[1]Corporate Governance: A Leadership Challenge In Nigeria

I congratulate the Board and management of Cornerstone Insurance Plc for keeping the memory of Tunji alive. It's five years since his translation to the higher realm and we miss his charm and candour, but he now experiences the rest promised to those who trust God implicitly as he did. He packed so much into his relatively short pilgrimage on this side of eternity. Such was his diligence and tenacity of purpose that his accomplishments have become milestones and a case study. His meteoric rise in his profession was therefore not a surprise, because diligence comes with a divine promise that we will stand before kings. In the Cornerstone project, Tunji and his collaborators led a righteous revolution in the Insurance industry, and built a legacy in what became then a reference point in professionalism and customer relations. I also felicitate with our dear sister, Abiodun, who has kept the flag flying these past five years. I know that the same God who has sustained you so far will certainly keep you and the three children, and I would encourage you with the words of Proverbs 22:28: "Do not remove the ancient landmarks which your fathers have set". Those ancient landmarks are pillars of integrity, forthrightness and the pursuit of Godliness. Let the legacy for which Tunji has been remembered (and will be remembered) guide you through your own pilgrimage, so that you will have lots of positive experience to share with Tunji on resurrection morning. The Scriptures remind us in Proverbs 10:7, that the memory of the righteous is blessed. Ever so often we have seen individuals and small groups take responsibility and leadership for a change in their environment. Every human cause requires a champion, and those who succeed are people who are themselves principle-centred and are irrevocably committed to their dream. Effective leadership will often demand swimming against the tide, and as we know Martin Luther King Jnr did not say he had a strategy. We must grow the passion to live our dreams, and design strategies to deliver them. It is this quality of leadership that I believe our subject speaks about

Speaking about a revolution for the right, a wind has been blowing across the world for ten years, has assumed the status of a hurricane in the last three, demanding higher standards of governance in public and private sectors. Corporate Governance has now become a mainstream concern, even though this phrase meant precious little to all but a handful of scholars and shareholders not too long ago. Two events helped to heighten this interest in corporate governance. During the wave of financial crises in 1998 in Russia, Asia and Brazil, the behaviour of the corporate sector affected entire economies, and deficiencies in corporate

[1] Being the text of the 5th Adetunji Ogunkanmi Lecture, November 24, 2005

governance endangered the stability of the global financial system. Barely three years later, confidence in the corporate sector was sapped by scandals in the US and Europe that triggered some of the largest insolvencies in history. The misdeeds of a few sent ripples across boundaries like a domino. One after the other we saw Enron, WorldCom, Pamalat and a host of other major firms collapse and some CEOs hauled into jail. Shell came under tremendous pressure first when an NGO protested the oil spillage in some of their installations, and more when it came to light that the company had overstated its reserves. Suddenly the top blew open for business leaders who must now balance this additional scrutiny with the City's pressure for performance quarter after quarter, and their own craving for bonuses. We have also seen auditors who sell tax shelters, which in reality is a product that blurs the lines between tax evasion and tax avoidance. In the aftermath, not only has the phrase corporate governance become nearly a household term, economists, the corporate world, and policy makers everywhere began to recognise the potential macroeconomic consequences of weak corporate governance systems. In the developing world especially, macro-economic difficulties can be worsened by systemic failure of corporate governance stemming from:

a. Weak legal and regulatory environment
b. Poor banking regulation and practices
c. Inconsistent accounting and auditing standards
d. Improperly regulated capital markets
e. Ineffective oversight by corporate boards
f. Scant recognition of rights of minority shareholders

Investment is the primary driver of development today, in that it accelerates free enterprise, which drives growth and raises quality of life. Capital Market performance has become an index of economic power around the world, and has increasingly been the force for change. Market capitalisation in many developed countries outstrip the GDP or represents a significant percentage of it, and this led James Wolfensohn, the former World Bank MD, to observe that the governance of corporations is now as important to the world economy as the government of countries. Corporations create jobs, generate tax income, produce a wide array of goods and services … and increasingly manage our savings and secure our retirement income. Amid growing reliance world wide on the private sector, the issue of corporate governance has similarly risen in importance.

