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DEMOCRACY AND GOVERNANCE ASSESSMENT OF NIGERIA



DECEMBER 2006

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Map of Nigeria



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ACRONYMS AND ABBREVIATIONS

AC	Action Congress
AD	Alliance for Democracy
ANPP	All Nigerian Peoples Party
APP	All Peoples Party
CAN	Christian Association of Nigeria
CIDA	Canadian International Development Agency
CSO	Civil Society Organization
DCHA/DG	USAID’s Democracy and Governance Office in the Bureau of Democracy, Conflict, and Humanitarian Assistance
DFID	Department for International Development (UK)
DG	Democracy and Governance
DMI	Directorate of Military Intelligence
EFCC	Economic and Financial Crimes Commission
EU	European Union
FCC	Federal Character Commission
FOIA	Freedom of Information Act
GDA	Global Development Alliance
GON	Government of Nigeria
ICPC	Independent Corrupt Practices and Other Related Offences Commission
IMF	International Monetary Fund
INEC	Independent National Electoral Commission
JNI	Jama’atu Nasril Islam
LGA	Local Government Association
MCC	Millennium Challenge Corporation
NEEDS	National Economic Development Strategy
NEITI	Nigerian Extractive Industry Transparency Initiative

NGO	Nongovernmental Organizations
NLC	Nigerian Labor Congress
NNPC	Nationalized Oil Company
OPC	Oodua People's Congress
OTI	Office of Transition Initiatives (USAID)
PDP	People's Democratic Party
SAP	Structural Adjustment Program
SO	Strategic Objective
SSS	State Security Service
USAID	United States Agency for International Development
USG	United States Government

EXECUTIVE SUMMARY

Authoritarian rule by an institutionalized oligarchy constitutes the main structural obstacle to deepening democratic rule in Nigeria. Oligarchic rule in Nigeria is founded on two reinforcing structural factors: total economic dependence on the redistribution of petroleum and gas revenues, and the centralization of financial and political power in the office of the presidency. Whatever stability is achieved by the redistribution of patronage among the regional interests constituting the national oligarchy, the positive contribution is simultaneously undermined by the resulting political uncertainty, regulatory weaknesses, and economic disorder. Together, this combination of insecurity, petro-dependency, and the need to hold or have access to the presidency drives members of the oligarchy to fix elections, organize political violence, constantly reshuffle alliances, and avoid institutionalizing stable political parties.

The informal exercise of power by Nigeria's political oligarchy exerts more control over daily life than do formal institutions. The formal and informal powers converge in the office of the president who largely monopolizes oil revenues to reward and cement his patrimonial networks. This centralization of power, security, and financial resources in the presidency constitutes a major obstacle to the realization of Nigerian democracy.

Given the structural barriers to democratization represented by the oligarchy, it is all the more remarkable that progress is nevertheless being made on a variety of fronts. The May 2006 defeat by the National Assembly of the third term initiative was the culmination of a number of positive trends in Nigerian democratic development. The concept of a Nigerian nation appears to have taken root. Moreover, civil society and the public itself had roles in defeating the president's third term gambit, signifying their growing influence in national politics. Positive changes since 1999 include an improvement in the human rights situation, affirmation of freedom of the press and other civil liberties, and greater freedom for civil society advocates. The National Assembly and Supreme Court are playing more active roles and starting to become more effective in asserting their constitutional prerogatives in the face of a dominant executive. Nigeria's international financial reputation has also significantly improved as a result of its agreement with the Paris Club of 19 official creditors to settle its external debt with the group.

All of these trends point to the importance of the April 2007 elections for Nigerian democracy. The legitimate transfer of power from President Obasanjo to a new civilian in May 2007 would uphold the constitutional rule of law and, to some degree, demonstrate to the oligarchs that power can be achieved through legitimate democratic means. Yet few observers are expecting a credible election in 2007, and many politicians and activists alike speculate that the president's supporters are plotting a chaotic election so that the president can declare a state of emergency or find other means to extend his tenure. Much will depend on the outcome of the bruising struggles among the biggest oligarchs for control of the People's Democratic Party (PDP) and the opposition, most likely the Action Congress (AC).

There are thus two contending trends emerging from the inability of the informal networks of patronage to service either all the aspirants to elite status or the basic needs of the populace. On the one hand, there has been a growing tendency for some of the competition among the oligarchs to be played out through democratic institutions. On the other hand, there is a danger that members of the oligarchy will seek to mobilize groups along Nigeria's fault lines into violent conflict or unrest. Destabilizing violence and conflict are therefore a critical issue for governance.

DEMOCRACY AND GOVERNANCE PROBLEMS AND PROSPECTS

Consensus

Years of predatory military rule, utilizing cultural divisions to stay in power, wore away the fragile consensus rebuilt in Nigeria after the 1967-1970 civil war. Consequently, pent-up ethnic- and religious-based tensions have ignited communal violence in a number of states across the federation. One bright spot, however, is that Nigerians appear to have come to consensus that democracy is the only acceptable political alternative for the nation. This commitment to democracy remains despite widespread frustrations that the government has yet to produce a satisfying “democracy dividend.” At the heart of the struggle for consensus has been the key issue of federalism.

Rule of Law

The judiciary at the federal level has been singled out in Nigeria for its growing autonomy and work as a check on executive impunity. In particular, the Supreme Court and the Federal Courts of Appeal are clearly emerging as islands of integrity in what is commonly viewed as a bleak judicial landscape. This is due to the rather dismal backdrop of systematic marginalization of the judiciary under the preceding military rule, which continues to cast a shadow over the rule of law in Nigeria. In the context of increased competition among the country’s big men, however, political elites have themselves increasingly turned to the judicial system to resolve their disputes. Budgetary constraints, however, remain particularly worrying when it comes to judicial and court reform. Another disturbing development undermining rule of law and building on the old authoritarian patterns, is the rise of ethnic-based militias across several sections of the country. Likewise, in the north, vigilantism has emerged from the general outrage about crime and the dismal state of security.

Competition

The defeat of the third term reinforced another critical democratic trend in Nigeria: an increasingly assertive National Assembly. The failed third term has also energized Nigeria’s dormant political opposition. The intense interethnic competition of the past through ethnic-based political parties has largely disappeared. The largest parties, the People’s Democratic Party (PDP), Action Congress (AC), and All Nigerian Peoples Party (ANPP) are vast multi-ethnic coalitions, reflecting the many faces of their oligarch founders. The end result is that ethnic competition now occurs at the party level, rather than at the governmental level as it did in the past.

Inclusion

Politics in Nigeria is still largely an elite game, along the lines presented above: rich, male, and old. Discrimination against women in Nigeria is deeply entrenched. In the north, however, the introduction of the *sharia* has had the counterintuitive effect of enabling women to use the law to seek to better their lot. The majority of Nigerians that find themselves mired in poverty are also largely disenfranchised from political processes. Another key barrier to inclusion is the widespread discrimination against citizens known as non-indigenes, no matter how strong their ties to the communities in which they live. The rights that are systematically denied to non-indigenes run directly counter to the constitution’s guarantee of freedom against discrimination, and remain a source of considerable resentment among many Nigerians, especially as demographic changes in the country continue to take place, such as internal migration.

Good Governance

Although the third term effort clouded other aspects of his presidency during late 2005-2006, President Obasanjo must be credited for implementing a range of important reforms since 2003. His introduction of the Economic and Financial Crimes Commission (EFCC) in late 2003 breathed new life into the anti-corruption agenda. Yet corruption is still the stock-in-trade of Nigerian democracy, rooted in the centralized, clientelistic nature of politics described above. Political elites misappropriate considerable public funds for their personal gain, while most of their constituents lack access to potable water. As good governance continues to be found lacking by the majority of Nigerians who live without access to basic public services, other organizations have stepped in to fill the void. Religious organizations, such as the Pentecostal churches, now provide a range of social services that government generally provides, and Islamic religious schools have also sprung up in the north.

These problems are symptomatic of a broader, overarching democracy and governance (DG) problem in Nigeria, which relates to an oligarchic control of political power, both formal and informal, by unaccountable political elites. This oligarchic control of political power contributes to patterns of inefficient centralization, a dearth of meaningful representation within the political system, and a culture of impunity that dates back to military rule. This has created a stark gap between the rulers and the ruled, leading to a general dissatisfaction and cynicism regarding governance combined with growing sentiments of injustice which are fueled by attempts to manipulate ethno-religious rivalries. This directly threatens political stability, which is extraordinarily fragile. A breakdown in stability could undermine ongoing reform efforts, which the analysis indicates are beginning to gain some traction in each of the areas of governance despite the predominant obstacles.

POLITICAL ACTORS

A review of key political actors helps to underline the strong vested interests that democratic reform has to contend with. The champions of reform are many but varied, and they tend to lack the resources commanded by those who benefit from the status quo. However, there are two other elements that bode well for reform. The first is that those elites with vested interests in the informal networks of patronage are increasingly divided, and the very competition among them has created openings for democratization. Secondly, the increasing demands placed upon the political elite by the population means that the frailties of the existing political system have become raw and exposed, and threaten to cast the political order into conflict and turmoil.

INSTITUTIONAL ARENAS

Nigeria's central governance problem of the oligarchic control of political power points to several possible avenues for continued USAID assistance for democratic development. Oligarchy in Nigeria—or the so-called godfather networks—constitutes an informal system of power based on clientelism that overlays or contradicts the formal structures of power, which are the democratic political system and its laws. For democracy to flourish, therefore, the formal democratic system and the rule of law must gain greater prominence—and eventually, primacy—over the godfather system and its politics of might (and money) make right.

Such progress in the Nigerian context can be achieved by two essential political developments:

1. *Horizontal checks and balances among political elites:* This requires the development of stable coalitions of elites that can check each other's abuses through democratic institutions, and whose competition with each other for power will push them to turn to the public for support. So long as this outreach to the public is done largely through the formal system (through electoral competition,

lawsuits, executive-legislative battles, and so on), this creates increasing incentives for elites to provide more socially beneficial public policies (the social contract). There are currently indications that a trend towards greater checks and balances is underway, but there is still a long way to go.

2. *Vertical elite-public relations*: The main issue here is rendering the oligarchic elite more accountable and responsive to the public by altering their relationships within their power pyramids. In doing so, politics can expand from serving primarily the narrow interests of elites to the broader interests of the public, because elites come to see the pursuit of public interest as also being in their own private interests.

Despite the strong and persistent grip of informal networks of power, the last years since the 2003 elections have been marked by an improvement in the role of democratic institutions. The National Assembly, the federal courts, and civil society have all shown signs of positive traction. There is still much reform and modernization to be carried out, but it is clear that Nigerians have successfully launched some important initiatives that provide hope in the gradual reform of a very difficult situation. The ongoing debate over constitutional reform is rigorous and indicates that the situation has not become stagnant. All of these positive developments bode well as foundations for a DG assistance program.

Less promising have been developments at the state and local levels, despite the massive flow of revenues to both these tiers of government. This is largely due to the patrimonial system dominated by the governors and the dependence on financial resources from the center tends to short-circuit accountability. Civil society is increasingly stepping in to fill the gaping inadequacies of state and local government, particularly the religious groups. While in the short term such alternative means for political engagement might help citizens address some of their basic needs such as education, in the long run, such self-reliance is no substitute for government. Fundamental constitutional changes and increased levels of funding needed to render the state and local governments more amenable to political development will be necessary.

STRATEGIC APPROACH

Oligarchy-driven insecurity and instability have generated a strong and widespread sense of injustice among the Nigerian public. Governance in that country has been characterized by inefficient yet authoritarian centralization, a dearth of meaningful political representation, a culture of impunity, and a demoralizing climate of unaccountability dating back to military rule. The combination of aggrieved injustice and the social misery of the majority, in turn, risks producing disillusionment with democracy, creates conditions igniting social conflicts and, most importantly, threatens the stability of Nigeria's political order. In response, we recommend that USAID redouble its commitment to deepen and strengthen efforts to bring the Nigerian public into a more active participation in politics. Supporting increased public engagement will assist public advocates to channel the nearly universal sense of injustice into a vision of hope that will eventually produce concrete reforms. In order for Nigeria's vast energy wealth to be productively employed to raise living standards, the public must become engaged in implementing democratic reforms and new institutions.

A second key finding of the assessment is that the interests of competing oligarchs may overlap at times with the interests of democracy supporters, as is the case of opposition parties' shared interests in credible elections. The recommendations that follow in the next subsection thus seek to build on reform allies. These include those who want reform for a variety of reasons, from those who seek to improve their own political prospects to those who seek improved service delivery. Not all reform allies may be immediately apparent, and USAID and its partners should consciously analyze the interests of political actors on a regular basis to track the evolution of the reform cadre on the issues addressed by USAID programs.

USAID's strategy for supporting democracy in Nigeria, however, is tempered by two overarching constraints. The first is scale: Nigeria's size, complexity, diversity, and dependence on energy exports are daunting. The second constraint is the exceedingly modest funding for USAID D/G programs: approximately \$3 million to \$5 million annually. Indeed, funding falls far short of Nigeria's scale, regional strategic weight, and significance for American energy security. Accordingly, given these two constraints, USAID strategy must consider upgrading the funding for USAID D/G programs so as to match Nigeria's scale, complexity, and significance.

Thus, in a general strategic sense, there are two axes upon which USAID can take advantage of existing trends in order to help transform oligarchic politics into democratic politics over time. First, there is an opportunity to build upon growing competition among elites by encouraging the use of democratic institutions as a means to negotiate among the contending factions. Second, there is opportunity to seek to strengthen the links between the state and the people both by strengthening formal mechanisms for the balance of institutional powers and those that provide for greater accountability. In addition, the development of a more robust and viable political opposition and a vibrant civil society can build on the successes of the anti-third term movement.

Transforming oligarchy in Nigeria is likely to take a decade at least, but several clear avenues for support in the interim are evident:

1. Strengthen formal political institutions that foster a healthy balance of power among the elite: Clearly, efforts that bolster the relative power of the legislative and judicial branches against the executive branches are essential in this regard. Strengthening the powers of the states and local governments *vis-à-vis* the federal government is also essential, as is decentralization of presidential controls over public revenues. The enabling environment, however, is not yet as advanced as it could be for progress in this area, and the Government of Nigeria (GON) needs to first take some steps towards decentralization.
2. Strengthen the informal balance of power among the political elite through the development of viable political opposition and a vibrant civil society. At the same time, elite access to violent means must also be curtailed.
3. Strengthen formal institutional arrangements that encourage and force political elites to view the public interest as a personal political priority, particularly through credible elections, transparency, and accountability mechanisms. In addition, provide increased formal avenues for public participation in the policy process, through community associations and other local governance approaches.
4. Impact the informal relationships between elites and the public by strengthening public influence through an aggressive media, vibrant civil society, and improved economic status. Undermining elite access to violent means is also essential in this regard.

PROGRAMMATIC RECOMMENDATIONS

A defining element of the proposed strategic approach is to nurture and promote efforts by Nigerians that have already demonstrated positive traction in addressing some of the key DG problems facing the country, and which carry the potential to transform the strong sentiments of injustice into democratic action in all of Nigeria's regions. The following programmatic recommendations are advanced under the premise that deepening democratic governance is the best route to political stability in Nigeria. In articulating these recommendations, our purpose is to give the Mission sufficient flexibility in adapting program design according to its funding levels, its preferences, and other USG priorities. The recommendations are prioritized according to expected impact, although all of the recommended activities are based on opportunities or constraints identified in the analysis.

Each of the four subheadings below are listed in terms of priority, as are the recommendations within each heading.

1. Emergency Measures to Strengthen the Democratic System to Provide Increased Stability and Security

Several critical security issues threaten Nigerian democracy sufficiently to require urgent attention. To some degree, the public spotlight that USAID can throw on these concerns is just as important as the actual programming, such that USAID can seek to facilitate public action on these matters as well as fund innovative projects. These crisis measures can also work in tandem with the longer-term initiatives suggested below. They are ranked according to the greatest likelihood of impact under the conditions that prevailed at the time of writing.

- As with the third term, assist opposition parties and civil society groups to resist efforts by President Obasanjo's supporters to extend his term in office, and to ensure that credible elections are held in 2007. Opposition forces and civil society groups are mobilizing to prevent the president from taking advantage of the Independent National Electoral Commission's (INEC's) calculated incompetence, but they need assistance in building larger coalitions and could benefit from the tacit blessing of international actors. If the president's supporters are successful in extending his term or annulling the election (which is certain to be flawed), the results could be catastrophic, perhaps leading to a coup and civil war. This proposed intervention will have the impact of helping both to consolidate the checks and balances that previously served to defeat the third term constitutional amendment and to better provide an immediate, tangible, and attainable goal around which civil society and opposition groups can mobilize.
- Building upon the momentum generated by the anticipated electoral transfer of executive power, it is recommended that USAID move beyond the specific objective related to the third term to support the development of a broader and more viable opposition movement, which brings together opposition parties, civil society groups, business leaders, middle class entrepreneurs, and the media. Political opposition has the deepest interest in clean elections, rooting out corruption, and providing the public with responsive policy alternatives, and it provides elites with necessary alternatives to pursue their ambitions. The impact of this proposed intervention is expected to be twofold. First, it will help encourage the use of institutional checks and balances, and second, will serve to provide more effective participatory mechanisms.

2. Strengthen Civil Society: Engaging Society Through the Voice, Advocacy, and Participation of Citizens

This group of programmatic recommendations is designed to build upon the efforts made on the demand side in calling for deepening democratic reform by civil society. Given the strong vested interests that will be threatened by reform, these recommendations are realistic in that they intend to mobilize and strengthen reformists within civil society who have demonstrated the capacity to incorporate community and citizen inputs in both advocacy and the resolution of public policy issues. The first four of the following activity recommendations are ranked as of higher priority. The analysis showed how both the legislature and federal court system have been used in the competition among elites as a means for checks and balances. This opens up opportunity to enhance the points of entry for civil society advocacy. Illustrative activities under this civil society component include the following:

- Support CSOs that can improve demand-side advocacy for strengthening of legislative functions and processes and for improvements in the justice system (as per other recommendations, below). This should include strengthening the organizational, professional, and informational resources of select professional organizations and trade unions. As per the language in the Foreign Assistance

Framework, this recommendation is aimed at strengthening civil society capacity to act as agents for reform and for democratic processes.

