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AFRICAN GOVERNANCE INSTITUTIONS: ACCOUNTABILITY
MECHANISMS OR ENABLERS OF CORRUPTION?

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PROCEEDINGS

MR. GRIFFIN: Good afternoon, everybody. Welcome to Brookings. My name's Charles Griffin. I am substituting for David de Ferranti, who, along with me is part of a team handling the Transparency and Accountability Project at Brookings. We're trying to develop a program both of preparing, of supporting an intellectual agenda in this area. This seminar is part of that.

Secondly, we're producing what we call a Global Report, which is equivalent, or kind of modeled after a World Development Report on the question of How to Improve Citizen Advocacy for Improved Quality of Expenditures in Developing Countries. That's a mouthful.

And, finally, we're actually in a pilot phase now of providing support to citizens organizations to develop their capabilities in advocating for better budgeting.

Now, that is kind of a narrow focus in the sense that we're focused mostly on the quality of public expenditures, both for domestic spending and for donor financed spending. But today's discussion, which is part of our what we call our Africa Week, is about the more general issue of governance institutions in Africa, and the title is whether the accountability mechanisms are actually causing accountability or actually enable corruption in the states where they exist.

I'm going to take about five minutes to try to introduce the topic the way we look at it, and then I will introduce the panel, and they will take the rest of the two hours to explore different aspects of the issue.

First of all, in developing our work, we tried to come up with a framework that we thought would help us understand what exactly is the problem and what would be a strategy going forward. And since we are actually more economists than not economists, and we quickly move towards a principal agent-type setup where the principal in this case is the citizen and the agent are the bureaucrats and politicians in the government. And the question is, how can the principal get the agents to perform in the way that they hoped they'll perform to provide quality government and quality expenditures out of tax dollars and foreign assistance?

So in a democratic system, of course, elections play a key role in holding politicians accountable as agents, but we all know that elections are imperfect in their ability to do that. What's also a problem, of course, and what is a major part of what we're talking about today -- I just noticed my counterpart, Dave de Ferranti, just arrived, so I was lying -- he is available. But he's only available for part of it, so, thanks, Dave, for being able to show up and participate as long as you can.

So to get back to the issue of the framework, even if elections worked perfectly, you would want to be able to have some accountability mechanisms that existed between elections that would help to hold politicians' focus on the what they've promised to do, and also have a consistent feedback

mechanism that would hold bureaucrats accountable for the functioning of the government.

And in this sense, the question that arises for us is, what are the signals that the principals, or the citizens, can actually send to the government? Are there pipes open into the various parts of government for citizens actually to be able to make signals that get through? What's the band width of those pipes, if they exist? And if you could consistently look across a government with the same lens, could you start to detect that in some part of the government the signals get through better than in other parts of the government? And what would you need to do to get a greater degree of uniformity and a wider band width for citizens to be able to have an impact?

The second element of that is, suppose the citizens are able to get their signals through, what sort of feedback mechanism is there to the citizens that can show that the government is responding to them? And if you work this through, you start to realize that you could actually come up with a menu or kind of a mapping exercise of how to take a look at the government and its interaction with citizens across a wide array of institutions and start to understand where to put the focus, what are the necessary and sufficient conditions to get something moving? And that brings us to today's discussion in a very quick way.

If you think about how donors have supported improvements in governance, it's actually been in much more focus, almost a vertical silo approach. You have a set of people interested in democracy, and that has had a big impact. It's had a big impact at improving the quality of elections and kind of the -- it's

created some benchmarks around the world of how well a country's functioning in respect to democracy. Huge changes in that area in the past 20 years.

Secondly, there's a focus on improving the judicial branch, and closely aligned with that is a focus on corruption itself. But corruption, when you look at corruption, it's not only the judicial side but also the fiduciary systems that the government has in place and the ways that the government is accountable to its citizens in those particular systems to be able to use the money effectively.

Then there's a whole set of people looking simply at the media and trying to strengthen media as an element of the democratic process and improving of governance. And, finally -- this isn't exclusive, I mean I haven't gone through the whole list -- but the other, the last major area, of course, is strengthening legislatures so that they have a stronger or a more effective role in holding governments accountable.

So what we thought we would do today is bringing some of these strands together, because with our framework of looking at this, we're really interested in how these pieces work together and where it would be most advantageous for donors to put their efforts in any particular situation, not saying that you just do one thing to the exclusion of everything else.

So with that in mind, I'll introduce our panel today, and these are people who are experts in each of these different areas. First of all, to my right is my old pal Brian Levy, who we first got our start together in the World Bank in Eastern Africa, and he's done wonders. He's left a good path of better democracies there but -- stronger democracies. But now Brian is advisor on

government at the Center of the group that handles governance for the entire Bank. So he's -- and he is also one of the coauthors of the World Bank's Governance Strategy, which went to the Board earlier this year.

And to his right is Professor Kwasi Prempeh, who's Professor of Law at Seton Hall University, and most recent and just prior to that had spent a year in Ghana dealing with these issues directly, and prior to that has had an entire career in the legal profession here in Washington.

And to his right -- I'm not going through the entire biographies because you have a little handout. I just want to be sure you're familiar with each person. And to his right is John Johnson, who's Director of the Governance Programs at NDI, the National Democratic Institute. He has a very wonderful record of working an entire career in UNDP at University at Sunni, Buffalo.

MR. JOHNSON: Albany.

MR. GRIFFIN: Albany, to where he spent his entire professional career supporting a democracy development in -- the development of democracy in developing countries.

And then to the right of John Johnson is Peter Lewis, who is head of the Africa program across the street at SICE. So we have a very nice range of panelists here who will cover the entire territory, I hope, in one hour, and then that should leave us about 45 minutes for question and answers.

So I'll turn it over to you, Brian, and let you get us started. Thanks.

MR. LEVY: Thank you, Charlie. I was asked to begin the panel by putting the discussion on governance and accountability in a broad perspective,

and I'm going to do that. I'm going to put it in the broad perspective of the development agenda more broadly, the general popular reduction more broadly. And the way that I will do that is I have seven propositions that I want to share with you about governance and its reform, and I will illustrate these by drawing back and forth on four particular African countries: Kenya, Ethiopia, Tanzania, and Zambia.

So let's begin. The first proposition -- and my first two propositions are essentially about the links between governance and growth, governance and development more broadly -- my first proposition is even going beyond the way Charlie put it to us a moment ago, governance is not a simply a specialized stovepipe arena for reform. It's not something the sum ever of the four or five areas that Charlie mentioned. In a sense, understanding governance and governance dynamics is, I would argue in the first proposition, it's the business of everybody working on development.

Why do I say that? I say that because it's the political and institutional environment that shapes the incentives of all the actors with whom one is engaging in the development business. And as a result, those political and institutional incentives define the range of feasible options and define the constraints in relation to which all development policy from macro to trade to service provision to reform of the public, the strengthening of accountability institutions have to play out. And unless we invest in understanding these constraints -- by "we" in the States I mean all of us working on all aspects of

development, we simply won't end up with effective design implementation of reform.

Notice one of the features of the first proposition is it's viewing governance not simply as an object for reform but as a constraint perfecting development policy more broadly. To illustrate this with two examples with some work I've been involved with for the last couple of months, they both come from Zambia. And the example of one, in some sense the governance issue is the issue of decentralization and the repeated efforts of a 10, 15 years in Zambia to shift resources, responsibilities, and accountability down to local governance.

The other one, which one never thinks of as a governance issue, is electricity. And the efforts in Zambia, especially acute now as countries moving from electricity surplus to electricity deficit, to actually create an institutional framework for the more, put, in a sense, investment in generation and transmission distribution, and the effective utilization of electricity.

In both cases, there's a well-defined donor technology, if I can call it that, for how one actually goes about decentralization reform, how one goes about electricity sector reform. In both cases it was a clear failure. In fact, in reviews that have been done of World Bank engagement in Zambia over the last decade, an IEU review, it says repeatedly in Zambia one sees seeming agreement on policies, but in donantation works out as anticipated.

And without going into the details of each of these, in both cases the root dynamic that accounts for this failure is a governance issue. It's the issue of notwithstanding the fact that Zambia has the formal structure and the formal set

of institutions of a democracy with checks and balances. The core driver of decision-making in Zambia continues to be centralized discretion. Discretionary decision-making with power concentrated in the presidency and the use of patronage resources for decisions.

And in the case of decentralization, shifting power authority, decision-making, and resources at the local level is directly contrary to that. In the case of electricity, it turns out that as in many countries the electricity utility is a central source of discretionary authority, effect reform to the classic way contracted that and they will beat it. In both cases they're always forward, but the ways forward are second best. That's the first proposition.

And the third proposition is governance is the business of everybody working on development because it shapes the incentive of the actors.

Second proposition. Governance and development performance are clearly correlated over the long run. If you look at any given measure of per capita income and most measures of the quality of governance institutions, and you try to put a line through them with the United States and sort of Western Europe up in the northeast and the southwest, the lower end, you'll have the low-income countries from Ethiopia to Bangladesh to failed states, you will see, you can put a regression through that line that will be correlated.

However, the short -- over the short run, that relationship is much less robust and much less clear. Indeed, the work is fairly clear at this point that relatively small changes, small changes in a governance environment, small changes in policies, can trigger significant growth acceleration. There's a lot of

work that's been done on this by Roderick Housman, Pritchard, and others which should have captured all of this. Sometimes they identify the proximate constraint as infrastructure, small reform that eases the infrastructure constraints of an obstruct, but in all cases I would argue -- and I gave you an example a moment ago from electricity -- in all cases underlying the infrastructure constraint, the policy constraint, even underlying governance challenge and a governance issue. And again, we're in the world here of second best performance.

Just to give you an example from my set of countries that I mentioned, if we take -- and I'll come back to this a number of times -- if we take the example of Kenya, Kenya with the elections in 2001 that led to the defeat of President Moi and successor and the victory of President Kibaki was seen at that time to be an opportunity for major governance reform. The reality as of 2006 of most of the evidence in Kenya is that the extent of governance reform has been relatively modest.

Nonetheless, the relatively modest governance reforms that did take place provided enough of a platform for Kenyan growth to accelerate from somewhere between zero and two percent per annum through the 1990s into 2001-2002 to upwards of six percent today. That's the second proposition.