But the scandals and crises we all talk about today are just manifestations of a wider structural reason why corporate governance has become important for economic development and well-being. First, the private investment process is now much more important for the health of most economies as the tempo of privatisation of SOEs rise and more firms have gone to public markets to seek capital. Second, due to advances in technology, liberalization and opening up of financial markets, the allocation within and across countries of capital among competing purposes has become more complex, making governance more important and also more difficult. Third, the mobilisation of capital is increasingly one step removed from the principal owner, given the increasing size of firms and growing role of financial intermediaries. This increasing delegation of investment has raised the need for investor confidence and governance. Fourth, programmes of privatisation and reform have reshaped the local and global financial landscape, and concerns about what happens to the firm when ownership changes need to be addressed. For example consumers need some comfort that the new managers of a private NITEL will provide service with integrity, since pricing is deregulated. Fifth, international financial integration has increased exponentially, and trade and investment flows are multiplying, leading to many cross-border corporate governance issues. The democratisation of finance means a single investor enjoying a cruise on the Mediterranean can move markets from his cell phone, and the dissatisfaction from such an investor is increasingly for reasons other than poor financial performance alone. The capacity of a firm to attract and retain capital is now keyed to its governance systems. In a McKinsey study as far back as 2002, 84% of institutional investors ($3tr. in assets) said they were willing to pay a premium for the shares of well-governed companies – 18% premium in the UK, 22% in emerging markets and 27% in Venezuela or Indonesia. Nigeria was not polled but if the size of the premium investors were willing to pay is a reflection of the perceived standards of corporate governance, then I guess we would not be superior to emerging markets. This investor behaviour underpins the correlation between good governance and national development. Furthermore corporate governance provides the lever to address the converging interests of competitiveness, corporate citizenship, social and environmental responsibility, encouraging efficiency and combating corruption. The message is that the success of a company is now not determined only by how much profit it makes today. In Nigeria, we still see market valuation based substantially on profit and dividend with little obvious consideration for long-term shareholder return, as well as clarity and sustainability of strategy. The face of our banking industry would change when this message is assimilated, and the on-going consolidation should facilitate that. By the way I have often said that the current bank consolidation is only the first phase of the reform of the banking sector. There will be a market-induced phase 2 about three years from now, because some of the merged banks will not survive the steep learning curve of delivering shareholder returns without reliance on selling forex, bribing Ministers for deposits of Ministries and parastatals, courting stolen public funds from corrupt governors and officials etc. Those failures will be accentuated by the fact that professional standards are somewhat suspect today, and they will either voluntarily sell themselves, or become prey for international banks. The manufacturing industry has its own issues as well, especially around Health, Safety & Environment, as well as Human Rights Ethical Trading issues, and there is an equal need for responsible citizenship. These are all components of governance, and only effective leadership can drive positive change. Indeed managers the world over are beginning to finally understand that the purpose of business is not just profit, but how well the firm conducts its internal affairs and how it relates within the community.

The corporate collapses gave rise to the Sarbanes-Oxley Act of July 2002 and the beginning of a whole new effort to create new code for managers and their external auditors. In a sense a revolution for the right is under way and things will never be the same again. The responsibility of leadership is to understand these developments, and in the words of the British politician, will either have to shape up or ship out.

Other stakeholder groups have also become more concerned about governance issues. For example I am told one of the major oil companies operating in Nigeria declined to bid for Port Harcourt refinery because of the massive environmental problems associated with the plant, which had been neglected for decades and could require similar periods to fix. In their reckoning they could not afford to put their name on the building because the day they did, Greenpeace could show up on the high seas, and their share price on the NY Stock Exchange could plummet instantly. Civil rights groups and consumer protection groups are increasingly concerned about issues of human rights and ethical trading, and a company could have consumers boycott its products on account of human rights or ethical trading violations. For example we are a part of a global group and as CEO I have to make a statement each year affirming that we have ensured we do not purchase cocoa from farmers who employ forced child labour. Furthermore stakeholders want to know the philosophy of firms in giving back to society.