- Assist select civil society organizations to construct viable linkages with community groups representing community-level inputs. The purpose of this component is to provide communities with alternative means to engage in the political process, especially in helping to access public goods and meet their basic needs. Such efforts could utilize public/private partnerships with local governance to engage in social infrastructural improvements that could support other Mission Strategic Objectives (SOs), such as in the areas of health, education, and economic growth. This dimension could also be an element of the Mission’s program that is amenable to Global Development Alliance (GDA) efforts to leverage other funding. In addition, this component of the program could also help other targeted civil society organizations (CSOs) to also increase their grassroots base, and therefore enhance their legitimacy among diverse communities. This set of activities corresponds to two aspects in the Foreign Assistance Framework, that of increasing citizen participation and oversight, and cross-cutting civil society initiatives. The impact of this and the following recommendations will be felt in increasing the representational capacity of civil society at the local level. This will be critical to assisting government to become more responsive to citizen needs and demands.
- Assist select community associations themselves in obtaining better access to local and state governments. Pilot projects in key states and local governments could explore alternatives for improved community association participation, such as Local Government Association (LGA) budget monitoring through participatory budget practices.
- Assist the Nigerian media to address its concerns regarding professional skills, research infrastructure (through computers, the Internet, and information technology), and reducing its susceptibility to bribery and other corrupt practices. Priority should be given to protecting courageous media professionals from personal abuse and the growing infringement of press freedoms by the security agencies of the Nigerian government. The media has had a positive impact on democratization already, and greater professionalization will further enhance their role and credibility.

3. Promote Good Governance: Strengthen the Legislative Function and Processes

This set of recommended activities focuses on building on progress already initiated with the legislatures, particularly the National Assembly. Since the defeat of the third term, the legislature is increasingly seen as a forum for civil society and constituents to lobby their representatives. The priority activities under this set of recommendations thus seek to a) enhance the role of the legislature as a check on a strong executive; and b) increase the ability of civil society to lobby and productively interact with the parliament. The illustrative activities focus on the three areas of oversight, representation, and legislative effectiveness. The first two of the following recommendations are of higher priority with the greatest likelihood of immediate impact.

- Support oversight initiatives that could help to reduce executive arbitrariness. A key focus, which corresponds to past Mission investments regarding the budget, would be to support a National Assembly Budget Office. Efforts by the Assembly to take control of the Auditor-General’s office—or to create their own parallel office—could also be encouraged. Not only should the capacity for effective review be enhanced, but also the Assembly’s ability to render the national budgets and their review more transparent. “E-governance” and electronic vetting of bills should be supported vigorously. More fundamentally, the National Assembly and state assemblies’ “power of the purse” needs strengthening so as to buttress the legislatures’ control over public revenues and spending. This recommended activity corresponds to the Foreign Assistance Framework-recommended interventions to strengthen oversight and budget capacity.

- On the demand side, as mentioned above, strengthen civil society organizations that lobby for parliamentary oversight, especially in regards to the budget and revenue collection. Electronic monitoring of federal and state budgets will increase public participation and should receive funding priority. The formal constitutional authorities of the National Assembly are much greater than have been realized in the past, and civil society could help to articulate ways in which the legislature could become more effective in this regard. Under the Foreign Assistance Framework, this would correspond to the category entitled “increase legislative advocacy and public participation.”

4. Rule of Law: Support Effective and Equitable Justice System

This final set of recommended programmatic interventions is designed to build upon the positive steps at the federal level and to try to increase demand for greater access to justice both at the national level and the state level. These illustrative activities are designed to assist in the development of a more effective justice system by improving the capacity of key justice sector institutions, and to develop citizen demands for an effective and accountable justice system. Regarding the state level, opportunities are more constrained, and the recommendations are more directed towards the longer-term improvement of the enabling environment for reform through the promotion of greater Nigerian political will for reform.

- At the federal level, where windows of opportunity have emerged such as in the Courts of Appeal, provide support to reform regarding management procedures. “Bricks and mortar” work to improve operational systems and professional capacities to carry out their core functions such as case management, court procedures, recording, and harmonization of polices and public private partnerships relating to crime and violence could all be targets of assistance. This set of activities corresponds to the Foreign Assistance Framework objective of professionalization of justice system actors. The impact of these activities should be visible and tangible, with results evident in the medium term.
- On the demand side at the national level, support CSO efforts to put pressure on the government for more resources and political space to be allocated for the modernization and coordination of key judicial institutions, such as the Supreme Court, Court of Appeal, and the Police (see above, under civil society). The capacity of the National Judicial Council, and its control over the judiciary’s budget, is in particular need of strengthening. CSOs could be supported to monitor the justice sector to ensure compliance with gender and human rights treaties. CSO efforts to introduce Alternative Dispute Resolution capacities in Nigerian courts could also be supported. This set of recommended activities relates to strengthening civil society capacity to advocate for more effective democratic institutions in the rule of law area. Its impact could be immediate and tied to legislative lobbying efforts, as described in the preceding subsection.

1.0 INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

Nigeria is now enjoying the longest period of civilian rule since independence in 1960. The first civilian republic ended in a military coup in 1966, ushering in a devastating civil war and several more military governments. In fact, during the 33-year period from 1966 until the fourth republic came into being in 1999, civilians only governed for four short years. Historically, therefore, the dearth of democratic experience has created enormous challenges to institutionalizing democracy in the Nigerian fourth republic. Nonetheless, it is critical to recognize the fact that the trend over the past decade, and especially since 1999, is modestly positive.

Despite a legacy of brutal authoritarianism under General Abacha's military misrule, the civilian government of President Olusegun Obasanjo has, to its credit, made some significant improvements. Its economic reform program has won the qualified praise of the International Monetary Fund (IMF); civil liberties, freedom of the press, and an independent media are much improved. If the 2007 elections are held in April 2007, it will mark the first civilian-to-civilian handover of power in the nation's history. The forthcoming election season comes on the heels of a breathtaking victory for Nigerian democracy on 16 May 2006, when the National Assembly—prompted by a massive public outcry—rejected constitutional amendments that would have allowed the president (and perhaps the state governors) to run for a third term in office.

The durability of civilian rule since 1999 and the rejection of the third term constitute unprecedented achievements. To be sure, pessimism and cynicism are widespread in evaluating Nigerian democracy. The cynics from the late 1990s, however, would have never predicted that Nigeria would now be poised to hold its third civilian election cycle. Nor would they have predicted that the president would be blocked from assuming a third term by a national legislature bold enough to buck the Africa-wide trend of altering constitutions to allow extended executive terms. The rejection of the third term, moreover, was driven by an alliance of grassroots activists, civil society organizations (CSOs), and elected representatives. The democratic principles underlying electoral alternation appear to have gained widespread acceptance among the political elite, underpinned by an even deeper consensus on democracy as the only acceptable form of government in Nigeria. Civil society actors and the legislative and judicial branches of government are now asserting their constitutional powers more frequently in spite of having been silenced by decades of brutal military dictatorships. Again, all of these trends are very positive for the deepening of Nigerian democracy.

Evaluating the trend line of Nigerian democracy requires a critical yet realistic perspective about the many barriers confronting Nigerian democrats. Indeed, in addition to overcoming the authoritarian legacies of colonial and military rule, the enormous size, ethnic diversity, and political complexity of Nigeria would daunt even the most talented and committed democratic reformers. When compared against perilous situations of neighboring states (e.g., Ivory Coast, Chad, Sudan, Congo), the fact that Nigeria survives as a united, democratic nation-state is no mean achievement and should be a cause for

celebration. Realistically, however, institutionalizing full democratic processes in Nigeria is very likely to be a multi-generational undertaking.

Authoritarian rule by an institutionalized oligarchy constitutes the main structural obstacle to deepening democratic rule in Nigeria. The oligarchs are composed of self-serving politicians, businesspersons, political fixers, “godfathers,” former military officers, and elite bureaucrats who share a common interest in sustaining oligarchic power. Even though the oligarchy claims to represent democratically based regional, professional, and ethnic constituencies, their record falls far short of their claims. Constitutional provisions, state centralization, and accumulated political experience have nurtured far greater national integration within the oligarchy than among the fragmented groups that they rule. Informal networks of power based upon friendships, pragmatic alliances, financial deals, monopolizing information, and, above all, the patrimonial distribution of patronage sustains and reproduces the ruling oligarchy. To maintain power, the oligarchs trade offices; co-opt rivals, distribute concessions and contacts; and bleed the public treasury to fund their private fortunes, clients, political parties, and political thugs. Unable to show how their salaries could explain their life-styles, fortunes, and patronage, they have institutionalized a political order indifferent to legal, ethical, or even communal accountability.

Although it is common to hear cultural explanations, oligarchic rule in Nigeria is founded on two reinforcing structural factors: total economic dependence on the redistribution of petroleum and gas revenues, and the centralization of financial and political power in the office of the presidency, which now controls the Ministry of Petroleum Resources. Formal political bargaining rests on negotiating the derivation and distribution formulae for petro-rents, but the more important informal political competition centers on accessing the distribution of patronage and largesse derived from the same revenue source. Yet the oligarchic system neither generates security nor stability even for its members. To some degree, the oligarchs are ensnared in a system from which they cannot escape. They have to accept the corruption in order to be players. The individual oligarch’s accumulation of wealth cannot be justified by legal income sources, and because enforcement of corruption laws have tended to be arbitrary and subject to political loyalty, members must always be wary of indictment, public exposure, and/or marginalization by rising competitors.

Practically, whatever stability is achieved by the redistribution of patronage among the regional interests constituting the national oligarchy, the positive contribution is simultaneously undermined by the resulting political uncertainty, regulatory weaknesses, and economic disorder. Nor is oil-derived wealth in Nigeria easily converted into self-sustaining capital investment which, in the long run, might create regional or class-based centers of oppositional and democratic political power. Unfortunately, the failure of oligarchic governance is visible; it does not, outside the energy sector, create necessary infrastructures for economic development, nor does it inspire business confidence among Nigerian or foreign investors. Reliable market signals are obscured by authoritarianism, uncertain regulations and legal rights, and a generalized sense of insecurity. Instead, the presidency rewards clients and allies by allocating monopolies or privileged access to privatized industries. Accordingly, because Nigeria’s investment and business climate is so uncertain, indeed, uninviting for Nigerian nationals, capital flight prevails as the majority of the oligarchy’s wealth is expatriated abroad to more secure investments.

Together, this combination of insecurity, petro-dependency, and the need to hold or have access to the presidency drives members of the oligarchy to fix elections, organize political violence, constantly reshuffle alliances, and avoid institutionalizing stable political parties. Similarly, by monopolizing financial and political power, the oligarchic system poses financial barriers to the formation of effective oppositional political parties. The formation of alternative elites found elsewhere in the world, typically based upon regional centers of power, trade unions, professional associations, charismatic leadership, civil society organizations or disciplined political parties, has not yet emerged to challenge the networked structures sustaining oligarchic rule. Again, the scale, complexity, and petro-rentier features of Nigeria

conspire to reinforce oligarchic authoritarian rule but, at the same time, these same structural conditions are subject to change through the mobilization of Nigeria's equally diverse democratic forces.

This assessment examines both the positive and negative trends currently evident in Nigeria, with an eye toward avenues for USAID to continue to support encouraging developments for democracy while working against the trends that could reverse the progress made since 1999. As the cracks in the political strangleholds of the oligarchs continue to widen, public participation must be channeled through legitimate democratic institutions so that the opening political space does not simultaneously exacerbate existing social fissures. Full democratic consolidation remains at least a decade away, but now is a critical time for proponents and supporters of Nigerian democracy to help provide an environment in which political reform can take root and grow.

1.2 BACKGROUND

1.2.1 Fault Lines of Nigerian Politics Feature Prominently...

Nigeria is the most populous African state and one of the world's most ethnically diverse societies, being made up of over 250 ethno-linguistic groups. Formally, these groups were agglomerated into a single political unit in 1914, but integration among them was minimal because Britain's policy of "indirect rule" sustained and even magnified differences between them. By allying and strengthening the power of the northern Muslim aristocracy, colonial policy reduced traditional checks and balances, and severely limited access to Western education in northern Nigeria. Administrative policies and translations of the Christian Bible contributed to formation of new ethnic identities and new educated middle classes in the southern provinces of Nigeria where the modern nationalist movement was born. In 1939, the British carved out three regions, each with dominant (majority) and subordinate (minority) ethnic groups, and established commodity marketing boards which were later used to fund the political projects and parties from each region. Religion, too, is critical for grasping the difficulty of achieving consensus in a complex state like Nigeria. For example, from 40-50 percent of Yoruba are estimated to be Muslims, but this affiliation has not translated into political solidarity with the Muslim groups of the far north.

Christianization, on the other hand, has integrated previously fragmented groups in the Southeast and in the Middle Belt or North Central zone of Nigeria. The politicization of religion is nothing new in Nigeria, but has become more pronounced since the introduction of the Islamic (*Sharia*) criminal code in the 12 northern states after the 1999 election. Thus, there is no shortage of potential cleavages or flashpoints in Nigeria. Its size, limited internal communications, ethnic diversity, cross-cutting alliances and cleavages render it a difficult country to govern under the best of circumstances. By the time of independence in 1960, Nigeria was divided into three semi-autonomous regions, each composed of many nationalities with few common cultural experiences and even fewer incentives to act collectively as a nation.

1.2.2in the Forging of a New Political Order

Nigeria was constructed by foreign conquest. Colonial forms of authoritarianism underlying "indirect rule" did not create a legitimate social contract among constituent groups. Much of Nigeria's independent political history has focused on the relationship between the federal center and the subordinate subnational units defined as regions or states. Political order, of course, was extremely difficult to institutionalize in the absence of truly national integrative institutions. Six years after independence (1966), a military coup stimulated by a disputed election and a breakdown of law and order in the Western Region, presaged the outbreak of a civil war between the federation and the Eastern Region (i.e., Biafra). This tragedy cost an estimated million lives, but had the positive outcome of creating 12 states from the original three regions. While the resolution of the civil war strengthened nationalism among the

victors, it was also followed by an era of military coups and countercoups that was only interrupted for four brief years of civilian rule from 1979 to 1983. A broad economic reorientation occurred after the civil war when Nigeria joined OPEC, benefited by the increase in oil prices, and then became completely dependent on petro-revenues. Today there are 36 states carved from the original three regions and 774 local government areas, up from 171 in 1963. Ironically, the centralization of petro-revenues at the federal center and the creation of additional states have increased political centralization, largely because many states are not effective administrative or economic units and all are dependent on the central reallocation of petro-revenues. Nonetheless, multi-state federalism has given the smaller minorities, which constitute a third of the nation's population, a greater voice in the Nigerian nation which is less dominated by the potentially explosive competition among the Big Three groups—the Hausa-speakers, the Yoruba, and the Igbo—who count for the other two-thirds of all Nigerians.

As the world's fifth largest federation, it is not surprising that Nigeria has struggled with refining federal powers and obtaining “buy in” from its constituent groups who demanded the creation of more states and more local government associations (LGAs). Catering to the demands of constituent groups created incentives for ethnic mobilization around various new and imaged primordial identities. Indeed, some of the elder interlocutors interviewed by the Assessment Team noted that there was less inter-ethnic conflict under colonialism because the administrative units were more mixed. Critics say the 1999 constitution concentrates too much power in the central government, especially with regard to the control of police and the appointment of judges. The arrangement that each of the 36 states must have a minister in the Cabinet has further undermined appointments based on professional merit.

The perennial challenge for the Nigerian federation, known as the “National Question,” has been how to transform the array of competing ethnic and religious groups into stakeholders. This has been attempted primarily through the multiplication of administrative units. At the same time, however, the tendencies for centralization meant that power was not dispersed, but that smaller and smaller political units were linked to the federal power structure in a top-down distribution of resources and opportunity. This arrangement creates a balancing network of alliances and relationships that prevented any single faction or group from becoming dominant, but it aggravated conditions in the oil-producing states of the South-South zone, as discussed in the next subsection.

1.2.3 Elite Networks Bolstered by Centralized Control of Oil Revenues...

The informal exercise of power by Nigeria's political oligarchy exerts more control over daily life than do formal institutions. The primary cleavage in the Nigerian polity lies between members of the oligarchy and the citizenry. Since the oligarchy is insulated from accountability, spectacular forms of corruption have become entrenched and tolerated by officials. Decades of military rule centralized tremendous political power in government hands, which extended government control over land and the all-powerful oil industry. Oil booms and busts, and the economic effects of structural adjustment programs (SAPs), decimated most non-oil industries while bringing unimaginable wealth to the oligarchs controlling the petro-rents. Consequently, the oligarchy became extraordinarily rich, while roughly three-quarters of the Nigerian population fell into abject poverty amid atrophying state services and stagnation in non-petroleum economic sectors. Together these trends reinforced the domination of a multi-ethnic oligarchy whose power is derived from their political monopoly over the state apparatus and its vast oil rents. In short, there is a disconnect between members of the oligarchy, who control the political arenas and struggle to maintain their relative hegemony, and the bulk of the population, who find themselves disenfranchised by the informal patterns of patrimonial power controlling public decision making in Nigeria.

The formal and informal powers converge in the office of the president who largely monopolizes oil revenues to reward and cement his patrimonial networks. The origins of executive power may lie with the military's centralization of power and their control over the oil industry, but civilian officials quickly

learned the value of central control. Similar to the presidency, the state governors utilize their influence in directing the flow of federal resources. Most run their states like private fiefdoms, but it is also true that levels of corruption among them vary significantly. The distribution of petro-revenues through patronage networks is the glue keeping the oligarchic system together in a way that contains centrifugal tendencies based on ethnicity or religion.

