in the movement toward continental unity in Africa.¹³⁹ For his part, Senegalese President Diouf enthused, in words that paralleled the language of the agreement, that “[a]round the world, everyone knows that but for the vicissitudes of colonial history, we, Senegalese and Gambians, would today be citizens of one and the same State, for in every respect, we constitute a single people with the same destiny and with identical aspirations.”¹⁴⁰

The Confederation was headed by a President, the “President of the Republic of Senegal,” who was also commander-in-chief of the two countries’ armies. The Vice-President was the “President of the Republic of The Gambia,”¹⁴¹ who retained his position as commander-in-chief of the Gambian army.¹⁴² Institutions of the Confederation included the Defense and Security Council, the Council of Ministers,

1981/07/31/page/6/article/coup-in-gambia-reported-quelled (Ironically, the union agreement fueled suspicion among critics that, with its political pre-eminence and much stronger military might, Senegal sought to intervene militarily in Gambia under the guise of broader cooperation. For its part, Senegal maintained that its goal was driven by functionalism, designed to engender mutual trust and habits of cooperation between two neighboring governments.) For a description on functionalism and international organizations, see Mark F. Imber, *Functionalism: International Organizations*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/functionalism-international-organizations>.

137. See Senegambia Confederation Agreement, *supra* note 129, preamble (indicating that the contracting parties are “[r]espectful of” various international law agreements and commitments, including the Lagos Treaty of 1975 setting up ECOWAS). For more information on ECOWAS, see *supra* note 10.

138. Senegambia Confederation Agreement, *supra* note 129, preamble.

139. Baboucarr Camara & Alieu Ceesay, *The Senegambia Confederation: The Rise and Fall of the Unification*, DAILY OBSERVER (Feb. 17, 2015), <https://observergm.com/the-senegambia-confederation-the-rise-and-fall-of-the-unification/>.

140. *Id.*

141. Senegambia Confederation Agreement, *supra* note 129, Clause 6.

142. *Id.* at Clause 8.

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and the Confederal Parliament.¹⁴³ The Defense and Security Council “comprise[d] the President and Vice-President of the Confederation and such other persons as the President, in agreement with the Vice-President of the Confederation, may determine.”¹⁴⁴ The President of Senegal, who doubled as the President of the Confederation,” headed this Council.¹⁴⁵ “[I]n agreement with the Vice-President,” the President of the Confederation appointed members of the Council of Ministers.¹⁴⁶ Regarding the Confederal Parliament, two-thirds were selected by the Senegalese National Parliament from among its members, while one-third was selected by the Gambian House of Representatives from among its members.¹⁴⁷ Additionally, both the President and Vice President could submit to the vote of the Confederal Parliament “any matter of social, economic, or financial interest to the Confederation.”¹⁴⁸ Under the agreement, when the Confederation would conclude a treaty, the President of the Confederation negotiated that treaty “in agreement with the Vice-President.”¹⁴⁹ Then, the President ratified any negotiated treaty, subject to authorization by the Confederal Parliament and enactment by the individual Confederated States.¹⁵⁰

On September 30, 1989, the Confederation ended seven and a half years after it began.¹⁵¹ Its twin goals of policy integration in various areas and establishing an institutional framework for the gradual realization of the stipulated goals were far from achieved.¹⁵² The cause

143. *Id.* at Clauses 6-9 (President and Vice-President); Clause 9 (Defense and Security Council); Clause 10 (Council of Ministers); Clauses 11-14 (Confederal Parliament).

144. *Id.* at Clause 9.

145. *Id.*

146. *Id.* at Clause 10.

147. *Id.* at Clause 11.

148. *Id.* at Clause 12.

149. *Id.* at Clause 16.

150. *Id.*

151. See TOURAY, *supra* note 135, at 115. Cf. Senghor, *Senegalo-Gambian Relations: Continuities in the Past and Future*, *supra* note 130 (putting the date of death as Aug. 29, 1989).

152. See Senegambia Confederation Agreement, *supra* note 129, preamble. Little literature exists on the operation of the union agreement before its dissolution in 1989—e.g., the operation of the Confederal Parliament over the 7½-year timeline, including the number and identity of laws it issued, among other details. Some

of its death was “serious differences in a number of areas, particularly in perceptions and expectations as to the end-goal of the new order.”¹⁵³ One of the serious differences was Gambia’s demand for rotation of the Confederation presidency, which created friction with a Senegalese leadership already riled at the slow pace of integration.¹⁵⁴

A second was differences in trade policies. Senegal maintained trade barriers that provided preferential treatment for French goods imported into the country, whereas Gambia had practically no trade obstacles.¹⁵⁵ These opposing trade policies fueled a large black market around the Senegal-Gambia border, which brought cheaper manufactured goods into Senegal.¹⁵⁶ For example, the Senegalese government operated a voucher system known as *chit* for peanuts, an agricultural mainstay of Senegalese economy, whereby Senegalese peanut farmers waited three months to get cash.¹⁵⁷ Many farmers who chose not to wait for this delayed voucher system smuggled their products to Banjul, where the Gambian government paid in cash.¹⁵⁸ The result was that by 1990, about 20 percent of the Gambian peanut market was from smuggled Senegalese crops.¹⁵⁹

exceptions can be made on this point. *See, e.g.,* TOURAY, *supra* note 135, at 107–18 (providing extensive discussion on “[t]he birth of the Senegambia confederation”); Camara & Ceesay, *supra* note 139 (enumerating eight protocols the contracting parties unveiled between 1982 and 1983). However, none of this literature included any work of any of the confederation’s institutions, such as the Confederal Parliament. The seeming spotlight on this institution is justified by the criticalness of an “effective government, with centralized administrative and legislative organs” in the definition of an empirical state able to perform the *de facto* functions of a national government exercising effective control (through laws, policies, and regulations) over the people, organizations, and activities within its territorial jurisdiction. Jackson & Rosberg, *supra* note 17, at 5.

