

# Constitutions and Conflict Management in Africa

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Preventing Civil War  
Through Institutional Design

*Edited by*

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## CHAPTER 9

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# Africa's Domestic Institutions of Integration and Accommodation: A New Database

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In contemporary conflict management scholarship, it has become generally accepted that institutions matter.<sup>1</sup> This principle implies that constitutional design—broadly defined as the overall institutional structure framing the political order—has significant effects on the extent and specific manifestations of social conflict. These effects of constitutional design are particularly relevant for the deeply divided societies of most African states. The predominant institutionalist approach assumes that constitutional design mediates a variety of historical and environmental sources of conflict, as well as sociological sources, such as demographic patterns of ethnic divisions.<sup>2</sup> Constitutional design is thus somewhat analogous to a semiconductor of social currents, capable of either amplifying or resisting the flows of shocks and stresses that make up the circuitry of conflict. Although there is general agreement on the importance of constitutional design as a mediating variable of conflict, there is wide-ranging debate on how particular institutions might serve to either magnify or pacify societal tensions. Consequently, scholars disagree about which institutions should work best for resolving conflict in general, or in any particular case.

Much of the literature on constitutional design for conflict management consists of either targeted case studies focused on one or a few countries, or broad deductive claims about how different institutional structures should mediate various types of conflict. This chapter aims to provide a base for wider

empirical study of these dynamics across Africa by surveying and categorizing the constitutional design of all African countries from a conflict management perspective. In order to make these classifications, I construct an index that assesses the extent to which domestic political institutions promote *integration* or *accommodation* across three dimensions of constitutional design. The roots and meaning of the integration versus accommodation typology are explored in the next section, which provides the theoretical background and analytical framework. The subsequent section explains the methodology used to operationalize the constitutional design index on a five-point scale. The final section provides a brief analysis of the findings and makes suggestions for further research. Summary explanations for the coding of constitutional design in each country are provided in Appendix 1. This chapter does not aim to resolve the substantive debates in the literature regarding the connection between constitutional design and conflict management. But the new database does provide a basis for future research into these questions.

### Theoretical and Analytical Framework

Building on literatures that examine ethnicity, nation-building, and state-building,<sup>3</sup> the more specific debate about constitutional design for conflict management in Africa may be traced back to competing proposals for the South African transition from the Apartheid regime to democracy. In his 1985 work, *Power-Sharing in South Africa*, Arend Lijphart warned against imposing democratic institutions based on principles of majority rule in a deeply divided society such as South Africa. According to Lijphart, majority rule can work only in societies that enjoy some level of fundamental consensus about the common good. In such cases, there may be a realistic possibility of alternation in government as a result of shifting political opinion among individuals and groups, and the underlying consensus can keep the society relatively unified as political power shifts between different groups. But in deeply divided societies, that fundamental consensus is lacking, and political preferences are more rigidly attached to group identities. Under such circumstances, according to Lijphart, a purely majoritarian system, devoid of assurances for minorities of their participation in government, is likely to lead either to an authoritarian dictatorship or to civil war.<sup>4</sup>

As an alternative, Lijphart outlined his constitutional design for a consociational democratic system, which he argued would offer the best possi-

bility for a peaceful transition from the Apartheid regime in South Africa. As defined in his previous work, Lijphart's consociational design consists of four basic institutional elements: (1) executive power-sharing through a coalitional cabinet; (2) group autonomy through federalism or other decentralization of authority; (3) proportionality in the electoral system, as well as in the civil service and allocation of public spending; and (4) constitutional provision for some form of minority veto.<sup>5</sup> Lijphart concluded (in 1985) that overall conditions in South Africa were favorable for a consociational democracy, although he also considered the possibility of partition as a fall-back option.

Another side of the debate may be traced back to the 1991 work of Donald Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society*.<sup>6</sup> Horowitz was more supportive of majoritarian democratic institutions, although he conceded the need to modify their more extreme forms in deeply divided societies. While agreeing that a plurality, first-past-the-post (FPTP) electoral system would be inappropriate for South Africa, Horowitz cautioned against Lijphart's recommendation for proportional representation (PR) in the legislature, due to its tendency to reinforce group identities by facilitating votes along racial and ethnic party lines. Horowitz's basic concern was that electoral systems should provide incentives for transcending boundaries of ascriptive identity, rather than producing in effect an ethnic census, which would risk exacerbating tensions over social divisions. Horowitz also was skeptical about the prospects for formation of a post-electoral, power-sharing coalition among all major groups, as called for by Lijphart's consociational design. Pointing out that consociationalism relies on development of cooperation among elites, rather than at the constituent level, Horowitz predicted that elites in deeply divided societies like South Africa would be unable to form or maintain governing coalitions in the face of extremist pressures from within their own groups.

In place of consociationalist PR elections, Horowitz recommended that South Africa adopt the alternative vote (AV). Also known as "instant run-off" elections, AV requires voters to rank-order ballot choices from a list of candidates running in single-member districts (SMDs). When ballots are counted, votes for losing candidates are assigned to the next preference on the ballot until a majority vote winner is obtained. Horowitz argued that AV represents a middle ground between consociationalist PR and majoritarian FPTP elections. Most important, Horowitz theorized that AV elections would provide incentives for formation of pre-electoral coalitions,

because candidates from one group would be motivated to seek support of voters from other groups for second or third preference on their ballots. Such electoral mechanisms that reward cross-group campaigning are known as "vote-pooling" systems, because they encourage groups to pool their votes prior to elections.

Horowitz also believed that democratic accountability demands an electoral system that offers choices between specific candidates, not just their political parties. If AV were rejected, he favored the single transferable vote (STV)—a modified PR system that allows preference voting for candidates—over the traditional PR system. Horowitz also endorsed the majoritarian institution of a directly elected presidency for South Africa, although he recommended that the electoral system be modified with a vote-pooling formula that would require a share of votes to be obtained from subnational units. He also recommended a federal system of government, not so much for purposes of providing group autonomy, but more for conflict management through vote-pooling and administrative separation of powers.<sup>7</sup>

Timothy Sisk offers a potential synthesis in his 1996 book, *Power Sharing and International Mediation in Ethnic Conflicts*. Sisk categorizes power-sharing institutions as either consociational—with PR elections, government quotas, and often ethnically based federalism—or integrative, with vote-pooling electoral systems, identity-blind government policies, and a unitary state or nonethnic federal structure. According to Sisk, a combination of both approaches may be needed for effective conflict management, depending on the specific nature of societal divisions and political conditions.<sup>8</sup> This dual framework has been extended by Milton Esman, who identifies two broad institutional strategies for managing ethnic conflict: (1) curtailing identity-based politics through assimilationist policies, overt or implicit; or (2) recognizing and legitimating identity-based divisions by providing for consociational power-sharing and autonomy. Like Sisk, Esman concludes that various combinations of the two approaches may be necessary in any given context, and that no single institutional design should be regarded as ideal for conflict management in all cases.<sup>9</sup> Similarly, Bernard Grofman and Robert Stockwell offer a framework that distinguishes between communal and integrative institutions, though they further subdivide each category into mass- or elite-based elements. Grofman and Stockwell concur that no single approach should be recommended for managing conflict in all cases, but rather suggest that optimal designs can be reached by combining various elements of the different institutional strategies.<sup>10</sup>

Other scholars, however, have favored one of the two approaches. Andrew Reynolds, in his 1999 work, *Electoral Systems and Democratization in Southern Africa*, also distinguishes two strategies: the inclusionary approach, which features PR elections, parliamentary executives, and other consociational arrangements; and the exclusionary approach, which features plurality or majority electoral systems, presidential executives, and other majoritarian structures. Based on a study of five Southern African countries, Reynolds concludes that inclusionary institutions are more likely to lead to political stability and peaceful consolidation of democracy in divided societies, while exclusionary structures are more likely to perpetuate and inflame social conflict.<sup>11</sup> René Lemarchand reaches similar conclusions in his study of Rwanda, Burundi, and the DRC, although he concedes that in practice it is difficult to implement fully the institutions of consociational design.<sup>12</sup>

Benjamin Reilly's 2001 book, *Democracy in Divided Societies: Electoral Engineering for Conflict Management*, differentiates institutions that are either centripetal—promoting movement toward a moderate political center—or centrifugal, tending toward polarization and reinforcement of societal divisions. Reilly thus sides with Horowitz in criticizing PR electoral systems for yielding a political elite that mirrors, rather than overcomes, ethnic differences. He generally endorses Horowitzian vote-pooling through AV or STV elections to encourage the formation of pre-electoral coalitions among moderates from different groups. However, Reilly concedes that such vote-pooling electoral systems are ineffective where patterns of demographic concentration inhibit the formation of sufficiently heterogeneous electoral districts.<sup>13</sup>

Horowitz and Lijphart themselves have elaborated their debate in more recent scholarship. Horowitz continues to recommend vote-pooling and centripetal designs meant to incentivize pre-electoral coalitions among political moderates, although he acknowledges that local factors may trump such recommendations.<sup>14</sup> Lijphart, meanwhile, has concentrated on expanding his substantive recommendations, translating his original consociationalism into a broader index of “consensual”—as opposed to majoritarian—democracy.<sup>15</sup> He makes specific recommendations on a host of institutional structures for constitutional design in divided societies, including the following: PR legislative elections, a parliamentary executive with a power-sharing cabinet, federalism or decentralized group autonomy, proportional representation in government positions, bicameralism, strong judicial review, a high threshold for constitutional amendments, and a strong central bank.<sup>16</sup> Scholars critical

A S S I M I L A T I O N	Integration			Accommodation			S E C E S S I O N
	Republicans	Socialists	Liberals	Centripetalists	Multiculturalists	Consociationalists	
	Common good	Class consciousness	Individual rights	Incentives for moderation; Decentralization	Cultural autonomy; Proportionality	Power-sharing; Proportionality; Some territorial autonomy; Veto rights	Strong territorial autonomy

Figure 9.1. Spectrum of constitutional design. Source: Adapted from John McGarry, Brendan O'Leary, and Richard Simeon, "Integration or Accommodation? The Enduring Debate in Conflict Regulation," in *Constitutional Design for Divided Societies: Integration or Accommodation?* ed. Sujit Choudhry (London: Oxford University Press, 2008), Table 1, 69.

of Lijphart's recommendations include José Antonio Cheibub, who defends the merits of presidentialism,<sup>17</sup> and David Lake and Donald Rothchild, who question the effectiveness of territorial federalism or autonomy as strategies for conflict management.<sup>18</sup>

John McGarry, Brendan O'Leary, and Richard Simeon have provided the most comprehensive typology to date of constitutional design for conflict management. Integrative and accommodative approaches are situated within a larger spectrum bounded at the extremes by assimilation and secession (see Figure 9.1). The authors do not provide details on the boundary between accommodation and secession, but they are careful to describe the nature of integration and how it differs from both assimilation and accommodation. Integrative institutions attempt to create a unified public identity, although they allow private societal differences to persist. This distinguishes integrationists from assimilationists, who aim to eradicate even private differences, and from accommodationists, who allow for persistence of social divisions in public institutions.