1.2.4 ...with Presidential Centralism Nourished by Access to Great Wealth

The centralization of power, security, and financial resources in the presidency constitutes a major obstacle to the realization of Nigerian democracy. In turn, this has undermined popular democracy, the rule of law, federalism, devolution of powers, and good governance. If the weight of historical factors were not sufficient to institutionalize presidential dominance, the transformation of Nigeria's political economy into a petro-rentier state in the 1970s provided the financial resources for centralization of Nigeria's economic and political system. Skyrocketing oil prices in the 1970s fueled rampant corruption and provided the Nigerian rulers with a fabulous source of revenue. Earlier the production and export of tropical commodities in regional market boards created dispersed regional centers of development and some degree of decentralized social power structures. Petro-rents had the opposite effect, however, effectively concentrating financial power at the federal center. In addition, as a result of the overvaluation of the exchange rate that resulted from the oil boom, many other Nigerian exports became uncompetitive. Key elements underlying Nigeria's petro-based centralization are a federal statutory monopoly over minerals, a nationalized oil company (NNPC), decrees (1970 and 1978) allocating land ownership to the state, and presidential control over the Ministry of Petroleum Resources.

Nigeria has taken in over \$400 billion in oil revenues since the early 1970s, with an estimated \$45 billion in oil export receipts for 2005 alone. Today oil and natural gas revenues account for 95 percent of state revenue, over 40 percent of the Gross Domestic Product (GDP), and 96 percent of the value of exports. Nigeria has the tenth largest crude oil reserves in the world and the seventh largest known natural gas reserves. Scarcity of potential capital for development is not Nigeria's problem.

Once Nigerian presidents—military and civilian—gained control over energy revenues, they were able to centralize power at the federal center, fund their network of clients, and thereby buy off or intimidate traditional rulers or regional opponents to centralization, local resource control, and presidential authoritarianism. A superb example is found in President Obasanjo's response to complaints that his personal control of the Ministry of Petroleum Resources was undemocratic and illegal:

It is therefore within my constitutional powers to choose not to establish the office of the Minister of Petroleum Resources and directly exercise executive control over petroleum matters. It is immaterial that the office of Minister of Petroleum Resources is provided for in the Petroleum Act as the provisions of the Constitution take precedence over that of an existing law in the event of a conflict.¹

1.2.5 Some Positive Trends have Emerged...

Given the structural barriers to democratization represented by the oligarchy, it is all the more remarkable that progress is nevertheless being made on a variety of fronts. The May 2006 defeat by the National Assembly of the third term initiative was the culmination of a number of positive trends in Nigerian democratic development. The concept of a Nigerian nation appears to have taken root. Second, is the evident consensus among elites and the public on the principle of alternation of power, a key foundation of democratic governance. Such alternation is so far defined 1) in personal terms, such that no individual

¹ http://www.nigeria-consulate-ny.org/News/Sept02/president_response.htm.

can occupy the summit offices of the federation for more than two terms; and 2) in regional terms, in that government offices must be rotated at the federal level among the six informal “zones” of the nation, and among the senatorial districts and local government areas at the state level.

Moreover, civil society and the public itself had roles in defeating the president’s third term gambit, signifying their growing influence in national politics. These roles were facilitated by new technologies of communication, such as cell phones, cable TV, text messaging and web sites. For perhaps the first time since 1999, legislators felt compelled to consult with their constituents and to vote as the public wished (84 percent were against the third term amendments),² even though the presidency was reportedly offering \$1 million bribes to each member of the National Assembly who voted in favor of the amendment package. Private television companies provided live coverage of the debates in the Assembly, and newspapers published lists of which legislators were for or against the measures.

Positive changes since 1999 include an improvement in the human rights situation (see Section 2.2 below), affirmation of freedom of the press and other civil liberties, and greater freedom for civil society advocates. The National Assembly and Supreme Court are playing more active roles and starting to become more effective in asserting their constitutional prerogatives in the face of a dominant executive. On the other hand, the police routinely torture detainees, few prisoners appear before judges, and security forces harass elected officials, human rights activists, and the independent media. While the Government of Nigeria (GON) has overcome the international pariah status that dated back to the mid-1990s, when Nigeria was temporarily expelled from the Commonwealth as a result of human rights violations, much remains to be done.

Nigeria’s international financial reputation has also significantly improved as a result of its agreement with the Paris Club of 19 official creditors to settle its external debt with the group. In exchange for a payment of \$12.4 billion, the Paris Club countries agreed to forgive the \$18 billion remainder of the \$30 billion debt held by Nigeria. Upon completion of its payment in April 2006, Nigeria became the first sub-Saharan African country to completely eliminate its Paris Club debt. The country still owes some \$5 billion to other lenders, including the World Bank and the private sector. Nigeria has now been taken off an international credit blacklist and is able to borrow on favorable terms again. The broader economic reform program that conditioned the debt elimination deal is known as the National Economic Empowerment Development Strategy (NEEDS). The reform package was approved by the IMF as a condition of endorsing the debt deal, and the IMF enacted a two-year Policy Support Instrument (PSI) in October 2005 that includes ongoing IMF monitoring of progress made in the reforms. The IMF completed its first review of Nigeria’s PSI in April 2006 in which it endorsed government policies to date.

1.2.6 ...but Contemporary Challenges Remain Daunting

The positive trends cited above do not erase the abysmal record of the Nigerian oligarchy. Given the scale of petro-revenues and the potential of Nigeria’s natural resources, the oligarchy’s failure to address the most minimal of the majority’s basic human needs can be construed as criminal negligence. The World Bank ranks Nigeria as among the world’s poorest countries, with the vast majority of the population living on less than \$2 per day. Only 40 percent of Nigerians have access to electricity. Most citizens suffer from grossly inadequate state services, such as the provision of public utilities (electricity, water, sanitation), social services such as education and health, or the maintenance of public security. Most social indicators, such as life expectancy, health, and education, have actually declined despite a windfall of oil revenues. Meanwhile, demographic trends are bringing massive numbers of young Nigerians into the political sphere over the next 10 years, most of whom are gaining political consciousness within a context of frustration and hopelessness.

² Afrobarometer press release, 14 March 2006. See www.afrobarometer.org/results/PressReleaseNigeriaTermLimits3.pdf.

Explosive demographic growth helps to explain how the Nigerian state became so distanced from the needs of its people. In the early 1920s, when the first federal arrangements were conceptualized by the British, the population stood at less than 20 million. By independence in 1960, the number of citizens was estimated to have doubled to 40 million. In the 45 years after that, the population has soared even more rapidly, to an estimated 137 million in 2005. The nature of demographic change is even more worrisome than total population figures would indicate, however, with Nigeria having one of the highest urbanization rates in the world at around 5.3 percent per year in a country that is still mainly agrarian. Moreover, most estimates place over 40 percent of Nigerians under the age of 15, which means there is a massive demographic bulge approaching adulthood amidst a dearth of opportunity or hope. It is becoming widely accepted that for this new generation, conditions and prospects are worse than they were for the youth at independence in 1960.

Rising violence, assassinations of candidates, more advanced weaponry, and misuse of security forces to intimidate candidates has lowered public expectations for the 2007 election. Members of the oligarchy manipulate ethnic, religious, and geographic cleavages to gain leverage in the inter-elite competition for resources. Electoral registration assumes a reliable, legitimate census. The first census to be carried out since 1991 took place in March 2006, but questions regarding origin were omitted to reduce controversy surrounding the distribution of political representation and economic resources among states.

1.2.7 Critical Times Lie Ahead

All of these trends point to the importance of the April 2007 elections for Nigerian democracy. The legitimate transfer of power from President Obasanjo to a new civilian in May 2007 will uphold the constitutional rule of law and, to some degree, demonstrate to the oligarchs that power can be achieved through legitimate, democratic means. It will mark the first time a civilian government has handed over power to another as the result of an electoral process.

Few observers, however, are expecting a credible election in 2007, and many politicians and activists alike speculate that the president's supporters are plotting a chaotic election so that the president can declare a state of emergency or find other means to extend his tenure. Even if such conspiracy theories prove unfounded (or confounded), the Independent National Electoral Commission (INEC) has thus far shown little independence from the presidency, nor has it shown much preparedness for undertaking the daunting task of holding real elections. INEC over 2005 and 2006 wasted precious time and meager resources on a number of high-tech plans to improve the elections process, such as through electronic voting or biometric voters' cards, such that it is now scrambling to hold some measure of credible registration and election processes. Political parties, meanwhile, have held largely undemocratic primaries.

Much will depend on the outcome of the bruising struggles among the biggest oligarchs for control of the People's Democratic Party (PDP) and the opposition, most likely the Action Congress (AC). A strong opposition may be able to force semi-credible elections, but many elites may also be unable to resist the urge to utilize the armed groups they have been cultivating since 2003. However, the prospects for the survival of constitutional government remain good even if the elections are marred, unless there is a major and widespread breakdown in order following a visibly corrupt election or a postponement of the elections.

1.2.8 Greater Movement Towards Democratic Governance is Imperative for Maintaining Order

There are thus two contending trends emerging from the inability of the informal networks of patronage to service either all the aspirants to elite status or the basic needs of the populace. On the one hand, there has been a growing tendency for some of the competition among the oligarchs to be played out through democratic institutions. There is also a well-publicized campaign against corruption underway, focused

on the opponents of the Obasanjo regime, which directly targets the type of graft that previously was the lifeblood of informal influence. On the other hand, there is a danger that members of the oligarchy will seek to mobilize groups along Nigeria's fault lines into violent conflict or unrest. The danger for Nigeria is that such conflicts could serve as flashpoints for a wider conflagration which could derail the country from the reform path upon which it has tentatively embarked.

Destabilizing violence and conflict are therefore a critical issue for governance. Groups have used violence as a "veto" to bargain for a greater share of the pie. Ijaw politicians, for instance, have used violence to seek to squeeze concessions like more states from the oligarchy. As poverty and unemployment among youth have become more severe, competition for resources and opportunities such as jobs, land, and education have contributed to some of the bloodiest episodes of inter-communal violence in recent years. This makes it difficult to engage in democratizing reforms.

Nigeria has one of the highest rates of internal violence in the world, only unlike others with similar levels of bloodshed such as Colombia or Chechnya, there is not a civil war going on. Since 1999, over 50,000 have been killed in ethno-religious violence and over 80,000 displaced. In the north, an explosive growth of strident Christianity has confronted an upsurge of puritanical, reformist Islam. In the Middle Belt, the mainly Christian local farmers have collided with predominantly Muslim settler herdsmen in Plateau State, requiring the president to declare a state of emergency. In the Niger Delta, new rebel groups such as MEND have escalated their attacks on government and multinational installations, including the use of car bombings. There have been a number of violent incidents linked to the forthcoming elections, primarily at the state level, especially in the south such as in Rivers and Delta states. A proliferation of small arms in the country has further helped to bring violent conflict closer to the surface. Nowhere is the crisis more pronounced than the Niger Delta.

The Niger Delta Flashpoint

Given the concentration of Nigeria's massive oil wealth in the Niger Delta, it is no surprise that this region has suffered severely from the nation's governance crisis. Over \$40 billion is earned from the region's petroleum resources annually, yet economic and social development in the six states of the region are worse than at independence in 1960. Both the 1999 and 2003 elections in the Niger Delta were widely seen as marred by episodes of electoral fraud, giving the people of these states little sense of true representation in government. As one local government chair derisively laughed when approached by a community association: "Did you put me here? Go away."

Militia activity has exploded since many of them were nurtured and employed by political godfathers to assist in rigging the 2003 elections. Most of the militias remain under the influence of the political elites, but some are growing increasingly autonomous and have moved into bargaining relationships with a variety of elite actors. They live off political patronage and security services they offer to protect oil bunkering operations, as well as an increasing wave of ransom money gained from kidnapping foreign oil workers. A 2004 government amnesty and weapons buyout from the militias was brokered by civil society actors, but the Obasanjo administration allowed the program to lapse within six months, and the militias have re-armed with even more sophisticated weaponry.

Civil society actors continue to spearhead a variety of peace initiatives in the region, and President Obasanjo has named two peace envoys: Father Matthew Kukah for the Ogoni dispute with oil giant Shell, and more recently, Ken Wiwa for the larger region as a whole. Rivers State Governor Peter Odili also promised \$20 million (about a quarter of what the state earns in a single month) for a Rivers State Development Corporation that would include some technical assistance (but no funding) from USAID, but the governor has yet to release the funds.

The militias have also shown a disturbing trend of hiring themselves out as mercenaries in other parts of Nigeria and Africa at large. Recent violence in the Ogoni region between two political kingpins saw militias hired from distant Delta State supporting one of the factions. Concern is rising that some of these militias will be hired for political muscle in the 2007 elections outside their own localities and beyond the Niger Delta.

1.2.9 Building Greater Citizen Confidence Requires a More Accountable and Responsive State

To advance the democratic project, the Nigerian public needs to gain confidence in its institutions. The public needs to feel that there are organs of the political system that can guarantee fairness and justice and that are not undermined by wealth through corruption. Common citizens must have recourse to democratic institutions in order to express demands and resolve conflicts. At this point, the public has little to no confidence in turning to any branch of the government to help directly resolve problems without the benefit of wealth.

A central concern for building democracy in Nigeria is thus to alter this relationship between the oligarchy and the citizenry, so as to reconnect the state to its citizens in a more responsible and responsive manner. Another emerging opportunity arises from the relations within the elite, where democratic institutions and practices are increasingly used for competition within the oligarchy. The starting point for democratization must thus include not only the formal democratic institutions that have been slowly progressing since 1999, but also the informal system of oligarchs and their subordinates which overlays the formal institutions of government. The next section will examine how the contending positive and negative trends have affected the five key elements of democratic governance in recent years.

2.0 THE DEMOCRACY AND GOVERNANCE PROBLEMS AND PROSPECTS

Nigeria is in the early stages of democratic consolidation, the end goals of which remain at least a decade from fulfillment. The country has made some important strides, but a number of negative trends could reverse this progress. The problems and prospects of the widening circle of politics in Nigeria can be broken down along the following five dimensions.

2.1 CONSENSUS

Problems:

- Persistent ethnic and religious grievances susceptible to elite manipulation;
- Political and economic over-centralization under the executive; and
- Poverty amid massive oil revenues, particularly since 2004, undermining public faith in the federation and the political system overall, especially in the Niger Delta.

Positive trends:

- Enduring support for democracy, although this has slipped during 2000 to 2006 from the 80 percentile range to the 60 percent range;
- Reduced discourse of ethnic separatism among the elite, focusing instead on improving the federal system;
- Growing consensus on alternation and zonal rotation; and
- Ongoing national dialogue over constitutional reengineering.

Years of predatory military rule, utilizing cultural divisions to stay in power, wore away the fragile consensus rebuilt in Nigeria after the 1967-1970 civil war. Consequently, pent-up ethnic- and religious-based tensions have ignited communal violence in a number of states across the federation. In addition, ethnic and religious associations are playing an increasingly prominent political role.

Nigeria's great cultural diversity, however, is not in itself why consensus remains elusive. Class differences between the few rich (of all ethnicities) and the masses of poor create an environment in which culture-based competition flourishes. Grinding poverty amidst a centralized, oil-dependent economy, combined with the centralization of political power in the hands of the executive, exacerbate cultural differences and promote intense political competition. This economic and political centralization promotes a zero-sum perspective on politics that deepens the divisions among Nigerians. This makes it harder to achieve consensus on issues of common good.

One bright spot, however, is that Nigerians appear to have come to consensus that democracy is the only acceptable political alternative for the nation. This commitment to democracy remains despite widespread

frustrations that the government has yet to produce a satisfying “democracy dividend.” Moreover, although public confidence in democracy suffered after the deeply flawed 2003 elections, inter-ethnic competition has generally not resulted in widespread calls for separation from Nigeria. Rather, elites have focused their sectional concerns toward more negotiable goals of restructuring the federation and the formulae for parsing out oil profits.

The key issue of federalism has been at the heart of the struggle for consensus. Getting this right has historically been the most difficult stumbling block to national unity. Nigeria has had four constitutions since independence (1963, 1979, 1989, and 1999), reflecting an ongoing debate over the allocation of political power and government resources. The state and local governments are dependent on federal government transfers for 70-80 percent of their revenues, and resources are allocated according to federal criteria. As the number of claimants on the system has multiplied, so have the number of states and LGAs. Nigerian federalism thus has evolved in a manner which has less to do with ensuring the autonomy of its component states and localities, and more with the elaborate distribution of federal largesse downwards. Likewise, the current constitution also indicates that the public political positions be allocated according to the federal character principle, as enshrined by Article 14(3) and monitored by the Federal Character Commission (FCC).

The Issue of Zoning in the Dialogue on Federalism

Defined as a mechanism of sequentially rotating offices across Nigeria’s six geographical areas, “Zoning” is neither mandated by the Nigerian constitution nor by statute. Nevertheless, zoning has widespread support among political elites and members of the middle classes concerned with stability, term limits, and equitable access to the presidency. Despite falling short of the competitive free and open standard, advocates defend “zoning” as a historically legitimate solution to the centralization or monopolization of power by a particular lineage (as was done in pre-colonial Zaria, for instance) or by any particular section or group. If respected, zoning guarantees access to high office by each geopolitical region provided they are patient, which thus creates a measure of political stability. Reportedly, zoning was recommended originally by the national student association as a mechanism for the rotation of power among Nigeria’s competing regions. It was introduced but not enacted during military rule. Interestingly, because the creation of 36 states renders branch offices for each state prohibitively expensive, the federal government, multilateral agencies, and NGOs often use the zones as a cost effective, shorthand method of delivering services, representing regions, or sampling populations in national research projects. The political parties in particular have adopted the zoning principle in their choice of candidates and in parsing out control of elected offices, although the specifics of which zone deserves what office is a source of constant debate.

2.2 RULE OF LAW

Problems:

- Authoritarian, clientelistic patterns of politics with elites acting extra-legally;
- Ethnic militias, some of which are growing increasingly autonomous of their former politician masters;
- Biases in the electoral system, especially the state commissions;
- Poor executive respect of legislative and judicial constitutional prerogatives, especially in budgetary matters;
- Weak lower-level judiciary;
- Endemic police corruption encouraged from the highest levels and in response to the lack of proper compensation of the police force (as well as other civil servants);
- The lack of a proper independent judiciary, especially the lower courts;

- A lack of adequate human rights safeguards in the enforcement of law; and
- Confused roles of federal and state enforcement agencies

Positive trends:

- Increasingly active judiciary, particularly the Supreme Court and federal appellate courts;
- Growing budgetary capacity at the National Assembly;
- Normalization of the *sharia* system in the north; and
- Increasing civil society—particularly women’s groups—utilization of *sharia* codes to extend human rights protections and to force improved social policies.

