

DEBAT

Susan Liautaud, visiting scholar au Stanford Center of Philanthropy and Civil Society, Fondateur de Susan Liautaud & Associates Limited (SLA) et d'Imaginer Consulting Limited

I would like to open the discussion now to all of your questions and comment. Before I do, even though we are on a tight timetable, I am going to invite you to have a one-minute final word, but because I am not a big fan of over-generalisation final words, I am going to give you a couple of options of questions and invite you to choose one.

To come back to my question to Dr Ibrahim, have you seen an example of successful governance leading to economic success? If so, what has driven that success, to end on a positive note? The second question is the one I mentioned earlier about strategies for managing uncertainty and improving decision making around governance to manage uncertainty. The third one is I am interested as a matter of decision making in where we get to the edge of governance, where we see things that we either decide we simply cannot control, or as a matter of cost/benefit analysis, we just decide it is not worth it. What falls within that area? How do we define this frontier between governance objectives that we think we can actually make a change with respect to, and perhaps shifting into managing governance failure as risk management?

The reason this comes up is that I think people sometimes mistake governance and ethics with perfection. Just to give one specific example, with the recent revised guidelines for the Foreign Corrupt Practices Act, we have even seen the United States Securities and Exchange Commission and Department of Justice come out and say, 'We are not expecting perfection. We realise that there will be failures and we realise that no leader and no organisation is perfect.' How do you get to understand that grey area?

In the meantime, do we have questions and comments from the room?

Manaf Alhajeri, Directeur général du Kuwait Financial Center

I think Mr Mo Ibrahim was spot on when he said that economy was one of the major issues in governance. My question probably has an economic twist. In a world of rising commodity prices, how can we control governments in commodity producing countries? They are systematically enjoying surpluses. They do not have to listen to the World Bank, the IMF and other institutions who can provide certain roadmaps. I think I have seen more success in countries with deficits than in countries with surpluses. How do you deal with rich commodity-producing countries to improve their governance, especially in the public service?

My second question may be a little abstract. Everyone has difficulty in defining governance. To me, governance is probably something that complements legislation. The more you are in deficit of legislation, the more you need governance, which takes us again to developing countries or what we call frontier economies.

Mo Ibrahim, Président de la Fondation Mo Ibrahim

Really, at the end, it is up to civil society, up to the people to really sort out their own governance. All we can do is put the facts out there. I work with Natural Resource Charter, which is a group of academics from Oxford and so on. If you discover that your country is rich in resources, such as iron or oil, how do you go about it? What is the best way to develop that industry that takes account of the people, the environment, future generations and so on? How do we set up an open tendering process? What kind of partnership do you have? That is up to the government and civil society.

Now, it is up to civil society to take issue with their own government. We cannot dictate to anybody else's government about what to do. The good news is that thanks to the globalisation of communications, social media and so on, people now have access to information. We publish our index and everybody in Africa can look at them and see how the government scored, what they are doing and what they are not doing. Those people take issues. This happened in



North Africa and other Africa countries and it shows how people react to what they see as wrong actions. We have to have faith in civil society. That is all we can do.

Ana Palacio, Membre du Conseil d'Etat espagnol, ancienne première vice-présidente de la Banque mondiale, ancienne ministre des Affaires étrangères d'Espagne

I am sorry – I do not agree with you. I think that governance is how you exert authority. I think this is the simplest definition of governance. Of course, exerting authority in a discussionary way is very different to exerting authority that is embedded in the rule of law through institutions. Many times we differentiate between a legal system and institutions, but institutions are the embodiment of a legal system, so I think that taking this definition that we could all agree upon, rule of law is the framework for good governance. There is no governance outside or in spite of rule of law. There is discretionary governance, at best, if you want.

Mo Ibrahim, Président de la Fondation Mo Ibrahim

I agree about the rule of law. One thing I am a little troubled by, and which I hear in some of the comments is the notion of more rules and rules-based systems. We did the Principles of Corporate Governance. Everybody can make their own rules out of those principles, but I hope that we start to see a world where the principles will govern. You can always squirm around a rule. That is what lawyers are paid to do. However, you cannot get through a principle like transparency. Look at Lehman Brothers and Repo 500. You mentioned it earlier – it is legal but unethical and immoral.

That is why principles become so important. I look at the Dodd-Frank Act and see a chapter of 1,197 pages. Is this really what we want? Is this the way we are going to go? America is very keen on rules. Most of us in other countries rely a bit more on principles.