Increasingly too, companies are being taken to task on their position on issues like carbon emissions from their operations. A market has even emerged where companies that achieve certain standards in emission control can trade their carbon credits for profit. Our company is taking advantage of deployment of technology in energy management and expect to trade our carbon credit internationally in the very near future. In our industry, people are increasingly concerned about what they eat, and in many parts of the developed world, Food Issues have taken centre stage because of the rise of obesity and diabetes, which have been described as the disease of the affluent. Our consumers are interested in the how healthy the food they buy is, and we have to provide more and more information to enable the consumer make an informed choice. This trend has raised the pressure for companies to not just report on their financial performance but also on how the firm conducts its business – and reports now have to reflect the triple bottom line of financial performance, environment, and CSR.

Implementing corporate governance is premised on four principles: fairness, transparency, accountability and responsibility. Notice the subtle difference between accountability and responsibility. Essentially accountability means you are liable to render account, while responsibility means you are liable to be called or compelled to give account. These four principles are equally relevant whether businesses are privately, publicly or state-owned, or are subject to a controlling shareholder. The objective of boards should be to ensure the firm application of these principles. The more widely the four principles are applied, the more equitably and effectively will resources be allocated. Of the various stakeholder groups we have mentioned, owners especially have a key responsibility to be more demanding, for four reasons:

1. Shareholders get paid off last after all other creditors in the event of the company going into liquidation. As residual beneficiaries, what they buy really is the long term cash flow stream of the business
2. Shareholder rights are fairly limited. The courts have rejected the erstwhile popular expectation that Directors should run the company in the sole interest of shareowners because the company is a separate persona in law, and a person cannot be owned. The courts have also held that shareowners have no direct interest in property, business or assets. They have a right to vote and a right to dividend. To that extent, the governance of the firm is of paramount interest.
3. As members of the larger society, shareholders are increasingly concerned about the long-term cash flow stream, and sustainability, which is the basis for the demand for corporations to move to triple bottom line reporting.
4. Investors often represent interests of large collections of shareholders, and quite often the direct owners don't even know which companies their funds have been invested in.

What I have attempted so far is to trace the salient trends that have brought corporate governance to the fore, and also skirted the expanding scope of corporate governance.

Evolution of Corporate Governance

I'm not one for definitions, but those interested in definitions can consult literature. In its broadest sense Corporate Governance is about holding the balance between economic and social interests, and between individual and communal goals. The cardinal objective is to promote the efficient and equitable use of resources, as well as share accountability for the stewardship of resources in a manner that aligns the interests of individuals, the company and society at large. This objective is the same regardless of the size or ownership structure of the business. While big business does have wider influence on account of its visibility, the responsibility for good governance is shared across the entire spectrum of commerce.

Corporate Governance is a process, not a state. The field is continually evolving, and has broadened from the initial focus on the way in which corporations are directed and controlled, which led to the introduction of national codes of best practice. As the wider economic and social significance of corporate governance became apparent international guidelines were published to advance its cause more broadly. These guidelines reflected the part which good governance can play in promoting economic growth and business integrity. Increasingly this scope has broadened to issues of human rights and ethical trading. I will be preaching to the choir if I begin to discuss the imperatives of good governance, if only for the fact that as investors yourselves, you make investment choices all the time. But the practice of corporate governance has come a long way, beginning with the Cadbury Committee Report of 1992 in response to concerns over low confidence level both in financial reporting and in the ability of auditors to provide safeguards for users of Company reports. The Cadbury report set the tone for a string of other work. The Greenbury Committee report of July 1995 laid out best practice for principles of accountability, transparency and linkage of reward of Directors to performance, following concerns about large pay increases that Board Directors earned. The Hampel Committee reviewed the implementation of the Cadbury and Greenbury codes, and produced a set of principles covering the role and remuneration of Directors, role of shareholders, accountability and audit. Meanwhile the first King report of 1994 institutionalised corporate governance in South Africa, and established recommended standards of conduct for Boards and Directors of listed companies. The same committee produced a second report in 2002 designed to bring South African corporate governance standards in line with international best practice. Then the Turnbull report of 1999 provided guidance for listed companies to implement the requirements of the code of corporate governance relating to internal controls in England and Wales. This followed the publication of the Combined Code of Corporate Governance of 1998, (later updated in 2003) representing a consolidation of the work of Cadbury, Greenbury and Hampel Committees. Across the Atlantic, the Blue Ribbon Report of 1999 set out mandatory governance standards for firms listed on NYSE, Amex, Nasdaq and the American Institute of Certified Public Accountants. Following corporate failures in the US in 2001, the Smith and Higgs Committees made further far-reaching guidelines for increased rigour in Director nomination and appointment process as well as Audit committee responsibilities. The incentive to corporations and to those who own and manage them to adopt internationally accepted governance standards is that these standards will assist them to achieve their aims, and to attract investment. The incentive for their adoption by governments is that these standards will strengthen their economies and encourage business probity. Whereas all these initiatives created guidelines and codes, the Sarbanes-Oxley Act in 2002 gave legislative teeth to parts of the governance process, with emphasis on real-time disclosures, officer certification, independent Directors, analyst conflict of interest rules, protection for whistle blowers etc, and strengthened criminal penalties for white collar crimes. Perhaps the most comprehensive set of guidelines was produced by the OECD in 2004, and The conference Board has just published a compendium of best practice, compliance and legal standards in a Corporate Governance Handbook. By the way these documents are all recommended reading for the business leader who desires to lead a revolution for the right into the future. I believe that the future evolution of corporate governance will focus on ensuring that the fruits of good corporate governance, its ability to add value, are widely and wisely shared, thus playing a positive part in the goal of developed and developing world to alleviate poverty.