The judiciary at the federal level has been singled out in Nigeria for its growing autonomy and work as a check on executive impunity. In particular, the Supreme Court and the Federal Courts of Appeal are clearly emerging as islands of integrity in what is commonly viewed as a bleak judicial landscape. The National Judicial Commission is working to remove errant judges and to assert its constitution-mandated control over judges’ salaries, and a new National Judicial Institute is working to improve judicial integrity and competence.

However, this is against a rather dismal backdrop of systematic marginalization of the judiciary under the preceding military rule, which continues to cast a shadow over the rule of law in Nigeria. During the regime of General Abacha, the judiciary’s authority and independence were undermined as the state exercised rather arbitrary authority through the federal security system, which included the military, the state security services, and compliant courts. The court system, especially at the state and magistrate levels, continues to suffer from the legacy of poor funding and executive intimidation, and judges at those levels tend to be vulnerable to compromise through bribery and political influence. Very basic constraints continue to plague the justice system, as detailed below in Section 4.2. Court cases are not properly recorded, judges have no law clerks, and there is very little in the way of reference materials. The backlog in case management is such that nearly two-thirds of Nigeria’s 40,000 inmates have not been convicted in a court of law.

Since 1999, Nigeria has not yet transitioned to a legal system or political culture that can be described as fully democratic. A disconnect between the legal and political processes has been a direct consequence of the military’s approach to governance. The result has been citizens being subject to arbitrary government decisions. In the absence of effective legal recourse, citizens rely on their personal contacts and networks with elites or influential government officials. To move away from the extra-judicial means of pressing for political demands will require a different orientation towards respecting the rule of law regardless of who is in power.

In the context of increased competition among the country’s big men, however, political elites have themselves increasingly turned to the judicial system to resolve their disputes. For example, in July 2005, the Supreme Court upheld the re-election of President Obasanjo in the controversial 2003 poll. The defeated candidate, retired General Muhammadu Buhari, and his All Nigeria People’s Party, formally accepted the court ruling, which upheld an earlier judgment by the Court of Appeal. The Supreme Court also overturned the 2005 unconstitutional impeachment of the Oyo governor that was engineered by the local godfather, even though the godfather is an Obasanjo ally. Such an increasing role has energized the judiciary at the federal level, and the Supreme Court in particular, and augurs well for the eventual expansion of rule of law in Nigeria. Funding for the judiciary has gone up at both the federal and state levels, and there is a push for better training for state attorneys, especially in Lagos and Cross Rivers states.

Budgetary constraints, however, remain particularly worrying when it comes to judicial and court reform. The president has not respected a single budget passed by the National Assembly since 1999, instead

impounding and releasing funds as he sees fit. This budgetary tyranny of the executive is even more pronounced at the state and local government levels, where governors and local government chairs are the first recipients of federation funds, which most have treated as largely private accounts. State assemblies, consequently, have been almost completely beholden to the governors. The National Assembly, however, has taken some important strides toward improving its oversight of public funds, and is currently debating whether to create its own Budget Office and take over primary control of the Auditor-General, or to create a similar office of its own.

One disturbing development undermining rule of law and building on the old authoritarian patterns, however, is the rise of ethnic-based militias across several sections of the country. Gangs of armed youths purporting to protect the interests of the Yoruba, Igbo, Ijaw, Hausa, or other groups have been active in various capacities over the past couple years. The most notorious of these has been the Bakassi Boys, operating in the southeast, but there have also been much smaller and more localized groups springing up. Politicians have shown increasing willingness to rely on these militias for political vendettas and election-related intimidation tactics.

Likewise, in the north, vigilantism has emerged from the general outrage about crime and the dismal state of security. The establishment of the *Hizbah* in the north was largely an attempt to incorporate and rationalize vigilante activity and give them formal training. The *Hizbah* were ostensibly set up to promote compliance with *sharia*, but their excesses, especially in Kano, echoed the lawlessness that has come to be associated with the activities of the southern-based ethnic vigilante groups.

The initial furor over the introduction of *sharia* to many of the northern states in 2000 led to hundreds of deaths from clashes between Christians and Muslims. The application of the law has proved to be neither as terrible or as much of a panacea as the two sides has predicted. The introduction of *sharia* had originally been very popular among the majority Muslims largely because of the high public dissatisfaction with the failures of the existing legal system. In addition, *sharia*'s emphasis on welfare and social justice helped to kindle hope that its introduction would help alleviate the plight of Nigeria's dismal poor. Northern Nigeria has been particularly hard hit by the lack of growth outside the petroleum sector; Kano alone has lost over 80 percent of its manufacturing base since 1990. In any event, the heated discussions over *sharia* have now subsided to a more productive debate over the broader role of rule of law in society.

Human rights and civil liberties have continued to show a marked improvement since the end of military rule in 1999. Political prisoners are rare. Civil society and the media operate in a largely free fashion. The primary problems continue to emanate from impunity among the security services, particularly, though not exclusively, in the Delta. This tends to be the case across the security services, which includes the army, the police, and the principal intelligence agencies, namely the State Security Service (SSS), National Intelligence Agency, and Directorate of Military Intelligence (DMI). In general, there are no effective means of oversight, and as a consequence a Human Rights Watch investigation in March 2005 found the use of torture and other cruel, inhuman, and degrading treatment by the Nigerian Police Force to be widespread and routine. Extra-judicial executions still persist and there were even massacres by state security forces such as in Odi in 1999 and Zaki-Biam in 2002. In general, the vast majority of victims tend to be the poor and vulnerable of society, who have little recourse to justice either through the formal legal system or through personal networks of influence.

There have been some unimpressive efforts at police reform to date, with one of the principal obstacles to greater accountability being the fact that the police are not answerable to state or local authorities. For example, there are now human rights desks in many police stations, but there are no community oversight boards, whereas historically, policing methods were rooted in the community, and closely interlinked with social and religious structures. As with other public goods and services, the state has largely failed to provide effective personal security or access to justice for its citizens.

2.3 COMPETITION

Problems:

- Rising political violence;
- Illicit channeling of public funds into party activities;
- Undemocratic internal governance of the political parties stifling genuine intra-party competition;
- Electoral commission (INEC) lack of independence from the presidency and calculated incompetence resulting in poor conduct of the 2003 elections, and likely the 2007 elections as well;
- Increased intimidation of the media and harassment of political opponents over 2005-2006; and
- Weak checks/autonomy between branches and levels of government.

Positive trends:

- Multiethnic political parties;
- Rise of a new generation of political leaders;
- Growing competition among the political elite fueling the potential rise of a viable political opposition; and
- Expanding political space and role of civil society.

The defeat of the third term reinforced another critical democratic trend in Nigeria: an increasingly assertive National Assembly. Although the informal patterns of power in Nigeria still leave the balance deeply skewed toward the presidency, the National Assembly has taken several important strides down the long road of asserting its formal institutional prerogatives as provided in the Constitution. In addition to an atmosphere of increasing public debate and opening of political space for civil society, the legislature has also worked to improve its oversight role. Efforts are also underway to create a Budget Office and independence policy analysis arm for the legislature, and Assembly leaders are also currently talking about taking control of the Auditor-General's office or creating a parallel one for the legislature. The National Assembly, however, still does not have the "power of the purse," in that the presidency still collects all revenues and refuses to release the monies as prescribed by the annual budget passed by the Assembly. Nonetheless, legislators have challenged the president on several recent impoundments and plans are being discussed for exercising greater budgetary control by the National Assembly.

The failed third term has also energized Nigeria's dormant political opposition. Most of the key opposition parties have allied with the new Action Congress (AC), which includes defectors from the ruling People's Democratic Party (PDP), and which may form a Kenya-style "Rainbow Coalition" with the potential to unseat the PDP in 2007 if credible elections are held. A growing feud between the president and vice president also appears to have broken the conspiracy of silence among the elite regarding their corrupt practices, providing extensive allegations and potential evidence to the National Assembly, the media, and to anti-corruption agencies for review. The feud also appears likely to force Vice President Atiku out of the PDP, which will further energize the opposition AC. Former head of state, General Ibrahim Babangida, is also exploring an opposition role after being prevented from running for president on the PDP ticket.

During the speedy Abubakar transition in 1998-1999, the oligarchs struck a number of bargains among themselves to form political parties diverse enough to meet the multiethnic demands of the electoral commission (INEC): they had to win 5 percent of the local government seats in 24 of the nation's 36 states. The three parties that met these conditions, the PDP, All Peoples Party (APP) (later All Nigerian Peoples Party (ANPP), and the Alliance for Democracy (AD), being nothing more than alliances of convenience, imploded shortly after taking power in 1999, such that the president could face an impeachment threat from members of his own party in the National Assembly by 2002. The political

parties themselves stand for little, and the substance of politics in Nigeria is nothing more than the scheming of one set of political kingpins to unseat the others.

The weaknesses of the political parties reflect not just the legacies of the military era and the morphing of generals into politicians, but also result from the country's political economy. In addition to presidential authoritarianism, the petroleum economy has generated structural forces which have undermined the formation of strong political parties necessary for mounting a democratic opposition. In the past, Nigerians have supported membership-based political parties, even when threatened with repression, and especially when strong regional governments were less dependent on petro-revenues. Today Nigerian political parties are empty shells, sprouting up every four years before elections, yet without roots in civil society, meaningful principled platforms, or specific policy agendas. Parties are funded by wealthy oligarchs who privately determine access to political office without even the pretense of primaries or popular legitimacy.

Political actors who circulate within the political parties sponsored by the oligarchy claim to represent regional, ethnic, and religious groups. In practice, members of the political oligarchy switch political parties, form new ones, or change party affiliations according to shifting opportunities to gain access to petro-rents and political privileges regardless of professed political principles, or regional or ethnic affiliations. The outcome is a patrimonial, patronage system that tends toward unstable authoritarianism without accountability, transparency, or democratically organized political parties.

The intense inter-ethnic competition of the past through ethnic-based political parties has largely disappeared. The largest parties, the PDP, AC, and ANPP are vast multiethnic coalitions, reflecting the many faces of their oligarch founders. The end result is that ethnic competition now occurs *at the party level*, rather than at the governmental level as it did in the past, which in the end brought down the first and second republics. If the parties are to govern at all, they must cobble together some sort of multiethnic platform before they can introduce their initiatives at the policy level. This creates a powerful incentive for bargaining and compromise across ethnic lines. This does not mean, however, that the divisive role of ethnic competition has disappeared. Because of the dominance of the PDP at all levels of government, its own internal ethnic divisions can at times break through and play out in national political competition.

Many Nigerians believe many of the small, weak parties registered for the 2007 election are supported by oligarchs to divide their rivals or registered merely to gain public funds for political parties. An insightful Nigerian university student put it well when he said "We have a *selection* process not an *election* process." Recognizing the weakness of political parties is necessary for moving from an oligarchic system relying on elite bargaining and toward a more open system where interests outside the oligarchy form parties capable of mounting oppositional programs and positive democratic reforms.

The contours of a viable political opposition began to take shape in 2006, first in opposition to the president's third term ambitions, and then to reject the president's efforts to control the PDP and install a government of his choice in 2007. The Action Congress (AC) has brought together defecting politicians from the PDP with prominent sections of the AD, ANPP, and other minor parties, and may pose a significant challenge to PDP dominance on its own or in coalition with the ANPP and other parties.

2007 Elections

Despite the seminal importance of the 2007 elections, and despite the massive public outcry over the third term, supporters of extending President Obasanjo's term in office appear determined to find a way to undermine the election process. INEC increasingly appears programmed to fail, so as to provide the president justification for delaying his handover to a successor.

In addition to chronically under-funding INEC (it received less than a fifth of its budget during 2003 through 2005), the Commission's chairman has wasted valuable time on a variety of electronic fixes that, in the end, will not be used. Thousands of high-tech registration machines to be imported for the October 2006 voter registration did not arrive, and INEC staff were not sufficiently trained to use even the roughly 3,000 machines that finally arrived by the time registration was scheduled to end in mid-December 2006. Consequently, INEC will likely turn to the basic paper materials utilized in 2003, creating operational chaos—some fear that a similar pattern of events may be played out for the elections as well. In addition, the presidency had initially scheduled the release of new census data for December 2006, data that is certain to be contested, and at a time that is the height of election season. Moreover, the census data could force adjustments in election districts, opening thorny legal questions that would undermine the election process. The presidency subsequently announced that it will wait to release the new census figures until after the 2007 elections, but the data remains an important card that could be played if the president's supporters wish to destabilize the election process.

If democracy activists are wrong and the president's men are not plotting to subvert the elections, or if their plots are checkmated by political forces, then INEC's woes are still certain to fit into the Commission's 2003 pattern of calculated incompetence. INEC's disorganized and contradictory mode of operation provided maximal opportunities for politicians in many states to alter or influence election outcomes, and promises the same for 2007. INEC itself manifests competing loyalties to powerful politicians, particularly to the president, vice-president, and former head of state General Ibrahim Babangida, while state branches are heavily influenced by the governors and powerful local politicians. Elections are likely to be particularly problematic where opposition forces control the local governments and the president's supporters at the federal level attempt to alter the results.

Unlike other developing democracies, the members of Nigeria's large professional associations—law, medicine, unions, accountants, academics, women—have not provided leadership for opposition political parties. As a result, they have not yet been able to mount an effective oppositional movement. Civil society groups are numerous and active but they are fragmented, local, and not yet integrated into strong, cohesive national organizations. Hence, without effective political parties, their opposition and reform programs are often frustrated by the entrenched oligarchy. In short, there is a disconnect between an elite that struggles to maintain their relative hegemony and the bulk of the population who find themselves disenfranchised by the informal patterns of patrimonial power that characterize public decision making in Nigeria.

Competition between branches of government and between levels of government also remains weak. The executive has overriding power compared to the other branches of government, and it controls the financial autonomy of the other branches. The executive often determines the leadership of the National Assembly, as do the state governors in regards to the state legislatures. Neither the civil service nor the judiciary is typically powerful or impartial enough to act as an effective constraint on the power of the executive, although the federal judiciary has shown itself to be an increasingly important check. Likewise, the relations between federal, state, and local governments are also top-down, both in terms of revenues and the authoritative use of force. States do not have their own independent tax bases or independent police. Rather, the relationship between states and the federal government have in this regard become

more centralized over time since, under the Independence Constitution and the subsequent Republican Constitution adopted in 1963, the regions enjoyed greater power over the police. Several governors, however, have been reined in more recently when they sought to establish independent police forces. Under President Obasanjo, the police have gone from 150,000 to over 300,000 strong.

2.4 INCLUSION

Problems:

- Elite and class nature of politics: poor Nigerians excluded from substantive involvement;
- Undemocratic political parties;
- “Sit tight” incumbency syndrome;
- Settler-indigene conflicts over problematic citizenship laws; and
- Youth exclusion and hopelessness.

Positive trends:

- Civil society groups rebuilding and growing in political importance; and
- Increasing political participation of women, particularly key government offices.

Politics in Nigeria is still largely an elite game, along the lines presented above: rich, male, and old. This closed system is propagated by what Nigerians refer to as the “sit tight” or incumbency syndrome, in which elected officers refuse to relinquish their seats in government despite their poor performance, and utilize any means to stay in office. Not only does this result in an inadequate circulation of elites, but it also perpetuates systematic discrimination against three primary groups: Women, the poor, and non-indigenes.

Discrimination against women in Nigeria is deeply entrenched. Most women in the north are married by age 14. Nigeria has one of the worst maternal death rates in the world. Women in the civil service must get permission to get pregnant or face losing their jobs. Female circumcision is still a practice in many parts of the country. Only 6 percent of the members of parliament are women, one of the lowest rates on the continent. However, while the problem remains quite severe, it is true that there have been more women appointed to higher office, such as ministerial posts. This was evident in President Obasanjo’s high-profile appointments of several key women ministers, including the powerful Finance Ministry.

In the north, the introduction of the *sharia* has had the counterintuitive effect of enabling women to use the law to seek to better their lot. According to Western liberal democratic theory, *sharia* has reduced the formal rights of women. On the other hand, however, by referring to legal Islamic texts, women are beginning to challenge the discrimination against them that so strongly had prevailed under the informal socio-cultural regime. Women in the north have been able in fact to increase their participation by the reduction of their seclusion and greater awareness of their rights based on Islamic legal texts. Many of the ways that women were dominated and excluded from participation in the past were not *sharia*-based, and under Islamic law, women have many rights, depending on who is doing the interpretation of the law. Passing the *sharia* thus has helped to codify the discrimination that already existed. However, it also provided a textual and legalistic way for women to fight back and has provided opportunity for more engagement. The trade-off is that women have to wear the *hijab*, but some Muslim women argue that it actually has made them more mobile.

The majority of Nigerians that find themselves mired in poverty are also largely disenfranchised from political processes. This is particularly pronounced for impoverished youth. For them, poverty combined with a lack of education and hopelessness contributes to deep anger at the system. Given that over 40

percent of Nigerians are under the age of 15, this represents a dangerous and volatile pool for those leaders seeking to use violent means to achieve their objectives.

Another key barrier to inclusion is the widespread discrimination against citizens known as non-indigenes, no matter how strong their ties to the communities in which they live. All Nigerians are officially classified into two types of citizens: those who can trace their ethnic and genealogical roots back to the people who are said to have originally settled there (indigenes), and those whose ancestors came from elsewhere. There is no way for a non-indigene to become an indigene, no matter how strong or long-lasting the ties to the communities in which they are resident. As a matter of policy, many states refuse to employ non-indigenes in the civil service and exclude them from academic scholarships. The rights that are systematically denied to non-indigenes run directly counter to the constitution's guarantee of freedom against discrimination, and remain a source of considerable resentment among many Nigerians, especially as demographic changes in the country continue to take place, such as internal migration.

2.5 GOOD GOVERNANCE

Problems:

- Corruption is endemic in the political system;
- Growing public frustration over the lack of a “democracy dividend.” Issues of critical concern to the public—poverty, unemployment, health, and education—remain largely unaddressed by government at any level;
- The Economic and Financial Crimes Commission (EFCC) and other critical agencies are seen as politicized; and
- Persistent oil dependency.