153. Senghor, *Senegalo-Gambian Relations: Continuities in the Past and Future*, *supra* note 130.

154. TOURAY, *supra* note 135, at 115. *See also* Nancy Benjamin et al., *Informality, Trade Policies, and Smuggling in West Africa*, 30 *BORDERLINE STUD.* 391–94 (2015); Stephen S. Golub & Ahmadou Aly Mbaye, *National Trade Policies and Smuggling in Africa: The Case of The Gambia and Senegal*, 37 *WORLD DEV.* 595, 598 (2009).

155. Richmond, *supra* note 67, at 185.

156. *Id.*

157. *Id.* at 186.

158. *Id.*

159. *Id.*

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A third serious difference that caused the Confederation to end was sparse support, and much less enthusiasm, for integration. The Gambian public saw little economic benefit in a political union with Senegal.¹⁶⁰ Proceeds from the border trade arising from the black market formed part of the mainstay of Gambia's fledgling economy.¹⁶¹ Therefore, contrary to Senegalese authorities who viewed the border trade as illegal smuggling, many Gambians perceived it as lawful "re-export" of imported goods.¹⁶²

Fourth and finally, while one of the goals of the Confederation was the adoption of a common currency,¹⁶³ a serious difference was that many Gambians were unwilling to embrace a new monetary arrangement.¹⁶⁴ They did not want an arrangement that would lead to a replacement of their currency, the dalasi, tied to the British pound sterling, by the Senegalese currency, the franc (the C.F.A.), similarly tied to the French franc.¹⁶⁵

To recapitulate, the union experiment between Senegal and Gambia failed because of Gambia's "unwillingness to compromise its economic and political independence" vis-à-vis Senegal's "refusal to continue to assume Gambian security without corresponding economic and political concessions."¹⁶⁶ Senegal viewed the political relationship "as a first step toward closer integration of the two states probably leading to a federation and ultimately leading to a unitary state of Senegambia."¹⁶⁷ However, Gambia merely viewed the relationship as

160. See Gupte, *supra* note 136.

161. *Id.* Back to 1964, a United Nations report anticipated this problem and proposed solution for Gambia by way of a qualified customs union. PETER ROBSON, INTEGRATION, DEVELOPMENT, AND EQUITY: ECONOMIC INTEGRATION IN WEST AFRICA 134–35 (2010). See also Lucie Colvin Phillips et al., The Senegambia Confederation, Inst. Dev. Anthropology, Binghamton, NY, USAID (Feb. 1987), http://pdf.usaid.gov/pdf_docs/PNAAY711.pdf (study sponsored by the U.S. Agency for Int'l Dev. in 1987 that focused on this same issue).

162. Gupte, *supra* note 136.

163. *Id.*

164. *Id.*

165. *Id.*

166. TOURAY, *supra* note 135, at 118.

167. Senghor, THE POLITICS OF SENEGAMBIAN INTEGRATION, *supra* note 130, at 256 (opinion of then Gambian President Dawda K. Jawara).

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“an expression of the very special relationship existing between the two countries.”¹⁶⁸

Each state felt a national security threat that the Confederation agreement was designed to cure.¹⁶⁹ For Gambia, it was territorial integrity, whose exigency was underscored by the unsuccessful 1981 coup.¹⁷⁰ For Senegal, it was stopping financial losses Senegalese leaders blamed on Gambia’s lax system of custom duties, the answer to which Senegalese leaders believed lay in a larger economic and eventual political union with Gambia.¹⁷¹ To be sure, there were security considerations embedded in Senegalese calculations. For example, Senegal authorities worried about Gambia becoming a safe haven for Senegalese dissidents, including activists in Casamance agitating for independence.¹⁷² However, for Senegal more than for Gambia, an overriding motivation was economic security.¹⁷³

B. The Measure as a Product of the Locust Years of African Economic Development

The Senegambia Confederation was one of the boldest moves outside of economic integration to create a political structure for development in Africa. It was a culmination of efforts by Senegal and Gambia to fashion a tool to facilitate cooperation. In the 1960s, the two countries commissioned a United Nations report to study the possible

168. *Id.*

169. *See* TOURAY, *supra* note 135, at 100.

170. *Id.* at 99-100.

171. *Id.* at 100.

172. *See, e.g.,* FALL, *supra* note 35, at 3 (pointing out that Gambian territories “have been used by [Casamance] rebels to launch attacks on the Senegalese Army posts and Casamance’s populations.”); *1982-89 Senegambia Confederation*, GLOBAL SECURITY, <http://www.globalsecurity.org/military/world/africa/gm-history-09.htm> (disclosing that in the wake of the Confederation’s demise, “Senegal accused The Gambia of allowing the secessionists to use its territory as a transit point for Libyan and Iraqi weapons, providing a meeting point for representatives of the MFDC,” arrowhead of the Casamance rebellion, *see supra* note 55 and accompanying text, “serving as a base from which the military wing of the MFDC could launch its attacks on the Lower Casamance,” to name these charges).

173. TOURAY, *supra* note 135, at 100.

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plans and benefits of their unification.¹⁷⁴ It was the second move involving Senegal, after the short-lived Mali Federation of 1959-1960,¹⁷⁵ a union of eight French colonies in Africa that was left over from French West Africa.¹⁷⁶ The federation by France dated back to 1895 and included: Mauritania, Senegal, Mali, Guinea, Côte d'Ivoire, Burkina Faso, Benin, and Niger.¹⁷⁷ Coming after these French colonial initiatives, the Senegambia Confederation was a pragmatic union based on mutual security interests that, for all its seeming brevity, was one of the longest-lived African unions of its time. For one thing, it outlasted the Union of Independent African States (UIAS) of 1959 initially between Ghana and Guinea that Mali joined in 1960.¹⁷⁸ The UIAS was dissolved in 1963 after only four years in existence.¹⁷⁹ Most importantly, the measure was a product of the locust years of African

174. Richmond, *supra* note 67, at 178; Arnold Hughes & Janet Lewis, *Beyond Francophonie?: The Senegambia Confederation in Retrospect*, in STATE AND SOCIETY IN FRANCOPHONE AFRICA SINCE INDEPENDENCE 229 (Anthony Kirk-Greene & Daniel Bach, eds., 1995).