Advancing Corporate Governance Principles

It is now widely accepted that there cannot be “one-size-fits-all” corporate governance structure and systems. Countries and corporations are best advised to start from where they are and to build on their existing structures and systems. Convergence is taking place, but it is convergence on standards of corporate governance, not necessarily in their form. Standards of corporate governance in Nigeria are still relatively low, and we are yet to build the critical mass of subscribers required to adopt peer review mechanism, since self-regulation is actually the best form of regulation. I acknowledge the SEC initiative to create a Code of Corporate Governance a few years ago, though I am not sure how widely it was communicated, let alone read, nor is there evidence of measurement of compliance. Other groups like the Institute of Directors have also begun to take initiatives but I believe it is time we pulled these efforts together to create a national governance initiative. The due process initiative in the public service procurement systems will eventually help install transparency. However the process of change will be accelerated if we can remove every instance of discretion in favour of level playing field for open competitive activity. Discretion is what has provided civil servants with their source of power, but it is clearly what feeds corruption. Privatisation too, will effectively separate ownership from management and promote governance. In the private sector, we are only making a start in standards of disclosure. Even here we have seen resistance to any change that imposes transparency, one recent example being the reaction to the Trade Alert initiative of the Nigerian Stock Exchange. I don't understand why my Broker would not want me to know as soon as my shares are being traded. Our Company has recently raised a Rights Issue, and we had to insist on the deadlines for filing returns as approved in the Rights Circular. I have received letters from receiving agents asking me to accept returns filed two or three days late, and I wonder if rules mean anything any more in our country. These are clear governance issues. I think the key issue for us is that we talk about transparency and even corporate governance with little consideration for what behaviour changes we have to submit to. The way to build character and create quality of life is to align our beliefs and behaviours with universal principles, rather than socially-validated value systems, and that requires humility. Humility has been described as the mother of virtues: the humble in spirit progress and are blessed because they willingly submit to higher powers. Courage is the father of virtues. We need courage to lead our lives by correct principles and to have integrity in the moment of choice.

Leadership is very central to advancing corporate governance, and this is where we are disadvantaged. Ours is a society where the elite seem to play back the conversation at street level, instead of the other way round. Just listen to the discourse in a gathering, and you will be amazed the way people discuss issues without information. A classic example was the Pension Reform initiative. Lots of business people actually discussed the draft bill in public without reading the document themselves. Effective leadership comes with an unusual commitment and passion to know and to understand, and this may not be our greatest strength. Driving the revolution for righteousness, the type for which we remember Tunji today, will require a different attitude and orientation.