Positive trends:

- Rising role and assertiveness of the National Assembly;
- Growing impact of macro-economic reforms and public sector reforms, although the public is not expected to feel much impact for another three to five years;
- The EFCC, although politicized, has moved the anti-corruption agenda forward, and forced dormant agencies like the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Code of Conduct Bureau to reform in order to be relevant; and
- The media is playing an important role in scrutinizing the actions of public figures, but it remains impoverished and susceptible to influence

Although the third term effort clouded other aspects of his presidency during late 2005-2006, President Obasanjo must be credited for implementing a range of important reforms since 2003. His introduction of the EFCC in late 2003 breathed new life into the anti-corruption agenda, after the ICPC, created in 2000, fell into virtual disuse. The EFCC soon gained widespread public credibility for a host of arrests, culminating most spectacularly in the arrest of the Inspector General of police and the impeached governor of Bayelsa State in 2005. The head of the EFCC, Malam Nuhu Ribadu, claims that the EFCC has recovered \$5 billion and convicted 82 persons over the last two years. Although high-profile cases of the EFCC by 2006 tended to pursue presidential opponents far more than his supporters, the Commission's broader work investigating and prosecuting corruption at all levels won a level of public confidence far higher than any other executive agency. The president also appointed a team of reformers to his Cabinet who improved budgetary management practices, saved a measure of windfall oil revenues for when the price of oil declines, restructured the ailing banking sector, stabilized the naira, and achieved annual GDP growth rates from 2003 to 2006 averaging over 6 percent. Even the notorious power sector

has been privatized and sufficient investment has taken place such that analysts predict noticeable improvements within three to five years—a steady pace for Nigeria’s moribund electricity grid. Lastly, Nigeria’s deal to pay off the Paris Club debts has removed an onerous burden for future governments.

Corruption is still the stock-in-trade of Nigerian democracy, rooted in the centralized, clientelistic nature of politics described above. Political elites misappropriate considerable public funds for their personal gain, while most of their constituents lack access to potable water. There is a big problem with the wage structure of the bloated civil service (not to mention not being paid on time), which is filled with patronage hires. Consequently, many Nigerians are forced to resort to petty corruption simply to survive. The key to cementing the country’s patronage system through corrupt procurements is the handing out of government contracts to political favorites. This has been the case for contracts for building roads, schools, hospitals, and for the supply of electricity, water, and medicines, etc. Nigeria was ranked as the most corrupt place on earth in 2003, but its relative ranking has since been upgraded to 152nd out of 159 countries.

As good governance continues to be found lacking by the majority of Nigerians who live without access to basic public services, other organizations have stepped in to fill the void. Religious organizations, such as the Pentecostal churches, now provide a range of social services that government generally provides, and Islamic religious schools have also sprung up in the north. This has actually provided some promising new means to try to address the potential for inter-communal conflict, whereby inter-faith organizations have been offering means for dialogue between groups. Similarly, women’s groups fighting AIDS, for example, have used faith-based leaders (both imams and priests) to try to mobilize communities around public health issues.

2.6 DISTILLING THE DG CHALLENGE

The above analysis of the five key elements of democratic governance indicates that there are severe problems in each. Problems in the area of consensus highlight the ongoing need to establish a social contract that encompasses both the informal and formal exercise of power. Rule of law in Nigeria has been constrained by a military legacy of authoritarian centralism that has been distorted and rendered less accountable by access to massive petro-rents that have fueled patronage systems. In the area of competition, meaningful representation has been hampered both by flawed electoral processes and inadequate political parties that lack mass appeal. Focusing on the dimension of inclusion highlights the failure of the Nigerian state to give priority to responding to the needs of the poor and the youth and also points to the need to remedy entrenched patterns of discrimination that affect the non-indigenes and women. The governance dimension continues to be dominated by the ramifications of corruption and the difficulties in eradicating what has become a part of the system itself.

These problems are symptomatic of a broader, overarching DG problem in Nigeria, which relates to an oligarchic control of political power, both formal and informal, by unaccountable political elites. This oligarchic control of political power contributes to patterns of inefficient centralization, a dearth of meaningful representation within the political system, and a culture of impunity that dates back to military rule. This has created a stark gap between the rulers and the ruled, leading to a general dissatisfaction and cynicism regarding governance combined with growing sentiments of injustice which are fueled by attempts to manipulate ethno-religious rivalries. This directly threatens political stability, which is extraordinarily fragile. A breakdown in stability could undermine ongoing reform efforts, which the above analysis indicates are beginning to gain some traction in each of the areas of governance despite the predominant obstacles.

Tackling head-on the fundamental DG problem of the oligarchic control over political power that confronts Nigeria is a task that is beyond the scope of current USAID funding. However, there are concrete things that USAID can do to both support reformists and improve conditions conducive to democratic transition.

3.0 KEY POLITICAL ACTORS AND THEIR INTERESTS

3.1 FRAGMENTING OLIGARCHIES AND SOCIAL CONTRACTS

As democracies consolidate, oligarchs rarely disappear. Rather, they are gradually integrated into the democratic system through increasingly attractive positive incentives, which convince elites that they are better off playing the democratic game, and negative incentives, which make the costs of circumventing the law increasingly prohibitive to errant elites while also making such transgressions more likely to be caught and sanctioned. The Nigerian political elite is currently undergoing the early stages of such a transition towards greater reliance on formal democratic mechanisms rather than a strict reliance on the informal exercise of power.

The political elite is far from homogeneous; it is fragmented and deeply competitive. A key dynamic in elite interactions is that those who have come to elite status through patronage networks are not always those who are able to mobilize populations. Hence, some leaders will seek to use ethno-religious and regionally based divisions to try to mobilize citizens in an attempt to gain access to a share of the petro-rents and therefore some degree of elite status. This has been particularly but not exclusively apparent in the oil-producing Niger Delta as mentioned previously, but there have also been attempts to organize ethnic Igbo nationalists in the southeast and Yoruba nationalists in the southwest through the Oodua People's Congress (OPC).

In the past, the elite dealt with its fragmentation through a continuous series of negotiations and shifting alliances that provided some balance against any faction becoming too dominant. What was missing from this dynamic, however, was a systematic check on the impunity of those in power at any given time. What has occurred over the last decade is that the gap between Nigeria's oligarchy and the people has become unacceptable, leading to questions about the sustainability of Nigeria's political order without democratic reform. In particular, there are much stronger calls for transparency and accountability, and politicians are increasingly using such principles in their competitions with one another. Thus the rules of elite politics are themselves evolving, where greater responsiveness to public needs and demands is assuming greater importance along with calls for greater accountability and more checks and balances.

This section of the assessment examines some of the key political actors in Nigeria with consideration of how their material interests and resources have been evolving, and how this impacts the prospects and feasibility of various possible reform initiatives. In a transitory situation such as in contemporary Nigeria, those with vested interests in the status quo generally are confronted by reformists who believe that democratic change will increase their prospects for access to influence, including holding the rulers to account.

3.2 THE MILITARY/SECURITY FORCES

In the past, the Nigerian military has been a principal route to elite status. Virtually all the current presidential frontrunners, for example, as well as the current president, are former military men. The Nigerian military, which currently numbers 78,500 active duty personnel, ruled Nigeria for all but four years between 1966 and 1999, and remains influential. During the course of the military regimes, especially that of Abacha, it became clear that military rule was highly unpopular, both at home and internationally. The prospects of another coup are not high, primarily because of the complex structure of the military, and partly as a result of factional splits, especially among junior officers.

Military leaders are also well aware that the armed forces themselves suffered under military rule. There was, in fact, a tendency during the last decades before the transition to civilian rule for the military infrastructure to be neglected and run down. The resources allocated to the military declined heavily under both the Babangida and Abacha regimes. Babangida basically grounded the air force, and the army and navy were also denied key procurements. The last big procurements were under the Shagari government of 1979-1983. So while high-ranking individuals in the military continue to be influential in the informal patrimonial system, they appear to be genuine in their professed commitment to safeguarding the current constitutional order. Since the 1999 return to civilian rule, the military has been undergoing some internal reform and professionalization. For instance, more balance has been brought into the officer corps, which previously had been more dominated by northerners, but which now has drawn more of its Operational Commanders and Service Chiefs from the minority Niger Delta and North Central regions as well as from the southwest.

However, there are several matters with which the military might conceivably take issue. One is that officers are beginning to complain that politicians are starting to take the idea of civilian control over the armed forces too far, and dabbling into military matters, such as promotions. Secondly, civilian rule is preferable to military rule only to the extent that they are able to govern in a fashion that is legitimate and able to maintain stability. There has always been some concern in Nigeria about the venality and corruption of politicians undermining the public good. With the elections now approaching and the level of political violence and assassinations on the upswing, the military could potentially be confronted with how it might defend the constitution if civilian rulers subvert the rule of law, particularly if President Obasanjo seeks to extend his term of office beyond May 2007.

At the moment, the other security forces have been more active in ensuring internal control, most notably the SSS and the police, which have different corporate interests from the military. The SSS and the police both fall under the control of the presidency and seek to maintain their autonomy from effective oversight. The police force is the largest in Africa, with over 300,000 officers—far more than in the armed forces. The police have extensive powers, including the power to arrest without a warrant, conduct searches, and seize property. In November 2005, the former inspector general of police, Tafa Balogun, was sentenced to imprisonment for corruption, signaling that the impunity with which the police have operated in the past could no longer be taken for granted. Given their role in supporting a strong executive, the police and SSS are likely to be opposed in general to the implementation of democratic reform.

3.3 THE PRESIDENCY

The president has been both one of the key drivers of reform as well as one of the pillars of the informal networks of patronage. This paradox is reflective of the contending trends that are part of Nigeria's political transformation process. On the one hand, the president is the beneficiary of the democratic process, and Obasanjo is also keen to cement his place in Nigeria's history as the leader who ushered the country's democratic transition to fruition. General Obasanjo had previously engineered Nigeria's first

voluntary transfer from military rule to a constitutional civilian order in 1979. He is also keen to consolidate his status as one of Africa's leading statesmen, serving as a former head of the African Union, engaging his country in peace-keeping operations and speaking out on key issues affecting the continent, such as the conflict in Darfur. As his second and final term in the presidency comes to an end this coming May, Obasanjo's place in history will be heavily influenced by the extent to which he is able to put into play the principle of alternation of leadership through constitutionalism.

Yet wittingly or unwittingly, President Obasanjo has in certain respects also helped to undermine the institutionalization of the democratization process. In particular, the presidency needs to build teams around core issues, but the president instead works with individuals rather than with teams due to the personalistic logic of patronage. Hence the president has a Cabinet that is huge, with over 40 ministers, with a network of advisors, senior special assistants, advisors to the special assistant, and so forth. It is said that even the president himself is not aware of all the persons he has working in the vast coterie at the presidential villa. If the president is removed from the scene, there is likely to be a period of some chaos since processes within the presidency are not well institutionalized. The expansion of those in the presidency has also been due in part to the rules within the ruling party, the PDP, which until recently had a rule that if one was a minister, special advisor, or assistant to a special advisor, one automatically became a voting member of the Central Working Committee of the party. This provided an incentive for the president (and governors at state levels) to keep making appointments. The significance of this is that within the presidency, there is a strong group with vested interests in maintaining the status quo that would be opposed to democratic institution building.

The use of the power of appointment to strengthen informal networks of patronage has helped undermine formal institutional processes. This helps to explain why there have been so many mixed signals emanating from the presidency regarding the transition heralded by the 2007 elections. Once the transition occurs, the informal and personalistic alliances will come under the spotlight and changes are likely to occur. DG reform thus tends to threaten existing links between the formal system of governance and the informal patterns of power.

Obasanjo himself has overseen the package of economic reforms that has put Nigeria back in the good graces of the IMF and international financial community, and it is unclear whether the elections will send to office a new president who is similarly inclined to pursue these reforms. In part for this reason, President Obasanjo is not too keen on either of the other two current presidential front runners—Vice President Atiku Abubakar and former military ruler Ibrahim Babangida—who are clearly vested in the informal structures of patrimonialism.

3.4 GOVERNORS

The state governors are known as a mainstay of Nigerian corruption, operating what are essentially fiefdoms under their spheres of influence. The state and local governments receive about half of the revenue accruing to the federal government, but with little oversight over their spending. Accountability is further undermined since state governors constitutionally enjoy immunity from prosecution. The EFCC says that it can trace more than \$17 billion in cash and assets transferred abroad by state governors. The governors were selected in 1999 (and some in 2003) by elites known as “kingmakers,” but many governors have increased their autonomy from their benefactors. This was the case with the governor of Enugu State, where the “kingmaker” himself had undergone a falling out with the president and so the governor was able to free himself from some of the clientelistic obligations to the patronage networks. The governor of Oyo State, on the other hand, lost out to his local godfather in 2005, who replaced his errant protégé with a more pliant follower. In general, however, the governors tend to represent vested interests opposed to democratic reform.

Few of the states (notable exceptions including Lagos and Rivers) have developed viable tax bases, leaving them deeply dependent upon revenues from the Federation Account. These revenues (as well as all revenues to local governments within each state) arrive first in the office of the governor. Consequently, the governors hold enormous sway over all activities in their states. The state assemblies, local government councils, and to some extent federal senators and representatives are all largely beholden to the governors, as are a host of civil society and public actors.

Even though the states share only a quarter of the Federal Account, rising oil returns since 2003 have ensured that the states have received healthy revenue streams. Moreover, the Niger Delta states have received an absolute deluge from the extra 13 percent they receive as oil-producing states. Rivers State, for instance, will likely receive at least a billion dollars worth of revenues in 2006. Consequently, most state governments have undertaken capital spending sprees on dubious public projects, which they have in part financed through heavy borrowing at high interest rates. If oil prices dip, many states are likely to face debt crises.

Thus by now the states should be witnessing steady improvements in development and social welfare, with the Niger Delta taking leaps ahead. The sad reality, however, has been quite the opposite, underscoring the inescapable conclusion that much of the oil windfalls have been siphoned off into the gubernatorial political machines and into the pockets of the governors and their cronies themselves.

The governors used this leverage to gain control of local party establishments to influence local election commission (INEC) offices. With the control of the local dominant parties and of INEC offices, the governors, in cooperation with national leaders in the PDP states, were able to pack the state assemblies and local governments with their supporters in 2003 and 2004, solidifying their current positions. Most governors were also able to control or influence the choice of their state's federal legislators as well. Few candidates that did not belong to the party of the state governor were able to "win" office. Moreover, most of the governors have also built local militia or gang capacities to provide them with security or coercive muscle.

3.5 CIVIL SOCIETY

Nigeria has long enjoyed a vibrant civil society and a rough-and-tumble media that is famous across Africa. It has a flourishing English language press, much of it in private hands. There are at least 20 dailies, 12 Sunday papers, and four weekly business reports. State-run radio and television reach virtually all parts of the country, with broadcast media starting to open up to private enterprises as well. Radio remains the key source of information for many Nigerians. Trade unions, professional associations, business associations, traditional institutions, and religious institutions have also played critical roles in building democracy and sustaining the democratic yearning since Nigerian independence. These older groups have been joined since the late 1980s by the NGO movement, a host of small, professional, fleet-footed organizations targeting a variety of social concerns, service provisions, or advocacy needs across the federation.

The rise of civil society over the last 20 years began during the period of military regimes, so many of the CSOs were conceived of in opposition to arbitrary rule. They received a considerable amount of foreign assistance during the military era, and a number have emerged as capable champions of reform. There is a plethora of human rights and women's NGOs, for instance, but they have been struggling for financial sustainability since the end of military rule in 1999 led to a shift in international focus to governmental institutions. The CSOs have been struggling with developing new tactics and programs under civilian rule, such as enhancing access to the legislature, serving in watchdog roles, and seeking to engage more effective citizen participation in local affairs.

The trade unions have long been the democratic warhorses of Nigeria, along with the Bar association and a number of religious institutions, and they have been joined by a myriad of small human rights and democracy NGOs. Most of the large groups, like the unions and the Bar, rebounded from the damage done by the military years to regain some of their former prominence on a number of important national policy issues such as the price of fuel. A number of NGO coalitions had some impact during President Obasanjo's third term on national debates over constitutional reform, anti-corruption, and the development of a Freedom of Information Act (FOIA).

The Nigerian Labor Congress (NLC) is the principal umbrella union organization that was taken over by state-appointed administrators under the Abacha years, but has since regained its independence. Since the return to civilian rule, the NLC has broadened its mandate from just labor issues to broader concerns over basic welfare deficiencies that affect the work force, such as health care, education, housing, and utilities. Most particularly, the NLC has gained popularity by confronting the government over the issue of energy prices, arguing that energy is so central to people's livelihoods that society needs to be shielded from fluctuation. They have called six general strikes since 1999 to protest fuel price increases, causing the government to reverse its rollback of subsidies on several occasions. The union has in some ways filled a gap left by the absence of an effective opposition, but the government has introduced—but not yet passed—new legislation to end the NLC's monopoly over union organizing and curtailing its right to strike over non-work issues. The NLC now has two full-time staffers who serve as liaison officers with the National Assembly, indicating how it has adapted to the new opportunities under constitutional rule.

Since 2002, however, when the presidency became more focused on building its own political machine within the PDP, civil society groups have found themselves increasingly marginalized in national politics. The FOIA has stalled in the National Assembly, the anti-corruption effort has suffered increased polarization, and the president shelved many of the constitutional reform recommendations in favor of his own National Political Reform Conference in 2005. More worrisome, the trade unions and other major civil society organizations have shown a growing susceptibility to the corruption culture of the political elite, moving some of their elements further from watchdog or interest group roles to client positions. The presidency has also shown an increasing willingness to harass journalists for unfavorable coverage.

Given this shift, many organizations have returned to a more adversarial relationship with the government, looking to curb governmental abuses and protect democratic gains. In both of these regards, civil society organizations will remain likely proponents of democratic reform, although the resources at their disposal to enhance their influence remain limited in comparison to the vested interests which they face. Promisingly, a number of civil society groups have been building alliances with community associations and community-based assemblies in order to mobilize a larger portion of the public. Trade unions will continue to push for involvement in public policy, but they are likely to oppose further economic reform that will reduce state subsidies.