Lijphart's consociationalism is situated near the accommodation end of the spectrum, lacking only territorially autonomous self-government. The multiculturalist approach is described as providing cultural autonomy through diversity in language and education policies, as well as proportional representation in public institutions. The centripetalist approach associated with Horowitz is situated nominally within the accommodationist school, but bordering on the integration side of the scale, directly in the middle of the McGarry et al. spectrum. Finally, the integrative rubric includes civic republicanism that champions the unitary nation-state as a communitarian institution, socialism emphasizing class differences over identity-based dis-

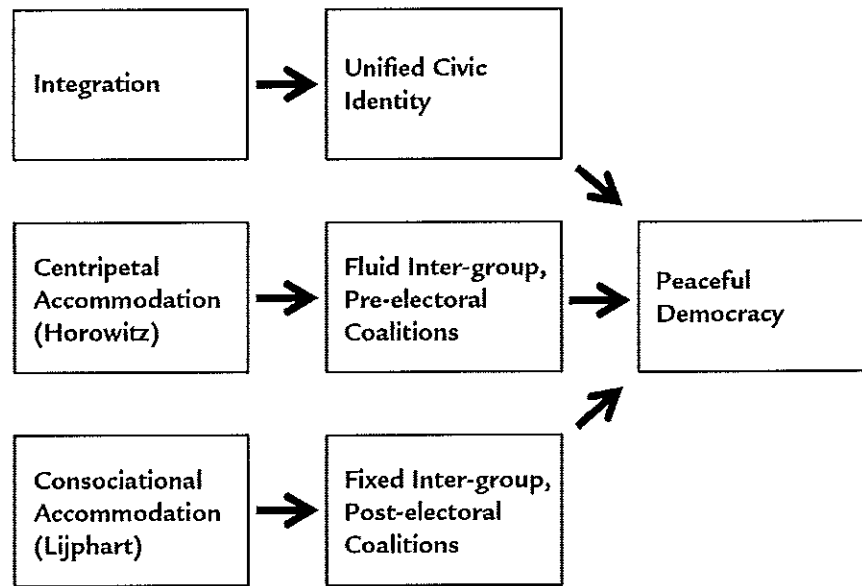


Figure 9.2. Three constitutional strategies, one objective.

tinctions, and classical liberalism advocating egalitarian individual rights over group-based claims.

The ultimate conflict-management objective of integrative and accommodative constitutional design strategies is the same: a peaceful, democratic political system. The differences arise in the mechanisms through which this objective is posited to be achieved, as indicated in Figure 9.2.

Lijphart's consociationalist theory predicts that if political institutions guarantee proportional representation of societal divisions, this will foster fixed and stable coalitions among different groups following elections. Horowitz's centripetal theory suggests that relatively fluid coalitions among different groups, formed through pre-electoral, cross-group appeals, are most likely to prevent conflict. Integrative constitutional design differs from both these approaches in that it is aimed not at building coalitions, but rather at manufacturing a unified civic identity from among disparate groups. There is not much scholarly support for predominantly integrative institutions in deeply divided societies, nor for assimilationist approaches, in part due to normative aversion to the required means.<sup>19</sup>

McGarry et al. provide a list of political institutions and other elements of constitutional design associated with integrative and accommodative approaches.<sup>20</sup> Integrationists generally promote a unified national identity,

sometimes declaring one official language, and often prohibiting political parties based on ethnic, religious, or subnational identification. Accommodationists, on the other hand, embrace a pluralist national identity, generally allowing for multiple official languages, and tending to encourage group rights and political institutions based on existing group divisions. Integrative approaches are thus more likely to support centralization of power through a unitary state structure and to avoid decentralization to subnational units along group lines, while accommodative approaches generally support federal systems or decentralization along such group lines.

In constituting the national legislature, integrationists generally advocate for majoritarian electoral systems, while most accommodationists prefer proportional representation and/or seat quotas for specific groups. For the national executive, integrationists generally support a directly elected presidency, while accommodationists favor a parliamentary executive or a rotating presidency. Within accommodationist approaches, consociationalists focus on the need for an inclusive power-sharing cabinet. The centripetal approach, also classified by McGarry et al. as a type of accommodation, may be viewed as overlapping somewhat with integration in advocating a modified majoritarian system for legislative elections, and a presidential executive elected through a vote-pooling majoritarian system. This approach aims to promote cross-cutting, pre-electoral coalitions, diminishing the political salience of group differences without erasing them. As noted, however, geographic demography can inhibit the centripetal approach, if it proves impossible to draw electoral districts of heterogeneous constituencies that enable cross-group appeals by candidates.<sup>21</sup>

### Methodology

In classifying African countries along a spectrum from integration to accommodation, this chapter follows the typology of McGarry et al., but simplifies their categories, as explained below. Consistent with its use throughout this book, constitutional design is defined to include not just the constitutional text and legal framework of political activity, but the overall institutional context that frames the state's political order. To operationalize the index, countries are evaluated on three separate but interrelated dimensions: executive, legislative, and administrative. In coding each country, it is necessary to look

closely not only at the institutional design on each dimension, but also at how each dimension interacts with the others.

The executive dimension is coded based on whether the system of governance is presidential or parliamentary, as well as how the executive cabinet is formed. All countries having a directly elected president are referred to as presidential, and all other countries (excluding monarchies) as parliamentary.<sup>22</sup> A directly elected president is generally considered a highly integrative institution, although a two-round majority electoral system could be considered slightly more accommodative than a simple plurality system. Presidential term limits are somewhat accommodative, as they increase the possibility of alternation in power, assuming they are observed. A Horowitzian vote-pooling system for presidential elections or a rotating presidency shifts the ranking toward the center of the spectrum. A parliamentary system with a prime minister indirectly elected by the legislature is considered accommodative, unless that legislature is elected by a majoritarian system. Ranking presidential systems that also have a prime minister as head of government depends on the legislative electoral system and how the prime minister is appointed, as well as the distribution of power between the president and the prime minister. Executive cabinets appointed by a directly elected president are generally considered integrative, although some accommodation can be provided by requiring appointees to be confirmed by the legislature or to be drawn from diverse groups within society.

In coding the legislative dimension, the primary consideration is the electoral system for the lower (or only) house of the national legislature. List PR systems with sizeable districts and minimal thresholds for representation are deemed the most accommodative, and systems of plurality voting in SMDs the most integrative. A modified majoritarian vote-pooling system like AV falls in the middle of the scale, while mixed systems are evaluated based on the proportion of seats chosen by integrative or accommodative electoral mechanisms. Legislative quotas guaranteeing seats to minority groups shift the ranking toward accommodation.<sup>23</sup> Bicameralism can sometimes provide accommodation—for example, if it over-represents specific subgroups, such as rural areas in the United States—but an upper legislative house constituted without regard to identity-based divisions could promote integration. The relation of legislative power to the executive must always be considered. Even a highly accommodative legislature has little influence on the overall constitutional design if power is concentrated in a strong

presidency and the legislature is denied countervailing authority. In assessing this balance of power, relevant factors include provisions for votes of no confidence (empowering the legislature) or dissolution of parliament (empowering the executive).

The third dimension, labeled administrative, is coded on several factors. First is whether the state is unitary or federal, and whether authority has been devolved to subnational entities. Second is how any devolved authority structures interact with identity-based divisions to determine whether there are significant integrative or accommodative effects. This includes an evaluation of any grants of autonomy—with full territorial autonomy deemed the most accommodative, and cultural or religious autonomy less so. Lack of official recognition for subnational groups shifts the ranking toward integration. Quotas and other affirmative action policies are accommodative. A state religion or a single official language is considered integrative, while separation of religion and state, or recognition of multiple official languages, is more accommodative. Other administrative factors include constitutional provisions that explicitly endorse the goal of either national integration or accommodation of identity groups. Also relevant are any regulations of political parties that may have integrative or accommodative effects, such as prohibiting parties from forming along identity group lines, or requiring parties to declare a group association.

Based on the general principles described above, countries are coded on a five-point scale, with  $-2$  representing a hyper-integrative constitutional design,  $-1$  an integrative design, and  $+2$  and  $+1$  the same on the accommodative side. The  $0$  category is meant to represent a balance between accommodative and integrative factors associated with centripetal designs. Countries are evaluated based on their constitutional design across the three dimensions as of 1 January 2011. Although the intent is to provide a cross-sectional sample for analysis, it often is necessary to look back several years to establish the current institutional context. Coding based on so many qualitative factors is obviously somewhat subjective, but these raw scores for the three dimensions are then aggregated in the following methodical manner. If all three dimensions are predominantly integrative or accommodative, the score is  $-2$  or  $+2$ . If two of the three dimensions point in the same direction, the score is a  $-1$  or  $+1$ . The  $0$  category is especially heterogeneous because it includes both distinctive centripetal designs, such as vote-pooling systems that encourage voluntary cross-group appeals, and other relatively balanced mixes of accommodative and integrative institutions.

In the overall evaluation of constitutional design, this chapter considers *de facto* or informal rules and practices to be more significant than *de jure* constitutional provisions. However, the coding starts with *de jure* provisions, and then proceeds to a *de facto* assessment. For example, a country might have a constitutionally stipulated PR legislature and an ethnofederal structure, but if a centralized presidency wields all practical power, the country would ultimately be coded not as +1, but more likely as -1, or even -2, depending on the extent of presidential dominance. Similarly, the lack of free and fair elections, or of guarantees for basic civil rights, may easily undermine the effects of *de jure* accommodative electoral systems or administrative structures. Conversely, *de jure* integrative institutions may be implemented in an accommodative manner because of *de facto* agreements to guarantee minority representation in government institutions such as the cabinet.

The main coding, as provided in Table 9.1, reflects a country's *de facto* political structure, measured on the integration/accommodation scale, at the start of 2011. A separate *de jure* coding is provided parenthetically if it differs from the *de facto* coding. (The *de jure* codings are also listed in Appendix 2.) While specific coding decisions in some cases require judgment calls that may be subject to debate, the aggregate results for all countries provide at least an approximation of the current distribution of constitutional design across the African continent.