175. See Alistair Boddy-Evans, *The Federation of Mali*, ABOUT EDUCATION (Jan. 20, 2017), <http://africanhistory.about.com/od/mali/a/FedMali.htm>; Donn M. Kurtz, *Political Integration in Africa: The Mali Federation*, 8 J. MOD. AFR. STUD. 405-24 (1970), <http://www.jstor.org/stable/158851>; WILLIAM J. FOLTZ, FROM FRENCH WEST AFRICA TO THE MALI FEDERATION (1965).

176. See generally ALDRICH, *supra* note 43; FOLTZ, *supra* note 175.

177. See generally ALDRICH, *supra* note 43; FOLTZ, *supra* note 175. Many of these states bore different names during the colonial period that they changed after gaining independence. Mali was named French Soudan, Guinea was called French Guinea, Côte d'Ivoire was named Ivory Coast, Burkina Faso was called Upper Volta, and Benin was named Dahomey. See Angela Thompsell, *The Colonial Names of African States: Modern African Nations Compared with Their Colonial Names*, THOUGHT CO. (Feb. 4, 2017), <https://www.thoughtco.com/colonial-names-of-african-states-43755>.

178. The initiative generated a flurry of commentaries in academic and popular forums, including: Mark W. DeLancey, *The Ghana-Guinea-Mali Union: A Bibliographic Essay*, 9 AFR. STUD. BULL. 35-51 (1966); *3 Nations in African Union*, CHI. DAILY DEFENDER 4 (July 3, 1961); *Ghana, Guinea, and Mali Inaugurate New Union*, WASH. POST A9 (July 2, 1961); *3 African Lands Take Unity Step: Ghana, Guinea, and Mali Sign Charter for New Grouping* NY TIMES 9 (Apr. 30, 1961); Russell Howe, *Ghana, Guinea Build Federation Designed to Lure Other States*, WASH. POST A4 (May 23, 1959); *The Birth of UIAS*, WASH. POST A16 (May 6, 1959); and Thomas F. Brady, *New West Africa Union Sealed by Heads of Ghana and Guinea*, NY TIMES 2 (May 2, 1959).

179. See DeLancey, *supra* note 178.

economic development hallmarked by unrelieved material distress that set the region negatively apart from the rest of the international community;¹⁸⁰ it took place during the “lost decade” of the 1980s when Africa lagged hopelessly behind the rest of the world in many policy areas, including health, education, and general living standards.¹⁸¹

For all of its benefits, the Senegambia Confederation agreement was a pact of severely unequal partners. By population alone, at the time of the agreement in 1982, Senegal had over nine times Gambia’s population.¹⁸² Senegal’s population comprised nearly 6 million people versus Gambia’s population of a little over 648,000 people.¹⁸³ The disparity in population size led some critics even from Senegal to liken the agreement to an annexation disguised as expanded security cooperation.¹⁸⁴ There were indications that Gambians and their leaders feared losing power, identity, and being utterly dominated by the Senegalese.¹⁸⁵ The unequal-ness of the Confederation was a process maintained solely by support from elites from both countries. The Confederation had little popular or grassroots support from citizens from either country, especially those from Gambia who vehemently opposed it.¹⁸⁶ Some observers took the view that but for the 1981 military coup that Senegalese troops put down, Gambian leader Jawara would most likely not have entered into the merger agreement.¹⁸⁷ With the initial threat of domination dissipated, the union experiment died as quickly as it had begun.

180. *See supra* note 14 and accompanying text.

181. *See supra* note 13 and accompanying text.

182. See the figures for the two countries under the year 1982 in POPULATION PYRAMIDS OF THE WORLD FROM 1950 TO 2010, <https://populationpyramid.net/senegal/1982/> (last visited Mar. 11, 2017); and POPULATION PYRAMIDS OF THE WORLD FROM 1950 TO 2010, <https://populationpyramid.net/gambia/1982/> (last visited Mar. 11, 2017).

183. *See id.*

184. *See* Gupte, *supra* note 136.

185. Hughes & Lewis, *supra* note 174, at 236.

186. *Id.* at 236–37; *see also supra* notes 160–62 and accompanying text.

187. *Cf.* Jackson & Rosberg, *supra* note 17, at 12 (speculating that the episode so “undermined the security of the Gambian government” as to impel it to enter the agreement) with Arnold Hughes, *The Collapse of the Senegambian Confederation*, 30 J. COMMONWEALTH & COMP. POLITICS 200 (Jul. 1992) (opining that “the confidence of the Gambian government recovered as memories of the coup attempt of 1981 receded and its political authority was reestablished with the electorate.”).

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Given the bonds of geography and ethnic affinity that connect Senegal and Gambia, the impetus for some kind of integrated union dates back to the period before independence.¹⁸⁸ The result was the signing of a Treaty of Friendship and Cooperation between the two countries in January of 1991.¹⁸⁹ In the changed atmosphere of the relationship between Senegal and Gambia after 1989, a successful military coup took place in 1994 which finally brought the nearly three decade leadership of Sir Dawda K. Jawara to an end,¹⁹⁰ partly because the Senegalese leadership saw no point in intervening militarily this time to save Jawara.

IV. TOWARD APPROPRIATE STRUCTURES FOR GOVERNANCE AND DEVELOPMENT IN AFRICA IN THE 21ST CENTURY: FOUR TAKEAWAYS (OR “SOLUTIONS”) FROM THE CASE STUDY

There are four takeaways or “solutions” that may be gleaned from the preceding case study on the Senegambia Confederation. The first revolves around the need to redraw Africa’s artificial boundaries in order to promote development. However, this could take a long time during which time frame development must take place within the present boundaries, whether those borders are natural or artificial (i.e. arbitrarily determined by former colonial powers).¹⁹¹ Compared to this first solution, the other three takeaways are less grand. These midrange measures are: political engineering, which is necessary but by itself insufficient; political engineering, which must be coupled with cultural engineering; and political performance, which must be synchronized with the preceding two factors. In other words, the three midrange solutions must occur in tandem, rather than sequentially.