In this discussion we have established the integrated approach to good governance, covering the financial, social, ethical and environmental performance of the company. We have also affirmed that it's about leadership for efficiency in the allocation of resources, probity in systems and controls, and responsibility for personal and corporate actions. Firms must therefore identify stakeholders and agree policies that advance relationships, define the overarching purpose of the organisation and identify and communicate its values. All three factors must combine in developing strategy, and this inclusive approach is the way to sustained business success and steady long-term growth in shareowner value. In communicating the core values and philosophy of the company, care must be taken to ensure internal alignment with the public speak. A perception of dissonance between the rhetoric and the walk is more damaging than can be imagined. In balancing the divergent and sometimes conflicting interests of stakeholders, we must preserve entrepreneurship and enterprise. The key challenge is to balance between performance (enterprise) and conformance (constraints), but we have to be good at both. Three common corporate sins that hamper the achievement of such balance are

- Sloth, or the loss of flair, where the spirit of enterprise yields to administration
- Greed, the short term outlook to impact share price and bonuses, and
- Fear, when executives become subservient to investors

The practice of corporate governance covers several dimensions of the firm's operations, including:

1. Leadership – a Director's actions must fulfil three fiduciary duties

- The duty of care to make decisions that are informed
- The duty of loyalty to act without conflict and always put the interest of the company before those of the individual Director
- The duty to act in good faith in accordance with evolving corporate governance best practice

This primary track is potentially the biggest challenge for Directors. At a minimum, Directors should

- Ensure that decision processes employed by the Board are rational and done to advance corporate interests
- Ensure deliberations are thorough, well-documented, and given a sufficient amount of time
- Hire experts where necessary
- Request and receive information for making decision
- Comply with all statutory and regulatory requirements
- Not disregard or ignore notices of wrongdoing or irregularity
- Ensure that reporting systems provide the Board with information in a timely manner.

2. Board structure and composition – The composition and skill set of a board should be linked to the company's particular challenges and strategic vision. As companies develop and experience changed circumstances, the desired composition of the board may be different and should be reviewed. Director selection criteria must be clear, as the basis for performance evaluation and remuneration. An effective director will ask the hard questions, possess industry awareness, have business knowledge and prepare adequately for meetings. You therefore wonder how many boards a man can sit on and be effective.

The board must have a good numerical balance of executive, non-executive and independent Directors, preferably with a weighting in favour of non-executives

3. Strategy and Values – Best practice firms are clear about their purpose and values, and communicate the same through the organisation. A young man who worked in a bank once told me he had quit, because he could no longer live with his job of conveying money to certain persons in Abuja as necessary. I congratulated him but felt sad that this was a bank that was vocal about corporate governance and integrity.

4.Company performance – The board must define what success means to the company, and have a systematic template for measuring it. Best practice companies define this in terms of the triple bottom line performance, including the extent to which individual employees participate in community engagement initiatives

5. Compliance and disclosures – Openness in reporting compliance and in disclosing both the good news and the not-so-good, as well as protection for whistle blowers

6. Communication – Stakeholders want to understand the company and its philosophy.

7. Accountability to shareholders – Respecting the right of shareholders to information, but this respect has to be mutual

8. Relationship with shareholders – No price sensitive information may be given to any shareholder unless it is made available to all shareholders simultaneously. This also includes assurance of the protection of minority shareholder interests.

9. Balance of power – Best practice companies have the roles of Chairman and CEO separated. The Board must also ensure that the right level of debate is

encouraged, and also that the CFO is of such stature that he or she can engage the CEO

10. Internal processes and control – The integrity of the internal business processes and controls is of major interest to stakeholders. This includes particularly what the CEO can do and what checks and balances there are within the organisation.

11. Board performance assessment – In best practice companies, the Board has a formal process of evaluating its own effectiveness. This mechanism also provides a platform for giving a feedback to the Chairman on his or her own effectiveness and leadership.

12. Management appointment and development – A formal succession process, and for developing senior managers

13. Technology – The alignment of technology choices with strategy and its environmental impact assessment

14. Risk management – The evaluation of risk associated with any initiative and the corresponding business continuity planning

15. Annual review of future solvency – A frank and brutal assessment of important indices, especially cash flows

The characteristics of the well-governed companies provide a high level dip stick for internal self-check, and make the effort worth going for. No marks for guessing that discipline tops the list. We have referenced the other attributes in the course of our discussion and I wont bother to go over them again – except to emphasise the importance creating mechanisms to avoid conflict of interest.
Best in class firms have a good balance of executive and non-executive directors, adopt a formal evaluation of Directors and the Board, have Directors take personal stake in the company and also have a good proportion of their remuneration at risk because its tied to company performance. They are responsive to investor requests for information on governance issues, and maintain a code of conduct for Directors and senior managers, covering issues like closed periods when they cannot trade on the company's stocks etc.

