UNITED NATIONS
ECONOMIC COMMISSION FOR AFRICA
SOUTHERN AFRICA OFFICE

ECA/SA/TPub/GOVERNANCE/2006/02

THE STATUS OF GOVERNANCE IN SOUTHERN AFRICA

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Foreword

This publication on “The Status of Governance in Southern Africa” provides an overview of the political, economic and corporate governance patterns in the Southern African subregion. The publication also recommends some measures where policy makers should focus their actions in order to implement and practice good governance based on international and regional sound codes and standards.

Since independence, notable progress towards good governance, both in its technical and political dimensions, has been made in most of the countries in the subregion. These include the setting up of democratic institutions, the holding of multi-party elections, the increase of popular participation in governance, and improved dialogue between governments and stakeholders. In addition, a number of constitutional, legal and administrative changes have been undertaken with the objective of consolidating and deepening democracy. In addition, subregional structures to support national processes have been established including the Electoral Institute for Southern Africa, SADC Parliamentary Forum and the Human Rights Trust of Southern Africa. Despite these achievements, the subregion continues to face serious governance challenges.

Institutional effectiveness and accountability of government institutions, for instance, suffer from a lacuna of resources, while available resources are often inappropriately and inefficiently used. These have, invariably, taken a toll on public service delivery. Some countries are, further, plagued by high inflation, high interest and exchange rates making any attempts at poverty reduction and economic growth difficult. Effective economic management is hindered by the inability to restrain public expenditure in light of volatile economic growth and limited revenue bases. In addition, political representation and participation are constrained by organizational problems with regard to elections.

I would like to express my appreciation to all the experts for providing recommendations on the nature and scope of policies, legal and regulatory frameworks that are required to improve the status of governance in the subregion. Their inputs, knowledge and expertise have proved invaluable.

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Acknowledgements

The United Nations Economic Commission for Africa, Southern Africa Office (ECA-SA) prepared this publication with the technical assistance of Bernard Chisanga as the consultant. Doreen Kibuka-Musoke supervised the consultant's work and assisted with the preparation of the final technical publication.

The ECA-SA team of professionals comprised the Director, Jennifer Kargbo, and Patrick Bugembe, Munorweyi Dhliwayo, Gladys Mutangadura, Irene Lomayani, Kampion Banda and Oliver Maponga reviewed and commented on earlier drafts of the report. Monique Nardi Roquette from the ECA Development Policy Management Division (DPMD) also provided substantive comments on the draft report. Anne Mwansa provided secretarial support.

The final report was informed by the contributions from a group of experts who reviewed the original draft at an Ad Hoc Expert Group Meeting (AEGM) that was held in Manzini, Swaziland from 7 to 8 April 2006. The comments and recommendations of the meeting have significantly helped in producing this publication. An extract of the recommendations of the AEGM is annexed to this publication.

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ACRONYMS

ACPCC	African Convention on Prevention and Combating Corruption
AGR	African Governance Report
APRM	African Peer Review Mechanism
AU	African Union
BEE	Black Economic Empowerment
CCBG	Committee of Central Bank Governors
CEDAW	Convention for Elimination of Discrimination Against Women
CePRA	Centre for Policy Research & Analysis
CGE	Commission on Gender Equality
CMA	Common Monetary Area
CRC	Convention on the Rights of the Child
CSO	Central Statistical Office
CSOs	Civil Society Organizations
DPP	Director of Public Prosecutions
ECA	Economic Commission for Africa
ECA-SA	Economic Commission for Africa-Southern Africa Subregional Office
EISA	Electoral Institute for Southern Africa
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GRI	Global Reporting Initiative
HIPC	Highly Indebted Poor Country
HIV/AIDS	Human-Immuno Virus/Acquired Immuno-Deficiency Syndrome
HRC	Human Rights Commission
IBA	Independent Broadcasting Authority
IDASA	Institute for Democracy in South Africa
IMF	International Monetary Fund
LHWP	Lesotho Highlands Water Project
LRA	Lesotho Revenue Authority
MLHA	Ministry of Land and Home Affairs
MSME	Medium, Small and Micro Enterprise
MGYCS	Ministry of Gender, Youth and Community Services
MTEF	Medium-Term Expenditure Framework
NANGOF	Namibia Non-Governmental Forum
NCBPGG	National Capacity Building Programme for Good Governance
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organization
OECD	Organization for Economic Cooperation and Development
OSW	Office on the Status of Women
PEM	Public Expenditure Management
PLA	Platform for Action
PPCC	Police Public Complaints Commission
PPPs	Public Private Partnerships
PRS	Poverty Reduction Strategy
SADC	Southern African Development Community
SAHRC	South African Human Rights Commission
SARS	South African Revenue Service
SR	Sustainability Reporting
UDF	United Democratic Front
UNECA	United Nations Economic Commission for Africa
ZANU-PF	Zimbabwe African National Union- Patriotic Front