188. See SENGHOR, THE POLITICS OF SENEGAMBIAN INTEGRATION, *supra* note 130, *passim*.

189. TOURAY, *supra* note 135, at 116.

190. Howard W. French, *In Gambia, New Coup Follows Old Pattern*, NY TIMES (Aug. 28, 1994), <http://www.nytimes.com/1994/08/28/world/in-gambia-new-coup-follows-old-pattern.html>. See John A. Wiseman & Elizabeth Vidler, *The July 1994 Coup D’Etat in the Gambia: The End of An Era?*, 84 COMMONWEALTH J. INT’L AFF. 53–65 (2008), for a critical analysis on the coup.

191. See *supra* note 6 and accompanying text.

A. Redraw African's Artificial Boundaries

The first takeaway in the journey to fashioning appropriate structures for development in Africa is to redraw the continent's arbitrarily fixed boundaries to make them more suited for the work of development. The simple logic to this solution—and its attractiveness—lies in the fact that, since the European colonizers created these unnatural boundaries, all that is needed to fix the problem is to redraw these boundaries. This grand or overarching solution, however, assumes too much. One of those excessive assumptions is that the initial boundary lines can be deciphered. Further, since an international entity created the problem, we would also need an international organization to fix the problem.

The problem, though, to illustrate with the doctrine of flux (i.e., “everything flows”) is that everything changes and nothing stands still.¹⁹² As the Ionian philosopher, Heraclitus (535-475 B.C.) famously stated, “[n]o man ever *steps* in the *same* river *twice*, for it's not the *same* river and he's not the *same* man.”¹⁹³ As a corollary, there is no consensus yet, and it is not clear whether there will ever be a consensus, on the grand solution involving a redrawing of the continent's many artificial boundaries. Some states present today in the African landscape did not exist in precolonial Africa;¹⁹⁴ neither Senegal nor Gambia featured in the precolonial map of Africa.¹⁹⁵ The same is true of a state like Nigeria, which did not exist in pre-colonial Africa but whose territory encompasses three major ethnic groups, namely, Igbo, Hausa-Fulani, and Yoruba, each numerous enough to form an independent country.¹⁹⁶

192. See Tim Rayner, *Heraclitus, Change, and Flow*, PHIL. FOR CHANGE (Apr. 7, 2008), <https://philosophyforchange.wordpress.com/2008/04/07/heraclitus-on-change/>.

193. Socrates, *Heraclitus (535-475 BCE)*, CLASSICAL WISDOM WEEKLY (July 17, 2013), <http://classicalwisdom.com/heraclitus-535-475-bce/>.

194. See *A Complete Map of Africa*, MAPS ETC., http://etc.usf.edu/maps/galleries/africa/complete/index.php?pageNum_Recordset1=0&totalRows_Recordset1=86 (last visited Mar. 6, 2017) (gallery of 86 maps of Africa, including snapshots of precolonial period).

195. *Id.*

196. Philip C. Aka, *Human Rights as Conflict Resolution in Africa in the New Century*, 11 TULSA J. COMP. & INT'L L. 179, 203–05 (2003).

B. Political Engineering is Necessary, But Not Sufficient

A second lesson emanating from the case study of the Senegambia Confederation is that political engineering is necessary for robust development. As defined here, *political engineering* is constitutional engineering, including innovative political structure, and robust participation in economic integration. We take a close look at each of these elements, using the relations between Gambia and Senegal as an example where necessary.

Constitutional engineering is the process wherein political actors devise a “higher law,” usually embodied in a written document, notably a constitution.¹⁹⁷ It includes elements such as power sharing and devolution and cleaner (or less corrupt) governments, whether or not these techniques are enshrined in a charter document.¹⁹⁸ Constitutional engineering calls to mind the advice of President Barack Obama in a speech he gave to the Ghanaian lawmakers and people during a state visit to the country in July of 2009, to the effect that Africa “needs strong institutions,” not strongmen.¹⁹⁹ These institutions, he said, include strong parliaments, honest police forces, independent judiciaries, independent presses, assertive civil society, and a vibrant private sector.²⁰⁰ Without these institutions, it is hard to engage in the

197. ZACHARY ELKINS, *Constitutional Engineering*, in INTERNATIONAL ENCYCLOPEDIA OF POLITICAL SCIENCE (Bertrand Badie et al. eds., 2016), <http://sk.sagepub.com/reference/intlpoliticalscience/n101.xml>. The term *engineering* is instructive because engineers are workers who use scientific techniques to design, create, or build structures such as roads and bridges. See *Engineering*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/engineering> (last visited Mar. 6, 2017).

198. On this point, the United States comes to mind, where the judiciary helps to create constitutional law through its rulings. See, e.g., Cornell Univ. Law Sch., *Constitutional Law: An Overview* LEGAL INFO. INST., https://www.law.cornell.edu/wex/constitutional_law (last visited Mar. 6, 2017) (positing that because the Supreme Court of the United States plays “a crucial role in interpreting the Constitution[,]” constitutional law study within the U.S. “focuses heavily on Supreme Court rulings.”).

199. Obama, *supra* note 1.

200. *Id.*

nation-building necessary to complete African countries' emergence from foreign control.²⁰¹

In the period since independence, Senegal and Gambia have unveiled several measures of constitutional engineering, designed to bring about the governance structure they need to realize development.²⁰² Since 1962, Senegal introduced several amendments to its independence constitution, including the 2001 referendum that culminated in the current constitution.²⁰³ Gambia has done pretty much the same, both under Dawda Jawara's era and in the period since 1994 under Yahya Jammeh, until his departure from office in January of 2017.²⁰⁴ However, none of these measures of political reform went far enough.

One indicator for Senegal is the unresolved nation-building trouble in the Casamance,²⁰⁵ while for Gambia, scarcely improved living conditions from the Jawara era have been worsened by human rights abuses under Jammeh since 1994.²⁰⁶ Still on Gambia, although recognized at home and abroad as a responsible leader who respected

201. *Id.* (“[J]ust as it is important to emerge from the control of other nations, it is even more important to build one’s own nation.”).

202. *See generally* Int’l Inst. for Democracy and Electoral Assistance, *Constitutional History of Senegal*, CONSTITUTION NET, <http://www.constitutionnet.org/country/constitutional-history-senegal> (last visited Mar. 6, 2017) (referencing Senegal); JAMMEH, *supra* note 78, *passim*.

203. *See* Int’l Inst. for Democracy and Electoral Assistance, *supra* note 202.