The Challenge for Leadership in Nigeria

One of the challenges of corporate governance reform in Nigeria is the deeply entrenched positions arising from the distortions in our development model as a nation, and the unwillingness to change because of the tendency for leaders to feed off the organisation they preside over. I once chaired a continental Stewardship and Accountability Commission and it was amazing to see the extent to which the divide between the personal affairs of the boss and those of the organisation had been blurred in many cases. Company assets get used interchangeably with personal tasks.

A second challenge is that socially-validated value system and societal expectations tend to drive practice and behaviour, rather than principles. Executives acquiesce so readily because no one is willing to 'rock the boat'. This has only allowed corrupt leaders even more room to install their own warped values. Corporate Governance best practice is for Boards to adopt a system for their own performance evaluation and provide a platform for giving the Chairman a feedback on his own effectiveness as chair of the Board. But if Directors look to Chairmen as demi-gods, this challenge and healthy debate will never happen. We are so blinded by titles that even a non-executive Chairman believes he can simply give instructions to the CEO to hire a relative. Governance 101 will say that even the CEO must never simply "use his good offices" to sidetrack company procedures on such matters. This is also why a Governor being investigated for some wrongdoing, right or wrong is irrelevant, jumps bail and arrives home to waving banners, when the least his people should do is to ask serious questions on whether those allegations are true or not. And let no one attribute this behaviour to poverty of the pocket. It is extreme poverty of values and a desecration of human dignity.

A third challenge is the generally inadequate preparation for leadership, and the severe dearth of self-development effort once a person has attained a position perceived to be high. And yet leadership has nothing to do with position, and it is the responsibility of anyone who desires to attain leadership stature to submit himself or herself to principles, and live by them. This is true in both the private and public sectors. In the public sector, we don't have a system by which leaders emerge through a process of deliberate hard and grinding preparation. A pilgrimage through prison may have helped but is not enough. Political leaders with unknown or doubtful antecedents emerge on the scene and naturally have little scruples, let alone a clue about governance principles. You must have heard the joke about legislators who arrived Abuja in overnight bus without any previous visible means of livelihood. Today we have a new crop of *neuveau-riche*, whose need for acclaim is miles ahead of real contribution to development. They are quick to drop hints on how often they have breakfast with President Obasanjo. Unfortunately, this leaves our young people growing up in a microwave world with no real standards or principled mentors, and the craze for material possession dwarfs the time-tested principle that everything is a process. Industry sectors that experience accelerated growth run the risk of inadequate preparation of its succession of leaders, and the Nigerian experience over the last fifteen years is self-evident. As the reform process takes hold, we will experience rapid growth in many sectors in the future, and we need to invest massively in capacity building, to make thoroughness and the pursuit of high standards a virtue again.

The fourth challenge is that corporate governance demands a degree of openness that we may find challenging or intimidating, especially as leaders. Leaders are called to be accountable, and that often demands a considerable degree of self-denial and humility. Modesty in life style is a priceless virtue.

The fifth challenge is that usually corporate governance initiatives start with big business and listed companies. The assumption is that they have a considerable leverage to help instil the same discipline in the SME sector. For example, such have an opportunity and indeed a responsibility, to progressively encourage their SME suppliers and customers to adopt the principles of governance. The challenge is for big business itself to fully institutionalise those standards. I know for example that getting subscription to the Convention on Business Integrity has not been as easy as one would have thought.

This is where we link back up with our slain friend Tunji, who, in spite of a string of achievements in his short life committed to such higher value ethos, which, if I may steal the patented words of Stephen Covey, was guided by a passion to live, to love, to learn to leave a legacy. Implementing corporate governance principles and practice will require concerted effort and behaviour change. For as many as are willing to undertake this journey, we will need to collaborate and support one another through the challenges of swimming against the tide. And if we are ready, the time to begin is now, and what better place to renew our commitment to these higher values than right here.

I thank you for your patient attention

Bunmi Oni
November 24, 2005