Executive Summary

It is now widely acknowledged that there is a direct link between good governance and sustainable human development. Governance is defined as the exercise of political, economic and administrative authority in the management of a country's affairs at all levels. Good governance has many attributes. It is about effectiveness, participation, transparency, accountability, equity and promotion of the rule of law. Governance not only includes matters of the State but also concerns the private sector and civil society. All three domains are critical for sustaining human development. The State creates a conducive political and legal environment, the private sector generates jobs and income and civil society facilitates political and social interaction and mobilizes groups to participate in economic, social and political activities.

The Southern African subregion has made major strides towards good governance over the last decade or so. Many countries have undergone major economic and political transformations through macroeconomic reforms, the reintroduction of multi-party politics, the demise of Apartheid and the cessation of civil wars. The subregion has also made concerted efforts towards enshrining a culture of constitutionalism, increasing popular participation in elections, establishing democratic institutions, holding periodic multi-party elections, and supporting the existence of a vibrant media. In addition, subregional structures such as the Electoral Institute for Southern Africa, the SADC Parliamentary Forum, and the Human Rights Trust of Southern Africa have been established to support national processes for enhancing good governance.

Southern Africa has entered an era of political inclusiveness and the democratic framework for conducting politics is accepted as legitimate by most social and political groups. Many Southern African countries are increasingly seeking to ensure that the executive and legislative arms of government reflect the profile of their people. In the same vein, it is now widely accepted that women's perspectives are needed at all levels of decision-making. Women have, as a result, increased access to positions of power in all spheres of public life. However, despite the fact that women constitute the majority of the population in nearly all countries in the subregion, policies and strategies that are targeted at the enhancement of women are stymied by negative traditional and cultural practices.

Another key challenge for good political governance is the lack of internal democracy and weak organizational and management skills among political parties. Other challenges include unequal access to public resources by opposition political parties and, in certain cases, inadequate civil society participation in setting and leveraging the national economic and political agenda.

A trend that portends well for efforts at attaining good governance in the Southern African subregion is in the area of economic governance and public financial management and accountability. More countries are running smaller deficits, meeting their targets for revenue mobilization, managing their tax systems more effectively, improving fiscal transparency, and creating institutions and systems for better auditing of public funds. However, there is a long way to go before citizens build confidence in the efficiency of tax collection systems. In terms of public expenditures, Southern African governments have declared war on poverty and have put in place appropriate policies but tangible results remain elusive. Insufficient resource allocation, poor targeting of interventions, inefficiencies in programme design and implementation and lack of fiscal transparency are still areas that need improvement.