Over the short run, then, relatively small changes can produce a major opportunity for spurts in growth. We need to think about that as we think about the governance development nexus.

Now, that, coming to my third theme, because governance is part of the long-run dynamic, and again the Roderick work and others makes this

clear, that governance accelerations can be short circuited in the absence of the continuing reforms that enable constraints, as they come up, to be eased. Because governance reform is part of the long-run solution, it needs to be part of the development strategy. However, -- and this leads me to my third proposition -- governance reform -- I'll put it governance reform is a journey with no unique part from weaker governance to stronger governance.

Let me explain what I mean by that, two aspects: First this national governance is a journey. Essentially, the implication is that it is simply not a feasible vision of what is achievable that Zambia or Kenya or Bangladesh or Bolivia or wherever will become Canada overnight. We are dealing with a process of change which is a long-run process of change, and in some sense it's unhelpful -- and I'll come back to this at the end of this discussion -- it's unhelpful in our discourse on governance and development to condemn countries because they're not Canada.

There's a story I could tell later if we have the opportunity, I won't do it now. And Canada's not really Canada when you look at some of the dynamics of what actually plays out in those governments, and that's my first point. This is a long-run journey.

My second point is it's a long-run journey which has got multiple roots and multiple parts. And here there are two dimensions which I find particularly helpful in thinking about the parts from weaker governance to stronger governance. There's a dimension of space capacity, and there's the dimension of accountability or, if you like, the dimension of the quality of a

bureaucracy in a somewhat topped-down way to make policy, deliver services, and the accountability of the bureaucracy and of the political principles to their citizens.

And, clearly, when we look at the track records, globally, we realize that there's no single path of weakness in both of those dimensions, which is where low-income countries often begin to strengthen both those dimensions; it is where high-income countries generally will find themselves. And just to think about this, you can think of the range of examples from the democratic process in India which one might arguably open with accountability, and it gradually built capacity over time to the development dynamic of a country like Korea, or a country like Vietnam where it was capacity leading accountability. Or we might argue, in that list -- and I'll come back to this -- or a country like Ethiopia.

And then we might think of a country like Kenya, which is in a sense a middling path in an Africa country because of middling capacity in its bureaucracy. It has middling accountability relationships, but in both cases as of 2006-2007, those turnabouts turn out to be good enough to be generating six to seven percent of a growth rate.

So then let's summarize the third proposition: Governance is a journey, there's no single unique part from weakness to strength, and to assert that all countries always are benchmarked against Canada is to set up the discourse of an impossible set of goals.

Fourth proposition. Most countries most of the time -- comprehensive governance reform, strengthening capacity; strengthening

accountability institutions is not feasible. And that's the base for the illustrations is to take the example of the African country that over the last 15 years or so has been the most effective and comprehensive reformed, and that's Tanzania. And if we ask ourselves what were the conditions under which Tanzania was able to effect the reforms that it did, the first one was that almost uniquely in low-income African countries there was a coherent programmatic and dominant then and dominant today still political party, the CCM, which provided the developmental platform within which a long-run view of governance reform could be undertaken.

Second, the process has been a process of 15 years. Many of the reforms in public administration and other areas have been ongoing for 15 years and still are settings with significant weakness.

And third and linked law, now having said that, the consequence in Tanzania has been an almost uniquely successful -- I think it's a cutting edge program in Africa and globally of the scaling up of aid via a process that involves strong government ownership and harmonization and alignment with Tanzania's own governance and government systems. Truly a best practiced.

It's also a setting with continuing corruption. So that's what it takes to achieve comprehensive reform, those Tanzanian conditions. Contrast that with the Kenyan circumstance where many of us thought in late 2001 early 2002, comprehensive reform may have been feasible. But in retrospect, if you contrast Kenya and Tanzania, it's clear what the differences are.

In Kenya you had only a weakly institutionalized set of relationships with political parties that provided encompassing accountability in relation to a developments agenda; and what you had instead were unusually strong patronage politics. And it's clear in 2006-2007 that with the best will in the world, in many ways with the set of conditions that prevailed in Kenya in 2002 that were very proficient for governance reform, the reality of governance reform was incremental, not comprehensive, which was the point of this fourth proposition, then. Most of the time comprehensive reform is not feasible. That was the fourth proposition.

Fifth proposition, then, is -- now, I spoke specifically on accountability institutions and it's consistent with many of what -- much of what I've said already -- that there are no quick fixes available to us in strengthening accountability institutions. We can simply look at the examples, and we're going to hear more examples from the panel as we go. There's the fair example of Ethiopia, which looked as of -- was it early 2005 before its election that it was heroically (inaudible) transform itself into a successful open democracy, but life didn't work out that way.

But what did happen in Ethiopia, nonetheless, is a series of initiatives that's progressively and on a margin strengthen local accountability to citizens to how resources are being used in the provision of those basic services. I can speak more to that, if you like, but the example of Kenya, which we're going to hear more about -- I mean my favorite statistics on Kenya which is regarded as one of the most effective independent parliaments on the African continent is of

the -- the salary of Kenyan parliamentarians -- I hope I'm not stealing from some other presentation that's coming -- the salary of a Kenyan parliamentarian was -- Kenya's per capita income is \$500 per capita; it was \$50,000 per annum of a parliamentarian. I believe this last year parliamentarians in Kenya voted themselves a one-time \$20,000 bonus, \$70,000 for one year. This is five percent of the budget. So this is -- but this is not a criticism; it is arguably what it takes to break the patronage dependence on centralized political discretion.

Zambia I've spoken to already, seemingly open society since the 1990s, open press, open media, seemingly relatively independent judiciary, reality of centralized discretion in political decision-making. So it's a fairly tough message for those of us who work in governance reform in Africa in the last few decades. Certainly beyond the exuberance of the '90s that those of us who said, Look, it isn't just a matter of fixing public management systems, it's a matter of fixing accountability institutions. We have sobered in terms of what's feasible in relation to that. The question we have to ask ourselves that comes up as well, if this isn't moving forward, is it moving backwards? That's, I would argue that actually, even as we say there's no quick fix.

This brings me to my sixth proposition which is that incremental reforms in each of these many different dimensions can add value. They can add value in terms of development results, and they can add value in terms of governance reform. So let me just give you three examples of this:

First, even when accountability enlarge does not get fixed, there exist opportunities for accountability in the small linked more directly to service

provision. For example, in Zambia one of the most effective programs for getting resources and services down to poor people is the Zambia Social Investment Fund. It takes resources directly to the local level in a way that is accountable to local communities. It's third, fourth best, though, to local governance and intergovernmental reform, but it does achieve positive reduction results, and the local governance reform that has been repeatedly attempted in Zambia, including by linking to this program, proves to be not feasible.

Similarly, parental oversight at school turns out different kind of programs that made a big difference in Kenya.

Second example, public management reform in the context of governance have tended to have, get a bad reputation as not being effective, but the evidence is surprisingly more interesting than that. If you look at a review of the World Bank's independent evaluation group's review, it turns out that public financial management reform mentions controls, how resources are allocated from controls over those resources, turn out to be more than 80 percent of operations in this area are rated as successful or better, including in the most difficult environments. And these can be monitored. There are various indicators to monitor trends in this area.

Perhaps even more surprising is the pattern of the experience of reforms to improve public administrative management which purports to be truly the worst of the worst in terms of the performance. I'm sure if we (inaudible) out of public administrative management programs themselves, it's a disastrous portfolio.

Well, it turns out that if you segment your sample of developing countries between countries whose starting point is weak governance, the more dysfunctional low-income countries, and countries whose starting point is better, the better low-income countries, the middle-income countries, it turns out that public administrative reforms narrowly focused on key parts of the "bully rocks the boat" systems are as successful in that stronger group of countries, 80 percent plus of success rate as a public financial management reform. However, in weakly governance setting, only 30 percent of efforts are successful.

So that's the point of my sixth proposition, then, is incremental governance reform can add value, realistically and feasibly, accountability and in capacity.

Now, my final proposition, and for this final proposition, I want to step back and look at what's, in a sense, what's been a almost explicit but not quite explicit underside of the propositions so far, and two of these are on relations -- on the nexus in governance and development; two of them have to do with donor funding for development. And they, in a sense the first one is, as I noticed growth acceleration, as I said, does not need good governance; just enough governance reform can be enough to accelerate growth. So we have the puzzle of the Bangladesh paradox, one of the worst-governed countries, most, most corrupt countries growing at six, seven percent a year.

We have today in Africa the puzzle added to that of the Kenya paradox, the Zambia paradox, many paradoxes, rapid growth sometimes quite inclusive, weak governance, problematic for development.

Second problematic element is that, as I've underscored among the multiple paths that can yield development gain, is a path that involves capacity without accountability. It's interesting that that's accepted as the dynamic that took place in Korea or Taiwan, that in the contemporary period its path of the framework within which one works and expects to work in a country like Vietnam, but it's taboo to think about Ethiopia's development paths in those terms. It's something to reflect on.

Third, in a sense underside of governance in relation to development, I mentioned to you the community-driven development program, the Zambia Social Investment Fund and others like that which turn out to be cost-effective, but it's in the nature of these programs that one is taking resources down to very large numbers of resource recipients all getting relatively small amounts of resource. And while in aggregate the result is highly cost-efficient, it is certainly the case that individual instances are instances where the resources leak through corruption. And it is also the case that there is no effort made, or it's too strong, that the focus is not on comprehensive ex-anti-control, but it's on ex-postrandom audit, and citizen participation is a means of controlling that corruption.

Is that acceptable to a donor community to say, we are putting resources down to the local level. We know that some fraction of them will leak corruptly. Even though we know that the results are better, often, in a Zambia-like setting with a top-down version.

And, finally, I mentioned earlier the example of Tanzanian budget support. It's a genuine success story in terms of what is being achieved in relation to the millennium development goal. But in Tanzania, a procurement assessment report in 2001 estimated that about 15 percent -- and remember, the key, by the way, to this process of harmonization, alignment, and mainstreaming, is a provision of donor resources into country systems, not separate and parallel donor control systems. A review of the Tanzania procurement system in 2001 concluded that about 15 percent of public procurement leaks through corruption.