One potential objection to the foregoing methodology is that it draws on a literature that is explicitly focused on democratic or democratizing states with deeply divided polities.<sup>24</sup> But, in reality, most African countries embody these attributes, and all have constitutional designs that can be classified using this methodology.<sup>25</sup> Even current autocracies have identifiable constitutional designs, generally including both written constitutions and observable political orders. *De facto* coding of autocratic institutions is admittedly more difficult, requiring deeper investigation into how these institutions function in practice. For example, rigged elections or violations of minority rights contribute toward a coding of *de facto* integration, because their effect is to concentrate power in central authorities. Similarly, a presidential dictatorship, which is the norm in African autocracies, is usually highly integrative. As a result, the category of hyper-integrative is also heterogeneous in that it includes both fully democratic countries with highly integrative institutions and some autocracies. Yet, even presidential dictatorships may have accommodative aspects, such as informal clientelist or patrimonialist arrangements, through which groups are provided with resources or autonomy in return

Table 9.1. De Facto Coding of Constitutional Design of African Countries  
as of 1 January 2011

<i>Hyper- integrative:</i> -2	<i>Integrative:</i> -1	<i>Balanced:</i> 0	<i>Accommodative:</i> +1	<i>Hyper- accommodative:</i> +2
Algeria (-1)	Benin	Comoros	Botswana	Mauritius
Angola (-1)	DRC (+1)	Kenya	Burundi	(Somalia)*
Burkina Faso (-1)	Djibouti (-2)	Nigeria	Cape Verde	South Africa
Cameroon	Ethiopia (+1)		Lesotho	
Central African Republic	Ghana (-2)		São Tomé & Príncipe	
Chad (-1)	Guinea-Bissau			
Congo	Mali (-2)			
Côte d'Ivoire	Namibia			
Egypt	Sudan			
Equatorial Guinea (-1)	Tanzania			
Eritrea (-1)	Uganda (-2)			
Gabon				
The Gambia				
Guinea (-1)				
Liberia				
Libya				
Madagascar (-1)				
Malawi				
Mauritania				
Morocco (-1)				
Mozambique (-1)				
Niger (-1)				
Rwanda (-1)				
Senegal				
Seychelles				
Sierra Leone				
Swaziland				
Togo (-1)				
Tunisia				
Zambia				
Zimbabwe (-1)				

Notes: De jure codings in parentheses, if different. \*Somalia, effectively in a state of anarchy as of 1 January 2011, is coded as having a de jure, but not a de facto constitutional design.

for political support.<sup>26</sup> This underscores that the spectrum reflects not the level of democracy but rather the centralization or dispersion of political power and national identity among societal groups.

Unlike the rest of this book, the current chapter does not seek to explain the observed consequences of constitutional design, in part because the codings are only for one recent snapshot in time. Nevertheless, in order to facilitate future research on the correlates of constitutional design, scores are provided (where available) for each country on the 2010 Polity IV democracy variable, measured on a scale of 0–10 (see Table 9.2).<sup>27</sup> A metric for coding states as deeply divided societies, or not, would also be useful for testing conflict management theories, but these data do not appear to be available at the present time.<sup>28</sup>

### Analysis

Looking at the codings of constitutional design across Africa as of early January 2011 (Table 9.1), the pattern of integration is readily apparent. Approximately 80 percent of countries are coded either –1 or –2 in the *de facto* assessment, and even the *de jure* codings (Appendix 2) fall more than three-quarters within these two categories. Most countries that have a different *de facto* coding—20 of 53—are more integrative in practice than *de jure*. The four exceptions are Djibouti, where an informal power-sharing agreement modifies an otherwise highly integrative constitution; Ghana, where a tradition of informal accommodation provides broad representation in the executive branch; Mali, where coalitional politics performed a similar function (prior to armed conflict in 2012); and Uganda, where an informal system of political patronage has accommodative effects. No countries were coded as having *de facto* adjustments that made their overall constitutional design accommodative in practice, although this could be an artifact of the overall *de jure* trend toward integration.

The primary contributor to the integrationist trend is the widespread institution of a directly elected presidency, as shown in Table 9.2. Excluding the monarchies of Lesotho, Morocco, and Swaziland, and two states that were totalitarian/anarchic (as of January 2011), Libya and Somalia, only five African countries lack directly elected presidents: Botswana, Eritrea, Ethiopia, Mauritius, and South Africa. In practice, most African presidents exert strong control over all executive functions through cabinet appointments and other means, even in countries with a separate titular head of government. Accommodative cabinets are rare, and agreements for intergroup power-sharing in

Table 9.2. Elements of Constitutional Design in African Countries

<i>Country</i>	<i>Executive</i>	<i>Legislative (lower house)</i>	<i>Administrative</i>	<i>Polity IV (democ)</i>
Algeria -2 (-1)	presidential	PR	unitary	3
Angola -2 (-1)	presidential	PR	unitary	2
Benin -1	presidential	PR	unitary	7
Botswana +1	parliamentary	plurality SMD	unitary; some autonomy	8
Burkina Faso -2 (-1)	presidential	PR	unitary	2
Burundi +1	presidential; power-sharing cabinet	PR	unitary	7
Cameroon -2	presidential	mixed (majority SMD and modified block vote/ PR)	unitary	1
Cape Verde +1	presidential	PR	unitary; some autonomy	10
Central African Republic -2	presidential	majority SMD	unitary	1
Chad -2 (-1)	presidential	mixed (modi- fied block vote/PR and majority SMD)	unitary	1
Comoros 0	presidential (rotating); power-sharing cabinet	mixed (majority SMD and in- direct elec- tion)	federal	9
Congo -2	presidential	majority SMD	unitary	0
Côte d'Ivoire -2	presidential	plurality SMD & MMD	unitary	—
Djibouti -1 (-2)	presidential; in- formal power- sharing	plurality MMD	unitary	3
DRC -1 (+1)	presidential	mixed (PR and plurality SMD)	unitary; some autonomy	6
Egypt -2	presidential	mixed (majority MMD)	unitary	1

(continued)

Table 9.2. *continued*

<i>Country</i>	<i>Executive</i>	<i>Legislative (lower house)</i>	<i>Administrative</i>	<i>Polity IV (democ)</i>
Equatorial Guinea -2 (-1)	presidential	PR	unitary	0
Eritrea -2 (-1)	parliamentary	plurality SMD	unitary	0
Ethiopia -1 (+1)	parliamentary	plurality SMD; minority quotas	federal	3
Gabon -2	presidential	majority SMD	unitary	4
The Gambia -2	presidential	mixed (plural- ity SMD)	unitary	0
Ghana -1 (-2)	presidential	plurality SMD	unitary	8
Guinea -2 (-1)	presidential	mixed (PR & plurality SMD)	unitary	6
Guinea-Bissau -1	presidential	PR	unitary	7
Kenya 0	presidential; vote-pooling formula	plurality SMD	unitary; some autonomy	8
Lesotho +1	parliamentary (nonpolitical monarchy)	mixed-member proportional	unitary	8
Liberia -2	presidential	majority SMD	unitary	7
Libya -2	n/a	indirect elec- tion	unitary	0
Madagascar -2 (-1)	presidential	mixed (plural- ity SMD & PR)	unitary; some autonomy	3
Malawi -2	presidential	plurality SMD	unitary	6
Mali -1 (-2)	presidential	majority SMD & MMD (party lists)	unitary	7
Mauritania -2	presidential	mixed (majority SMD/MMD & PR)	unitary	0
Mauritius +2	parliamentary	plurality MMD; minority quotas	unitary; full autonomy	10
Morocco -2 (-1)	monarchy	PR	unitary	0
Mozambique -2 (-1)	presidential	PR	unitary	5
Namibia -1	presidential	PR	unitary	6

*(continued)*

Table 9.2. *continued*

<i>Country</i>	<i>Executive</i>	<i>Legislative (lower house)</i>	<i>Administrative</i>	<i>Polity IV (democ)</i>
Niger -2 (-1)	presidential	mixed (PR and plurality SMD)	unitary	4
Nigeria 0	presidential; vote-pooling formula	plurality SMD	federal	4
Rwanda -2 (-1)	presidential	PR	unitary	0
Sao Tome & Prin- cipe +1	presidential	PR	unitary; full autonomy	*
Senegal -2	presidential	mixed (plural- ity SMD & PR)	unitary	7
Seychelles -2	presidential	mixed (plural- ity SMD & PR)	unitary	*
Sierra Leone -2	presidential	plurality SMD	unitary	8
Somalia n/a (+2)	parliamentary	appointment quotas	federal	—
South Africa +2	parliamentary	PR	federal	9
Sudan -1	presidential	mixed (plural- ity SMD & PR)	federal	1
Swaziland -2	monarchy	mixed (plural- ity SMD & executive ap- pointment)	unitary	0
Tanzania -1	presidential	plurality SMD; minority quotas	federal	2
Togo -2 (-1)	presidential	PR	unitary	1
Tunisia -2	presidential	mixed (plurality party-list MMD & mi- nority quotas)	unitary	1
Uganda -1 (-2)	presidential	plurality SMD	unitary	1
Zambia -2	presidential	plurality SMD	unitary	7
Zimbabwe -2 (-1)	presidential	plurality SMD	unitary	3

Note: codings are de facto (and de jure in parentheses, if different). See Appendix 1 for full summaries of constitutional design by country, and for coding sources. The Polity IV democracy (democ) score ranges from 0 to 10 (with 10 denoting the most complete democracy) and is given for 2010. Cells in this column with a dash (—) denote cases not scored due to interregnum or anarchy; \* denotes cases missing from the Polity IV database.

government institutions are rarely sustained. Many African presidents also remain in office for extended periods of time due to lack of formal term limits—in 13 of the 43 presidential systems—or manipulation of elections.

African legislatures also lean toward integration, based typically on majoritarian elections in single- or multimember districts. Proportional representation characterizes a significant minority of legislative bodies—in 18 countries, including three that have mixed systems with at least two-thirds PR seats—but in most of these cases the legislature is institutionally weak or even effectively powerless compared to the executive. Federal structures are found in only six countries (excluding the anarchic state of Somalia), although an additional seven grant at least some governing autonomy to subnational territorial entities. Furthermore, a majority of African constitutions expressly endorse principles of integration over accommodation by placing restrictions on formation of identity-based political parties and by declaring explicit goals for establishment of a unified national identity.

The advice from scholars of constitutional design in divided societies, such as Lijphart and Horowitz, appears not to have had much impact. Horowitz's AV proposal for legislative elections has not been adopted anywhere in Africa, and only Nigeria and Kenya utilize a vote-pooling system for presidential elections, as he recommends. Lijphart's prescriptions for consociational or consensual democracy also seem largely to have been ignored. Only South Africa comes close to implementing Lijphart's full institutional suite, and even there political power is in practice fairly centralized, and the federal structure provides only limited regional autonomy. The only other hyper-accommodative design (again excluding Somalia) is in Mauritius, which despite its mainly majoritarian legislative electoral system is coded as +2 because of other accommodative elements, including a parliamentary executive, full governing autonomy for a sub-state territorial unit, and a quota of seats reserved for "best losers" (which ensures representation of all major ethnic groups).

The demonstrated tendency toward integration over accommodation in African constitutional design, contrary to the typical recommendation of outside experts, should perhaps come as no surprise. Horowitz has detailed the many impediments to constitutional reform that emerge in practice.<sup>29</sup> Furthermore, as noted by McGarry et al., states are by nature integrative; they only implement accommodative design elements reluctantly and under pressure from a mobilized opposition.<sup>30</sup>

Options for constitutional reform may be limited. Constraining executive authority and better enforcing institutional separation of powers could

provide accommodative effects in many countries, especially where legislatures already incorporate proportional representation. Such marginal shifts in the institutional balance of power may be more feasible than broad overhaul of constitutional design. However, even small changes may be exceedingly difficult to achieve because of entrenched interests, and reforms that appear major on paper may turn out to be insignificant in practice.

