Preface

Africa is one of the most ethnically and geographically diverse continents in the world. In addition to the fact that it is rich in cultures and traditions, it is also a region of the world that has been most affected by external forces, which include, but are not limited to, Christianity, Islam, colonialism, globalization, international trade, and many other influences.

When Europeans established colonies in Africa in the mid-1800s, it was necessary for them to make certain that there was peaceful co-existence between the many ethnocultural groups that lived in each colony. In order for the Europeans to maximize their interests in the colonies, which included the exploitation of each colony's natural resources for the benefit of the metropolitan economies, it was necessary that there be peace and security in each of the new territories. For, perpetual war between subcultures would have significantly increased the costs of undertaking trade, production, and other economic activities that were critical to the colonial project. In fact, without peace, many of the mercantile companies that came from Europe to help in the exploitation of the resources of each colony would have been less willing to devote the human and financial resources needed to fully exploit colonial resources and supply metropolitan factories with necessary raw materials. Thus, it was critical that violent ethnocultural conflict be minimized.

The methods employed by the European colonialists to ensure peaceful coexistence were mandated by the nature of colonialism. Colonialism was not a mutually-beneficial arrangement between the various African subcultures that populated each colony and the Europeans. Instead, colonialism represented the imposition, through violence, of the will of Europeans on Africans. As a consequence, it was inevitable that a significant amount of violence would be used by the Europeans to force all African ethnocultural groups within each colony to coexist peacefully in order to enhance the ability of the Europeans to maximize their interests. Many of the institutions that the Europeans brought to the colonies, then, were instruments of violence, which were used to conquer, subjugate, infantilize, and exploit Africans.

One of the most important things that decolonization and independence were supposed to offer Africans was the opportunity to develop and

adopt institutions that could enhance their ability to manage diversity effectively and create the necessary conditions for peaceful coexistence of all of each new country's subcultures. Unfortunately, the Africans who had captured the evacuated structures of colonial hegemony either did not take the post-independence institutional reform project seriously or were outright opportunistic and failed to adequately reconstruct and reconstitute the critical domains—that is, the political, administrative, and judicial foundations of the state—in order to provide institutional arrangements that enhanced the management of ethnocultural conflict and the safeguarding of the rights of each new country's various subcultures.

Many of Africa's modern states are essentially "divided societies"—in addition to the fact that each country consists of a collection of several ethnocultural groups that were forcibly brought together by European colonialists, each of these countries must also deal with religious diversity brought about by Christianity, Islam, and traditional African religions and, in recent years, globalization. The main challenge of constitutional design and the construction of governance institutions in Africa today is to provide each country with a constitutional order that is capable of (1) fully and effectively managing intergroup conflict and enhancing peaceful coexistence; (2) protecting the rights of citizens, especially those of minorities; (3) minimizing the monopolization of political space by the majority, to the detriment of minorities; and (4) effectively preventing impunity and government tyranny.

In this book, we examine James M. Buchanan's constitutional political economy model to show how each African country can use constitutional design to provide itself with institutional arrangements that enhance the management of diversity, adequately protect the rights of citizens, especially those of minority groups, and effectively constrain state custodians (i.e., civil servants and politicians) in order to minimize government impunity and tyranny. In his model, Buchanan emphasizes "rules" or "laws and institutions" and argues that, while laws and institutions or rules significantly enhance the ability of individuals to organize their lives and maximize their interests, they do so within a context in which they do not prevent other individuals or subcultures from acting similarly. Hence, laws and institutions can actually provide the wherewithal for peaceful coexistence.

We will also examine other approaches to the governing of divided societies and determine the extent to which they can inform Africa's struggle to promote peace and good governance. A close look at the American Republic's constitutional experience, for example, provides important lessons for constitutional design and constitutionalism in

Africa. In addition, an examination of the literature on comparative politics, as well as that on comparative constitutional law, can provide additional lessons for dealing with diversity in the African countries.

Today, African countries face a lot of challenges, many of which have constrained the ability of these countries to promote the rapid economic growth that is needed to generate wealth that can be used to deal with poverty and high rates of material deprivation. Of these, the most important is the failure of these countries to minimize sectarian violence, most of which is associated with destructive mobilization by subcultures that consider themselves marginalized by public policies. The question we are attempting to answer in this book is: How can African countries minimize tyranny and other forms of impunity, including that directed at minorities, and enhance good governance and peaceful coexistence? In answering this question, this book draws on the experiences of the American Republic and other countries, such as Canada, which have been able to maintain fully functioning democratic and rule-of-law systems for many years. In addition, we also draw on research published by experts in comparative politics and comparative constitutional law.

The ultimate goal of this book is to help readers, who hopefully, will include policymakers on the African continent, appreciate the importance of providing each African country with laws and institutions that enhance peaceful coexistence, especially of subcultures, since such peace is the foundation for any effective and sustainable effort to promote human development.