Six years later, 2007, there have been major efforts to reform the procurement system, but the implementation of these reforms remain still in its infancy. Clearly, we cannot conclude that as of 2007 there is zero corruption in Tanzanian procurements, but we nonetheless take a view, uncomfortably, that budget support in Tanzania is -- and I think the evidence is incontrovertible -- has been a major source of success in achieving millennium development goals.

Which brings me to my final proposition. If we do engage seriously on the crucial issue of governance and developments, we need a much more nuanced and intellectually honest and difficult discourse than we've often managed so far in relation to the governance area. But the dilemma that this poses, I'll try to suggest to you here, are often profoundly uncomfortable. And I, frankly, often wonder whether among development donors and development practitioners, perhaps distinct from the academic community, that kind of honest nuanced discourse that confronts the dilemma squarely, is actually feasible.

Thank you.

(Applause)

MR. DE FERRANTI: Thanks, Brian, and our next speaker is Kwasi Prempeh. Would you like to stay put or come here?

PROFESSOR PREMPEH: I'll --

MR. DE FERRANTI: Okay, thanks.

PROFESSOR PREMPEH: I'll be looking at the judiciary, African judiciary, what role it's been playing in efforts at controlling corruption and forcing horizontal accountability in the Africa states.

The judiciary, of course, by the nature of the judicial role, the professional limitation that are associated with the judicial role, African judges, themselves, did not become active participants in the movement for reform, the democratic reform that took place in the post-1989 period. However, there were a number of new constituencies within the focal arena that provided absurd, as constituencies, new constituencies for judicial empowerment, these being opposition parties, the Meghan Civil Society, new and vigilant media, and, of course, African voters themselves.

To the extent that new rules begin, new constitutional provisions give these various constituencies new rights, these new rights came to rely by and large on an independent judiciary as the forum for certain rights as well as on the judiciary to actually be the one to protect these rights in the case of violation.

In the initial years of the transition in Central Africa, judiciaries played quite an impressive role. Many courts from countries from Ghana to Malawi, Uganda, and the like which have in times past certainly not had the

courage to serve as "contravillain" forces to executive power wherever in certain high profile cases to actually draw the line against ruling governments and ruling parties in a number of very important cases.

Now, this initial activism seems to have somewhat subsided in more recent times, and I will be looking at some of the reasons why the African judiciary's role has somewhat become almost minimal in the present context.

Of course, we're talking about a change political landscape, certainly, where new constitutions have endowed Africa judiciaries with new power where once it did not have security of tenure or independence, at least formalistically speaking. Africa judges now have the standard by international best practices standard, some of the standard provisions for independence and better than these constitutions.

In addition, most of these courts now have the power of judicial review which, essentially, enables them in appropriate cases to hold to line against governmental encroachment on rights and other constitutional violations. But what is oftentimes lost in discussions about judicial review is that it's not just a checking function; it's also a legislating function because there is really nothing about judicial review that suggests that a court must always hold against the government, right? In fact, in many cases courts have been known to also hold for the government.

So it's important to focus not just on the side of the judicial review but on what kinds of judiciaries we've given this power to, because if they use the power, then, to legitimate governmental sense of power, then it becomes almost

essentially counterproductive to the kind of expectations that people had about them.

Interestingly, though, in most African -- the worst politicians playing out in Africa, it appears that maintaining constitutionalism or maintaining the effectiveness of constitutions has almost been ceded to the courts. The politicians seem to have ceded that role, essentially, to the courts. Now there's a constitution, there are bill of rights, and if you feel your rights violated, go to court. It's essentially the attitude of many in the focal class, so you have a sense where the government, ruling classes have a very minimalist role, minimalization of their own obligations in terms of maintaining constitutionalism and of essentially see that it's to new judiciaries to play this role.

Now, there, of course, a number of problems with inspection in any judiciary, but especially African judiciaries and (inaudible) in which they are to become the vanguards of the guardians of constitutionalism. (inaudible) of course, is that the judicial role is a reactive one. The judiciaries in Africa certainly do not go out on their own hunting for cases to decide. There has to be a demand for judicial review. That has to trigger the jurisdiction of these courts. So one would expect that if you have the power of judicial review, then it might go also hand in hand with a certain traditional public interest lawyering, a certain tradition of suing government.

Of course, there is no such tradition in any African countries of suing government, and in many African societies the bar associations are not -- I mean they don't have to go under obligations, they don't tend to focus a lot of

public interest lawyering. So the demand for judiciary review, the demand that has to be there in order to bring these cases to the court is lacking in many of these countries. So that is an initial problem one has to face when one relies on duly, on judicial review to do the job of holding executives and other parliaments and governments in check.

There are other problems with contemporary judiciaries in Africa, even on the issue of actual independence, judicial independence. There have been instances of fiscal intimidation in Uganda, in Malawi. These, of course, do not compare in terms of scale or frequency to their situation in the past, but there are actual some of these things happening in Ghana. There isn't really -- there hasn't been fiscal intimidation, but there's a central benign subtle way of executive control over judiciaries.

One of them was important welcomed in the hands of these governments of essentially being the fact that African judiciaries have been very impoverished over, you know, just the long stretch of the postcolonial period. They've really not been very important in the great scheme of things in terms of African politics, so they really don't have much in the way of resources.

That resource deficiency persists, and because the gains from judicial reform begins from improvements in the judiciary tend to be long term from the horizon of the politician, judicial review -- I mean judicial reform is not - - it's not something that gives you visible groups, you know, some visible, tangible things to show intellectual marketplace, like show for the short term. Politicians now are looking at short-term fixes, things that if they poured

resources in would at least affect their chances in the electoral marketplace, and judicial reform doesn't appear to be one of those.

What this has meant is that judicial leadership in Africa have been put in a situation of being regular supplicants. They have to appear before ministers of finance to plead for more resources for the courts. This, of course, opens the door to all kinds of influences.

Now, there's also the fact that because many African countries have shifted to a cash budget kind of regime where, even where resources are voted, funds are voted for the courts, for the management of the court. Those funds do not get released until the government has actually been able to receive into its coffers money from its revenue-raising efforts. So in many cases, even though funds are voted for the court, they are not released, and they are released incrementally, usually upon approaches made by judicial leadership.

Now, the fact that there is this kind of reliance of the judiciary on the executive, consistently for more and more funds, of course, does not order well for judicial independence. But the threats to judicial independence in Africa are not only external; there are many, many threats that come from within the judiciary itself and, of course, there is the issue of so-called judicial corruption itself, right.

We tend to look on the judiciary as one of the agents of horizontal accountability, one of the agencies that are going to play a role in checking executives. But they, themselves, ought to be seen as a target for reform. I mean there is really a big issue of judicial corruption in nearly every African reforming

state today. And the recent instances in Kenya where a number of magistrates and judges have been sacked or suspended, this also raises questions of independence, of course: How to deal with judicial corruption?

The judiciary in Africa has tended to see itself as almost a subregulating institution, and because judicial accountability and judicial independence almost are intensive somewhat, right, I mean you want judicial independence but too much independence means that the judiciary becomes a lord until itself, but then, how do you also create mechanisms for making that as accountable? I mean, how are politicians accountable, how are we to make that as accountable?

There's a list out in Ghana where there is a committee in parliament, the Committee of the Judiciary, the Parliament Committee of the Judiciary which is an effect of its kind in the donor parliament, wanted to have nationwide hearings, public hearings into corruption in the administrative of justice. After receiving several complaints from their constituents, the committee decided that it would be appropriate to have public hearings into this.

And in conjunction with some organizations, the process was late for this to begin, and then it seems justice raised an objection, a very public objection without actually speaking to the parliamentarians that in his view any attempt by parliament to investigate or to hold public hearings into judicial corruption amounted to an interference, an undue interference, in the independence of the judiciary. So it became a problem. How do you deal with this issue when the judges see that as interference?

In this particular instance, the hearings did proceed, but the findings were turned over to the chief justice for its action, who decided not to do much with the findings.

Now, there have been also instances where, for example, a serious front office, which is a body empowered to investigate instances of fraud in the public sector, wanted on evidence, on some credible evidence, to investigate certain expenditures in the judiciary. Now, again, the chief justice objected. So there is this problem of a tension between judicial independence and judicial accountability.

And it became especially grieved in the Anglophone African countries where the chief justices have extraordinary power. The role of the chief justice in the African judiciary is not really as a jurist; it's really as a manager of the judicial institution. And that, really, is the most coveted role of the chief justice, that the chief justice is the one how, as I said (inaudible), human resource manager is the finalist manager of the judiciary. He or she, decides on who gets to where, who gets accommodation, who gets all of these things.

And, in addition, they have the power to empanel, to actually assign cases to particular judges, right. Even on the Supreme Court in many African countries, the courts do not sit together as a full panel. The chief justice has the power, usually, to pick from among the justices on the court which ones would hear particular cases. So this is extraordinary power, and the absence of any regime of regulation, this kind of power actually makes the judicial institution itself, it makes a problem in terms of accountability because an institution, if it's

supposed to be an agent of horizontal accountability which is itself hostile to the idea of accountability, I think, becomes an unlikely ally in this effort.

So there is clearly a problem here that needs to be dealt with.

Besides that, there is also I think the expectation that merely giving, having liberal democratic constitutions with bills of rights and with the power of judicial review, having all of these nice things were transform into good law, good case law, good legal doctrine, I think it's also in error because there are a number of these judges, except in South Africa and in one of the African country -- I think the (inaudible) for that escapes me now -- where the transition to democracy came along with the creation of a new court, a new constitutional court.

Most of Africa's courts are hold-to-a-budget judiciaries, essentially. There is essentially that same parliamentarian earlier judiciaries were held over into the current period, and what change for the most part was the (inaudible) and legal work within which they now offer it, which is a new constitutional -- a new constitution given the powers which they did not previously have. But there's a sense in which --there's a carryover, of course, from the past to the present in a number of the legal doctrines like that were practiced in other periods.

And in terms of accountability, two of the most important new institutions in the African landscape would be, for example, the anticorruption agency and the new media, the new and vigilant media. There's a problem to look at those cases that have come before the court involving these players and how the court have handled these kinds of cases.