Deficiencies in basic liberal institutions—including free and fair elections, political rights and civil liberties, unbiased public administration, and a strong judiciary and civil society—can undermine implementation of even an optimal constitution. When such fundamental institutions become better entrenched across Africa, opportunities may improve for managing conflict through constitutional innovation. Electoral administration is especially important, as it provides a cornerstone for the functioning of any democracy. When an election lacks legitimacy, as often in Africa, it creates a potential source of conflict beyond the reach of any prescription for constitutional design. Studies of independent electoral commissions and mechanisms for resolving election disputes, as well as techniques for increasing political participation, could provide lessons for addressing this foundational challenge.

To test the effects of constitutional design on conflict outcomes, it would be useful to expand this chapter's cross-sectional analysis into a panel dataset documenting changes in constitutional design over time. Better metrics are also needed to code the social distance between groups, so that any distinctive effects in deeply divided societies can be differentiated. Such metrics should account for the spatial distribution of identity groups and the drawing of electoral districts in both majoritarian and proportional systems. The analysis presented here is primarily an exploratory survey of current trends in African constitutional design, but it could serve as a foundation for future quantitative research.

## Conclusion

This chapter provides a coding of constitutional design in all African countries on a spectrum from integration to accommodation. It finds that African countries tend to have integrative political institutions, and that scholarly advice for constitutional design in divided societies has generally not been heeded. Whether there are causal connections between the data presented

here and conflict management outcomes in specific cases, or across the continent, is beyond the scope of this chapter.

The strong tendency toward integration in African political systems, even in countries that *de jure* have more accommodative institutions, may constrain fundamental changes in constitutional design. If governments have decided *a priori* to pursue integrative institutions, it may be more effective to look for conflict management opportunities within majoritarian systems rather than insisting on a paradigmatic switch to accommodative institutions. Indeed, it could prove difficult to modify institutions even marginally in an accommodative direction, given existing political arrangements and demographics. Although constitutional design is almost universally agreed to be an important factor in conflict management outcomes, the lack of consensus on the optimal institutions in theory, and the challenge of implementing reforms in practice, both underscore the need for further research on the best strategies going forward. Such research should be facilitated by this chapter's new database of constitutional design across Africa.

### **Appendix 1: Summaries of Constitutional Design in African Countries as of 1 January 2011 (*de jure* codings in parentheses, if different)<sup>31</sup>**

#### **ALGERIA: -2 (-1)**

The 1963 constitution of Algeria, as amended through 2008, provides for direct election of a president through an absolute majority (two-round) electoral system. Presidential term limits were abolished in 2008. The president appoints the cabinet, as well as one-third of the upper legislative house, the remainder of which is indirectly elected by provincial authorities. The lower house is elected by proportional representation (PR), but it has little independent power. The government has ruled under a declared state of emergency since 1992. Algeria is a unitary state with a stated constitutional objective of "consolidation of national identity and unity." Identity-based political parties are constitutionally prohibited.

#### **ANGOLA: -2 (-1)**

The Angolan constitution of 1992 provides for a president directly elected by absolute majority; however, presidential elections have not been held since

1992. A new constitution promulgated in 2010 abolishes direct election of the presidency in favor of indirect parliamentary election. The unicameral legislature is elected by PR, but it is effectively under presidential control. In 2008 legislative elections—the first since 1992—the president's party won over 80 percent of seats. Angola is a unitary state, and political parties are constitutionally required to contribute to national unity. PR elections and a parliamentary executive could provide a basis for more accommodation in the future, but the continued concentration of power in the president of over thirty years provides for a de facto highly integrative structure.

BENIN: -1

The 1990 constitution of Benin provides for a president elected by absolute majority. The president has plenary power to appoint a cabinet. In 2005, the president stepped down rather than attempting to amend the constitution to allow him to run again. The unicameral legislature is elected by PR and has some institutional authority, although it retains only limited influence over the executive. Benin is a unitary state, and constitutional restrictions on political parties mandate respect for the territorial integrity and secularism of the state. There have been efforts at decentralization, but local elections in 2008 were subject to numerous irregularities and allegations of fraud.

BOTSWANA: +1

The 1966 Botswana constitution provides for a parliamentary system with a president indirectly elected by the lower house of the legislature. Calls by some for direct election of the president were rejected in 2008. The president appoints a cabinet from among members of the legislature. The lower house of the legislature is elected by plurality voting in single-member districts. The upper house—a mostly advisory body without significant power—consists of permanent tribal representatives and other indirectly elected members. Botswana is a unitary state, with local administrators appointed by the central government. However, rights of cultural and educational autonomy are guaranteed by the constitution, and considerations of identity group divisions are expressly permitted in allocation of public funds and positions.

BURKINA FASO: -2 (-1)

The 1991 constitution of Burkina Faso, as amended through 2002, provides for a presidential head of state elected by absolute majority vote. The presi-

dent appoints a prime minister and other cabinet members. A two-term limit has not been applied retroactively to the current president, who has served since 1987, and was reelected in 2010 with 80 percent of the vote. The advisory upper house of the legislature was dissolved in 2002, leaving a unicameral national assembly elected by PR. The legislature has some institutional authority, including the ability to vote no confidence in the government, but the president retains power to dissolve the legislature. In practice, the president's party has largely dominated the legislature, and elections have been strongly influenced by the ruling party's control of state resources. Burkina Faso is declared a unitary state, and identity-based parties are expressly prohibited by the constitution.

BURUNDI: +1

The 2005 constitution of Burundi provides for a president directly elected by absolute majority vote. The president appoints two vice presidents, who are required to be from different ethnic groups and political parties. Any party holding more than 5 percent of seats in the national assembly is entitled to a cabinet position. The national assembly is elected by a PR system, with diversity requirements for party lists and extra seats reserved to meet ethnic quotas. A senate is indirectly elected by provincial councils and is also subject to quotas. Burundi is a unitary state, with recognition of ethnic and religious diversity; however, the stated function of the regime is to "unite, reassure, and reconcile all Burundians." Political parties are required to reflect a national character, and formation of identity-based parties is prohibited. The current president was indirectly elected in 2005, and then ran unopposed in 2010 after opposition parties withdrew among accusations of electoral fraud.

CAMEROON: -2

The 1972 constitution of Cameroon, as amended through 2008, provides for a president elected by plurality vote for a seven-year term. A 2008 amendment removed presidential term limits. The president appoints a prime minister and members of the cabinet. The constitution calls for a bicameral legislature, but in practice only a national assembly has been established. The legislative electoral system is split evenly between plurality SMD seats and a modified majoritarian (party block vote) / list PR system (with PR being used only if there is no majority winner). In practice, however, the authority of the

legislature is minimal. Cameroon is a unitary state, nominally decentralized, but with the president and central government retaining most actual authority. The proliferation of nearly 200 political parties has inhibited vigorous competition and contributed to continuing one-party dominance.

CAPE VERDE: +1

The 1992 constitution of Cape Verde, as amended through 2010, provides for a presidential head of state elected by absolute majority vote. A prime minister and cabinet ministers are appointed in accordance with the balance of power in the legislature. The unicameral legislature is elected by list PR, and it has significant authority, including a no confidence vote. Representation in the national assembly has generally been split between two large parties, and there has been peaceful transfer of power to the opposition. The state has a unitary structure, with prohibitions on formation of regional or religious political parties; however, the constitution emphasizes pluralism and provides some rights of cultural autonomy.

CENTRAL AFRICAN REPUBLIC: -2

The 2004 constitution of the Central African Republic, as amended in 2010, provides for a presidential head of state elected by absolute majority vote. The president appoints a prime minister and members of the cabinet. Although opposition leaders hold cabinet positions pursuant to a 2009 peace agreement, the president's party retains most power, with key positions held by members of the president's ethnic group. The unicameral legislature—which has little institutional power—is elected by absolute majority in SMDs. 2005 elections were subject to claims of irregularities and fraud, and elections scheduled for 2010 were postponed for 2011. The state has a unitary structure, with the president appointing heads of regional and local councils. Associations deemed contrary to national unity are prohibited, and political parties are forbidden from advocating identity-based interests.

CHAD: -2 (-1)

The 1996 constitution of Chad, as amended in 2005, provides for a presidential head of state elected by absolute majority vote. The president appoints a prime minister and cabinet. A 2005 amendment abolished presidential term limits, and in 2006 the current president won a third term in elections boycotted by opposition groups. Although the constitution calls for a senate,

only a national assembly has been established. The legislative electoral system is mixed, with over 80 percent of seats elected through a modified party block vote/list PR system, and the remaining seats elected by absolute majority in SMDs. The last legislative elections, held in 2002, provoked widespread allegations of fraud after the president's party was awarded over two-thirds of legislative seats. In practice the legislature is ineffectual, although it does have formal power to vote no confidence in the government. A 2007 peace agreement called for electoral reforms but did not provide for power-sharing among opposition groups. Chad is a unitary state with the president appointing all regional and local authorities. The constitution expressly prohibits identity-based propaganda deemed to undermine national unity or secularism.

#### COMOROS: 0

The 2001 constitution of Comoros provides for a president elected by plurality vote, but the office of the presidency rotates between three autonomous islands. The president appoints a cabinet whose membership is also required to equitably represent the islands. Just over half the unicameral legislature is elected by absolute majority in SMDs, with the remaining members indirectly elected by the legislative assemblies of the islands. However, the legislature has relatively little power, with the president and cabinet initiating legislation, and the legislature denied any institutional check on the executive. Comoros is a federal union of autonomous island-states, with each island having independently elected executives and legislative bodies. The islands have financial autonomy, while religion and nationality issues are reserved to the central government. The preamble to the constitution invokes Islam as the source of principles for the regime.

#### CONGO (BRAZZAVILLE): -2

The 2002 constitution of the Republic of Congo provides for direct election of a president by absolute majority vote for a maximum of two seven-year terms. The president unilaterally appoints a cabinet; the position of prime minister was abolished in 2009. The president has exclusive authority to initiate legislation. The bicameral legislature consists of a national assembly elected by absolute majority in SMDs, and a senate indirectly elected by provincial councils. The legislature is relatively weak, with the 2002 constitution having reduced its authority; however, it is protected from executive dissolution.

The current president has been in office since 1979, excluding a five-year period in the 1990s. The 2009 presidential elections were boycotted by the opposition and attracted low voter turnout. The state has a unitary structure, and parties are required to maintain a national character without identity-based distinctions. Cultural autonomy is guaranteed only to the extent that it does not prejudice national unity.

CÔTE D'IVOIRE: -2

The 2000 constitution of Côte d'Ivoire provides for a presidential head of state elected by absolute majority vote. The president has authority to appoint a prime minister and members of the cabinet. A 2003 power-sharing agreement included opposition members in the government, but continuing conflict has impeded its implementation. The unicameral legislature is elected by plurality vote in single- and multimember districts, but it has little institutional power. The state has a unitary structure, with local authorities appointed by the central government. Identity-based political parties and propaganda are constitutionally prohibited. Presidential elections in 2000 were marred by violence and fraud, and subsequent elections were repeatedly postponed until late 2010. The result of that election was in dispute as of January 2011.