204. *See* JAMMEH, *supra* note 78, at 20–36 and 37–59 (dealing, respectively, with the First Republican Constitution 1970–94, and Second Republican Constitution since 1997).

205. *See* Tomas Serna, *Senegal’s Southern Conflict: Forgotten but Not Gone*, INSIGHT ON CONFLICT (Sept. 6, 2016), <https://www.insightonconflict.org/blog/2016/09/senegals-southern-conflict-forgotten-not-gone/>.

206. *See, e.g.,* *Gambia, World Report 2016*, HUMAN RIGHTS WATCH, <https://www.hrw.org/sites/default/files/gambia.pdf> (last visited Mar. 6, 2017); *Gambia 2015/2016*, AMNESTY INTERNATIONAL, <https://www.amnesty.org/en/countries/africa/gambia/report-gambia>; Jeffrey Smith & Maggie Dwyer, *Gambia’s President is under Pressure to Step Down. Is It Time for a Change?*, WASHINGTON POST (May 17, 2016), <https://www.washingtonpost.com/news/monkey-cage/wp/2016/05/17/gambian-president-jammeh-is-under-pressure-to-step-down-is-it-time-for-a-regime-change/>; *The Gambia under Yahya Jammeh: 22 Years of Repression and Rights Violations*, MEDIA FOUNDATION FOR WEST AFRICA (July 22, 2016), <http://www.mfwa.org/country-highlights/the-gambia-under-yahya-jammeh-22-years-of-repression-and-rights-violations/>.

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the human rights of his citizens, Jawara was noted for his limited access to public services, including access to water.²⁰⁷ In contrast, Jammeh, who is notorious for unpredictability and repressive leadership, promoted neither human rights nor better access to public services.²⁰⁸ On December 2, 2016, after 22 years in office, the Jammeh era finally came to an end when the Gambian dictator lost the presidential election to Adama Barrow, candidate of a coalition of seven parties that ran against him.²⁰⁹

The examination of political structure as part of political engineering requires a discussion of whether a confederation was the proper tool for deepening relations between Senegal and Gambia in the 1980s. Three mutually-exclusive possibilities exist universally regarding division of governmental powers in any political system, namely: unitarism, federalism, and confederalism.²¹⁰ Under unitarism, ultimate governmental authority rests in the hands of the national or central government.²¹¹ In this system, responsibility for even local matters, such as education, law enforcement, and land use, is lodged in the national government.²¹² Like most states in Africa, both Senegal and Gambia operate under a unitary system of government.²¹³

Confederalism is the direct opposite of unitarism.²¹⁴ Ultimate governmental authority in this system rests in the hands of non-central entities,²¹⁵ such as provinces, cantons, or states. A good example would

207. Smith & Dwyer, *supra* note 206. As a matter of fact, protest over this basic amenity led to violent clashes with the police weeks before the July 1994 coup which ended Jawara's period in office. *Id.*

208. *See id.*

209. *See Gambia's Yahya Jammeh Loses Election to Adama Barrow, supra* note 80.

210. *See* STEFFEN W. SCHMIDT ET AL., AMERICAN GOVERNMENT AND POLITICS TODAY 81–82 (12th ed. 2004) (brief overview of all three systems); *Nation and States: Systems of Government*, SPARKNOTES, <http://www.sparknotes.com/us-government-and-politics/political-science/nations-and-states/section4.rhtml> (last visited Mar. 6, 2017).

211. SCHMIDT ET AL., *supra* note 210, at 82.

212. *Id.*

213. *See Political Handbook of the World 2014*, CQ PRESS, <http://library.cqpress.com/phw/toc.php?source=Political+Handbook+of+the+World+2014&mode=phw-govtype> (last visited Mar. 17, 2017).

214. *See* SCHMIDT ET AL., *supra* note 210, at 82.

215. *Id.*

be the United States under the Articles of Confederation from 1781-89.²¹⁶ Under this system, rather than operate with direct control, the central government must act through the non-centers and “handles only those matters of common concern expressly delegated to it by the” non-centers.²¹⁷ Today, independent organizations seeking to achieve a limited purpose, such as military alliance or multinational peacekeeping engagements (i.e., the North Atlantic Treaty Organization or even the United Nations) use this formula.²¹⁸ The point is that because of its loose nature vis-à-vis other techniques of power division and devolution, few real states today use this model.²¹⁹

Federalism marks a middle ground in-between the “polarities” of unitarism and confederalism. Compared to a unitary system where the central government rules supreme, in federalism each level of government is supreme in the sphere of authority granted to it by a written constitution, and each can “act directly on the people through laws and through the actions of elected and appointed governmental officials.”²²⁰ The fact that few countries in Africa have a federalist system of government testifies to the scarcity of power devolution in the region.²²¹ Yet worse, due to fear of “instability,” many of the few nominally federal states in the region, such as Nigeria, operate their governments in a unitary format.²²²

Given the facts above, federalism, rather than confederalism, presented a better system of government for the unification of Gambia and Senegal. In short, given its unworkability, a confederation was probably *not* the most appropriate option for expanding the

216. *Nation and States: Systems of Government*, *supra* note 210.

217. SCHMIDT ET AL., *supra* note 210, at 82.

218. *See id.*

219. *See Disadvantages of a Confederation*, VIRTUAL KOLLAGE, <http://virtualkollage.blogspot.com/2016/05/disadvantages-of-confederation.html> (last visited Mar. 17, 2017) (outlining the disadvantages of a confederal system of government).

220. SCHMIDT ET AL., *supra* note 210, at 82.

221. *See Political Handbook of the World 2014*, *supra* note 213 (listing about a dozen African countries as federal systems, including Ethiopia, Nigeria, and South Africa). *See also* JACKSON & ROSBERG, *supra* note 17, at 6 (discussing probing factors that account for the “lack of sympathy for federalism” in Africa).

222. *See* Philip C. Aka, *Bridging the Gap Between Theory and Practice in Humanitarian Action: Eight Steps to Humanitarian Wellness in Nigeria*, 24 WILLIAMETTE J. INT’L L. & DISPUTE RESOLUTION 1, 24–31 (2016).

longstanding relations between the two countries to their mutual political and economic benefits.