There've been a number of cases in many African countries involving criminal libel, civil suit brought by public officer, politicians against journalists and the like. And in most of these cases, in most of these cases, the courts have fallen back on old doctrine, old common law doctrine to actually hold against the press. So, you know, some journalists have been jailed even under the current constitution, right. Laws that were enacted in the '60s still held to the constitutional -- under the current regime, under the current constitutional regime, and have been relied upon by the judiciaries to actually hamper the work of some of Africa's most daring reporters and other journalists.

In Ghana, for example, upon the regime change that took place after the 2000 elections, the position party that then they became the new governing party moved to repeal the criminal libel law. But it's still left on the books, laws, you know, that achieve the same effect. Insult laws, for example, have been used in Malawi over 15 times; laws that make it an offense to insult the president, right. They are still on the books, and the courts have still honored these laws are constitutional, so that there is certainly a carryover of the kind of legal thinking and judicial assumptions and judicial philosophy of the past into the current year, and that certainly does not go well for civil society effort and media efforts to help in this accountability effort.

Anticorruption against these are also one, you know, the new fought branch type institution in the African constitutional landscape. Again there is -- there's a sense in which one is not exactly sure what the juridical status of these bodies are. What is the effect of their ruling, for example? What, in Ghana

there's a Commission on Human Rights and Administrative Justice, which is constitutionally empowered to investigate cases of corruption against the government. It has done some half of our investigations, including investigating some acquisitions made by a member of the president's family as well as certain expenditures, private expenditures of a public official, made through public accounts and the like.

The problem with the anticorruption agency as why it's come down with its ruling. Invariably, the defendants, or whoever is the party before the agency, challenge this in court, and the courts have had difficulty figuring out how to deal with the rulings of these agencies. They have invariably not accorded them any deference at all. They have cheated them as if really nothing has happened. They've allowed government officials who have been found liable under these investigations, really to give these cases in court which have gone to, essentially, demoralize these agencies.

There is now pending before the Supreme Court in Ghana a case involving a former Minister for Transportation who was found guilty -- not guilty in a criminal proceedings, but was found guilty upon investigation by the Human Rights and Corruption Commission, and he successfully challenged his finding in court. Now, the court now has to wrestle with the question, what is the juridical status? What is exactly, when the Anticorruption Agency says you are liable or guilty, what weight should we give it? Is it a court judgment, or what is it? And there isn't really a lot of judicial doctrine that the courts are relying on in this area.

So it's a fairly gray area, but the cases that the courts are usually very hostile to these agencies because the mandate of the agencies extend to the courts themselves. The (inaudible) against these are charged with investigating corruption in all public offices, in all public agencies, so, theoretically speaking, the courts themselves are potential targets for investigation, and that might well explain why they have signaled very early that they would not be very amenable to interventions from these agencies.

Now, there is also, thinking about the judiciary's role in accountability, one also has to factor in the role of the (inaudible). The role of a (inaudible) in African political systems, they are all invariably -- it's essentially not unlike the U.S. system, right, so, invariably, there's a political appointee who's also a minister of justice, invariably. And, more importantly, African (inaudible) have a monopoly of prosecution or prosecutions.

So, what then happens is, if what the prosecution is corruption, right, if the issue is corruption, then it has to come as a criminal prosecution. And, invariably, this then means that the government, only the incumbent government can actually bring a prosecution in this area.

Human life -- anticorruption agencies for the most part do not have -- do not have the power, independent power, to prosecute. So even though they can investigate, when it comes to prosecution, they still have to send the docket to the attorney general for the attorney general's advice, and there have been a few instances just of governments bringing prosecutions against persons within their own party or within the government, but it's been rare. For the most part, what we

have seen is postincumbency accountability, which means that once the government in power leaves, that's when the successive government brings prosecutions against the former regime

Now, some accountability is better none at all, you might say, right, so postregime accountability may be a whole lot better than no accountability at all, I said that in the current context under the existing legal system, all these trials, corruption trials, come up, trials before judges. There are no jury trials, so they are all trials before judges, and the judges, like I said, can be easily constituted by the chief justice, and it gives the appearance of a cooptation of the judiciary, right, when you have selective prosecution of corruption cases, when you have corruption cases that are brought only against former people who have left office but not against incumbent government officials. It gives the appearance over time that the judiciary has been coopted in a witch hunt.

And so these are -- this kind of (inaudible) it's new in Africa and might be welcome in some respects. It's also complicating the role of the judiciary in this particular era. So I'll just conclude by noting that while it is important to focus on the judiciary, certainly as one of the agents of restraint, as one of the agents of horizontal accountability, we must not take the judicial role for granted.

I mean we must not take it for granted that all of the judiciary needs is a lot of power, a lot of independence. We must begin to look at the judiciary itself as an institution that needs reform, a judiciary that has not necessarily been seen in that light. It's effort as to a problem that the judiciary has

come very late, has come almost as an afterthought at -- we realize that the initial effort in democratization were not paying off, and we began to look at what might be some of the bottlenecks, and then we began also to look at the judiciary.

In so doing, for example, attempts have been made -- most of the effort has been made in the area of improving judicial efficiency, how cases flow: a defeat with which cases flow, which is really a big issue. There is -- in Ghana there is now what is called a "fast-track court." The idea of a fast-track court is essentially to cut down cases in the court to roughly about three months, the length it takes to dispose of cases.

Now, the fast-track court, the average length of some of the civil cases in Ghana would be about seven years, all right, so it certainly makes for a lot of opportunistic litigation by people who basically commence litigation knowing their cases is to be unmeritorious but just to give them time so they would actually process the cases through the judicial system while, you know, they are going about their business unencumbered.

Now, the fast-track court idea has become a laughing stock because as a case sounded like a corruption case, it's not a corruption -- technically a corruption case. There's a law in Ghana that criminalizes willfully causing financial loss to the states, right. It's a law that was enacted in the post-transition era by the previous government. It was never really used under that regime, but the current government has now begun to use it against the former government appointees. And some of them have been jailed for causing financial loss to the state, willfully causing financial loss to the state.

It's almost a way around the difficulties of actually getting a corruption prosecution going, because of evidence and witnesses and the like. So it's seen in Ghanaian civil society as an anticorruption weapon. The prosecution in this case began in 2001 and it's still ongoing. I mean it's not anywhere near conclusion in the fast-track court.

So in the fast-track court you have a case that is now six years old which defeats the whole purpose, the whole idea, and there's as longstanding judicial and legal tradition of just adjournment, giving just an interminable adjournment almost upon request. So a lawyer doesn't appear, the assistant shows up and tells the judge, well, my lawyer just couldn't return from a funeral yesterday, and the court grants him adjournment. I mean, so there's a way in which the process, the judicial process is being abused.

There's a long tradition of abuse of the process by influence on the (inaudible) of the bar itself. And this is also complicating, which is even thought there is a lot of money poured into reforming the efficiency aspect of the judiciary, we haven't seen any payoffs yet in any serious way.

Then the last point I would make is that while there's as lot of interest on the judiciary's role at the high level, at a high politics level, we tend to focus on the judiciary's role in checking the president, in checking parliament, but the truth of the matter in African society is most of the encounters that the average African has with state power, it's not with the president or with parliament or with a minister.

Most of the encounters that ordinary Africans have with state power are with people at the retail level -- the police, the lookouts, municipal tax office collects and the like. And there isn't much of an interest, it appears to me, in the inherent abuses of power at that level. There's a certain obsession with elite politics at the higher level, but not as much of an interest in how the ordinary African experiences state power, and the abuses that come with that experience.

And I think that until that aspect of the equation is also addressed, the courts will begin to lack wide social legitimacy, because there are a number of people for whom it really doesn't matter what goes on in the courts, really do not matter because their lives are not directly touched by the courts' activities in a very concrete way except maybe as accused persons, really. The most -- they often experience they have with the court are when they are brought before the court on criminal charges.

But it's important that we not let our interest in the high politics of the day obscure the other important issues of injustice, the gross injustice that happened at the retail level of the state.

Thank you.

(Applause)

MR. DE FERRANTI: Well, that was fascinating. It shows how important it is to know a few facts about what's going on, and it's quite consistent with our thinking that the pipes may look like they're there, but they may not be open to actually let citizens -- to protect citizens or to allow signals to get through.

Thanks a lot.

Now, John Johnson is going to talk a bit about legislatures, and you're welcome to come up here.

MR. JOHNSON: I'm going to begin with a commercial. There's this book was outside that many of you may have picked up: Transparency and Accountability in Africa's Extractive Industries: The Role of the Legislature. This is a new NDI publication free of charge, and it's outside there, so I'm going to be talking about this, but feel free to pick up a copy.

What I am going to talk about is two specific legislatures with which I've had an opportunity to do some work, Uganda and Kenya. And over the past decade, a number of African legislatures have made improvements in the work that they do in overseeing governments. And two of the most dramatic -- and again it's just fortuitous I've had an opportunity to do some things with them -- are Uganda and Kenya.

What I want to talk about is some of the things -- getting more specific here -- some of the things that they've done, how they've done it, and some of the challenges that they still face. To begin, though, I want to mention that one of the three basic functions of a legislature is to conduct oversight with this development of oversight, special oversight body. Sometimes we don't think about that, but parliaments are especially about representation, lawmaking, and overseeing government.

When they work well, and often they don't, but when they do work well, they hold government to account and do it in a different way than other

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agencies do because legislatures are ideally in the community. They have connections to communities that the central government doesn't have, so it's a different kind of oversight that they are often able to do. But again, they don't do that at times, and in Africa specifically, sometimes because of lack of capacity, sometimes, and you heard about this earlier, because of patronage reasons, members of parliament need patronage to stay in office often, and I'm going to talk about that a bit more, and conducting strong oversight, beating up on the executive who has all the money, is not a good patronage strategy. Also at times there's party discipline which punishes MPs which do a good job of conducting oversight. That said, some of the most interesting and best examples of oversight taking place in the world I think amongst developing parliaments are in Africa, and I would love to go other parts of the world and say that because people don't expect to hear that, but it is the case as you'll see.