DEMOCRATIC REPUBLIC OF CONGO (DRC): -1 (+1)

The 2006 constitution of the DRC provides for a presidential head of state elected by absolute majority vote, subject to a two-term limit. The president appoints a prime minister from the majority party in the legislature, and the cabinet is generally required to be nationally representative. The legislature is bicameral, with a senate indirectly elected by provincial legislative bodies. The national assembly is elected through a mixed system, with almost 90 percent of seats elected by list PR in small multimember constituencies, and just over 10 percent of members elected by plurality vote in SMDs. The institutional authority of the legislature is weak vis-à-vis the president, with a no-confidence provision of uncertain application, but clear presidential power of dissolution. Elections in 2006 were the first since independence in 1960, and they were deemed mostly credible, although marred by some intimidation and irregularities. The DRC is a unitary state with nominally decentralized autonomous provinces. The provinces are constitutionally guaranteed a 40 percent share of central government revenues, but provincial elections

have been dubious, and provincial governments are still institutionally fragile. Due to limited capacity and inadequate infrastructure, the central government exerts only limited authority outside the capital area, especially where rebel groups or warlords are powerful. Local elections had been repeatedly postponed as of January 2011.

DJIBOUTI: -1 (-2)

The 1992 constitution of Djibouti calls for a presidential head of state elected by absolute majority for a six-year term, with power to appoint a prime minister and cabinet. Under current implementation of an informal power-sharing agreement in place since 1994, the prime minister and roughly half the cabinet members are appointed from an opposition ethnic group. The unicameral legislature is elected through a block voting system (plurality vote in multi-member districts), but only parties loyal to the president are represented, as the opposition has boycotted all recent elections. A 2010 constitutional amendment revoked presidential term limits and also called for creation of a senate. Djibouti is declared a unitary state, and political parties are prohibited from having any identity-based character. Regional elections held in 2006 were meant to initiate a decentralization process to appease ethnic tensions, but there has been only minimal devolution of power from the central government.

EGYPT: -2

The Egyptian constitution of 1971, as amended through 2007, provides for a presidential head of state with a six-year term of office and no term limits. A 2005 amendment changed the presidential electoral system from a single candidate referendum to a multicandidate contest by absolute majority. The president appoints a prime minister and cabinet, and may appoint one or more vice presidents. The bicameral legislature consists of an upper house, with two-thirds of its members elected by absolute majority and one-third appointed by the president, and a lower house elected by absolute majority in two-member districts, with each district represented by at least one "worker or farmer." In 2005, opposition parties for the first time gained a significant number of legislative seats, winning over 25 percent of seats in the lower house. But constitutional amendments in 2007 limited opposition political rights, leading to a boycott of 2010 elections. The amendments also gave the president authority to unilaterally dissolve the legislature, although a legislative no-confidence vote in the government was instituted as well. As of

January 2011, prior to the Arab Spring, the Egyptian state had a unitary structure, with Islam declared as the state religion, but the formation of religious political parties was strictly prohibited.

EQUATORIAL GUINEA: -2 (-1)

The 1991 constitution of Equatorial Guinea, as amended through 1995, provides for a presidential head of state elected by plurality vote for a seven-year term with no limits. The president appoints a prime minister from the majority party in the legislature, but in practice this has always been the president's own party. Members of the opposition have occasionally been included in the cabinet, but presidential influence dominates the government. The unicameral legislature is elected by list PR, but it has very limited institutional authority. Elections have generally been considered fraudulent, with overwhelming majorities for the president's party; the current president has held power since 1979. The state has a unitary structure, with provincial governors appointed by the president. Identity-based political parties are constitutionally prohibited.

ERITREA: -2 (-1)

The 1997 constitution of Eritrea provides for a parliamentary system with a president indirectly elected by the legislature. The unicameral national assembly is elected by plurality vote in SMDs. However, the Eritrean constitution has yet to be implemented, and elections have been indefinitely postponed since 2001. A transitional government has been in power since independence in 1993; the current president was appointed by the transitional legislature at that time. Although the transitional legislature retains the primary *de jure* authority of the state, *de facto* power has been highly concentrated in the presidency. The state structure is unitary, although nominally decentralized, and political parties are required to adhere to principles of national unity. In practice Eritrea remains a one-party state, as several opposition movements have been disqualified.

ETHIOPIA: -1 (+1)

The 1995 constitution of Ethiopia instituted a parliamentary system of government, with a head of state indirectly elected by two-thirds vote of the bicameral legislature. The lower legislative house is elected by plurality vote in SMDs, with a small quota reserved for minority ethnic groups. A majority of the lower house elects the prime minister, who is head of government

with chief executive authority. The upper house is indirectly elected by sub-state legislative councils. As of 2011, the current prime minister had held office since 1991, and national power was highly centralized in his party. In 2005 elections, opposition parties made some gains, but claims of fraud led to violence and increased political repression. In 2010 elections, which were judged not free and fair, the ruling party won only about 70 percent of votes nationally, but was awarded over 99 percent of legislative seats. Ethiopia has a federal structure of ethnic sub-states that are granted extensive autonomy, including even the right to secession. The constitution calls for strict separation between religion and state and equal recognition of all national languages.

GABON: -2

The 1991 constitution of Gabon, as amended through 2003, provides for a presidential head of state elected by plurality vote for a seven-year term with no limits. The president appoints a prime minister and cabinet, and is authorized to dissolve the legislature. The bicameral legislature consists of a lower house elected by majority vote in SMDs, and an upper house indirectly elected by municipal councils and other local authorities. In practice, the president's party has dominated national politics, with repeated accusations by opposition parties of undue influence and fraud in elections. The current president is the son of the previous president, who remained in power from 1975 until his death in 2009. The state has a unitary structure, with the president appointing all provincial authorities. The constitution authorizes regulation of political parties to prevent ethnic identification.

THE GAMBIA: -2

The 1996 constitution of the Gambia, as amended through 2009, provides for a president elected by absolute majority with no term limits. The president appoints a vice president and cabinet, in practice always from the president's own party. The current president has been in office since a 1994 coup. The unicameral legislature is elected mainly through a plurality SMD system, with about 10 percent of seats reserved for presidential appointment. The legislature has a nominal no-confidence vote by which it can call for a referendum on presidential removal, but in practice the president exerts control over the legislature. The Gambia is an effective one-party state, with opposition parties claiming fraud and undue influence in recent elections. The state has a unitary structure, with presidential appointment of most local officials.

National integration and unity are constitutionally mandated principles of state policy, and political parties are prohibited from having any identity-based character. Cultural autonomy rights are subject to regulation in the interests of national unity, although tribal chiefs retain traditional authority in limited areas.

GHANA: -1 (-2)

The 1992 constitution of Ghana, as amended in 1996, provides for a president elected by absolute majority, subject to a two-term limit, which has been observed. The president appoints a cabinet with legislative approval. An informal aspect of accommodation is that by tradition the cabinet and the executive branch are selected to be broadly representative of the country's ethno-regional diversity. The unicameral legislature is elected by plurality vote in SMDs. Ghana is a multiparty democracy, which has had generally free and fair elections and two transfers of presidential power since 1992. The state is unitary in structure, and the constitution explicitly calls for active integration of all ethnic groups under a national character that transcends identity-based loyalties. There has been only limited decentralization to local authorities, but the traditional institution of chieftaincy is protected under the constitution.

GUINEA: -2 (-1)

The 1990 fundamental law of Guinea, as amended in 2001, provides for a presidential head of state elected by absolute majority for a seven-year term with no limits. The president appoints a prime minister and cabinet without restriction. The unicameral legislature is made up of two-thirds members elected by PR in a national constituency, and one-third by plurality vote in SMDs. However, the legislature has little institutional authority, and has in fact been dissolved since a military coup in 2008 in which the constitution was suspended. The previous president held office for 24 years before the coup. The constitution was reinstated in 2010 with a new president taking office after the first freely contested elections in the country's history. Guinea is declared a unitary state, with constitutional prohibitions on identity-based political parties and punishment authorized for acts undermining national unity.

GUINEA-BISSAU: -1

The 1984 constitution of Guinea-Bissau, as amended through 1996, provides for a presidential head of state elected by absolute majority for a limit

of two consecutive terms. The president appoints a prime minister and cabinet in consultation with the legislative majority. The unicameral legislature is elected by list PR; it has a no-confidence vote in the government, but the president has power of dissolution. A new constitution approved by the legislature in 2001 was never implemented, and efforts in 2007 to form a coalitional government were obstructed by the president. Legislative elections in 2008, however, were judged free and fair. In 2009, the president—who had been in office for 23 years—was assassinated, but a new president was seated through peaceful and credible elections that same year. Guinea-Bissau is a unitary state with nominally decentralized regions. Political parties are required to respect national unity, and identity-based political activity is prohibited.

#### KENYA: 0

The 2010 constitution of Kenya provides for a president elected for a limit of two terms through a modified, vote-pooling majoritarian system: to win in the first round, a candidate must gain a majority that includes more than a quarter of the vote in more than half the regional counties. The president appoints a deputy president and cabinet with legislative approval, and the entire executive is mandated to reflect regional and ethnic diversity. The bicameral legislature consists of a national assembly elected primarily by plurality vote in SMDs, and a senate providing regional representation. The provisions of the new constitution, which include increasing legislative power vis-à-vis the presidency and devolution of authority to subnational units, had not yet been fully implemented in January 2011. Prior to drafting of the new constitution, conflict had broken out in 2007 over disputed presidential elections, resulting in a negotiated power-sharing coalition with appointment of an opposition prime minister and evenly split cabinet posts. The new constitution calls for devolution of power “to foster national unity by recognizing diversity,” and to provide for autonomous self-governance. The state is mandated to protect cultural and language diversity and to provide affirmative action for marginalized minority groups; however, political parties are required to support national unity and avoid identity-based distinctions.

#### LESOTHO: +1

The 1993 constitution of Lesotho, as amended through 2004, prescribes a hereditary monarchy, although in practice the position of the king is largely

nonpolitical. The king appoints the leader of the majority party in the legislature as prime minister, and the king can dissolve the legislature generally only on advice of the prime minister or after a legislative vote of no confidence. The bicameral legislature consists of a senate of hereditary chiefs and appointees, and a national assembly elected through a mixed-member proportional system (MMP), in which PR seats are allocated to compensate for disproportionality in the SMD seats. The MMP system was instituted in 2001 to provide better opposition representation after violent conflict following the 1998 elections. Opposition parties gained seats in subsequent elections as a result of the change, but disputes continue over the proportionality of seat allocation. The state structure is unitary, with local elections first held in 2005. The constitution makes no mention of identity-based divisions.

LIBERIA: -2

The 1986 constitution of Liberia provides for a president elected by absolute majority for six years with a two-term limit. The president appoints cabinet members with consent of the upper legislative house. The constitution calls for both houses of the bicameral legislature to be elected by absolute majority vote in SMDs, but the most recent elections in 2005 were conducted by one-round plurality. Prior elections in 1997 were conducted using a PR system to implement a peace agreement following civil war. The 2005 elections were declared relatively free and fair, and the president's party failed to gain a legislative majority. Liberia is a unitary state, with nominal decentralization for administrative purposes; the president retains authority to appoint local officials. The preservation of national unity and elimination of identity-based distinctions are constitutionally declared policy principles. Formation of ethnic or regional political parties is strictly prohibited.