It is vital to note that the quality of corporate governance is not independent from that of political governance. Mechanisms of good corporate governance are heavily influenced by a considerable number of political factors even as the degree of that influence varies across countries both in magnitude and direction. Good corporate governance is an essential ingredient in fostering domestic investment and ensuring inflows of FDI. Many countries in the subregion have already adopted International Accounting Standards and other codes based on international standards such as the South African King Report, the UK Cadbury Report, OECD Code and the Commonwealth Code of Good Corporate Governance. In addition, many countries in the subregion have established Institutes of Directors in an attempt to boost shareholder involvement and value and increase the pool of competent Directors across the subregion. However, enforcement efforts are compromised by slow and inefficient court systems, which reduce investor confidence. Ownership concentration is, for instance, high and there is still relatively low awareness among shareholders and directors.

Increasingly, Southern African governments are putting in place mechanisms and processes to check executive power. The executive branch has, at its own initiative, undertaken several measures to ensure checks and balances within its own institutions and in the wider governance system. The creation of watchdog agencies like Offices of the Auditor-General, Ombudsman and Inspector-General and Anti-Corruption Commissions charged with enforcing leadership codes of conduct are significant examples of these initiatives. The Legislature and the Judiciary are the other institutions that exert oversight pressures and demand accountability and transparency from the executive. However, the necessary transformation in these areas is in an embryonic stage. Not only is the effectiveness of these institutions constrained by inadequate resource allocations and human capabilities but also, in many cases, their lack of independence and autonomy from the executive has called into question their ability as oversight functionaries.

The policy framework and the programme of action adopted by the New Partnership for Africa's Development (NEPAD) is sending a very positive signal to the world that the African leadership is increasingly ready to take primary responsibility for economic and social development and improved governance. In Southern Africa in particular, prospects for a better future continue to brighten as many countries in the subregion are beginning to reap the benefits of economic reforms, improved governance and investments in the last decade. With the rebounding of the global economy, increased focus on infrastructure development, the continued growth of responsible and representative governments and the recovery from several lengthy conflicts, much of the subregion is poised to see more robust economic growth and an improvement in living standards in the years ahead.

Progress towards establishing sustainable economic growth and good economic and corporate governance in the subregion is constrained by the negative ramifications of the HIV/AIDS pandemic. Since its detection in the early 1980s, the pandemic has been one of the most serious challenges against restoring economic growth, improving living standards and improving public service delivery. Sub-Saharan Africa accounts for the largest share of the slightly over 40 million people living with HIV/AIDS in the world. In the Southern African subregion, HIV/AIDS infection rates range between 15 and 39 per cent of the adult population.

CHAPTER 1: BACKGROUND AND INTRODUCTION

1. African leaders have committed themselves to establishing institutions and systems that are more accountable, more transparent and sensitive to human rights and the rule of law. A practical manifestation of this commitment is the New Partnership for Africa's Development (NEPAD). One of the core objectives of NEPAD is the commitment to adhere to global standards of democracy with its fundamental elements of political pluralism and free, open and democratic elections. In this regard, the NEPAD blueprint emphasizes that sustainable human development is impossible in the absence of true democracy, respect for human rights, peace and good governance.

2. NEPAD's African Peer Review Mechanism (APRM) is a vehicle being used to ensure that policies and practices of participating States conform to internationally agreed governance values, codes and standards as a means of fostering political stability, economic growth, sustainable development and accelerated subregional and continental economic integration. The APRM is a voluntary regional arrangement that relies on African ownership, mutual respect and accountability and provides space for Africa to redefine and transform its relationship with the rest of the world.

3. Within the Southern African subregion, political leaders have individually and collectively committed themselves to accelerating economic development, democracy and good governance. This commitment is a critical ingredient in the effective implementation of other national, subregional and continental initiatives targeted at eradicating widespread poverty on the continent. It is also a recipe for realizing the UN Millennium Development Goals (MDGs), regional cooperation objectives of the Southern African Development Community (SADC), trade enhancement targets of the Common Market for Eastern and Southern Africa (COMESA) and other similar bodies aimed at improving living standards in the Southern African subregion.