Uganda. Some changes in Uganda and some of the reasons behind it. Uganda's 6th Parliament which was in from 1996 to 2001, was the strongest and most independent in the nation's history, playing major law-making and oversight roles. How did it do that? For one thing, the 1995 Constitution gave it unprecedented powers, and we will talk a little but about those. Another, there were parliamentary reformers inside of the institution that succeeded in expanding the powers of the legislature. And a third, and this is really interesting because most people didn't expect this, Museveni's Movement System, his no-party system, actually for some time worked to his detriment in terms of allowing the

parliament to become a stronger institution. Nelson Kasfir has written on that, and I will talk about that a little bit as well.

Under the National Renovation Movement, the theory was that parliamentarians would be in office based on merit, not based on party, and because of that there were no party whips. It was difficult to get members to do exactly what they wanted and there wasn't a good mechanism in place to do that, so especially in that early parliament, Museveni's 1st Parliament in 1996, it basically had its way with the executive in quite a few different cases. Parliament has continued to be a major player in policymaking and oversight, but the return to multiparty politics in 2006 has reduced that sometime, probably will a bit more, but I don't believe it will go back to be a rubber-stamp parliament like it was during Obote's days.

Let's look at the 1995 Constitution. There is a 10-year period between 1986 and 1996. When the movement was in charge there was no parliament and there was no elected parliament at that time. There was toward the end a constituent assembly to design a new constitution. They went around and looked at several models in designing the new constitution. They even came to the United States, looked at the U.S. committee system, and Elly Karahunga who was one of the members of that talked to me and mentioned that they got inspired by the U.S. committee system. Strong committees was something that they wanted in their system as well. They established them.

Here is some of the specific powers that they've got. The president under the 1995 Constitution must submit for parliament's approval his candidate for the vice president, cabinet, and also constitutional commissions. Standing committees which are established in the constitution, they have got the power to discuss bills, oversee government activity, and compel testimony from members from both the government and the public. Committees and MPs have the power to introduce legislation. The speaker has power to convene sessions. In some countries in Africa only the president can do that. The president cannot dissolve parliament until after completion of his 5-year term. In many places in Africa, the president has the power to dissolve parliament when he or she sees fit, and now we can say she as well. Parliament has the power to remove the president from office for abuse of office or incapacity, the MPs select the speaker, and parliament has the power to make its own rules and set its own salary. This is a lot of power for an African parliament.

But even though they had these kinds of constitutional powers, they had to be used, they had to find a way to use these things, and that early parliament in 1996 was not strong in terms of its capacity in staffing in offices. There were seven clerks for the 17 committees, parliament's budget just like all the other line ministries was set by the government, just like the health ministry, just like other ministries, parliament had to go and beg for whatever the finance ministry was willing to give it. Again, this is the norm in most of Africa. And the

staff, and this is again normal in many countries in Africa, was civil service staff, it was not parliamentary staff.

Dan Ogalo who was a new member, Honorable Dan Ogalo, and tried to get some researchers. He asked the executive, he said, we need a couple of researchers here in parliament. The executive said, sorry, we can't afford to give you that. So this inspired him to see what he could do to try to make the parliament an independent institution. With the support of the Speaker Rapa Kabulu, and this is again unusual this happened there, he introduced legislation to make the parliament formally independent of the executive. To do that he actually passed this, and this became the Administration of Parliament Act of 1997 to establish a parliamentary commission which became responsible for setting the budget of the parliament, responsible for the management of the parliament, and also for staffing of the parliament as well. Parliament now writes its own budget, the staff belongs to the parliament, not to the executive, and the parliamentary commission determines how much to pay the staff.

What are some of the changes as a result of that? New departments, new equipment came in, the parliament established a Department of Library Research and Documentation, and with the assistance of USAID they were able to install a satellite uplink to get their own computer equipment and put in an information center, and hire some good researchers. They increased their office space. Parliament actually in I think it was 1998 told the executive there that if they did not vacate some offices within the parliament that they weren't

going to pass the budget, and parliament vacated the offices within the parliament. They had been occupied during Amin's days and before democracy had come back as well. They got their space back, they refurbished that space and they expanded.

They increased the staff. The commission increased the number of clerks from seven to 17, this is by 2002, it has grown since then. And again, by 2002 they've gotten 52 additional staff people on board. Many of them were professional people, and I got involved in some of the hiring of some of those, at least in setting some of the conditions, and they were hired competitively. They were really good professional staff. They established a Legal Department, they increased the terms of employment so that the salaries of people working in parliament were better than salaries of people working in the civil service. So that was one reform.

Another very important reform was the Budget Act of 2001. In many countries in Africa, parliament gets the budget, it's a fait accompli, it's pretty much they have to pass what the government sends them. That was the case as well in Uganda. Ugandan parliamentarians had asked let us at least see a copy of the budget before you finalize it. Let us see your estimates. The executive didn't do it. So in another reform, they made a reform that similar to the 1974 budget reform in the U.S. Congress which at that time Nixon wasn't spending the money that he was impounding, wasn't spending what Congress wanted spent, and the power on the budget had shifted greatly over to the

executive in the United States. What congress did in 1974 was they made some changes. Among those changes, the budget process in the U.S. Congress became centralized in budget committees in the House and in the Senate and a Congressional Budget Office was set up. That is the same thing that Uganda did in this reform. They centralized the budget process in a committee rather than having it being done ad hoc and in several committees, and they set up a Parliamentary Budget Office as well.

When they did this, they made several other changes as well. The government has to give an advanced copy of the budget 3 months before they used to give a copy of the budget. The Budget Committee receives that, sends it off to the departmental committees, these committees suggest changes, it comes back to the Budget Committee through the system and back to the executive. The executive is not obliged to make changes to the budget, but generally they do. They also hold hearings where the ministers come into the committees and have to defend themselves before the committees, and in many cases in some of the anecdotes I was reading, members chased ministers out of the office because they didn't come in prepared and they didn't have the information that they needed. Every bill introduced in parliament must be accompanied by a certificate of financial implications now, and the National Assembly had made the government delay several initiatives because there wasn't money in the budget based on that. There is a requirement that government has to keep supplemental expenditures within 3 percent of what is budgeted, and they have to ask parliament for

permission to spend ahead of time. Normally in most countries they spend the money and they come back and ask for permission after the fact, and this is an exception now. Another interesting thing that this Parliamentary Budget Office does now is they keep track of all the promises over the year that government makes for the way they are going to respond to questions by members and it does a report at the end of the year in how government did, whether they responded, whether they didn't, whether there are still things outstanding.

What are some of the examples? What's happened since this?

Again, especially in the 6th Parliament, 1996 to 2001, select committees conducted nine high-profile investigations of government officials accused or corruption. Two led to the censure of the Minister of State for Education and also forced the resignation of the Minister of State for Privatization. Ministers lost their jobs. A parliamentary investigation of the vice president in her second role of Minister of Agriculture, because of this, the president had to take her out of her ministry position and had to reshuffle the cabinet. The president's brother had to lose his position as presidential adviser when it was discovered that he had interests in the sale of UCB, the Uganda Commercial Bank, that he had financial interests in this and was trying to arrange this sale, and he lost his job as presidential adviser.

Parliament also introduced a War Powers Act, it wasn't successful, but they questioned the government on the behavior of the war in the Congo.

Again, these things are very unusual in Africa. In 2001 there was a Select

Committee on the Ministry of Defense, investigating payroll inefficiencies and procurement procedures about the alleged embezzlement of 1.2 billion Uganda shillings meant to troops in the DRC. They also investigated the purchase of helicopters that couldn't fly, rotten canned food for the military, ill-fitting uniforms, they suggested several improvements, and in the military made some of those improvements.

Some of the power got reduced in the 7th and 8th Parliaments, but nevertheless, they continued to fight to keep the divestiture of UCB from taking place because members said people in the districts need to be able to use these banks. They implemented a quota system for the National University, Makerere University. The executive tried to stop that, but the legislators got it through. They declared Northern Uganda a disaster area against the desires of the government. They rejected a number of constitutional amendments which the president was pushing. MPs even in the 8th Parliament today are continuing to make changes in bills in committees. The Public Accounts Committee with the support of the House passed the Public Finance Accountability Act of 2003 which gave the auditor general the power to investigate classified expenditures. The government had been making a whole lot more expenditures than should have been classified and for patronage reasons they could spend it on patronage and the parliament kept them from doing that. Ministers now have to justify their budget estimates with the MPs when they come in. Ministers are now lobbying committees, don't reduce my budget. And parliament got the government to

double the money budgeted for agriculture, and also increased the budget for the inspector general when his funds were slashed. If I were a government, I'd like to slash the inspector general as well.

Why did this happen? Nelson Kasfir says this and several MPs I have talked to in the parliament in Uganda have suggested the same thing, that the no-party movement gave a surprising ability for members in parliament to develop their institutions. Because there wasn't any party discipline, they weren't forced to do what the party wanted, the different committees within the parliament got to have quite a bit of power of their own, and unfortunately that is beginning to change. The party system is back and there are a lot of good things about that, but one of the things is that the president has a big majority now and because of that it is more difficult, the discretion of members has been limited in the current parliament, and it is because members again need patronage. Just a note on what it's like for parliamentarians in Africa, they have to promise a lot to constituents to get into office and promising a lot means we have to help with school fees, we buy coffins, you come to my house, we have to have tea for you, I have to feed you. It is very expensive to be a parliamentarian in many African countries. Executives have the patronage, and when you challenge the executive, you are challenging your patronage source so it becomes difficult. Kasfir says that he doesn't believe that Uganda is going to go back as far as it was to a rubber-stamp parliament, and I don't believe it will either because a lot of these changes

have been institutionalized, a more independent parliament, the Budget Act and others.

Quickly I will talk about Kenya. Kenya, from independence up until the 1990s, the parliament was progressively losing power as were other actors in the state. The president was gaining the power, and by 1990 it was a de jure, not only a de facto, but a de jure one-party state. The executive had centralized the power himself. With the return of multiparty democracy in 1992, Moi was pushed into doing this by donors, some pressure from within the country as well, but the change began in the early 1990s. But it didn't happen fast, and these are actually some interesting stories. In the 1990s what was still going on, the patronage issue, an MP that I used to spend time with talked to me about President Moi had a policy of different colored bags of cash. That's how he knew how much was in each bag. So an MP would come in and tell him I need this and so he would hand him a bag with 50,000 or 100,000 or 200,000, but he didn't even have to count it because his people were filling these bags with cash, so he knew exactly how much money there was. He had a lot of power, MPs didn't make much money then, and we're going to talk about that patronage issue.