LIBYA: -2

As of 2011, Libya did not have a permanent constitution, although a temporary constitutional proclamation was issued after the military coup in 1969 that brought the Mu'ammar Qaddafi regime to power. The political structure is generally established in accordance with the 1975 "Green Book" of Qaddafi, the de facto head of state and government, and a 1977 declaration establishing a legislative forum. Members of the legislative forum are indirectly elected by local councils. The forum has formal authority to confirm

executive cabinet members, but practical power is centralized around Qaddafi. The state has a unitary structure, with Islam as the formal state religion and Arabic the official language. Political parties are banned entirely.

MADAGASCAR: -2 (-1)

The 2010 constitution of Madagascar calls for a presidential head of state directly elected by absolute majority for five years with a two-term limit. The president appoints a prime minister from the majority party in the lower house, but the president retains power to dissolve the legislature. The constitution calls for a bicameral legislature, with a lower house elected by a mixed system of plurality vote in SMDs and PR seats; however, in recent elections the PR seats have been limited to less than 10 percent of the total. Two-thirds of the upper house, which provides regional representation, is indirectly elected by provincial bodies, with one-third appointed by the president. The new constitution, approved following a *de facto* coup and dissolution of the legislature in 2009, has yet to be implemented. The current legislature is comprised exclusively of appointees, and the current president is also unelected. A governmental power-sharing agreement was abandoned in late 2009, and elections have been postponed to 2011. The new constitution also restores provincial autonomy, which had been eliminated in a previous reform. The state is declared unitary and secular, with a constitutional principle of maintaining ethnically neutral policies to preserve national unity. Political parties based on identity-based distinctions are prohibited.

MALAWI: -2

The 1994 constitution of Malawi, as amended through 2003, provides for a president elected by plurality vote for a maximum of two terms. The president unilaterally appoints the executive cabinet. The *de facto* unicameral legislature is elected by plurality vote in SMDs. The constitution also calls for a senate to provide representation for tribal chiefs and other groups, but it has not yet been established. Multiparty elections since 1994 have been judged relatively free and fair, although irregularities and claims of fraud by losing candidates have persisted. Presidential term limits have been upheld against attempts at elimination, but there has yet to be a transfer of power to an opposition party. Malawi has a unitary state structure, and there are no constitutional provisions regarding national unity or identity-based politics. Power

is effectively concentrated in the central government, with local elections postponed indefinitely since 2005.

MALI: -1 (-2)

The 1992 constitution of Mali provides for a presidential head of state elected by absolute majority, limited to two terms in office. The president appoints a prime minister, who in turn appoints cabinet ministers. The unicameral legislature is elected by a two-round majority in SMDs and party-list multimember districts. Although the legislature can exercise a no confidence vote, power has been concentrated in the presidency since 2007, when parties aligned with the president gained the legislative majority. Presidential term limits have been respected, and broad electoral and governing coalitions have provided some de facto accommodation in recent years. The state has a unitary structure with limited administrative decentralization. Political parties are constitutionally required to respect national unity, with prohibitions on identity-based distinctions.

MAURITANIA: -2

The 1991 constitution of Mauritania provides for a presidential head of state directly elected by absolute majority. A 2006 amendment reduced the presidential term from six to five years and instituted a two-term limit. The president appoints a prime minister and cabinet and has power to dissolve the legislature. The lower house is elected through a mixed system, using primarily two-round majority voting in single or two-member districts, with less than 15 percent of seats elected by PR. An upper house representing local authorities is indirectly elected by municipal councils. The legislature has limited institutional authority relative to the president, although it does have a nominal vote of no confidence. Mauritania has been subject to numerous military coups since independence, although two such events in the last decade were both followed by competitive elections judged credible by international observers. The state has a unitary structure with strongly centralized administration, despite some nominal efforts to devolve through local elections. Mauritania is declared an Islamic republic, and the formation of political parties deemed to undermine national unity is prohibited.

MAURITIUS: +2

The 1968 constitution of Mauritius, as amended through 2010, provides for a parliamentary system, with a presidential head of state indirectly elected

by the legislature. The president appoints a prime minister from the legislative majority, and cabinet officers at the prime minister's recommendation. The unicameral legislature is elected primarily by plurality (block) vote in multimember districts, but over 10 percent of seats are reserved for appointment under a "best losers" system intended to ensure representation for all ethnic groups. Governing coalitions are the norm in Mauritius, with most institutional authority residing in the legislature; however, a 2003 amendment gave the president power to dissolve the legislature on advice of the prime minister. The state has a unitary structure, but full governing autonomy is granted to the island of Rodrigues. Educational autonomy is also constitutionally guaranteed. Political candidates are required to declare a community affiliation when running for office.

MOROCCO: -2 (-1)

The 1972 constitution of Morocco, as amended through 2005, provides for a hereditary monarchy. The king appoints a prime minister and cabinet members on advice of the prime minister. The bicameral legislature consists of a lower house elected by list PR, and an upper house indirectly elected by local councils. The legislature has gained increased influence over the years, but the authority of the king still dominates. The king is authorized to dissolve the legislature, and although the lower house has a no confidence vote, it has not been exercised in practice. An official policy of "alternance" permitted opposition parties to participate in government beginning in 1998, but while there have been governing coalitions, the power of opposition parties has not been consolidated. The state structure is unitary, with regional administration centralized through governors appointed by the king. Islam is the declared state religion.

MOZAMBIQUE: -2 (-1)

The 1990 constitution of Mozambique, as amended through 2004, provides for a presidential head of state elected by absolute majority for a limit of two consecutive terms. The president appoints a prime minister and cabinet, and retains power to dissolve the legislature. The unicameral national assembly is elected by a PR system with no percentage threshold, although numerous small parties continue to be excluded. Since a 1992 peace agreement ending a civil war, one party has remained in power, and in 2009 it gained the two-thirds majority required to amend the constitution. The legitimacy of recent elections has been questioned, with disputes

over party eligibility and issues of election administration. Mozambique is a unitary state with nominal decentralization to local levels. Consolidation of national unity is listed as a fundamental constitutional objective, along with pluralism and tolerance. Political parties are required to respect national unity, and acts deemed to threaten that unity are punishable by law.

#### NAMIBIA: -1

The Namibian constitution of 1990, as amended through 2010, provides for a presidential head of state elected by absolute majority for a limit of two terms (although a third term was extended exclusively to the first president in a 1998 amendment). The president appoints a prime minister and cabinet from among members of the legislature, and is required generally to act in consultation with the cabinet. The president may dissolve the legislature, but doing so triggers new presidential elections. The bicameral legislature consists of a lower house elected by list PR from a national district, and an upper house—mainly an advisory body—indirectly elected by regional councils. The legislature has moderate institutional authority vis-à-vis the executive, including the power of impeachment. Recent elections have been judged relatively free and fair, but not without irregularities, and opposition parties have contested the results of the last election. The same ruling party has held executive and legislative power since independence. The state has a unitary structure, with regional councils functioning primarily as extensions of the central government. Affirmative action policies are authorized by the constitution.

#### NIGER: -2 (-1)

The 2010 constitution of Niger provides for a presidential head of state elected by absolute majority for a limit of two terms. As of January 2011, the country was ruled by a military junta that displaced the previous president, who had revised the constitution in order to remain in office beyond the two-term limit. An appointed civilian prime minister has held executive authority, while the legislature has remained dissolved pending elections called for early 2011. The unicameral legislature is elected primarily by PR, with less than 10 percent of seats reserved for election by plurality SMD. The legislature retains moderate institutional authority in the new constitution, although the president still has power of dissolution. The state has a unitary structure with local decentralization, in which opposition parties have made some electoral

gains. The new constitution also adds protection for the authority of traditional tribal chiefs. Identity-based political parties are prohibited, and identity-based propaganda is punishable by law.

NIGERIA: 0

The 1999 Nigerian constitution provides for a president elected by a modified, vote-pooling majoritarian system: to win in the first round a candidate must secure a plurality of votes that includes at least one-quarter of votes in two-thirds of subnational states. The president is limited to two terms in office, and an attempt to amend the constitution to allow a third term was defeated in 2006 by the legislature. The president appoints cabinet ministers with confirmation of the senate, and the government is required to reflect regional and ethnic diversity. The lower house is elected by plurality vote in SMDs, and the senate, which represents the states, is elected by plurality vote in mostly multimember districts. Recent elections have been deemed flawed and have occasioned violence, with results contested by opposition parties. Nigeria has a federal structure of 36 states and a capital district, all with governing autonomy. The number of states has expanded over time to accommodate increasing autonomy demands, but *de facto* centralization of power remains a matter of contention. The constitution calls for active encouragement of integration to a national identity, and political parties founded on identity-based distinctions are prohibited.

RWANDA: -2 (-1)

The 2003 constitution of Rwanda provides for a presidential head of state elected by plurality vote for a seven-year term with a two-term limit. The president appoints a prime minister and members of the cabinet, but if one party holds a majority in parliament, it may not receive more than half of the cabinet seats. The legislature is bicameral, with the lower house elected primarily by list PR in a national district with a 5 percent threshold. The upper house is indirectly elected by local councils and other interest groups, including several seats appointed by the president meant to ensure minority representation. In practice, the current president—a former military leader in power since 1994—holds highly centralized power, and the legislature has only limited authority. Elections in 2010, in which the president and his legislative coalition won overwhelming majorities, were of questionable credibility and occasioned violence and political repression. The Rwandan state has a unitary structure, with a declared constitutional goal of eliminating all

identity-based divisions. Political parties are prohibited from having identity-based distinctions or acting to destabilize national unity.

#### SÃO TOMÉ AND PRÍNCIPE: +1

The 1990 constitution of São Tomé and Príncipe, revised through 2003, provides for a presidential head of state elected by absolute majority with a two-term limit. A prime minister and cabinet are appointed in accordance with the distribution of seats in the legislature. The unicameral national assembly—elected by list PR—is declared the highest organ of the state. Its broad authority includes a vote of no confidence, although the president retains dissolution power. Recent elections have been deemed free and fair, and politics have been characterized by peaceful transfers of power and coalitional government, although there has been some political instability. The state has a unitary structure with a declared principle of integration to a national identity. However, the island of Príncipe is granted full governing autonomy, and there has been significant decentralization of power through local elections.

#### SENEGAL: -2

The 2001 constitution of Senegal, as amended through 2008, provides for a presidential head of state elected by absolute majority, limited to two terms in office. To win in the first round a candidate must secure the votes of at least one-quarter of all registered voters. The president appoints a prime minister, who appoints other cabinet members in consultation with the president. The lower house of the bicameral legislature utilizes a mixed electoral system, with three-fifths of seats elected by plurality vote in SMDs, and two-fifths by PR. The senate, which was abolished in 2001 but reinstated in 2007, consists mostly of presidential appointees, with 35 percent of its membership indirectly elected by local councils. The legislature's authority is limited relative to the president, who has the power of dissolution, but the national assembly does have a nominal no confidence vote. In 2000, the first transfer of power between parties took place, but recent legislative elections were postponed and then boycotted by the opposition. The Senegalese state has a unitary structure, with decentralization at the local level providing some accommodative representation to opposition parties; however, the president appoints regional governors. Political parties are prohibited from identifying with any identity-based group, and identity-based propaganda is punishable by law.