3.6 RELIGIOUS GROUPS

Religious institutions constitute the widest and deepest expressions of popular participation in Nigeria. Besides Islam and Christianity, syncretism among local and world religions is common, secret religious cults remain significant forms of organization in the South-South zone, and, in general, because many Nigerians are pragmatic, they take a “diversified portfolio” approach to selecting religious rituals to solve their needs.

Nigeria's population size, ethnic diversity, and deepening sense of *insecurity*—political, economic, cultural, and medical—combine to create a collective experience of anxiety which, in turn, generates a spiraling need for religious associations, services, rituals, and solutions. Population growth, urbanization, competition, and the multiple services provided by religious communities make religious associations a

significant component of Nigerian social structure. Hence, they are a critical resource for politicians attempting political mobilization on any issue.

Historically, all of the major Christian and Muslim sects participate in global networks through which ideas, texts, preachers, electronic media, and funds flow easily. Funds have flowed from external sources to Nigeria for centuries, so the financial flows are impossible to monitor or stop. Because both Islam and Christianity are world religions, different sects use their international networks to bolster support for their interpretations and political projects. This global-universal dimension, however, is constantly disrupted by processes of fragmentation, localization, and syncretization. New sects are constantly forming despite the efforts of the religious hierarchies to exercise control or integration across sects. Measured by incidents of communal conflict, religion has joined ethnicity as a source of competition and strife. This open, fragmented public arena offers great opportunities for innovative spiritual and ritual entrepreneurs from all class and ethnic backgrounds. Success depends on their ability to articulate charismatic qualities and correctly address the everyday life spiritual, material, and emotional needs of their constituents.

Two umbrella organizations represent Christianity and Islam. The Christian Association of Nigeria (CAN) has members from the Anglican, Catholic, African independent, and Pentecostal groups. The Jama'atu Nasril Islam (JNI) represents Sunni sects, the Muslim Brotherhoods (Qadiriyya, Tijaniyya), the Salifist reformers (Izala), and other tendencies. While neither is a unified hierarchy, each umbrella organization mediates rivalries and conflicts among members, represents their respective communities on political issues like the transition to civilian rule and, to an increasing degree, during inter-religious violence, work to create mechanisms for inter-faith dialogue and peace.

3.7 CIVIL SERVICE

There has been erosion over the past two decades in the powerful influence of the civil service. Previously many of those in the civil service were patronage appointments, but as the public administration grew bloated, the relative opportunities for compensation have declined at the same time that privatization and the economic reform package has created pressures for a reduction in force. The differential between the incomes of the private sector and the civil servants has grown even while civil servants have also not been paid regularly or on time. As a result, many civil servants have been drawn into petty corruption in order to augment their relatively low incomes. In July 2006, the government unveiled a plan to lay off 33,000 state workers by the end of the year, representing about 20 percent of the entire civil service. It was announced that those who remain will be given pay raises, a critical element in moving towards a professional bureaucracy as opposed to remaining a repository of patronage hires. Reformist ministers have also lowered staffing in their ministries while trying to improve skills and wages for critical officers. The Ministries for Solid Minerals, Federal Capital Territory, Finance, and the Central Bank are all known for improvements in administrative capacity.

At this point, the civil service is likely to resist or slow the implementation democratic reforms that will reduce their levels of discretion (and therefore petty corruption), but they do not have the clout to be able to derail the initiation of such reforms. However, as the reforms take effect and there is more rationalization in the public administration, the civil service may eventually become an ally of reform.

3.8 INTERNATIONAL COMMUNITY

Donors have less of a role in Nigerian politics than in many other countries because of the sheer scale of the petro-economy, as well as the size and complexity of the country. Donors simply do not have the leverage to be able to effect change unilaterally, but are better placed to support promising trends that arise within Nigerian society itself. More influential are the international financial institutions and oil

interests, both of whom have a strong interest in the preservation of political order and stability. It has become increasingly clear that democratic reform is the most promising means to achieve this, as augmenting security forces is likely to further militarize the situation without providing a solution to the underlying problems. Nigeria is being thrust into the international spotlight for two reasons. The first is oil security, and the second is the Muslim/Christian divide that exists in the country, which invites attention from both the West and radical transnational Islam.

3.9 FILTERING IN POLITICAL ACTORS

The preceding review of key political actors helps to underline the strong vested interests that democratic reform has to contend with. The champions of reform are many but varied, and they tend to lack the resources commanded by those who benefit from the status quo. However, there are two other elements that bode well for reform. The first is that those elites with vested interests in the informal networks of patronage are increasingly divided, and the very competition among them has created openings for democratization. Secondly, the increasing demands placed upon the political elite by the population means that the frailties of the existing political system have become raw and exposed, and threaten to cast the political order into conflict and turmoil. The 25 percent reduction in oil production resulting from instability in the Niger Delta is but one example of how the political establishment is no longer able to hold growing demands in abeyance. The credibility gap that has emerged between the rulers and the ruled has undermined the ability of the established elite to control the populations under their respective spheres of influence, opening up the possibilities for popular mobilization to other groups such as the flourishing religious organizations and new militias.

The growth in the numbers of the political elite and the increasing demands placed upon them by the needs of a restive population means that the elite has increasingly turned to formal institutions and processes to channel their own competition. However, they are used to manipulating the results of the political processes, so there are countervailing tendencies at play during this transition period. There is considerable experimentation going on regarding the rules of the game. This leads to the next section, where the principal institutional arenas are considered in helping to identify the most feasible points of leverage for international assistance.

4.0 INSTITUTIONAL ARENAS

Nigeria's central governance problem of the oligarchic control of political power points to several possible avenues for continued USAID assistance for democratic development. Oligarchy in Nigeria—or the so-called godfather networks—constitutes an informal system of power based on clientelism that overlays or contradicts the formal structures of power, which are the democratic political system and its laws. For democracy to flourish, therefore, the formal democratic system and the rule of law must gain greater prominence (and eventually, primacy) over the godfather system and its politics of might (and money) make right.

Such progress in the Nigerian context can be achieved by two essential political developments:

1. *Horizontal checks and balances among political elites:* This requires the development of stable coalitions of elites that can check each other's abuses through democratic institutions, and whose competition with each other for power will push them to turn to the public for support. So long as this outreach to the public is done largely through the formal system (through electoral competition, lawsuits, executive-legislative battles, and so on), this creates increasing incentives for elites to provide more socially beneficial public policies (the social contract). There are currently indications that a trend towards greater checks and balances is underway, but there is still a long way to go.
2. *Vertical elite-public relations:* The main issue here is rendering the oligarchic elite more accountable and responsive to the public by altering their relationships within their power pyramids. In doing so, politics can expand from serving primarily the narrow interests of elites to the broader interests of the public, because elites come to see the pursuit of public interest as also being in their own private interests.

Such vertical and horizontal relationships can be developed and, in part, are already underway through the following principal arenas within which the formal processes of politics are played out. These arenas demonstrate how the country's institutional landscape conditions prospects for reform in specific areas.

4.1 CONSTITUTIONALISM AND THE RULES OF THE GAME

It is widely accepted in Nigeria that the country is in need of a number of constitutional amendments. A national dialogue has been going on regarding such changes, and the controversial third term amendment was submitted to the parliament as part of a broader package of amendments, which were all rejected by the senate as a result of being packaged together with the third term amendment. Nigeria is no stranger to constitutional reinvention, and it is a positive sign that efforts are underway by both public and non-state actors to refine the rules of governance to address some of the fundamental political constraints remaining to development and democracy.

The flaws in the country's massive 160-page constitution reflect the heritage of the over-powerful executives and centralization from the military era, which has also been nurtured by patrimonialism. It will not be easy to achieve consensus on moving forward, however, since there has been no viable political opposition since 1999 that has the ability to unseat the ruling party, with its close links to the patronage system that have been nourished by centralism. The central power that legislatures need to perform their oversight roles in a separation of powers system is control of the purse, which Nigerian

legislatures currently do not exercise. Another key measure needed to increase accountability would be parliamentary control over key oversight agencies, like the Auditor General and the ICPC. Amending the constitution requires support from two-thirds of the 36 state governors and state assemblies, in addition to two-thirds of the two houses of the National Assembly. While there has been a good start in terms of a national dialogue, more needs to be done to build consensus regarding the key constitutional issues in need of amendment. Issues that came under consideration during the discussions over constitutional changes include:

- Restructuring the system of federalism so that it consolidates the existing 36 states into six geopolitical zones;
- Addressing the matter of zoning (see text box in Section 1, p. 11) to determine whether the presidency should rotate between geopolitical zones, with the same being the case for governors and the three senatorial zones at the state level;
- Increasing the independence of the judiciary and INEC by having their funding allocated directly to them rather than going through the executive;
- Providing more financial autonomy to local governments by having them receive their funding directly from the Federation Account rather than routing their funds through the states;
- Addressing the oil-producing states' demands for a greater share of the federal allocation; and
- Eliminating the immunity clauses for the president, vice-president, governors, and deputy-governors for criminal offenses committed while in office.

4.2 JUDICIAL SPHERE

Nigeria's legal system is based on a combination of common law, statutory (legislative) law, customary law derived from traditional norms and practices, and *sharia* law, used in the predominantly Hausa and Muslim north. At the federal level, the judicial branch consists of the Supreme Court, Court of Appeal, and Federal High Court. At the state level, there is the State High Court, and, at the local level, there are the *sharia* courts and customary courts. The federal and state courts operate according to statutory and common law, whereas local courts are based on customary and Islamic laws.

While the independence of the judiciary has been a principle in the many Nigerian constitutions, in practice, the authority of the judiciary was severely undermined during the years of military rule, especially during the Abacha regime. More recently, the Supreme Court and federal Court of Appeal have shown more independence, but the state and local courts remain grossly under-funded. This has contributed to huge problems in court administration, as it takes years to get a case through court. Typical caseloads for magistrates are about 20 cases per day. It is estimated that up to 90 percent of inmates are awaiting trial. The penal institutions, which are in terrible condition, are controlled by the federal government, but most of the penal codes are enacted by state law. There is virtually no computerization with record-keeping done by longhand. There are few law libraries and those that exist are very small.

In general, there is a pronounced deterioration in the quality of the courts from the federal courts downwards to the state and local courts. There is less corruption among the federal judges, although some have a tendency to favor the state. Judges are appointed by the National Judicial Council, which is an executive body that controls appointments and promotions. Judges that come from the bar tend to be more professional, while those that come up from the magistrate tend to behave more like civil servants. Like other civil servants, they often do not get paid on time. The popularity of the *sharia* courts initially emerged in counterpoint to the abysmal condition of the state and local courts, but the *sharia* courts have encountered similar problems as elsewhere, in part related to a lack of resources and the broader problems in the rule of law. There is inadequate access to legal representation, defendants are not informed of their rights, and judges are insufficiently trained.

Part of the reason that the Supreme Court has emerged as a bright spot in the country's justice system is its history, with Nigeria's Supreme Court always having had a strong record, even providing chief justices for elsewhere in the region. External pressures on a day-to-day basis are not as pronounced at that level as at lower levels, and judges tend to be individuals of distinction, with the process of appointment being most stringent to the Supreme Court and Court of Appeal. The poor condition of the state and lower courts reflect inadequate political will for their improvement as the resources allocated to the justice system at this level contribute to many of the deficiencies, and the Nigerian government needs to decide whether or not to address this fundamental shortcoming.

4.3 GOVERNANCE SPHERE

4.3.1 Legislative Arena

Executive dominance characterizes all three tiers of the Nigerian federation, and is most evident in the legislatures' lack of control over government revenues or the budget process. The president has yet to respect a budget passed by the National Assembly, state assemblies typically do not even know significant line items in the budgets they do pass, and local government councils are absolutely beholden to the local government chairs, who more often than not serve at the whim of the governor.

The National Assembly, however, has made important strides toward gaining some leverage on the executive. Without budget influence to bargain with the president, the Assembly has regularly turned to the only other major power it has over him: impeachment. The president's refusal to release budgeted funds sufficiently angered the National Assembly in 2002 that they nearly impeached him, and a similar budget row saw a minor impeachment effort fizzle in 2005. Both efforts resulted in the president ceding important concessions.

The defeat of the president's third term gambit in 2006, however, was a watershed event for the independence of the federal legislature, in that it rejected a major demand of the presidency and the president accepted the outcome. Activists report, however, that at the outset, most legislators were ready to vote for the third term and only after intense public scrutiny (mixed with opposition by the governors) did a majority of legislators reject the amendments. Senators are said to have responded directly to strong pressure from their constituents on this topic. This has not been lost on civil society, which has been encouraged by the apparent success of pressure put on legislators.

Current National Assembly leaders are discussing the development of an Assembly Budgeting Office and also moving to seize control of the Auditor General or develop a parallel office of their own. Both developments would be enormous assets toward restoring some balance between the presidency and National Assembly. Passage of a Fiscal Responsibility Bill currently before the Assembly would also be an important improvement in promoting fiscal restraint on the Assembly itself.

The National Assembly is currently developing plans for the improvement of the legislative process, such as through the strengthening of the committee system and training of support staff. As it is, most legislation originates in the executive, but the Assembly has been slow to process critical pieces of legislation for the economic reform program. These include a bill that would enhance fiscal management, transparency, and coordination between the three branches and another bill that would improve the public procurement process. In addition, a bill is sitting in parliament which would render more transparent the reporting of receipts from extractive industries, as is another that would strengthen the capacity and independence of the Auditor General.

State assemblies have also had occasional moments of independence, but they have overall been far less frequent than at the national level. The state legislatures mostly operate under the heavy influence of the

governor, and have not fully exercised the powers that they have. However, three state assemblies (Bayelsa, Ekiti, and Oyo states) have impeached their governors on corruption charges, but these events were largely orchestrated by local godfathers in alliance with the presidency. A fourth attempt by a state legislature to impeach the governor has also been introduced in the Plateau assembly. The Lagos and Kano assemblies are probably the most advanced in terms of development of oversight committees and budgetary components, but nearly all the assemblies have seen almost no opposition party representation since 2003, such that there is little dissent along political party lines.

The 2007 elections, however, may alter this picture at the state level significantly. Many of the current governors are term-limited, such that they will be leaving office and becoming local godfathers in their own rights. They are currently handpicking their protégés to succeed them, but once these individuals are in office, they are certain to assert their own independence just as their predecessors did. In these subsequent struggles, the post-2007 ex-governors may turn to the state assemblies to fight their protégés, potentially strengthening this crucial constitutional check and balance.

4.3.2 Local Governance

Dysfunctional local governance has prompted attempts at several sweeping reforms since independence. President Obasanjo named his own commission in 2003 to reform the local governments, which recommended a parliamentary system for the councils, but that has yet to be adopted. The principal problem is related to the centralization of the Nigerian state that took place during the 29 years of military rule. The main source of revenue for local governments comes from the Federation Account, with state government contributing an additional 10 percent.

The governors control the local governments through their discretion over the flow of funding. Roughly a quarter of the Federation Account revenues are earmarked for the 774 local governments, but these funds are first sent to the governor's office, who is supposed to disburse them to the councils in the state. In practice, however, the governors have withheld these funds at times, or deducted funds for dubious development projects. Once the funds arrive at the local government councils, they are controlled by the chair, who tends to use this as leverage in negotiations with other council members and local bureaucrats. By the end of this process, little of the local funds remain for the business of local governance.

An exciting change at the local level, however, has been prompted by the moribund state of the councils. Community associations across the federation have begun to take new roles in local politics, providing mechanisms whereby neighborhoods and larger localities can petition the local government councils and state agencies to address community needs. A number of civil society groups have also sought to mobilize the community associations, with important successes across the federation. As the citizens increase their interactions with local government, though, the pressures build on the LGAs to be more responsive and to more effectively deliver basic services. One proposal being circulated suggests the adoption of participatory budgeting practices, in which local budgets are vetted and passed by the local communities themselves, thus ensuring public participation and oversight.

4.4 CIVIL SOCIETY

As mentioned above, civil society groups have generally been divided into three general categories: groups that have moved closer to government patronage, groups that have returned to the barricades, and groups in between who are generally trying to engage the government toward reform without playing the patronage game. Moreover, complex civil society groups like the trade unions may see different layers of their organizations at different ends of this spectrum. For instance, the national leadership of the Nigerian Labour Congress is seen as close to President Obasanjo, while state chapters of many of the unions are

deeply influenced by the governors, yet many member unions or local affiliates are regularly challenging government or seeking to promote reformist initiatives.

The first issue hampering civil society's role in Nigeria is stolen or marginal elections. If office holders owe their positions to local fixers rather than public votes, then the central weapon in the civil society arsenal—constituency information and mobilization—blunted or removed. Not surprisingly, in the Nigerian states that held fairly credible elections in 2003, such as Kano where the trade unions played a pivotal role in electing Governor Shekarau and protecting his mandate from being stolen by the PDP, civil society groups tend to be important political actors.

The National Assembly in particular has seen a tremendous upswing in civil society participation, as in the Freedom of Information Act or other reform legislation. Continual media coverage of the third term debates in the Assembly was pivotal in forcing legislators to vote with their constituents, as was regular civil society advocacy on the matter. A number of federal ministries have opened to increased civil society scrutiny and cooperation since 2003, particularly in those run by the reformist ministers. In some instances, like the Finance Ministry or Due Process Unit, civil society groups have lacked capacity (such as in the minutia of the budgeting process) to take full advantage of these opportunities, but efforts are underway to address these needs. The EFCC for its part has opened up a civil society liaison office, as have other key agencies. Civil society groups in some areas have also grown more adept at engaging the myriad local community associations across the federation. The most innovative of these efforts have seen civil society groups providing the technical expertise and state institutional contacts for community associations to advocate for their own interests and to mobilize for civil society agenda items of mutual concern.

Lastly, the revolution in digital technology has transformed both the Nigerian media and civil society groups. As evidence of this, cellular phones, text messages, and e-mails flooded legislators during the third term debate, and Internet analysis of ongoing political events has opened a new channel for public advocacy. Africa Network TV broadcasts live National Assembly hearings and has increased public awareness of the behavior of their representatives. Media outlets, which have been increasingly but selectively hounded by the Obasanjo administration over the last two years, have found some protection through the Internet, both for publishing sensitive stories or reprinting Internet-based content for which the government cannot prosecute them.