Toward the end of the 1990s people were still looking saying what's going on? We've had multiparty now, Moi is still in power, the change hasn't taken place. But there was an underground change taking place and that in the power of the parliament. A lot of folks were paying attention to who's the president, but the parliament was getting stronger. What did it do? In 1997 they

made a change in their rules and procedures to establish departmental committees. They had public accounts committees before, but they didn't have committees that were following the specific ministries. This made a big contribution to government accountability. In 1999, the Independence of Parliament Act, Alowitz Engle, a former KANU leader, took the same legislation that Uganda had put in to make parliament independent on its budget and over its staffing and was able to get that through again with some assistance from AID and from some others who helped with the drafting of it, and parliament became independent. What's fascinating about this is that KANU members voted for this. President Moi's members voted for it even though he was opposed to it himself and tried to stop it, but parliament was getting stronger and getting more independent.

Some of the examples, I was living there in 2001, there were more committee meetings, 250, that year than any other time in history. Outside parties were being invited to testify in committees. Some committees were traveling outside of Nairobi, they were meeting the stakeholders. The KANU committee chairs were challenging government. This is fascinating. The chair of the Finance Committee was a KANU chief whip, he was pushing amendments to the finance bill. These things are still happening, but this was a remarkable time to be there. Several amendments to bills, the sugar bill was amended, 22 amendments the parliament put on the sugar bill, traveled up country, went to the sugar areas, met with the growers, made changes to the legislation. The coffee bill, the same thing in that year, several amendments. The health committee, several

amendments. The finance bill of 2001, the government accepted 65 percent of the proposals to change the taxes, reducing import duties, rejecting a proposal to require VAT on commercial property in Nairobi. And I looked online yesterday to see what's going on, and this month the finance bill in 2007, the finance committee in Kenya rejected a proposal that required banks to have 1 billion Kenyan shillings, about \$2 million, 1.7, as co-capital by 2010. Members believe that this was going to kill small banks and encourage monopolies and mergers. They defeated the government's proposal to create a post of chairman of the Central Bank of Kenya who was going to be appointed by and answerable to the president.

Parliament capabilities, staff more than tripled between 2001 and 2007, from 150 to more than 500, increased pay and benefits. We mentioned six times the salary for Kenyan parliamentarians has increased by six times, so it's about \$6,000 a month now, plus they got a bonus for themselves. They doubled the salaries of parliamentary staff as well. They have a Constituency Development Fund which is about half a million dollars for each member's constituency.

There are problems with this, but what it does do is it breaks the patronage control that the executive used to have, new office space, refurbished office space, a Fiscal Analysis and Appropriations Committee similar to what they did in Uganda. Then finally, two specific anticorruption actions. In 2000, Kenya had a select committee in the parliament, a Select Committee on

Anticorruption and Economic Crimes that released what was called the List of Shame which had 40 politicians, high-ranking people, who were corrupt, and this was in a publication by a special committee from the parliament. In 2006, just as a quick short story then I'm just about done, there was Anglo Leasing scandal. This you probably heard about, John Githongo who was the anticorruption czar in Kenya discovered that people within the government had set up fake companies and were loaning these fake companies money to do with that they weren't really doing, special passports, buying a ship, doing things like this. He decided he had to expose it and his life was threatened. He went to London, he let out this report that explained what he had seen. The Public Accounts Committee from Kenya went to London to interview him. Again think back into the Moi and Kenyatta days, this never could have happened. They went and they interviewed him, they got all the details of the case. Then the Public Accounts Committee interviewed the vice president of the country, the vice president of the country came to parliament for this. The former finance minister who already left, he had quit when this had happened. The former Minister of Justice Kiratu Murungi who had done the same thing who is now back in government. The head of the public service, the attorney general, the permanent secretary for the office of the president, the central bank governor, the permanent secretary for the treasurer, and they came. They came and they testified. Kenya still has a long way to go, but it is incredible how much the pendulum has shifted.

In conclusion, there have been major changes there especially in these two countries. Final points, Kenya and Uganda I believe are two of the best examples of parliaments holding the government to account. I am not aware of others which have done as much as they have. In both cases, key reformers and the lack of a dominant political party, able to whip members allowed parliament to expand its powers including its oversight powers. In Uganda with the growth of President Museveni's Movement Party, parliament's power has waned somewhat, but the institutions that were set up in the 6th Parliament are still in place. Uganda started off with little party discipline and parliament was extremely strong in the 6th Parliament at the beginning of 2006. A lot of parliamentary independence initially. It has waned somewhat. Kenya is sort of the reverse side of that. In Kenya, Moi held their power so much. When they first went multiparty, he warned members don't talk to members of the opposition, and they pretty much didn't. At the end of the 1990s, they voted against him, government and nongovernmental, to make the parliament independent, and their independence seems to continue to grow.

Other parliaments have gotten stronger in Africa relative to the executive. Malawi is one of those. Some others though haven't been so successful. Mozambique and Namibia probably have been going the other way. Several problems continue to limit parliament's ability to hold government to account. And this is a whole 'nother subject, but a few of them. The auditor general's reports are usually years behind and makes it difficult. They've got a

lack of authority which you referred to which was even when they find something they don't have the power to prosecute government officials. And the need for patronage is ever there for parliament members and it makes it difficult for them to act too independently.

Encouraging these kinds of changes elsewhere in the region, I think it would be great for the Kenya and Uganda examples to be publicized for members of legislatures from other places to see them. Foreign assistance especially in these places when change is taking place can be very valuable. And institutionalizing those reforms as much as possible because as the political winds change it gets more difficult to hang onto them.

MR. DE FERRANTI: Thanks a lot. A fascinating review of the facts. Quite impressive.

Finally, I would like to welcome Peter Lewis to the podium or to stay put. My understanding is you're going to talk a bit about African democratic development, but particularly focused on extractive industries.

MR. LEWIS: I will try and square that circle. I have been asked to address the question, Does Democracy matter for transparency in governance? I think one interesting example that we can raise and I will raise it toward the end of my brief remarks, I do want to finish quickly so we have some time for Q and A, is an important test case which is, to paraphrase Frank Sinatra, if you can make transparency work in Nigeria in the extractive industries sector, you can make it work anywhere, so the question is does that function indeed in that way.

The backdrop here, and we have been talking a lot about governance for the last hour and a half, but the D word has come up, democracy has come up less frequently, and the backdrop here is that there has been a broad trend of regime change in Africa since the late 1980s. In 1989 we could count maybe three or four electoral democracies in sub-Saharan Africa, currently Freedom House counts 24 electoral democracies on the continent, or approximately half the countries in the region. We can quibble over some countries like the Central African Republic and Guinea-Bissau at the margins, but clearly there has been a dramatic shift in the nature of regimes in Africa. Indeed, by 1994 according to one study by Michael Bratton and Nicholas van de Walle, there were no longer any de jure single-party states in the region. There had been a degree of constitution change at least that had essentially eliminated the single-party state and there were fewer and fewer military-ruled holdouts.

So the question is does regime change make a difference for governance and for economic performance in sub-Saharan Africa? Of course, there is a long discussion and debate about this. In Africa I think there is a clear and by now indisputable association between authoritarian rule and poor governance, corruption, and deficient economic performance. Nondemocratic regimes in governance have clearly been associated with personal rule, with the prevalence of political clientelism as a mechanism of political control, with highly centralized discretion over state resources, getting back to Brian Levy's comments at the beginning, an emphasis on patronage and consumption rather than

investment in public goods, and a generally weak institutional environment which is typically and regularly overridden by patrimonial interests in the political system. So that model which social scientists have come to call neopatrimonial rule is clearly associated with Africa's old regimes and clearly correlated with poor economic performance and the intractability of policy deficiencies, institutional deficiencies, and poor performance.

So naturally when regimes changed in the early 1990s, there were high expectations for democracy and good reason logically and empirically to expect that democracy might yield improved economic performance. At the most general level there is the argument about the elective affinity of democracy and markets. Both democracy and markets emphasize free choice. They emphasize decentralized domains of individual pragmatic decision-making. More specifically, democracy creates institutions and space for voice and accountability, pressures from below, from civil society, from the media, pressures within the state or within the government, from the parties and the legislature, all place constraints on rulers, reduce discretion, improve transparency, and shift incentives at least potentially for rulers to provide better economic performance. So the argument here is that voice and accountability improves under democracy, that should shift economic performance.

Amartya Sen has argued that even where you have limits on accountability, weak institutions and so forth, that no government in a democracy can afford to disregard the public welfare to the same degree that an authoritarian

regime can afford to do so, and the example he uses is some very compelling data on famines in democracies or famines in non-democracies versus, and he observes of course that there haven't been famines in modern democracies. In Africa we can see the response to the recent drought and famine in Niger as perhaps a confirming example of this.

More specifically, there is an argument that in a democratic setting, new lobbies that can play a more constructive role in reforming governance can come to the fore: business lobbies that want improved, enabling environments specifically about business and argue for specific improvements in the institutional setting for investment and exchange; consumer lobbies; and a variety of other groups that organize around the provision of various public goods whether it be increased legal protections, better infrastructure, the provision of services to outlying areas, or what-have-you.

All of these are logical reasons why we might expect democracy to perform better, but the question is empirically do we observe a democratic dividend in post-reform Africa, if we can use that term? Or let's say Africa since 1990-1992. Interestingly, we see growing evidence of such an advantage, but it was not evident at the beginning. As Brian Levy has pointed out, there is a clear correlation over the long-term and globally between democracy, improved governance, and improved performance, but it takes some time for these effects to show up and they can be very uneven and uncertain. Indeed, at the end of the 1990s, Nicholas van de Walle pulled together some numbers which were rather

discouraging because they showed that most of Africa's new democracies in a sample of 36 sub-Saharan African countries, leaving out the microstates, leaving out the conflict state, showed that indeed the democracies had somewhat slower growth, higher inflation, higher budget deficits, evidence of political business cycles, it was not an encouraging picture as of 1999, but more recent studies just a few years later have shown much better performance. Recent work that Brian has pulled together on reforming and non-reforming states in sub-Saharan Africa shows that there is a clear pattern, a clear correlation between democratizing states, better policies, and better economic performance. A huge multi-country study using both large and quantitative analysis and a welter of cases by Benno Ndulu, Robert Bates, Paul Collier and colleagues will be released in just about a month showing very, very strong correlations between governance, policies, and economic performance. Morton Halperin and others have also pulled together some evidence showing that.