## SEYCHELLES: -2

The 1993 constitution of Seychelles, as amended through 2000, provides for a president elected by absolute majority with a three-term limit. The president, as head of both state and government, unilaterally appoints a cabinet, and may retain principal ministerial portfolios. The unicameral legislature is composed of over 70 percent seats elected by plurality vote in SMDs, with the remainder elected by a PR system with a high (10 percent) threshold. In recent legislative elections, the opposition gained nearly half of the PR seats, but won barely one-quarter of the SMD seats. The legislature has only limited institutional power, with the president holding power of dissolution. There was a short period of a coalition government at independence in 1976, but a coup the following year established one-party governance, which effectively continues today, as the current president was initially appointed by the coup leader. The state has a unitary structure with centralized authority, and the constitution makes no mention of social divisions.

## SIERRA LEONE: -2

The 1991 constitution of Sierra Leone, as amended through 2008, provides for a president elected by absolute majority for a limit of two terms. A candidate needs 55 percent of the vote to win in the first round. The president appoints cabinet ministers, subject to legislative approval. The unicameral legislature is elected by plurality voting in SMDs, although elections in 1996 and 2002—during and immediately after the civil war—were held under a PR system. In practice, the legislature has only minimal institutional authority. During the civil war there was an unsuccessful attempt at executive power-sharing. In the 2007 elections there was a transfer of both presidential and legislative power to the opposition party. The state has a unitary structure, with a stated constitutional objective of promoting national integration, and a prohibition against identity-based political parties. Tribal chiefs are granted significant local autonomy, but they are not generally viewed as representative, and preservation of the chieftaincy may be seen as conflicting with other efforts at devolution to elected local authorities.

## SOMALIA: n/a (+2)

The internationally recognized government of Somalia operates under a 2004 transitional charter that provides for a parliamentary system with a president indirectly elected by the legislature. The president appoints a prime

minister, who in turn appoints the cabinet. The unicameral transitional legislature consists of members appointed mainly according to identity-based quotas. In 2009, the legislature was expanded to accommodate the major opposition party, which was also included in the cabinet. The transitional charter provides for a federal structure with two or more self-determined states. In practice, Somalia is a failed state, with the transitional government having limited power given ongoing violent conflict, and transitional institutions remaining mostly symbolic and undeveloped. There are two fully autonomous regions in the north, one of which (Somaliland) has asserted independence since 1991.

#### SOUTH AFRICA: +2

The 1996 South African constitution, as amended through 2009, provides for a parliamentary executive, with a president indirectly elected by the legislature. The president unilaterally appoints members of the cabinet, who may be subject to a no-confidence vote together with or separately from the president. The lower house of the legislature is elected through a list PR system, divided equally between a national district and nine provincial districts. The upper house, which represents regional and minority interests, is indirectly elected by provincial legislatures. Although opposition parties have recently made some gains, there has been effective one-party rule under the new constitution so far. However, this *de facto* one-party rule results mainly from demographic factors, not from a failure to implement *de jure* accommodative institutions. Transitional provisions in the constitution originally mandated power-sharing executives for all levels of government, but these provisions expired in 1999. The state has a federal structure with provincial governments granted considerable *de jure* autonomy, although in practice much authority has remained centralized at the national level. Cultural and linguistic autonomy rights are guaranteed, and affirmative action policies are mandated for advancement of 11 official languages.

#### SUDAN: -1

As of January 2011, Sudan was governed under a 2005 interim constitution produced through a post-civil war peace agreement. The interim constitution provides for a president elected by absolute majority vote for a limit of two terms. The president appoints a cabinet led by two vice presidents, the first of whom is required to be a member of the opposition. The current president has been in power since a 1989 coup, and he was first elected under the

current constitution in 2010 amid multiparty elections that were deemed highly flawed. Prior to these elections, a power-sharing government awarded a 30 percent quota of ministerial portfolios to the opposition, but the current government is dominated by members of the president's party. The bicameral legislature consists of a lower house elected through a mixed system of mostly plurality voting in SMDs, with a small percentage of seats set aside for PR, and an upper house indirectly elected by subnational state legislatures. The legislature is extremely weak relative to the executive, having only limited institutional authority. Sudan has a federal structure, with 25 states granted governmental autonomy, and constitutional guarantees provided for cultural and legal autonomy rights. Southern Sudan is singled out as a fully autonomous region, and was granted the right to hold a referendum on secession.

## SWAZILAND: -2

The 2006 constitution of Swaziland provides for a hereditary monarchy, with the king holding supreme executive and legislative powers. The king appoints a prime minister from the lower house of the legislature, which is elected mainly through a plurality SMD system, with about 15 percent of seats reserved for appointment by the king. The senate consists of two-thirds members appointed by the king, and one-third indirectly elected by the lower house. The legislature has only minimal institutional authority, as power is highly centralized in the monarchy. The state has a unitary structure, with nominal decentralization through regional administrators appointed by the king. The constitution provides for integration through a declared duty of citizens to foster national unity, but traditional authority structures are also protected. Political parties were previously banned completely, and while they are not specifically prohibited by the current constitution, in practice party identification has not been permitted in elections.

## TANZANIA: -1

The 1977 Tanzanian constitution, as amended through 2005, provides for a presidential head of state elected by plurality vote for a limit of two terms. Prior to 2000, the president was elected through a two-round majority system. The president appoints a prime minister from the majority party in the legislature, and cabinet members are appointed in consultation with the prime minister. The unicameral legislature is elected primarily through plurality voting in SMDs, with an over-representative share of seats reserved for the

autonomous region of Zanzibar. The legislature has moderate institutional authority, including a no-confidence vote and impeachment power, although the president retains power of dissolution. In practice, one party has held power since the return of multiparty elections in 1995, and recent elections have not been deemed credible. Tanzania has a federal structure, with full governmental autonomy granted to Zanzibar since 1964. A 2010 amendment to Zanzibar's constitution instituted a power-sharing government in response to outbreaks of violence that occurred around previous elections. Political parties in Tanzania are legally required to have a national character, and identity-based parties are prohibited.

TOGO: -2 (-1)

The 1992 constitution of Togo, as amended through 2005, provides for a presidential head of state elected by plurality vote, with no term limits since they were abolished in 2002. The president is required to appoint a prime minister from the majority party in the legislature, and a cabinet in consultation with the prime minister; however, in practice this was not followed the one time an opposition party gained the majority in 1994. The national assembly is elected by list PR with no threshold, but the gerrymandering of voting precinct lines appears to greatly limit the proportionality effects, as seen in the results of recent elections. The constitution provides for a Senate to represent local authorities, but it has not been implemented. Power is highly centralized in the presidency, with the current president—son of the previous 36-year president who died in office in 2005—having won two noncredible elections. The Togolese state has a unitary structure, and political parties are required to uphold principles of national unity.

TUNISIA: -2

The 1959 constitution of Tunisia, as amended through 2008, provided for a presidential head of state elected by absolute majority, with no term limits as of a 2002 amendment. The president appoints the prime minister and cabinet and holds highly centralized executive power. The lower house of the legislature is elected primarily by plurality vote from party lists in multimember districts, although nearly one-third of the seats are reserved for appointment of members from losing parties, based proportionally on the election results. The upper house, which was created in 2002, is mainly indirectly elected by regional and local councils, with nearly one-third of the seats appointed by the president. In practice, the legislature has minimal institutional author-

ity and has always been controlled by the president's party. As of January 2011, the current president had been in power for 23 years. Tunisia has a unitary state structure, with regional administrators appointed by the central government. Islam is the declared state religion, and identity-based political parties are strictly prohibited.

UGANDA: -1 (-2)

The 1995 constitution of Uganda, as amended through 2005, provides for a presidential head of state elected by absolute majority, with no term limits since they were abolished in 2005. The president appoints a prime minister and cabinet members with legislative approval. The unicameral legislature is elected by plurality vote in SMDs. In practice, the legislature has minimal institutional authority, although it is immune from dissolution. Political parties were effectively banned prior to 2005, and the president's party has retained control in subsequent elections. The current president has been in power since a 1986 coup. The Ugandan state has a declared unitary structure, although there is decentralization to locally elected authorities, and guarantees for traditional tribal leadership. A highly developed system of informal patronage provides for significant de facto accommodation. The constitution contains a declared objective of fostering national unity and integration along with recognition of ethnic and other diversity. Political parties are required to have a national character without identity-based distinctions.

ZAMBIA: -2

The 1991 constitution of Zambia, as amended through 2009, provides for a president elected by plurality vote. A two-term limit was established by a 1996 amendment, which was observed in 2001. The president appoints a vice president and cabinet from among members of the legislature. The unicameral national assembly is elected by plurality vote in SMDs, with a small number of seats reserved for presidential appointment. The legislature has minimal institutional authority, and it is subject to dissolution by the president. There has been effective one-party rule since the establishment of multiparty democracy in 1991, although opposition parties have made gains in recent elections. After the former president died in office in 2008, an opposition candidate came close to winning a special election that was judged relatively free and fair. The Zambian state has a declared unitary structure, with provincial authorities appointed by the central government. Constitutional provisions grant limited legal autonomy for traditional authorities, including establishment

of an advisory body to represent tribal chiefs; however, in practice power remains highly centralized.

ZIMBABWE: -2 (-1)

The 1979 constitution of Zimbabwe, as amended through 2009, provides for a presidential head of state elected by absolute majority for a six-year term with no limits. The president appoints a prime minister and cabinet; pursuant to the 2009 amendment enacted as part of a power-sharing agreement following disputed elections, the prime minister and roughly half the ministers are appointed from the opposition. The amendment also requires the president to consult with the prime minister on major decisions and appointments, but as of January 2011 there were ongoing disputes about enforcement of the power-sharing agreement. The bicameral legislature consists of a lower house elected by plurality vote in SMDs, and a senate elected mostly under the same system with just over one-third appointed seats for regional and tribal representatives. The legislature has a vote of no confidence, but the president holds dissolution authority, and in practice the legislature is institutionally feeble. The current president has held power since 1980, despite close elections in recent years that were deemed fraudulent. The opposition did, however, gain a majority in the lower house in 2008 for the first time since independence. Zimbabwe has a unitary structure, with the central government appointing provincial governors and formally appointing tribal chiefs. There is no constitutional regulation of political parties.

59. Eustinah Tarisayi, "Voting in Despair: The Economic and Social Context," in *Defying the Winds of Change: Zimbabwe's 2008 Elections*, ed. E. V. Masunungure (Harare: Weaver Press and Konrad Adenauer Stiftung, 2009), 11–12.