Finally, we examine robust participation in economic integration as part of political engineering. ECOWAS is one of eight regional economic communities in Africa recognized by the African Union, the association of independent states in Africa that, in 2002, replaced the Organization of African Unity.²²³ Both Gambia and Senegal are founding members of the economic community.²²⁴ Additionally, Gambia is a member of Communauté des Etats Sahélo-Sahariens (CEN-SAD).²²⁵ Formed in February 1983, the organization consists of 28 member countries.²²⁶ *Quantity* is not the only measure of the depth of commitment to economic integration; *quality* also counts. This wisdom mandates an examination of cultural engineering as the next sub-issue in this discussion.

C. Cultural Engineering is Necessary to Complement Political Engineering

Optimum results in (economic) development necessitate coupling of political and cultural engineering.²²⁷ Cultural engineering is a product of attitudinal changes. A key concept of comparative politics that cultural engineering evokes is political culture, defined as basic attitudes about political life that are widely shared within a particular

223. See *supra* note 126 and accompanying text.

224. See *supra* note 10.

225. *CEN-SAD Celebrates 13th Anniversary*, PANAPRESS (Feb. 4, 2011), <http://www.panapress.com/CEN-SAD-celebrates-13th-anniversary—12-756752-29-lang2-index.html>.

226. See *id.* The members include: Benin, Burkina Faso, Central African Republic, Chad, Comoros, Côte d'Ivoire, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ghana, Guinea, Guinea-Bissau, Kenya, Libya, Liberia, Mali, Morocco, Niger, Nigeria, Sao Tomé & Príncipe, Senegal, Sierra Leone, Somalia, Sudan, Togo, and Tunisia. *Id.*

227. See Ali A. Mazrui, *Constitutional Change and Cultural Engineering*, in *CONSTITUTIONALISM IN AFRICA: CREATING OPPORTUNITIES, FACING CHALLENGES* 19–26 (J. Oloka-Onyango ed., 2001). Mazrui comments on the relationship between constitutional engineering and cultural engineering. He contends that for restructuring to take place in Africa—what he calls Afrostroika, a parody of perestroika (or political restructuring in the Soviet Union under Mikhail Gorbachev)—cultural engineering needs to take place alongside constitutional engineering. *Id.*

community.²²⁸ Depending on the society in question, these shared attitudes may include broadly diffused core political values—whether shaped by secular or religious ideologies—that are divisible into three clusters, namely: (1) attitudes toward authority, (2) attitudes toward society, and (3) attitudes toward politics, especially the state.²²⁹ In matured democracies like the United States, these features of cultural engineering include institutional elements of democracy, measured as indicators of progress toward the ideals of democracy.²³⁰ These necessary elements include freedom and equality,²³¹ as well as a commitment by the government to preserve these rights for all without discrimination;²³² respect of minority rights;²³³ a system for popular participation enabling private interest groups to “to meet, organize, plan strategy, and lobby government for action” without fear of reprisal;²³⁴ an independent judiciary that uses its authority to enforce the rule of law;²³⁵ and a cultural commitment to democratic ideals among all levels of society, evident in shared ideals that include reverence for the Constitution, pursuit of freedom and equality, respect of minority rights, and fidelity to the rule of law.²³⁶ Development itself, a key term in this study, also entails—and mandates—attitudinal changes. As opposed to mere promise or assertion of change, development is a “big cultural” moment requiring a complex process that entails changes “in people’s minds as well.”²³⁷

Why political engineering by itself, no matter how creative, is not enough, making attitudes imperative is because, as Professor Donald L. Horowitz pointed out, those charged with responsibility for implementing designs “may wish to alter the design to favor

228. *See, e.g.*, SODARO, *supra* note 44, at 293.

229. *Id.* at 294–95, 300–04.

230. *See* LARRY BERMAN & BRUCE ALLEN MURPHY, *APPROACHING DEMOCRACY* 11-16 (8th ed. 2013).

231. *Id.* at 8–9.

232. *Id.* at 14.

233. *Id.* at 9–10.

234. *Id.* at 13.

235. *Id.* at 14–15.

236. *Id.* at 16.

237. DAVIDSON, *supra* note 9, at 225.

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themselves.”²³⁸ To be sure, “it is possible to build in safeguards or tripwires that make alterations difficult or set off alarms when attempts are made.”²³⁹ The downside though is “the looser the design and the easier the adoption, the easier the alteration as well.”²⁴⁰

Recall President Obama’s speech in 2009 to the Ghanaian lawmakers and people.²⁴¹ Obama observed that history is on the side of people who follow the rule of law, rather than the rule of big men who “use coups or change constitutions to stay in power.”²⁴² Cultural engineering is the work of citizens—governors and the governed alike—engaged in the daunting yet necessary work of conscientiously building their own nations. This work, necessary to achieve political and economic development, is guided by the rule of law, rather than the rule of big men.²⁴³

Nigeria, several countries away from Senegambia and a founding member of ECOWAS, is a good example of what happens where a plenitude of political reforms on paper are unaccompanied by attitudinal changes anchored in the rule of law. Beginning with preparations for its Second Republic in 1979, and in-between military and civilian regimes until the present day, the country has unveiled numerous measures of political reforms, including the adoption of new constitutions.²⁴⁴ Yet, judged by the scandal of corruption and abuse of

238. Donald L. Horowitz, *Constitutional Design: Proposals Versus Processes* 32 (Dec. 9-11, 1999) (unpublished paper prepared for conference at University of Notre Dame), <http://www3.nd.edu/~kellogg/faculty/research/pdfs/Horowitz.pdf>.

239. *Id.*

240. *Id.*

241. *See supra* note 1 and accompanying text.

242. Obama, *supra* note 1.

243. *See* John Mukum Mbaku, *The Rule of Law and Poverty Eradication in Africa*, 13 *J. AFRICAN & ASIAN STUD.* 530, 533 (2014); and, John M. Mbaku, *Providing a Foundation for Wealth Creation and Development in Africa: The Role and Rule of Law*, 38 *BROOK. J. INT’L L.* 959 (2013), for a chronicle of the positive influence of the rule of law on economic development.