However, when we look at growth numbers or a more let's say discriminating measure such as the human development index, unfortunately we see that the advantage or the marginal benefits of democracy are slight at least in statistical terms. We can identify perhaps more of an authoritarian disadvantage in sub-Saharan Africa showing that the authoritarian regimes in the region continue to perform poorly and do relatively worse than the new democracies rather than a democratic advantage. There is clearly relatively better policy and performance in most of sub-Saharan African democracies, but limited evidence of

poverty reduction or increased welfare. And indeed, in another piece that I have done recently, I call this growth without prosperity, a sense that the macroeconomic numbers are looking increasingly strong but anecdotally and empirically, people on the ground in the localities in various sectors are not seeing the benefits in terms of improved distribution or, most importantly, poverty reduction.

The question is why has democracy provided some hesitant, uneven, and hopeful signs of economic improvement, but why has it so far not perhaps gone the distance in sub-Saharan Africa, and I think we can break down the explanations into both domestic and international factors.

Domestically, and I can walk through this really quite quickly because our previous speakers have done such a good job of laying out the political terrain in many of these areas. Domestically, Africa's new democracies tend very strongly to be characterized by a set of factors that create impediments to reform. One is the prevalence of presidentialism and the continued high degree of presidential discretion over resources. Typically, presidential rule is also linked to dominant party rule. There has been very little turnover in political parties and political party-based regimes in democratic Africa. Instead we see the persistence of many ruling parties along with strong party discipline in contrast to the dynamics that John was talking about in this very important cases, but in many other countries we actually see the dead weight of strong internal party hierarchies and indeed we see a circulation of elites through the political process

that really does not create a significant turnover in generations or the social foundations of politics. Instead, we see old elites, retired military officers, septuagenarian and octogenarian politicians associated with the old regime, not that there is anything wrong with being septuagenarian or octogenarian unless you happen to be associated with some of the previous authoritarian regimes, and they tend not to be dynamic agents of change to say the least. So what we see in many African democracies is a persistence of clientelism, a persistence of patronage politics and, furthermore, as Brian says, there are no silver bullets, there are no panaceas. Democracy does not resolve the problem of institutions. It does not resolve the problem of governance capacity. Simply changing a regime quite obviously, even when you get new donor resources which have rather modest even in that case, does not get you out of the problem of 10 or 20 years of institutional decay, or 30 years of institutional decay, and it does not give you the resource foundation for regenerating or better yet generating institutions. So there are these domestic constraints in change in new democracies.

There are also external factors. One issue which I will just touch upon very briefly and then skate past it is a lack of policy flexibility, that the policy orthodoxy that has been required really of reforming states in sub-Saharan Africa over the last 25 years has admitted very little diversity in its application or implementation. So here you have countries that are experimenting with new political arrangements in some cases, in many cases, but they really have very little flexibility in experimenting with new policy arrangements. So there has

been a problem of being locked in to a path that does not allow for particularities in pacing and institutional design and so forth.

More important I think are the sometimes, in fact I will not say sometimes, often perverse political incentives inherent in conditionality. What patrimonial states in Africa have learned over the last 25 years is if you adhere to a few important macroeconomic indicators, you can preserve sufficient resource flows from the donors and the lenders so that you can continue to service your patronage networks. Those indicators tend to be balanced budgets, low inflation, and so forth, they tend not to be things like privatization or judicial reform or banking sector reform which are administratively complex, hard to measure for everybody, and unlikely to be sanctions if you slip on it for 2 or 3 or 10 years. So given those kinds of incentives, many democratic regimes have said let's get the macro numbers right again this year and we will kick the institutional problems down the road. What this has meant of course is that the incentives for politicians in new democracies is to focus first and foremost on their political survival which means a lot of political capture, persistence of cronyism and so forth even within liberalizing institutions and liberalizing markets, so you do not get the kinds of change that you would like.

Then of course there are other issues which are bigger issues that we do not need to dwell on here such as the structure of international trade and international markets and questions of level playing fields and the Doha Round

and so forth. Being a democracy does not get you past those issues. Those are global issues that are not dependent on regime type.

If we then painted a discouraging picture, can we then conclude pessimistically that there are no advantages in governance? Earlier on I suggested that there at least at the macroeconomic level and the policy level, and indeed, regional data and regional evidence both anecdotal and empirical suggest slow and uneven change. There is sporadic movement that is evidence, and the many cases we have heard about today illustrate this. Clearly there is more political space for good governance lobbies and they are pushing their agendas with greater efficacy in a number of countries. There are pressures from the independent media. There are the politics of repeated elections. Electoral politics are becoming a factor in the calculus of many politicians in many countries. Elections are not simply empty rituals in African democracies and it is important to take into account what politicians are looking at in terms of delivering goods to constituencies as a basis for their continued tenure in office. And many members of the public as Larry Diamond has pointed out look for political goods, not just economic goods, but some sense of accountability, some effort to stem corruption, some desire or degree of competence. Those are valued by publics as much as say the bottom line of their jobs or their pocketbooks. We have also seen the emergence of anticorruption commissions whether from a parliamentary source or from an executive source in many new democracies, and increased transparency laws and policies.

This brings us for a good 3-minute walk through the case to Nigeria. If there is a country in Africa that has a stronger legacy of corruption and mismanagement than Nigeria, I would like to hear it. Perhaps Congo, perhaps Kenya. I am sure that people will start standing up and defending their turf on this, but certainly Nigeria is one of the giants in every sense. When the country emerged from military rule in 1999, there were obviously high hopes for a reform agenda and there was a good degree of inertia, and indeed, two steps forward, two steps back, a kind of passivity, a kind of dithering, there was a drift during the first term of the Obasanjo administration. There were some marginal efforts to improve budget rules, to improve procurement procedures, and there was an effort to create an anticorruption or empower an anticorruption commission which really went nowhere because it lacked both capacity and funding. So very few of these reforms went anywhere during the first term and there was a sense of disillusionment and even cynicism that was palpable by 2003, and 2003 was also a year in which there were highly flawed and fraudulent elections.

So in 2003 when the second administration of President Obasanjo was inaugurated, there were not high hopes, and yet there were a number of pleasant surprises. Very quickly he put into place Nigeria's most competent, forward-looking and reform-oriented economic team in the country's postcolonial history led by Ngozi Okonjo-Iweala, but with a passel of other very highly rated and highly regarded figures throughout senior levels of government and the

economic bureaucracy. There was also an effort to essentially elevate a second anticorruption commission, the Economic, Financial, and Crimes Commission, which was headed by Nuhu Ribadu, a former policeman who really shows all the aspects of an Eliot Ness figure, utterly humorless, completely single-minded, relentless, and really quite effective in putting at least the fear of the EFCC into the Nigerian elite.

There were also very strongly supported and aggressively advanced measures in budget and procurement rules, dramatically increasing oversight, increasing transparency, increasing the regulatory scope, focusing on budget and transparency, and Oby Ezekwesili, who is currently at the World Bank, really pushed forward these efforts. She also pushed forward the Nigerian Extractive Industries Transparency Initiative. Tony Blair pioneered EITI as a proposal. Nigeria was the first major oil producer in Africa indeed to adopt this and the first to implement it, and the Nigerians have gone further than anybody else in Africa in pushing forward an EI, an Extractive Industries Transparency Initiative program. They conducted audits of revenues of fiscal flows and of physical resources.

There have been criticism of NEITI and allied measures, criticisms of political manipulation also accompanied by clear evidence of continued cronyism and evasion, some resistance and backsliding by the National Assembly, but the second Obasanjo term and followed by the current YarAdua administration shows every evidence of having established and institutionalized

the reporting of revenues in the budget right down to the state level, the YarAdua administration has reversed some insider deals concluded in the final moments of the Obasanjo administration, and many of these transparency measures are going to be very difficult if not impossible to reverse because they have been institutionalized and firmly implanted in the public administration.

My conclusion in 30 seconds or less is that democracy matters and that democracy opens up political space and has strengthened pressures for accountability in many of Africa's newly democratizing or democratic regimes, politicians in new democracies do struggle between the requisites of political survival which call for more clientelist, patrimonial approaches, and demands for performance from the public, and so they are caught between conflicting imperatives and conflicting impulses, but the fact that they are being pressured for accountability is a new and welcome development. There is good evidence in many countries that there has been an institutionalization of mechanisms for transparency and control which are difficult to repeal, and in some we are dealing with a new political and institutional landscape which in some cases, certainly in the Nigerian case, shows that it is eliciting a response from investors, that is to say, that the incremental, marginal, but nonetheless significant institutional changes are eliciting an investor response, and in Nigeria the response is particularly noteworthy in non-oil sectors of the economy. People are going into banks, they are going into hotels, they are going into telecommunications, infrastructure and other areas of the economy which probably would have

frightened off investors even 3 or 4 years ago in the Nigerian marketplace. So while one wants to be careful and hesitant about lauding the degree or permanence of these changes, they are significant nonetheless. Thank you.

MR. DE FERRANTI: Thanks a lot, another really excellent presentation. I normally find it very hard to sit through 2 hours of presentations, though we had four that were just kind of riveting to me. Thanks a lot to the panel.

That has put us up to 2 hours, and we have now developed a history of not being able to have any questions and answers, but I would like to ask if there are many two or three really short interjections the audience would like to make. We have one in the back. Anyone else? One in the front. A third. Going once, going twice. A third. Thank you. Go ahead.