60. World Bank, "Life Expectancy at Birth: Zimbabwe," 2014, <http://data.worldbank.org/indicator/SP.DYN.LE00.IN/countries/ZW?display=graph> (accessed 16 August 2014). Life expectancy bottomed out in 2003, at just under forty-three years.

61. Godwin, *The Fear*, 40.

62. Quoted in *ibid.*, 178–79.

63. Human Rights Watch, "Zimbabwe: ZANU-PF Sets Up 'Torture Camps,'" 19 April 2008.

64. *Ibid.*

65. Human Rights Watch, "Zimbabwe: No Justice for Rampant Killings," 8 March 2011.

66. "Morgan Tsvangirai: Zimbabwe Elections Likely in 2012," *BBC*, 6 May 2011.

67. Godwin, *The Fear*, 241.

68. *Ibid.*, 147.

69. "Exiled Mugabe Returns to Rhodesia," *BBC*, 27 January 1980.

70. "'Zimbabwe is mine' Says Robert Mugabe," *The Telegraph*, 19 December 2008.

#### Chapter 9. Africa's Domestic Institutions of Integration and Accommodation: A New Database

I am deeply grateful to Professor Alan Kuperman for his tireless advice and assistance on both the substance and form of this chapter. Any outstanding errors or omissions are mine alone. Many thanks are also due for helpful comments from the scholars of the Constitutional Design and Conflict Management book project, as well as from discussants at the associated workshop and conference, both held in 2011. I also wish to thank the Robert S. Strauss Center for International Security and Law, at the University of Texas at Austin, for generous financial support during the writing of this chapter.

1. See, e.g., Bernard Grofman and Robert Stockwell, "Institutional Design in Plural Societies: Mitigating Ethnic Conflict and Fostering Stable Democracy," in *Economic Welfare, International Business and Global Institutional Change*, ed. Ram Mudambi, Pietro Navarra, and Guiseppe Sobbrío (New York: Edward Elgar, 2003).

2. See Milton Esman, "Ethnic Pluralism: Strategies for Conflict Management," in *Facing Ethnic Conflicts: Toward a New Realism*, ed. Andreas Wimmer et al. (Lanham, Md.: Rowman and Littlefield, 2004).

3. For some reviews of the literature on alternative paths to establishing political order in multi-ethnic states, see Crawford Young, *The Politics of Cultural Pluralism* (Madison: University of Wisconsin Press, 1976); Ian Lustick, "Stability in Deeply Divided Societies: Consociationalism Versus Control," *World Politics* 31, 3 (April 1979): 325–44; Andreas Wimmer, "Who Owns the State? Understanding Ethnic Conflict in Post-Colonial Societies," *Nations and Nationalism* 3, 4 (1997): 631–65; and Cameron

G. Thies, "The Political Economy of State Building in Sub-Saharan Africa," *Journal of Politics* 69, 3 (August 2007): 716–731.

4. Arend Lijphart, *Power-Sharing in South Africa* (Berkeley: University of California Press, 1985), 5–7.

5. Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* (New Haven, Conn.: Yale University Press, 1977).

6. Donald L. Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1991).

7. Horowitz, *A Democratic South Africa?* 172–89, 205–17.

8. Timothy D. Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (Washington, D.C.: U.S. Institute of Peace Press, 1996), 47–48.

9. Esman, "Ethnic Pluralism," 209.

10. Grofman and Stockwell, "Institutional Design in Plural Societies," 111, 124.

11. Andrew Reynolds, *Electoral Systems and Democratization in Southern Africa* (Oxford: Oxford University Press, 1999), 268.

12. René Lemarchand, "Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo," *African Affairs* 106, 422 (January 2007): 1–20.

13. Benjamin Reilly, *Democracy in Divided Societies: Electoral Engineering for Conflict Management* (London: Cambridge University Press, 2001), 21–24, 185–86.

14. See Donald Horowitz, "Constitutional Design: Proposals Versus Processes," in *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, ed. Andrew Reynolds (Oxford: Oxford University Press, 2002), 15–36; "Conciliatory Institutions and Constitutional Processes in Post-Conflict States," *William and Mary Law Review* 49, 4 (March 2008): 1213–48.

15. See Arend Lijphart, "Democratic Political Systems: Types, Cases, Causes, and Consequences," *Journal of Theoretical Politics* 1 (1989): 33–48.

16. Arend Lijphart, "The Wave of Power-Sharing Democracy," in Reynolds, ed., *The Architecture of Democracy*, 37–54; "Constitutional Design for Divided Societies," *Journal of Democracy* 15, 2 (April 2004): 96–109.

17. José Antonio Cheibub, *Presidentialism, Parliamentarism and Democracy* (New York: Cambridge University Press, 2007).

18. David A. Lake and Donald Rothchild, "Territorial Decentralization and Civil War Settlements," in *Sustainable Peace: Power and Democracy After Civil Wars*, ed. Philip G. Roeder and Donald Rothchild (Ithaca, N.Y.: Cornell University Press, 2005), 109–32; see also Svante E. Cornell, "Autonomy as a Source of Conflict: Caucasian Conflicts in Theoretical Perspective," *World Politics* 54, 2 (January 2002): 245–76.

19. But see Daniel L. Byman, *Keeping the Peace: Lasting Solutions to Ethnic Conflicts* (Baltimore: Johns Hopkins University Press, 2002), 100–124.

20. See John McGarry, Brendan O'Leary, and Richard Simeon, "Integration or Accommodation? The Enduring Debate in Conflict Regulation," in *Constitutional Design*

for *Divided Societies: Integration or Accommodation?* ed. Sujit Choudhry (Oxford: Oxford University Press, 2008), 41–88; Table 2, 70–71.

21. See Reilly, *Democracy in Divided Societies*, 185–86.

22. No formal distinction is made for semipresidential systems or other systems having a directly elected president as well as a prime minister, although the specific distribution of power in such cases is considered in the index.

23. Quotas for representation of women and other groups with less consistent political preferences, such as young people or the disabled, are not considered to have accommodative effects.

24. Lijphart's wider theoretical framework may apply beyond such cases; see "Democratic Political Systems," 39.

25. Two possible exceptions are Somalia and Libya. As of January 2011, Somalia could be said to have had a de jure constitutional design, but no stable de facto design given its anarchic political order. Libya might be said to have had a de facto design without a de jure constitution, although one could argue that the "Green Book" and a 1977 legislative declaration served as constitutional documents.

26. See Derick W. Brinkerhoff and Arthur A. Goldsmith, "Clientelism, Patrimonialism and Democratic Governance: An Overview and Framework for Assessment and Planning," report to U.S. Agency for International Development (USAID) (Bethesda, Md.: Abt Associates, 2002).

27. Monty G. Marshall, Ted Robert Gurr, and Keith Jagers, "Polity IV Project: Political Regime Characteristics and Transitions, 1800–2010," Center for Systemic Peace, 2010.

28. The Bogardus social distance scale, which measures the "sympathetic understanding" between different identity groups, would probably provide the best metric for quantifying deeply divided societies. See, for example, Arnold Vedlitz and Sammy Zahran, "Theories of Ethnic Social Distance: Comparative Empirical Tests for Three Distinct Ethnic Groups," *Sociological Spectrum* 27, 5 (2007): 592. Existing measures of ethno-political diversity and fractionalization, such as the Cederman et al., Ethnic Power Relations Dataset, do not provide a good proxy for depth of divisions, as they measure the number and size of different groups, and their political relations, but do not address the underlying structures of social divisions. See Lars-Erik Cederman, Brian Min, and Andreas Wimmer, Ethnic Power Relations Dataset, Ethnic Power Relations Database (2009).

29. See Horowitz, "Conciliatory Institutions and Constitutional Processes," 1226–31.

30. McGarry et al., "Integration or Accommodation?" 87–88. Horowitz points out that conflict-prone designs can sometimes actually help leaders in deeply divided societies remain in power by providing opportunities to exploit social divisions for political gain. "Conciliatory Institutions and Constitutional Processes," 1229.

31. Sources used to assemble these summaries include constitutional texts and other sources of law (on file with author); ACE Electoral Knowledge Network (Africa regional

data), <http://aceproject.org/regions-en/regions/africa>; African Elections Database, <http://africanelections.tripod.com/index.html>; CIA World Factbook, Country Summaries; Electoral Institute for the Sustainability of Democracy in Africa (EISA), “Democracy Encyclopedia Project,” <http://www.eisa.org.za/WEP/wepindex.htm>; M. Steven Fish and Matthew Kroenig, *The Handbook of National Legislatures* (Cambridge: Cambridge University Press, 2009); International Foundation for Electoral Systems (IFES) Election Guide, Africa region, <http://electionguide.org/>; Inter-Parliamentary Union (IPU), “PARLINE Database on National Parliaments,” <http://www.ipu.org/parline-e/parlinesearch.asp>; International Institute for Democracy and Electoral Assistance (IDEA), “Table of Electoral Systems Worldwide,” <http://www.idea.int/esd/world.cfm>; U.S. Department of State, Country Profiles. Additional country-specific scholarly and media sources were utilized to assemble information on individual cases (on file).

#### Chapter 10. Rethinking Constitutional Reform for Democracy and Stability

1. Sven Gunnar Simonsen, “Addressing Ethnic Divisions in Post-Conflict Institution-Building: Lessons from Recent Cases,” *Security Dialogue* 36, 3 (September 2005): 310, referring especially to proportional representation in electoral systems.

2. Benjamin Reilly, *Democracy in Divided Societies: Electoral Engineering for Conflict Management* (New York: Cambridge University Press, 2001), 20, referring to consociationalism.

3. Helga Malmin Binningsbø, “Power Sharing, Peace and Democracy: Any Obvious Relationships?” *International Area Studies Review* 16, 1 (March 2013): 89, referring to power-sharing, which the article says is “mostly understood as including political opponents in a joint executive coalition government.”

4. Reilly, *Democracy in Divided Societies*, 20, referring to consociationalism.

5. Ibid., 168, citing Arend Lijphart, “Prospects for Power Sharing in the New South Africa,” in *Election '94 South Africa: An Analysis of the Results, Campaign and Future Prospects*, ed. Andrew Reynolds (New York: St. Martin's, 1994), 222.

6. Andrew Reynolds and Timothy D. Sisk, “Elections and Electoral Systems: Implications for Conflict Management,” in *Elections and Conflict Management in Africa*, ed. Timothy D. Sisk and Andrew Reynolds (Washington, D.C.: U.S. Institute of Peace Press, 1998), 30.

7. Andrew Reynolds, *Electoral Systems and Democratization in Southern Africa* (New York: Oxford University Press, 1999), 268.

8. Ibid., 269.

9. Quoted in ibid., 269, citing Ann Reid, “Conflict Resolution in Africa: Lessons from Angola,” INR Foreign Affairs Brief, U.S. Department of State, 1993.

10. Quoted in Timothy D. Sisk, “Elections and Conflict Management in Africa: Conclusions and Recommendations,” in *Elections and Conflict Management in Africa*, ed. Sisk and Reynolds, 171.

11. G. Shabbir Cheema and Dennis A. Rondinelli, “From Government Decentralization to Decentralized Governance,” in *Decentralizing Governance: Emerging*