244. *See, e.g.*, LARRY DIAMOND, *Nigeria: Pluralism, Statism, and the Struggle for Democracy*, in 2 *DEMOCRACY IN DEVELOPING COUNTRIES: AFRICA* 45–49 (Larry Diamond et al. eds., 1988) (chronicling “[t]he transition to the Second Republic”); Jayson S. Myers, *A Commitment to Reform: The Constitution and Politics of Nigeria’s Second Civilian Regime* (July 1982) (unpublished M.A. Thesis, University of British Columbia) (focusing on the Second Republic from 1979 to 1983); Ignatius Akaayar Ayua & Dakas C.J. Dakas, *Federal Republic of Nigeria*, in *CONSTITUTIONAL*

power among elites in the land,²⁴⁵ joined by pervasive scam artistry among the citizenry,²⁴⁶ the country still has a long way to go to implement the attitudinal changes necessary to internalize political engineering.²⁴⁷

Little evidence from the case study suggests that individually (domestically) or jointly (i.e. in relations with each other) Senegal and Gambia have accumulated the right quantum of cultural engineering that, with other requisite elements, translates into an optimum structure for economic development. The two states were unable to fashion a mutually satisfactory common ground sufficient to satisfy concerns of national security and save their political experiment.²⁴⁸ The same inability to reach common grounds was also evident in economic integration. The requisite commitment should include a search for common ground that promotes interregional trade as opposed to repeated pursuit of advantages inconsistent with the good of the whole. Instead, like other member-states of ECOWAS, both countries exhibited lax commitment to economic integration, evident in missed targets, as well as a lack of sound and credible policies domestically to drive economic integration that bedevil ECOWAS and other regional economic communities in Africa.²⁴⁹ No issue portrays this lax

ORIGINS, STRUCTURE, AND CHANGE IN FEDERAL COUNTRIES 239 (John Kincaid & George Alan Tarr eds., 2005) (covering all four Republics of the country).

245. See DANIEL JORDAN SMITH, *A CULTURE OF CORRUPTION: EVERYDAY DECEPTION AND POPULAR DISCONTENT IN NIGERIA* (2008) (chronicling the widespread nature of corruption in the daily lives of many Nigerians, many of which are perpetrated by government officials, including police and other security personnel).

246. See Erika Eichelberger, *What I Learned Hanging Out with Nigerian Email Scammers*, MOTHER JONES (Mar. 20, 2014, 5:00 AM), <http://www.motherjones.com/politics/2014/03/what-i-learned-from-nigerian-scammers>.

247. See ROTIMI T. SUBERU, *Institutions, Political Culture, and Constitutionalism in Nigeria*, in *POLITICAL CULTURE AND CONSTITUTIONALISM: A COMPARATIVE APPROACH* 197 (Daniel P. Franklin & Michael J. Baun eds., 1995).

248. See *supra* notes 169–73 and accompanying text.

249. See Aka, *supra* note 196, at 194–96. Evolution of regional integration in Africa usually means progress from a *free trade area* to a *customs union* (an advanced form of free trade area that can include consummation of a common external tariff on countries outside the zone) and beyond to eventual *political union*. Hartzenberg, *supra* note 10, at 2 n.1. No African regional community has accomplished this full evolution due to missed targets.

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commitment like the fact that, as members of a key customs union within their sub-region with the mission of a common regional currency,²⁵⁰ Senegal and Gambia remained steadfastly glued to currencies tied to the monetary regimes of their former colonial overlords.²⁵¹

D. Political Performance is Necessary to Crown the Twin Factors of Political Engineering and Cultural Engineering

The fourth teachable lesson from the case study on the failure of the Senegambia Confederation relates to political performance. In the sense that it is used here, the term refers to *how well* politicians, whether elected or appointed, serve their countries.²⁵² In the search for an appropriate structure to conduct development, good leadership embedded in political performance provides a critical glue that activates political engineering and cultural engineering, without which they remain inanimate.²⁵³

Scholars have devised various clusters of governmental activities to measure political performance.²⁵⁴ One such cluster involves the formulation and implementation of *socioeconomic policies* designed to achieve economic development necessary to improve the living standards of residents.²⁵⁵ Another, *political stability*, presents itself when the government forges the kind of unity that creates an orderly and predictable political environment that protects residents against the threat of serious domestic turmoil.²⁵⁶ Third and final is the guarantee of

250. See, e.g., *Common West African Currency: Eco in 2015*, MODERN GHANA (May 29, 2009), <https://www.modernghana.com/news/219137/1/common-west-africa-currency-eco-in-2015.html>.

251. See *supra* note 165 and accompanying text.

252. ROLF H.W. THEEN & FRANK L. WILSON, *COMPARATIVE POLITICS: AN INTRODUCTION TO SEVEN COUNTRIES* 20 (3d ed. 1996).

253. A political structure, no matter how creatively designed, is only as good as the men and women who run it. Leaders are distinguished from mere power holders. Instead, they are office holders capable of producing social change that will satisfy the authentic yearnings of their followers. See JAMES MACGREGOR BURNS, *LEADERSHIP* 4–5 (1978).

254. See THEEN & WILSON, *supra* note 252, at 20–21.

255. *Id.* at 20.

256. *Id.* at 21.

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human rights:²⁵⁷ basic guarantees of a political, economic, social and cultural nature, which human beings everywhere need to lead a complete and fulfilled life.²⁵⁸

Although human rights may not appear critical to the survival of a nation, they are extremely important.²⁵⁹ As Professors Theen and Wilson point out, “[a]ll member states of the United Nations have accepted the Universal Declaration of Human Rights, which obligates them to” guarantee for their citizens a range of basic human rights.²⁶⁰ These rights include “freedom from racial, religious, or sex discrimination; the right to a fair trial; freedom of thought, conscience, and religion; freedom of peaceful assembly and association; freedom to hold opinions, to seek, receive, and impart ideas and information; the right to elect leaders through universal suffrage; the right to work with free choice of employment; [and] the right to education[.]” among others.²⁶¹ In short, the obligation to promote human rights evaluates the ability of national leaders to “meet[] these pledges, keeping in mind the differing levels of political development and the different concepts of freedom.”²⁶²

Two of various possible *composite* indicators that could be said to sum up all measures of political performance, would be per capita income, and the percentage of the population who live below poverty line. The first indicates the ability of a government to generate the

257. *Id.*

258. See Kenneth Roth, *Human Rights Organization: A New Force for Social Change*, in REALIZING HUMAN RIGHTS: MOVING FROM INSPIRATION TO IMPACT 225, 230–31 (Samantha Power & Graham Allison, eds., 2000) (commenting on the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948).