MR. HYMAN: I am Jerry Hyman at the Center for Strategic and International Studies, and in particular the Hills Program on Governance. My question is for Mr. Levy, and that is the thing that seemed to me was not clear in the seven proposals that you made is the question that Mr. Lewis raised which is incentives and it goes back really to the introduction and the question about the agency relationship between principals and their presumed agents in government. I wonder whether you agree, because it seems to me that Mr. Lewis proposed an answer to the incentive question, how do you get better performance in these governments, and that is, democratic accountability? If that is not the incentive for better accountability in these seven propositions, what is the incentive to move

to better accountability in these micro cases that you raised? What makes the government shift from a less-accountable to a more-accountable system if it is not democracy?

MR. DE FERRANTI: A very good question. Could you come forward? There is man right there with a question.

MR. LEVY: Do you want another question before that question is answered?

MR. DE FERRANTI: Yes, we will just collect the three questions.

MR. LAVINE: I am involved in the private sector, my name is Henry Lavine at Squire Sanders & Dempsy, with an entrepreneur based in London who has and is setting up funds around the world, one in Africa, I will not mention the country at this point, where he puts in \$50 million or \$100 million and then he aggregates other investors, maybe an oil company in one of these countries, maybe leveraging with offset investments from U.S. defense companies and others where credits are offered from the host country, using private-sector entrepreneurial skill in a fund to benefit on the environmental side various projects in the country and not having the money go into the government, into the dark pit, and using private-sector skills to make sure something happens on a sustainable basis where profits are generated. Have you seen this anywhere in your experience in these countries, number one? Number two, do you think it is worth pursuing in any of these countries that you have been discussing?

MR. DE FERRANTI: We have a question of incentives to change, investing in the countries, and one more up here, the man with the blue jacket.

MR. CHEN: Chou Chen, freelance correspondent. I have lots of comments, but now I just try to go down to three. The first is that democracy is not perfect and there is always a correction. For example, here in the last couple of years we have many corrections or what we call scandals, 2006 the legislature changed color. The second is the so-called democratic policies of governance really is an evolution and you have to make a reform or something. But in reform, incremental is very important. You cannot have a comprehensive reform. Here this year there is a good example, the so-called comprehensive immigration reform. You can see what happened, you get nowhere. And also I always suspect that the colonial governments in Africa really is very corrupt so the African people just see that as examples. Mr. Johnson mentioned that that is a very good example, let them come to the U.S. or U.K. so they may observe like he cited a very good example in 1996-2000 -- very good and that because they come to the U.S. and observe what is good and they adapt. So we look at history, the colonial governments in Africa really were very corrupt, and then the second is that they come to the so-called democratic countries to observe some good and they adapt it. Thank you.

MR. DE FERRANTI: Would the panel like to quickly respond?

We could start here with Brian.

MR. LEVY: Let me pick up on Jerry Hyman's question. As a matter of preference and I think as a central tendency, and the first is easy for me because there is a matter of preference, I think that the aggregate point on the relationship between democracy, accountability, and performance is probably right, so while I do believe that the data show that within low-income countries the democratic dividend is not in fact like a growth, it is not more rapid economic but it is less variance in growth -- your point is a central tendency, but in a sense the thrust of what I have increasingly been thinking in this area is that if we want to make sense of a way forward, we need to disaggregate, we need to pay attention to constraints, we need to identify very specific options on the margin, not simply bring the broad-brush aggregates, and just in that spirit let me give you three quick examples on the incentive issue which are not necessarily consistent with the essential tendency, not because I disagree with it, but simply because it makes the point on the importance of disaggregating, seeing constraints, and thinking incrementally.

One example is Bangladesh where in a sense the outcome of Bangladesh's two-party democratic process was a revulsion that led to a military coup. I happen to be very concerned as to what the dynamics are, but it is clear that when that coup happened it was viewed as a response to a popular revulsion of a failure of democratic accountability in the Bangladesh case. My second example, a very different kind of example though, again it is Zambia, and if you ask where are the incentives, I spoke earlier about the example of electricity

generation and where is the incentive for investment upstream in electricity generation. Notice that it is not a big question, it is a small question. The answer is that you have a mining industry in Zambia right now that is determined and is growing incredibly rapidly and it has an incentive to make sure that its growth is not cut off by a failure to invest in electricity. By contrast, the democratic process in Zambia right now is producing urban incentives not to increase the price of electricity which are one-fourth of the replacement costs. I give these as counterexamples only forcing the point on disaggregation.

My third one, I was thinking a little bit about the question of incentives in Ethiopia. Oddly enough where it led me, it led me to think about China briefly, and then it led me to reflect on a rather fascinating meeting I attended in Bangladesh. It was with a group of donors and one of the donors, a staff person from this country, it was not the World Bank, discussing how do we deal with corruption and the staff person happened to be Chinese. Again, I am not advocating what I am about to say, but just to sort of capture disaggregation and complexity. A very charming woman in this particular instance was discussing what are the incentives to prevent corruption, and she said, I can see all the advantages of checks and balances, and she smiled, but she said in our country when we find them to be corrupt, we chop off their heads. I am not suggesting any of this, but we are dealing with a different dynamic in a central-party state. What I am only saying is that it seems to me that wherever we are working and however we are proceeding we want to ask the question what are the nature of the

dynamics playing out in that setting, what are the constraints, and given those constraints, what are the opportunities, keeping in the back of our minds but not as our first conclusion everywhere the central tendencies that we know in aggregate but with the variation that we know in the disaggregated sense.

MR. DE FERRANTI: Kwasi, any points? John?

MR. JOHNSON: Yes, just quickly on the question of investments. In some places in Africa there are manufacturer's associations and other groups which are forming and are lobbying and have become a part of the landscape, and Kenya is one with the Kenyan Association of Manufacturers. So I would suggest meeting with those kinds of people who have staked their fortunes and futures in those countries, and you can find the KAM on the Internet and talk to those folks and see what they feel about their country, but some of them clearly have big plans. On the issue of scandals, sometimes people have talked about the advances in Kenya and qualified them because it is not perfect and there are a lot of problems, but at least in a place like that, the cost of corruption goes up because of the free press, because there is competitive politics now, and these things are getting surfaced. People are discouraged because they have surfaced and they still see problems, but in that case at least, and I am sure there are others, things are getting better, and even though you still see the problems in the newspaper, it is getting more expensive to be corrupt.

MR. DE FERRANTI: Peter?

MR. LEWIS: Again bookending this and just to underscore a couple of points that were made earlier by Brian, I do think that incrementalism and progress at the margins is what we are talking about. In a study of Indonesia and Nigeria of mine which just came out, I found exactly the same thing, that you do not necessarily make global transformations in 2 or 5 or 30 years, but if you can make marginal transformations you can get an order of magnitude of difference in terms of growth. Indonesia grew at 7 percent a year between 1966 and 2006, compared to about 3 percent for Nigeria, and it was not because they eradicated corruption or had a meritocratic, efficient bureaucracy or anything like that. Their governance in most measures was just as deficient and had many of the same problems and contradictions as Nigeria. Indeed, Shuarto was estimated to be worth some \$12 billion when he left office or at least his family interests were. So it is hardly a less-corrupt system. But they did create better, more predictable institutions and a better, more predictable environment for investors and more secure property rights that got them over the hump of really rapid growth.

The other thing is that in terms of incentives, again, we do not have global transformations in Africa's new democracies, but just speaking about two countries that I am most familiar with, Nigeria and Ghana, clearly in those countries you have many leaders, many politicians at the state level, at the provincial level, within the parliament, within the party system, who are more forward looking, who have come up in a new political generation, who have come

up through the process, and who are really trying to chart a different path for politics and public service in those systems. They may be only 10 or 20 percent of the total population of politicians, but they are a significant minority and they are making changes, and I think identifying, working with, and encouraging those elements is really a way forward for where we are now.

MR. DE FERRANTI: Thanks very much. I will just take about 1 minute to sum up. If I had to say what the themes were of this session today, it is what Brian started us off with, which is that progress probably matters a lot more than perfection, and that you can generate good payoffs from what might appear to be marginal changes. Seven propositions sum up to that. Sorry, Brian. And I think Peter Lewis gave us some nice, empirical measures for that and concluded that you might not have been able to detect much impact on economic benefits, but we are starting to see them now, that there is almost no question that there are benefits of these reforms in and of themselves for improving the ability of citizens to hold their governments accountable.

Kwasi scared me a little in showing that you cannot really overly depend on the judicial system to be a counter to the other branches of government unless there are some fundamental reforms there, and if I understood you correctly, that the reforms in the judicial systems may actually be lagging behind some of the other reforms that we are seeing. And John Johnson gave us these two wonderful examples of Uganda and Kenya over a period of 10 years making really substantial clearly mechanical changes you can make in a legislature of

resources, changes in institutional setup, and behavior of the legislators and the legislature relative to the rest of the government that you can really point your finger at and show this did have an impact. So, really a wonderful, nicely balanced discussion today, and much appreciated. I would like to give a hand to the panel.

Then with the last minute I would first like to recognize Graham Ramshaw. Can you stand up, Graham? This was Graham's idea. He put together this panel as a very important part of what we are calling Africa Week here at Brookings. A little advertisement, we have more happening this week. Tomorrow we have a lunch, and it is a free lunch. We are having people from the World Bank come who actually work in operations and deal with Africa on governance and on fiduciary. So the people who actually lend the money and have to make the money work, how the fiduciary system is working for them, and secondly, what sort of government reforms that are underway that the Bank is involved in. That is at 12:30 tomorrow. And then Thursday at 12:00 we have Robert Rothberg from Harvard who constructed the index that is being used or was used today to award the Mo Ibrahim Prize for the most successful president in Africa who left office and left a good legacy, who is from Mozambique but I did not recognize his name.

One other thing. Also about a month ago we had Paul Collier here who wrote "The Bottom Billion" and made a great presentation with additional information that is not actually in the book. He was speculating about the next

book I think. Last week, Ngozi Okonjo-Iweala convened a panel of our ministers of finance from Africa and two civil society organizations around the question of "Civil Society Organizations and Ministries of Finance: Are they Friends or Foes?" I tell you this because there are transcripts on the Web for both of those, and there will be a transcript of this one, and I think those were as good as this one today, and if you have a little spare time before you fall asleep at night, those transcripts are actually very interesting reading and more along the same theme.

Thanks a lot everyone. I appreciate everybody coming to Brookings and spending this time with us on a very important issue. Thanks a lot.

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