4. Recognizing the importance of governance in Africa's development agenda and with a view to supporting African countries' commitment and efforts in implementing NEPAD, the ECA has embarked on a comprehensive regional programme of addressing governance issues with emphasis on the three priority areas: political representation; institutional effectiveness and economic management; and corporate governance. The objectives of the ECA Project on *"Measuring and Monitoring Progress Towards Good Governance"* are to provide a mechanism for monitoring the success of efforts aimed at creating and sustaining capable states that are supportive of broad-based growth, sustainable development and poverty reduction. Others are to promote a broad measure of consensus on what constitutes a capable state, have a better understanding of governance processes, mechanisms and policies with a view to promoting an analytically founded dialogue on good governance. The Project further seeks to maintain governance issues on the agenda of policy makers and to assist in institutional capacity assessment by identifying capacity gaps and proposing relevant remedial actions and programmes.

5. In many respects, the ECA Governance Project contributes to the objectives of NEPAD and the African Union (AU) by evaluating and promoting good governance and contributing to the improvement of research and analytical capacities for monitoring and measuring the status of governance across the African region. The main outcome of the ECA project on governance was the Africa-wide report on the status of governance on the continent – "The African Governance Report" (AGR). The AGR is based on data and analysis from the National Country Reports on

governance submitted by the national research institutes contracted by the ECA in 27 countries as part of a large scale project on measuring and monitoring progress towards good governance in Africa[1]. The countries that were selected for the project were divided into three phases. This was a conscious decision attributable to the objective conditions in those countries, logistical reasons and resource constraints[2]. Much of the analysis for the AGR was based on household surveys, expert panels and desk research.

6. This Technical Publication on the "Status of Governance in Southern Africa" is part of the continuing efforts by the ECA to sustain popular dialogue on the extent to which African countries are entrenching the culture of a capable state[3]. With a specific focus on the Southern African subregion, this publication assesses the degree to which national authorities are creating sustainable governance institutions and structures for broad-based socio-economic growth and poverty reduction. Although not a replica of the AGR, the publication heavily draws on its findings and conclusions. However, given that the ECA Governance Project commenced in 2001, some of the data has been supplemented and updated from other more recent sources based on rigorous desk research.

7. The publication is divided as follows: Chapter One provides a brief background and introduction; Chapter Two provides an analysis of the status of political governance in Southern Africa focusing in particular on political structures, gender representation and electoral processes; Chapter Three focuses on economic management, including public financial management and domestic revenue mobilization; Chapter Four provides an analysis of the status of corporate governance and covers areas such as corporate social responsibility and sustainability reporting. The status of institutional checks and balances is covered in Chapter Five. Chapter Six provides an overview of key governance challenges in Southern Africa, while a list of recommendations for achieving good governance in Southern Africa is provided in Chapter Seven.

1. Most of the data presented in this publication on "The Status of Governance in Southern Africa" are directly from the AGR unless otherwise indicated.

2. Due to political constraints, Angola was the only country in the Southern Africa subregion not included in the Project. However, given the recent improvements that have taken place in the country, Angola will be included in the African Governance Report (AGR II).

3. The Technical Paper is based on a sample of ten (10) Country Reports of countries in the Southern African subregion that were involved in Phase 1 of the ECA African Governance Project. These are Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe.

CHAPTER 2: THE STATUS OF POLITICAL GOVERNANCE IN SOUTHERN AFRICA

8. The relationship between political governance and sustainable human development is now widely acknowledged. Political governance, as understood to mean the gamut of institutions, structures, norms and practices by which a polity is organized and managed, is at the core of any capable State. The interface between political governance and human development is important because it determines the organization and distribution of production inputs, such as labour and capital, and provides the framework within which to energize and unleash productive potentials of the population. Political governance should be girded by credible policies that enhance probity in the use of public resources, curb corruption, promote initiative and competition and provide space for popular participation in the management of national affairs. In this regard, a political framework founded on a constitutional order that is agreed by the majority of the people will claim legitimacy.