259. See THEEN & WILSON, *supra* note 252, at 21. Professors Theen and Wilson noted that, compared to the other two indices for measuring political performance, evaluating human rights “is more controversial.” *Id.* Partly for this reason, they came to the middle ground that “[a]s evaluations of the state of human rights are made, we need to be aware that [developing] countries that are experiencing social change, or that are seeking a way to integrate hostile social or ethnic groups, may well choose to delay the implementation of full liberties until the crises of modernization or integration are past.” *Id.*

260. *Id.*

261. *Id.*

262. *Id.*

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wealth individual citizens need to satisfy their economic well-being.²⁶³ The second, defined universally in terms of the number of individuals who live on less than \$1.25 USD a day for low-income countries, speaks to the ability of a government to alleviate extreme poverty.²⁶⁴ Like many African governments, Senegal and Gambia could do better on political performance, within the limits of their lean material resources, to the material glory of their long-suffering citizens. In Senegal, gross domestic product (GDP) per capita averaged approximately \$940 USD from 1960 until 2015.²⁶⁵ Senegal's per capita income "reach[ed] an all-time high of \$1091 USD in 1961 and a record low of \$793 USD in 1994."²⁶⁶ In Gambia, GDP per capita income averaged \$511 USD from 1966 until 2015.²⁶⁷ Per capita income "reach[ed] an all-time high of \$562 USD in 2010 and a record low of little over \$414 USD in 1967."²⁶⁸ As of 2015, after over half-century of independence, both countries ranked within the classification of low-income states (GDP of \$1,025 or less USD per capita) as specified by the World Bank.²⁶⁹ Nearly 50 percent of the population in both countries still live below the poverty line.²⁷⁰ The only flicker of good news that tempers the otherwise difficult economic story is that, based

263. See, e.g., J. TYLER DICKOVICK & JONATHAN EASTWOOD, *COMPARATIVE POLITICS: INTEGRATING THEORIES, METHODS, AND CASES* 82 (2013).

264. See, e.g., Press Release, New Data Show 1.4 Billion Live on Less Than US \$1.25 a Day, But Progress Against Poverty Remains Strong, WORLD BANK (Aug. 16, 2008), <http://www.worldbank.org/en/news/press-release/2008/09/16/new-data-show-14-billion-live-less-us125-day-progress-against-poverty-remains-strong>.

265. *Senegal GDP Per Capita 1960-2016*, TRADING ECONS., www.tradingeconomics.com/senegal/gdp-per-capita.

266. *Id.*

267. *Gambia GDP Per Capita 1966-2016*, TRADING ECONS., www.tradingeconomics.com/gambia/gdp-per-capita.

268. *Id.*

269. *World Bank Country and Lending Group: Country Classification*, DATA HELP DESK, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups> (last visited Mar. 14, 2017).

270. See *Senegal*, THE WORLD FACTBOOK, *supra* note 37; *Gambia*, THE WORLD FACTBOOK, *supra* note 69. See also Matthew Evans Teti, *Gambia*, in *ENCYCLOPEDIA OF WORLD POVERTY* 414 (Mehmet Odekon, ed., 2006) (disclosing that in 2005, over sixty percent of Gambians lived below the poverty line, with poverty concentrated largely in rural regions and the eastern half of the country, especially among women).

on recent International Monetary Fund's global economic outlook data, Senegal ranks among the ten fastest-growing economies in Africa.²⁷¹

V. CONCLUSION

Africa's artificial boundaries inherited from European imperialism will have to be redrawn to make room for viable nation-states that will form the vehicle for economic development in the 21st century. For the best result, the task must be performed by an international organization, such as the African Union:²⁷² the same route through which the artificial boundaries were constructed in the first place. The difference is that this time, Africans will redraw the boundaries themselves. Such a large undertaking requires consensus, which is unlikely to be found anytime soon. Even if consensus was attained, boundaries must be redrawn with the consideration that everything is constantly in flux. Until the time such consensus occurs, we must realistically settle with less grand measures.

Such midrange strategies, elicited from a case study of the Senegambia Confederation tracking the locust years of African economic development during the lost years of the 1980s, comprise the solutions of political engineering, cultural engineering, and political performance. It is hard to minimize the impediment that Africa's artificial boundaries pose to good governance and development. However, midrange strategies set the groundwork for grand solutions like redrawing artificial boundaries.²⁷³

Not only does the Senegambia Confederation elicit midrange strategies germane for the conduct of African political and economic development, it also stands out as the boldest *application* yet of these strategies since the unsuccessful union attempt of 1959 involving Ghana, Guinea, and Mali.²⁷⁴ This Article presents an answer as to why

271. See Joe Myers, *Which Are Africa's Fastest-Growing Economies?*, WORLD ECON. FORUM (Apr. 19, 2016), <https://www.weforum.org/agenda/2016/04/which-are-africa-s-fastest-growing-economies/>.

272. See Aka, *supra* note 196, at 201–05.

273. See Jackson & Rosberg, *supra* note 17, at 5 (noting that “public attitudes and behavior” reflected in “the social and political boundaries between” ethnic groups in Africa whose homelands straddle two or more countries may be “more significant” than the physical boundaries dividing the countries).

274. See *supra* notes 178–79.

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the political experiment failed. The explanation focused on three teachable lessons from that failure: the appropriate structure necessary for robust development in Africa, broadly defined, requires (1) political engineering *and* (2) cultural engineering with (3) political performance. The right mix of these goods will depend on the particular country or, as with the Senegambia Confederation that formed the case study here, the set of countries involved. The relative stability in Senegambia, particularly with respect to Senegal, one of the few countries in Africa yet to experience a military takeover of power, obscures broader issues bearing on appropriate structure for development that the failure of the ill-fated union between Senegal and Gambia brought to the fore.