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I will give everyone one to two minutes to wind up, either on one of the questions I proposed or anything else you would like to say. We will start with Dr Chang.

Chang Dae-Whan, Président de Maekyung Media Group

On governance and media, in my newspaper and television, I have about 700 journalists. I do not try to govern these people. I give them as much freedom as they want, but in terms of newspaper management, we have to have financial independence from the government, other big corporates and so on. That is one thing I would like to point out. In media, last year, about 170 journalists were killed, so media is very dangerous, but journalists and media people try to promote freedom of the press. I think that good governance must have freedom of expression and freedom of the press.

On the Asian economic governance structure, for the future, there are two important things to watch over. ASEAN countries are really promoting their welfare and economic prosperity. They try to understand each other and be more collaborative with each other, so they have become quite successful and they have been doing this for the past 30 years. China, Korea and Japan then joined and we call them ASEAN Plus Three. They were put into an appendix because whenever they had a conference together, they had differences.

Most recently, these three countries started forming a free trade agreement, so I think this is a new Asian governance structure that we all need to watch for the future.

Donald Johnston, associé fondateur, Heenan Blaikie; ancien secrétaire général de l'Organisation de Coopération et de Développement Économiques (OCDE)

I have many examples of economic success derived from good governance. I will talk about two. The fact that we started to self-regulate very early has helped us to innovate and anticipate. We have been the first to find solutions.



Sustainability is a very big challenge for us, but it could create new business for innovations in technology and solutions with the products we are building.

The second very interesting point is that we had a lot of issues in Egypt after the revolution. We have a lot of people there and we really managed to check all the aspects of our social management and saw this as an opportunity to introduce unions and to open dialogue. The result of that was not a single strike day in the last 18 months, which I think is a unique case and a factor of economic success.

Ana Palacio, Membre du Conseil d'Etat espagnol, ancienne première vice-présidente de la Banque mondiale, ancienne ministre des Affaires étrangères d'Espagne

I would like to take the opportunity to respond to Don Johnston's comment. I am not advocating more rules at all. I am advocating that the law is not a toolbox. You cannot take the law in isolation. The law is a system and of course, as a system, it is based on principles. However, the law system has methods of implementation for solving deviations from the system, which soft law and self-regulation, although extremely important, is not sufficient. Once more, if it had been sufficient, we would not be where we are now.

My idea is that the law is not a toolbox. It is a system. Over the last 30 years, the social order was established. However, the market cannot regulate itself. We need a legal framework.

Mo Ibrahim, Président de la Fondation Mo Ibrahim

Civil society in Africa now is going through a confrontation and battle for good governance. We are taking our leaders to account for their behaviour. We are ranking, measuring and publishing data everywhere in Africa. We will deal with our leaders and our government, but we need the partnership of the private sector.

The private sector is critical for Africa because development will not be achieved by aid - we need investment. Business creates jobs and creates investment. That is very important. We need to ensure good governance as a vital partner for us. Pay taxes where taxes are due. That is fair and it is not anti-business. It is how businesses should act. When we ask businesses to publish what they pay, it is only fair. Why do some large energy companies refuse to publish their contracts? Is that acceptable? Is that not collusion in corruption?

Did you hear about what happened in Guinea, for example? In Guinea, they had the richest ore mine in the world, with the best quality and the largest quantity. Someone bought this for \$130 million from the military dictator of a coup and sold half of it to the Brazilian Vale for \$2.5 billion. That asset is worth \$5 billion, and the military dictator sold it for \$130 million. Guinea is a very poor country and \$5 billion is a hell of a lot of money for those people. Is that acceptable? These issues are vital and very important for us, so let us watch that.

When we talk about lack of corruption or minimal corruption in the Western world, we have to be careful about two types of corruption. When corruption touches the fabric of a European country, governments jump. You saw what happened to Siemens in Germany. However, corruption overseas is all right, it seems, because then it means jobs for our boys. Look at the number of prosecutions in Europe for corruption overseas.

People may say, 'Oh, Europe does not really have much corruption. It is marginal.' Actually, Europeans are doing a hell of a lot of corruption overseas. Some people think this is fair game because we need to compete with the Chinese and the Americans. The Chinese say, 'Oh, we are corrupt because we need to compete with the Europeans and the Americans.' The Americans say, 'We are corrupt because we have to compete with the Europeans.' Come on, guys, give us a break.

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On that note, we will look forward to seeing who wins the Mo Ibrahim Foundation prize next year. Thank you all very much.