4.5 FILTERING IN INSTITUTIONAL CONSIDERATIONS

Despite the strong and persistent grip of informal networks of power, the last years since the 2003 elections have been marked by an improvement in the role of democratic institutions. The National Assembly, the federal courts, and civil society have all shown signs of positive traction. There is still much reform and modernization to be carried out, but it is clear that Nigerians have successfully launched some important initiatives that provide hope in the gradual reform of a very difficult situation. The ongoing debate over constitutional reform is rigorous and indicates that the situation has not become stagnant. All of these positive developments bode well as foundations for a DG assistance program.

Less promising have been developments at the state and local levels, despite the massive flow of revenues to both these tiers of government. This is largely due to the patrimonial system dominated by the governors, and the dependence on financial resources from the center tends to short-circuit accountability. Civil society is increasingly stepping in to fill the gaping inadequacies of state and local government, particularly the religious groups. While in the short term such alternative means for political engagement might help citizens address some of their basic needs such as education, in the long run, such self-reliance is no substitute for government. Fundamental constitutional changes and increased levels of funding needed to render the state and local governments more amenable to political development will be necessary.

5.0 STRATEGIC AND PROGRAMMATIC RECOMMENDATIONS

5.1 STRATEGIC APPROACH

This assessment indicates that Nigeria’s fundamental DG challenges stem from a fundamental gap between a ruling oligarchy and the ruled, whose interests are defended, to some degree, by civil society organizations (CSOs), community groups, and opposition politicians. Historical and structural factors together institutionalized authoritarianism and revenue dependence on the center, such that presidents distribute patronage in a patrimonial manner to loyal clients who claim to represent regional and ethnic interests. What activists call the “democratization of corruption” through patronage distributions to state and local governments, however, has failed to raise living standards or provide human security to the ruled—the 92.4% of the population whom the World Bank says is living on less than \$2 per day. The Nigerian public and middle classes in particular are demanding reform marked by accountability, effectiveness, representation, and checks and balances so as to prevent the oligarchy from destroying Nigeria’s democratic vision and the opportunities it could offer.

The pressure is mounting for visible progress in institutionalizing democratic reform and inculcating democratic behavior, because the profound insecurity inherent in the present system virtually guarantees declines in living standards, rising inequality, and increasing political violence and social disorder. To avoid these outcomes, it is essential that Nigerian reformers and international agencies collaborate effectively and realistically in order to contain these threats to Nigeria’s stability.

Oligarchy-driven insecurity and instability have generated a strong and widespread sense of injustice among the Nigerian public. Governance in that country has been characterized by inefficient yet authoritarian centralization, a dearth of meaningful political representation, a culture of impunity, and a demoralizing climate of unaccountability dating back to military rule. The combination of aggrieved injustice and the social misery of the majority, in turn, risks producing disillusionment with democracy, creates conditions igniting social conflicts and, most importantly, threatens the stability of Nigeria’s political order. In response, we recommend that USAID redouble its commitment to deepen and strengthen efforts to bring the Nigerian public into a more active participation in politics. Supporting increased public engagement will assist public advocates to channel the nearly universal sense of injustice into a vision of hope that will eventually produce concrete reforms. In order for Nigeria’s vast energy wealth to be productively employed to raise living standards, the public must become engaged in implementing democratic reforms and new institutions.

A second key finding of the assessment is that the interests of competing oligarchs may at time overlap with the interests of democracy supporters, as is the case of opposition parties’ shared interests in credible elections. The recommendations that follow in the next subsection thus seek to build on reform allies. These include those who want reform for a variety of reasons, from those who seek to improve their own political prospects to those who seek improved service delivery. Not all reform allies may be immediately

apparent, and USAID and its partners should consciously analyze the interests of political actors on a regular basis to track the evolution of the reform cadre on the issues addressed by USAID programs.

By structuring its DG program within the conceptual framework articulated in this assessment, the mission will be in a position to leverage GDA counterpart funding from organizations with a strong interest in Nigeria's political stability, most notably the oil and natural gas multinationals. America's energy security in an uncertain world increasingly depends on a stable Nigeria. Only the deepening of democratic governance through increased political participation is capable of providing the kind of stability that will sustain human security, which is the necessary foundation upon which African regional security and U.S. energy security depend. Nowhere is this truer than in the Niger Delta states.

USAID's strategy for supporting democracy in Nigeria, however, is tempered by two overarching constraints. The first is scale: Nigeria's size, complexity, diversity, and dependence on energy exports are daunting. Actors include a massive, centralized federal government, 36 state governments, 774 constitutional local governments, and thousands of civil society groups; all serving a population of over 137 million.

The second constraint is the exceedingly modest funding for USAID D/G programs: approximately \$3 million to \$5 million annually. Indeed, funding falls far short of Nigeria's scale, regional strategic weight, and significance for American energy security. This gap is particularly glaring when compared to USAID D/G funding for similar energy security zones. Moreover, considering that a single Nigerian gubernatorial candidate alone is estimated to spend upwards of \$10 million on his campaign, USAID will not have the financial clout to directly address the arbitrary discretion of the oligarchs through improved checks and balances within the federal or state governments.

Accordingly, given these two constraints, USAID strategy must consider upgrading the funding for USAID D/G programs so as to match Nigeria's scale, complexity, and significance. At the same time, the D/G program must continue to focus on critical issues, regions, and organizations where modest funding will have the greatest impact on mobilizing Nigeria's citizenry for effective political participation. Given such constraints, how can USAID best help Nigerian reformers and democracy builders to undermine the oligarchy's stranglehold over political and economic life by mobilizing the public and strengthening democratic institutions so as to better control the political process?

In a general strategic sense, there are thus two axes (as argued in Section 4) upon which USAID can take advantage of existing trends in order to help transform oligarchic politics into democratic politics over time. First, there is an opportunity to build upon growing competition among elites by encouraging the use of democratic institutions as a means to negotiate among the contending factions. Secondly, there is opportunity to seek to strengthen the links between the state and the people both by strengthening formal mechanisms for the balance of institutional powers and those that provide for greater accountability. In addition, the development of a more robust and viable political opposition and a vibrant civil society can build on the successes of the anti-third term movement.

Transforming oligarchy in Nigeria is likely to take a decade at least, but several clear avenues for support in the interim are evident:

1. Strengthen formal political institutions that foster a healthy balance of power among the elite: Clearly, efforts that bolster the relative power of the legislative and judicial branches against the executive branches are essential in this regard. Strengthening the powers of the states and local governments *vis-à-vis* the federal government is also essential, as is decentralization of presidential controls over public revenues. The enabling environment, however, is not yet as advanced as it could be for progress in this area, and the GON needs to first take some steps towards decentralization.

2. Strengthen the informal balance of power among the political elite through the development of viable political opposition and a vibrant civil society. At the same time, elite access to violent means must also be curtailed.
3. Strengthen formal institutional arrangements that encourage and force political elites to view the public interest as a personal political priority, particularly through credible elections, transparency, and accountability mechanisms. In addition, provide increased formal avenues for public participation in the policy process, through community associations and other local governance approaches.
4. Impact the informal relationships between elites and the public by strengthening public influence through an aggressive media, vibrant civil society, and improved economic status. Undermining elite access to violent means is also essential in this regard.

As mentioned, Nigeria has made important strides forward on each of these points: an increasingly assertive National Assembly, the beginnings of viable political opposition, progress in the capacity of civil society and the media, and some improvements in transparency. Each of these trends could be encouraged, while the costs of elite use of violent and corrupt practices should be raised.

To date, USAID has sought to advance democratic governance in all these areas by working with 1) key pockets of reform within the federal, state, and local governments; and 2) civil society groups. In order to sustain and deepen this strategy, we recommend that USAID seek additional funding for D/G programming in order to better meet the challenges of Nigeria's scale and to take advantage of the positive trends that have been emerging. Most importantly, we recommend expanding support for two critical yet proven areas of democratic reform: the media and community associations. We also recommend several emergency measures in order to address the most pressing threats to Nigerian democracy and overall security.

Several crisis issues currently threaten to overwhelm the important progress made in building democracy in Nigeria. First, clear signs that President Obasanjo's supporters are working to extend his tenure by subverting the 2007 election process must be stopped through support of Nigerian efforts to check these efforts. Second, the governance crisis in the Niger Delta has spawned the proliferation of increasingly autonomous militia activity which, combined with unaccountable politicians, serves to thwart socioeconomic development in the region. Third, regional economic stagnation, particularly in the north, demands regional economic policy solutions to prevent instability and violent political alternatives. Lastly, underpinning political development in all areas is the desperate need for viable political opposition in Nigeria. Political opposition—because it seeks to gain power—is the pivotal actor in all democracies that has the deepest interest in clean elections, rooting out corruption, and providing the public with responsive policy alternatives. Political opposition also provides elites with necessary alternatives to pursue their ambitions, and it provides the public with much-needed political choices through healthy competition.

Community associations are among the primary vehicles for local governance in Nigeria, even though they are not a formal tier of government. As human insecurity in Nigeria has grown, so has the dysfunction in all levels of government. In response, a wave of self-activation by local communities has risen to cope with these problems. Community associations, youth groups, Nigerian neighborhood associations, and faith-based initiatives across the nation have emerged to demand the provisioning of public goods: water, security, health care, education, and a variety of other responsibilities that the government has abdicated. Because these associations are deeply rooted in the cultural fabric of their communities, the democratic potential of these associations tend to be very high. They are currently the most promising potential building blocks of more responsive local and state governance.

The media, for its part, has repeatedly demonstrated independence, courage in the face of threats or imprisonment by security authorities, and the capacity for innovative use of electronic communication for democracy. It has demanded transparency in government, accountability from the political elite, and the rule of law from government officials. Without the media coverage of the May 2006 legislative debate over the constitutional amendments, especially by Africa Independent Television, it is likely that the third term package would have passed the National Assembly. The media, however, suffers from a host of institutional problems that could benefit from assistance, including susceptibility to bribery; formal certification opportunities to obtain professional credentials; and lack of necessary infrastructure, such as access to computers, the Internet, and information technology.

5.2 PROGRAMMATIC RECOMMENDATIONS

A defining element of the proposed strategic approach is to nurture and promote efforts by Nigerians that have already demonstrated positive traction in addressing some of the key DG problems facing the country, and which carry the potential to transform the strong sentiments of injustice into democratic action in all of Nigeria's regions. The following programmatic recommendations are advanced under the premise that deepening democratic governance is the best route to political stability in Nigeria. In articulating these recommendations, our purpose is to give the mission sufficient flexibility in adapting program design according to its funding levels, its preferences, and other USG priorities. The recommendations are prioritized according to expected impact, although all of the recommended activities are based on opportunities or constraints identified in the analysis.

The recommendations are grouped according to the four categories of assistance specified in the Foreign Assistance Framework, namely in the areas of civil society, democratic institutions, and rule of law. In the fourth area, that of competition, the 2007 elections have already catalyzed a high level of donor support for the electoral process. The current election assistance programs from the European Union (EU), Department for International Development (DFID), and Canadian International Development Agency (CIDA) amount to about \$30 million, of which two-thirds is going to support INEC and another fifth going to civil society. It is thus recommended that USAID focus its resources on selective interventions as follows, beginning with emergency measures to promote greater stability and security.

Each of the four subheadings below are listed in terms of priority, as are the recommendations within each heading.

5.2.1 Emergency Measures to Strengthen the Democratic System to Provide Increased Stability and Security

Several critical security issues threaten Nigerian democracy sufficiently to require urgent attention. To some degree, the public spotlight that USAID can throw on these concerns is just as important as the actual programming, such that USAID can seek to facilitate public action on these matters as well as fund innovative projects. These crisis measures can also work in tandem with the longer-term initiatives suggested below. They are ranked according to the greatest likelihood of impact under the conditions that prevailed at the time of writing.

- As with the third term, assist opposition parties and civil society groups to resist efforts by President Obasanjo's supporters to extend his term in office, and to ensure that credible elections are held in 2007. Opposition forces and civil society groups are mobilizing to prevent the president from taking advantage of INEC's calculated incompetence, but they need assistance in building larger coalitions and could benefit from the tacit blessing of international actors. If the president's supporters are successful in extending his term or annulling the election (which is certain to be flawed), the results could be catastrophic, perhaps leading to a coup and civil war. This proposed intervention will have

the impact of helping both to consolidate the checks and balances that previously served to defeat the third term constitutional amendment and to better provide an immediate, tangible, and attainable goal around which civil society and opposition groups can mobilize.

- Building upon the momentum generated by the anticipated electoral transfer of executive power, it is recommended that USAID move beyond the specific objective related to the third term to support the development of a broader and more viable opposition movement, which brings together opposition parties, civil society groups, business leaders, middle class entrepreneurs, and the media. Political opposition has the deepest interest in clean elections, rooting out corruption, and providing the public with responsive policy alternatives, and it provides elites with necessary alternatives to pursue their ambitions. The impact of this proposed intervention is expected to be twofold. First, it will help encourage the use of institutional checks and balances, and second, it will serve to provide more effective participatory mechanisms.

In addition to the above priority recommendations, USAID can contribute to the GON's own mitigation of key points of conflict and extremism by fostering improved dialogue over both the Niger Delta crisis and the economic crisis in the north, which together represent the greatest immediate threats to stability.

- Initiate a dialogue process in the Niger Delta (see text box below) that fosters a unified negotiating front among the many communities in the region toward the government and the oil companies, and that addresses the massive needs for clean elections, demilitarization, and development. Given the compromising of past elections in all the states of the Niger Delta, most of the communities do not have a voice in government, and political elites constantly manipulate ethnic divisions for personal gain. If a serious dialogue process is sponsored, particularly in cooperation with other donors, it could provide communities (via community associations and civil society groups) a vehicle for mobilizing and building region-wide negotiating platforms toward the government and oil companies.
- Foster a public dialogue over regional economic development agencies in each of Nigeria's six zones in cooperation with the state governments, which would run them and provide the bulk of the funds. Such agencies could offer solutions to presidential-led development, thus providing additional balance between the powers of the states and the federal government. Regional agencies would also be important for opposition parties, in order to provide revenue streams for local development policies and innovation. Although the six state governors in each zone would have the primary leadership responsibilities, special attention should be paid to strengthen the roles of state assemblies in these agencies and the overall development process.
- Should adequate new funding become available, it is recommended that USAID consider providing an economic revival package aimed at key northern states on a pilot basis, such as in Kano, Kaduna, Borno, Bauchi, and Sokoto. Section 2 noted how northern manufacturing has been decimated over the last 15 years, and how the region has not seen much benefit from the current oil boom. This deepening poverty is undermining democratic institutions, and is complicated by poor economic policies. A USAID-prompted economic package could highlight the policy framework that is necessary to stimulate both local and international investment in northern industry, including tax reform, infrastructure development, and information technology. Central roles in such initiatives for civil society groups, religious groups, and community associations are important in addition to business associations and government actors, to assist these groups in getting economic policy and poverty reduction higher on the state government agenda.

Specific Measures Needed for Greater Stability in the Niger Delta:

- In order to address the deep systemic and security concerns in the Niger Delta, the federal government needs to initiate a serious public dialogue with communities in the region (not just political elites) to address the fundamental concerns listed below. The government needs to reverse the widespread impression evident in a comment from one NGO leader from the region: “The militias know that this government only listens to violence.”
- A window of opportunity will open for Niger Delta communities after the 2007 elections, in that the new president will have to show some effort to address the crisis in the region. Vice President Atiku, for instance, has a 10-point plan for peace and development in the region. Consequently, community associations and civil society groups could benefit greatly from assistance in the short term to prepare them to participate fully in any such opportunities that arise.
- Continue efforts to disarm the militias through a sustainable package of amnesty, weapons buyouts, job programs, and sensible law enforcement initiatives. The government must also demonstrate its long-term credibility by arresting the national political kingpins who benefit from oil bunkering and shutting down their personal empires.
- Some semblance of credible elections must be restored in time for 2007 if possible, with clear progress made in preparation for 2011. Opinion polls in 2003 indicated that opposition parties were doing well and likely to win at least three of the six governorships in the region, not to mention state and federal legislative seats.
- Political opposition must be allowed to operate freely in the region. Without opposition parties and voices able to organize and advocate their platforms, the public has no viable alternatives from which to choose to better serve its interests. Consequently, the militias become the *de facto* voice of the oppressed, capturing that legitimacy. Opposition parties are also the most forceful advocates for, and watchdogs of, clean elections and anti-corruption initiatives, since these help them get into power.

5.2.2 Strengthen Civil Society: Engaging Society Through the Voice, Advocacy, and Participation of Citizens

This group of programmatic recommendations is designed to build upon the efforts made on the demand side in calling for deepening democratic reform by civil society. Given the strong vested interests that will be threatened by reform, these recommendations are realistic in that they intend to mobilize and strengthen reformists within civil society who have demonstrated the capacity to incorporate community and citizen inputs in both advocacy and the resolution of public policy issues. The first four of the following activity recommendations are ranked as of higher priority. The analysis showed how both the legislature and federal court system have been used in the competition among elites as a means for checks and balances. This opens up opportunity to enhance the points of entry for civil society advocacy. Illustrative activities under this civil society component include the following:

Higher Priority:

- Support CSOs that can improve demand-side advocacy for strengthening of legislative functions and processes and for improvements in the justice system (as per other recommendations, below). This should include strengthening the organizational, professional, and informational resources of select professional organizations and trade unions. As per the language in the Foreign Assistance Framework, this recommendation is aimed at strengthening civil society capacity to act as agents for reform and for democratic processes.
- Assist select civil society organizations to construct viable linkages with community groups representing community-level inputs. The purpose of this component is to provide communities with

alternative means to engage in the political process, especially in helping to access public goods and meet their basic needs. Such efforts could utilize public/private partnerships with local governance to engage in social infrastructural improvements that could support other mission Strategic Objectives (SOs), such as in the areas of health, education, and economic growth. This dimension could also be an element of the Mission's program that is amenable to GDA efforts to leverage other funding. In addition, this component of the program could also help other targeted CSOs to also increase their grassroots base, and therefore enhance their legitimacy among diverse communities. This set of activities corresponds to two aspects in the Foreign Assistance Framework, that of increasing citizen participation and oversight, and cross-cutting civil society initiatives. The impact of this and the following recommendations will be felt in increasing the representational capacity of civil society at the local level. This will be critical to assisting government to become more responsive to citizen needs and demands.

- Assist select community associations themselves to obtain better access to local and state governments. Pilot projects in key states and local governments could explore alternatives for improved community association participation, such as LGA budget monitoring through participatory budget practices.
- Assist the Nigerian media to address its concerns regarding professional skills, research infrastructure (through computers, the Internet, and information technology), and reducing its susceptibility to bribery and other corrupt practices. Priority should be given to protecting courageous media professionals from personal abuse and the growing infringement of press freedoms by the security agencies of the Nigerian government. The media has had a positive impact on democratization already, and greater professionalization will further enhance their role and credibility.

Lower Priority:

- Provide infrastructural assistance and informational training for the staffs of select civil society groups so as to upgrade their access to electronic media, such as was effectively used in the campaign to defeat the third term constitutional amendment. Funding for community information and media centers should be prioritized given the size, complexity, and diversity of Nigeria. This recommendation corresponds to the Foreign Assistance Framework's emphasis on civil society playing a central role in governing justly and democratically by freely communicating among themselves and the government, establishing more freedom of information, and empowering civil society to participate in decision making on matters that affect them.
- Provide support to inter-communal and inter-faith organizations, especially those involving youths, which seek to promote dialogue and mitigate potential conflict flashpoints. Where appropriate, support faith-based organizations to mitigate conflict, to strengthen a democratic political and civic culture, to educate communities about religious tolerance in democratic life, and to encourage the use of methods of safe inter-faith dialogue. Particular attention should be paid to the Niger Delta and ethno-religious flashpoint states such as Plateau, Kaduna, Borno, and Kano.
- Support the capacity of gender-based organizations at the community and CSO levels in order to increase women's participation in political processes, through education and advocacy initiatives. In the comparatively neglected *sharia* states, DFID's project to support Muslim women's rights under *sharia* offers a model showing how Islamic reform opens opportunities for increasing women's participation in the public domain. Without increasing the participation of all Nigerian women, democratic reform will be truncated and, ultimately, moribund. Gender programs are required to increase citizen participation and deepen civil society initiatives.
- Rely less on U.S. implementing partners, and more on the growing Nigerian civil society capacity to manage USAID programming in Nigeria. American organizations are useful for specific advisory and

assistance roles, but strategic decision making and leadership should shift to the Nigerian groups themselves, much in line with the USAID/OTI model utilized in 1998-1999. Increased sustainability and effectiveness of civil society programming requires that the groups take ownership of the projects, including their strategic direction. Moreover, USAID's limited funds can go much further with local partners without the exorbitant costs of setting up and maintaining foreign infrastructure.

5.2.3 Promote Good Governance: Strengthen the Legislative Function and Processes

This set of recommended activities focuses on building on progress already initiated with the legislatures, particularly the National Assembly. Since the defeat of the third term, the legislature is increasingly seen as a forum for civil society and constituents to lobby their representatives. The priority activities under this set of recommendations thus seek to a) enhance the role of the legislature as a check on a strong executive, and b) increase the ability of civil society to lobby and productively interact with the parliament. The illustrative activities focus on the three areas of oversight, representation, and legislative effectiveness. The first two of the following recommendations are of higher priority with the greatest likelihood of immediate impact.

Higher Priority:

- Support oversight initiatives that could help to reduce executive arbitrariness. A key focus, which corresponds to past Mission investments regarding the budget, would be to support a National Assembly Budget Office. Efforts by the Assembly to take control of the Auditor-General's office (or to create their own parallel office) could also be encouraged. Not only should the capacity for effective review be enhanced, but also the Assembly's ability to render the national budgets and their review more transparent. "E-governance" and electronic vetting of bills should be supported vigorously. More fundamentally, the National Assembly and state assemblies' "power of the purse" needs strengthening so as to buttress the legislatures' control over public revenues and spending. This recommended activity corresponds to the Foreign Assistance Framework recommended interventions to strengthen oversight and budget capacity.

Lower Priority:

- On the demand side, as mentioned above, strengthen civil society organizations that lobby for parliamentary oversight, especially in regards to the budget and revenue collection. Electronic monitoring of federal and state budgets will increase public participation and should receive funding priority. The formal constitutional authorities of the National Assembly are much greater than have been realized in the past, and civil society could help to articulate ways in which the legislature could become more effective in this regard. Under the Foreign Assistance Framework, this would correspond to the category entitled "increase legislative advocacy and public participation."
- Strengthen legislators' representative roles by building the legislature's capacity to reach out to constituents, civil society, and marginalized groups to better represent their interests. In addition, improve the lawmaking process through improved research capacity and access to policy analysis and expertise.
- Support greater oversight roles for opposition parties in the legislature. Political opposition groups have the greatest interest in rooting out corruption from the ruling party, in clean elections, and in other critical democratic processes. Key oversight committees—particularly anti-corruption committees—could be encouraged to have opposition leadership, and opposition parties themselves could be assisted to develop caucuses, better communication methods, and other infrastructure needs.

Such a package of opposition party assistance could also including models from the Ghanaian legislature and elsewhere.

- Encourage oil companies to follow through on their Nigerian Extractive Industry Transparency Initiative (NEITI) commitments and to expand their openness to public scrutiny by publishing more detailed accounting of the industry, particularly to the National Assembly and littoral state legislatures.

5.2.4 Rule of Law: Support Effective and Equitable Justice System

This final set of recommended programmatic interventions is designed to build upon the positive steps at the federal level and to try to increase demand for greater access to justice both at the national level and the state level. These illustrative activities are designed to assist in the development of a more effective justice system by improving the capacity of key justice sector institutions, and to develop citizen demands for an effective and accountable justice system. Regarding the state level, opportunities are more constrained, and the recommendations are more directed towards the longer-term improvement of the enabling environment for reform through the promotion of greater Nigerian political will for reform.

Higher Priority:

- At the federal level, where windows of opportunity have emerged such as in the Court of Appeal, provide support to reform regarding management procedures. “Bricks and mortar” work to improve operational systems and professional capacities to carry out their core functions such as case management, court procedures, recording, and harmonization of policies and public-private partnerships relating to crime and violence could all be targets of assistance. This set of activities corresponds to the Foreign Assistance Framework objective of professionalization of justice system actors. The impact of these activities should be visible and tangible, with results evident in the medium term.
- On the demand side at the national level, support CSO efforts to put pressure on the government for more resources and political space to be allocated for the modernization and coordination of key judicial institutions, such as the Supreme Court, Court of Appeal, and the Police (see above, under civil society). The capacity of the National Judicial Council, and its control over the judiciary’s budget, is in particular need of strengthening. CSOs could be supported to monitor the justice sector to ensure compliance with gender and human rights treaties. CSO efforts to introduce Alternative Dispute Resolution capacities in Nigerian courts could also be supported. This set of recommended activities relates to strengthening civil society capacity to advocate for more effective democratic institutions in the rule of law area. Its impact could be immediate and tied to legislative lobbying efforts, as described in the preceding subsection.

Lower Priority:

- At the state level, support efforts to increase access to justice, primarily through direct initiatives and public awareness campaigns. *Sharia* and customary courts are also in particular need of assistance. Funding advocacy assistance for disadvantaged groups, such as women, should receive priority. Under this component, attention should be given to increasing confidence in means to resolve disputes and maintain public order not only through formal judicial mechanisms, but also through informal and traditional mechanisms. This programmatic component should further seek to inculcate respect for the rule of law. Activities carried out under this recommended track would target two intervention areas identified in the Foreign Assistance Framework. The first is to strengthen public awareness and advocacy; the second is to improve public respect for the rule of law.

In terms of classification of Nigeria by the Director of Foreign Assistance, the country is clearly situated in the Developing Country category. According to the findings of this assessment, Nigeria is making key progress towards becoming a Transforming Country, but is not yet there due to shortcomings in the areas of corruption, government effectiveness, and rule of law. Nigeria has, on the other hand, made significant strides since return to civilian constitutional rule in the two areas of political rights and civil liberties. In regards to the final MCC measure for Ruling Justly, Voice and Accountability, Nigeria continues to experience difficulties, but there has been some progress indicating that Nigeria could soon squarely achieve positive scores on this dimension too, should the ongoing political reform not be derailed.

Category Definition

Developing Countries: States with low or lower-middle income, not yet meeting MCC performance criteria, and the criterion related to political rights.

Transforming Countries: States with low or lower-middle income, meeting MCC performance criteria, and the criterion related to political rights.

According to the guidance provided by the Foreign Assistance Strategy Objective of Governing Justly and Democratically, the overall direction of assistance for countries in the Developing Countries category should be to *support the adoption of policies and programs that accelerate the strengthening of public institutions and the creation of more vibrant local government, civil society, and media*. Such programs can, according to the guidance, be carried out through programmatic interventions along a selection of the following four dimensions:

- Promoting justice and human rights through the rule of law;
- Strengthening the institutions of democratic and accountable governance;
- Expanding political freedom and competition; and
- Engaging society through the voice, advocacy, and participation of citizens.

The assessment findings have indicated that progress in these four general areas is indeed critical to Nigeria's graduating from the Developing Country to the Transforming Country category. The strategic recommendations provided in this assessment are intended to help further prioritize potential interventions according to the areas identified as presenting the greatest opportunity for impact. In selecting and prioritizing programmatic interventions, it is important to realize that donor leverage is not strong in Nigeria, since international DG assistance represents only a small portion of Nigeria's own budget and available resources. Hence, it is unlikely that donor initiatives should be based on initiatives, solutions, and positive steps already taken by Nigerian reformists themselves. The assessment has indicated that numerous such trends are indeed already underway, but there are pitfalls to be avoided and monumental challenges yet to be overcome.

ATTACHMENT 1: COMMENTARY ON THE NIGERIAN GOVERNANCE ASSESSMENT

ARD/USAID

December 2006

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This analysis of Nigeria's political process is thorough and incisive. The assessment framework provides a filter that moves from general concepts and findings to more specific problems, issues, and programmatic recommendations. The program elements are well considered and innovative. Overall, the team members have done excellent work in the field, and the authors have effectively rendered this material in an analytically rigorous but accessible manner. Several elements of the report would benefit from elaboration or further reflection, which is the primary goal of this reviewer's note.

Nigeria's Condition

As the authors observe, Nigeria's democracy is truly at a crossroads. Although there has been much progress in the years since the 1999 political transition, there are also deep-seated problems of structure and performance that may jeopardize this fragile political experiment. There has been a general improvement of rights and liberties, increasing accountability, and some commendable initiatives toward better economic management and the control of rampant corruption. Yet Nigeria's political class is fragmented and contentious, its executive imperious and arbitrary, and its institutions largely feeble or dysfunctional. Basic public goods are lacking, the vast majority of the population is impoverished, and an epidemic of social violence has undermined security throughout the federation. Ethnic, religious, and regional polarization has arguably worsened in recent years, creating further uncertainties about a fragile national compact.

The 2007 elections are likely to be pivotal for Nigeria's future democratic development. In the wake of flawed and disorganized elections in 1999 and 2003, many Nigerians have lost confidence in the electoral process, and the public is anxious for credible and peaceful elections. If the 2007 elections play out in a reasonably orderly and transparent fashion, it could bolster confidence in the democratic system. Conversely, if the elections are marred by misconduct and violence, the episode will substantially undermine democratic legitimacy and stability.

Nigeria is Africa's most populous country, containing one of the largest Muslim populations in the continent. It is also the region's largest oil producer, and a linchpin of security and peacekeeping in Africa. The development of a stable and effective democratic regime matters very much to the United States, as it does to Nigeria's neighbors. Therefore, it is important for the U.S. to devote energies and resources to supporting Nigeria's fledgling democracy. This should be seen as a long-term investment in a more secure and better governed country, even if the returns may seem disappointing in the near term.

The Analysis of Political Oligarchy

A central element in the assessment is the model of a socio-political "oligarchy" that exerts continual, overarching control of Nigeria's politics and political economy. The oligarchy is a loosely constituted, yet circumscribed segment of elites who monopolize political power and national resources. Contention over petroleum rents and political spoils occurs within this circle of politicians and notables who are minimally accountable to broader constituencies. While the oligarchy is multi-ethnic and flexible in its membership, this stratum represents a narrow apex of Nigerian society, permitting little dispersion of wealth or devolution of power. The oligarchic character of the political economy accounts for the profound inequalities in Nigerian society, the illegitimate nature of the state, and the pervasive difficulties of democratic performance.

The concept of oligarchy in the Nigerian context is both appropriate and useful, though also liable to misinterpretation. Nigeria's oligarchic system is not analogous to the forms of traditional or institutional oligarchy found in Latin America, where a small number of dominant families or factions, with a basis in landed or industrial fortunes, hold sway over social and political affairs. These ruling circles are often tightly coordinated, with high barriers to entry or even closed membership. In Nigeria, by contrast, we find a much more fluid and adaptable ruling stratum, with extremely porous boundaries and shifting membership. Many ethnic, regional, and religious segments constitute the Nigerian oligarchy, and participation is accessible to an array of business interests, politicians and operatives, traditional rulers, and some professionals or civic leaders. Individuals and groups continually move into and out of the ruling circle, making oligarchic control much more contingent than in other systems that are more firmly institutionalized and managed.

Despite its diffuse and shifting character, the oligarchic nature of political and social control in Nigeria is no less powerful. Elites monopolize national resources, as more than three-fourths of the population live at or below the poverty line while a tiny segment command vast (and often illicit) fortunes. Political power has been monopolized by a military cohort, or else managed by a dominant civilian political party. Competition in both markets and the political arena is highly constrained. The mechanisms of oligarchic control—the executive's inner circle, the ruling party of junta, the chief gatekeepers of a state-dominated economy—may admit new members or recognize new clients, but they do not countenance challengers.

The uncertain boundaries of the oligarchy necessarily imply constant bargaining to maintain consensus and control. This is another central feature of Nigeria's political economy that deserves further emphasis. Nigeria's political system is sustained by a shifting arena of elite bargaining, which accounts for the resilience of the system as well as its crucial failures. Accommodation and renegotiation over the allocation of rents and access to spoils preserves a rough equilibrium among Nigeria's fractious ruling segments. While generally dismissing goals of equity, Nigeria's diverse elites do expect some balance in access to centrally distributed rents. For most politically salient groups, participation in the national political system is predicated on the ability to bargain over spoils and patronage. This can mean "zoning" to an ethnic candidate, changing revenue allocation formulas, allowing for regional disparities in the law, or furnishing contracts to particular magnates and groups.

In sum, the oligarchy is also an oligopoly. The threat of monopoly in this system of open-ended bargaining would be a major destabilizing element. If contending groups believe that a single executive, party, or ethno-regional segment will consolidate a hold on power, they may be tempted (or incited) to defect from the system, with grave consequences for stability and security.

Sources of Poor Governance

Accommodation and bargaining allow for the persistence of the system, but this also accounts for the dysfunctional nature of Nigerian governance. Governing elites are not accountable to the electorate, and the patronage-driven dominant party excludes most citizens from effective participation or voice. Further, the division and polarization of elites fosters a chronic lack of cohesion and direction. Rulers cannot address critical problems of economic development, institutional reform, or needed public goods. Public resources are dissipated in consumption rather than marshaled for investment. Public policies are diverted by special interests or paralyzed altogether. Quite simply, a fragmented government in a rentier state cannot govern.

The central theme of an oligarchic system provides clarity of analysis, and also helps us to see the particular challenges of democratic development in Nigeria. On the one hand, it is important to preserve the open-ended framework of competitive bargaining in the Nigerian political system. A grab for power by a particular segment, or the exclusion of major groups, could incite conflict and potential political breakdown. On the other hand, it is important to challenge the exclusionary nature of the oligarchy. Political and economic competition is essential for improving the quality of democracy and fair distribution.

The Under-appreciated Role of the Legislature

Among many crucial dimensions of politics, the assessment devotes some attention to the National Assembly as a counterweight to presidential power. However, this is not sufficiently carried through in the discussion of key institutions and arenas. The legislature is a crucial institution for asserting the separation of powers and exercising oversight of the executive. The National Assembly is also an arena of contention, bargaining, and the allocation of spoils among the political class. The assembly, though often paralyzed and self-interested, also contains elements of a genuine reform coalition. Further, many legislators have resisted efforts by the presidency to extend authority or escape accountability. Even if legislators are motivated by their own narrow self-interest, they are creating an institutional and political basis for reining in executive power, which can be an important component of a healthy democracy.

Programmatic Implications

Inevitably, the assessment identifies a large number of problem areas and program priorities, which far exceed the capacities and resources available to USAID. Therefore, we are left with the perennial question of identifying priorities and making the best use of scarce resources. From a strategic point of view, it is important to emphasize programs that promote competition and accountability. These will also address more fundamental challenges of inclusion. In terms of specific programming, interventions to improve the quality of elections have special urgency. Programs directed at the institutional development of parties can be advanced on a non-partisan basis, with the potential to enhance both electoral contention and legislative action. Further support for the legislature can bolster a crucial institution of democratic development. Broad assistance to civic organizations, and selective aid to the media, can also be fruitful. Among the most innovative approaches suggested by the assessment is a forward-looking program of assistance to community councils, which can be important for improving accountability at the grassroots levels.

From this author's perspective, it is important to advocate for greater resources and more extensive engagement with Nigeria. Measured in terms of conventional indicators of governance, the results from previous assistance to Nigeria may seem disappointing. However, this country is simply too large and too consequential to be neglected by the assistance programs of the G-7 countries. Governance assistance to Nigeria should be regarded as a continuing investment in the possibilities of reform and the potential for political and economic revitalization. Relative neglect will limit U.S. influence in Nigeria's democratic development, while leaving this large and strategic country liable to the types of failure that would be seriously damaging to U.S. interests.

The links between the United States and Nigeria, and the overlapping interests of the two countries, go well beyond energy security, though this is highlighted in the assessment. Nigeria is a bellwether for governance and security in West Africa, and a diplomatic and peacekeeping presence throughout the continent. Should Nigeria descend into autocracy, violence, and criminality, there will be damaging repercussions in Africa, in global energy markets, and in such areas as global migration and inter-religious affairs. The United States has the potential to advance democracy and inclusion for Nigeria's 130 million people. This DG assessment provides important analytical and policy ideas for realizing these goals.

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