2.1 Political Structures, Systems and Representation

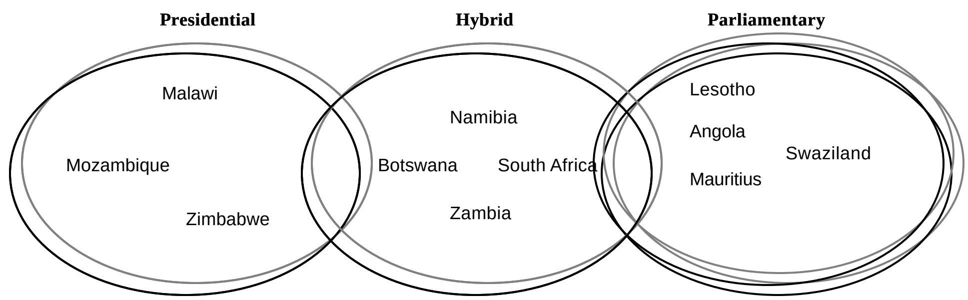
9. The Southern African subregion has been experiencing momentous political transformation. In the last decade or so, Malawi and Zambia have reintroduced multi-party democracy, and Angola and Mozambique have seen an end to long protracted civil wars. The demise of Apartheid has had a positive influence on political freedom and multi-party democracy in South Africa and surrounding countries and contributed to repositioning South Africa within subregional cooperation initiatives. The subregion has also witnessed concerted efforts towards enshrining a culture of constitutionalism and democratic governance. Consequently, many countries now have well-established democratic institutions, periodic multi-party elections, increasing civil society participation in economic and political affairs and an emergent vibrant media. These and other developments are clear pointers to the resolve by Southern African governments to establish, broaden and deepen frontiers of democracy and democratic governance.

10. The structure of government, as a mechanism of political representation, determines how the executive is constituted and operated and how the legislature is composed, including the scope of separation of powers. In Africa, there are three types of governmental structures. These include the Presidential, parliamentary and hybrid systems. The presidential system has a single executive, the President, who is usually directly elected by the people as is the case, for example in Malawi, Mozambique and Zimbabwe. As a fulcrum of power, the President appoints the Cabinet. In a parliamentary system, there is a fusion of legislative and executive powers. The President mostly performs ceremonial functions as Head of State and appoints the Prime Minister. In the Southern African subregion, examples of the parliamentary system include Lesotho and Mauritius.

11. Governments in the Southern African subregion are evenly distributed among presidential, parliamentary and hybrid type of governance systems (see fig. 1 below). The hybrid system of government combines elements of presidential and parliamentary systems and is found in Botswana, Namibia, South Africa and Zambia. The President is directly elected by the people, is the centre of power and appoints the Cabinet from among Members of Parliament. It is, however,

held that irrespective of the system of government, it is the nature, openness and inclusiveness of a political regime that, invariably, determine the degree of popular participation in the political arena.

Figure 1: Nature of democratic governmental systems in Southern Africa



Source: ECA, 2005: 22

12. A democratic system that provides space for ventilation of society with alternative political views is a recipe and fertile ground for good governance. Many national Constitutions now guarantee political and civil rights, political participation irrespective of race, creed, religion, ethnicity, origin and gender. Stipulations for Human Rights protection are also embellished in most national constitutions in the subregion. The South African Constitution, for example, obliges government departments to routinely submit reports to the South African Human Rights Commission (SAHRC), while the Zambian Constitution provides for a Human Rights Commission (HRC) under the Chairmanship of an independent legal practitioner. Zambia also has a Police Public Complaints Commission (PPCC) that has so far succeeded in indicting a number of Police officers accused of human rights abuses.

13. The adoption of multi-party democracy and democratic governance in the subregion has, therefore, in many respects liberalized the political landscape. However, improved popular participation in national and local elections has not been consistent across the subregion (see table 1 below). It is also true that political liberalization has resulted in amenable party registration procedures with the result that each country now boasts of several political parties[4]. Despite this progress, there are still a number of challenges that need to be addressed. Among these is how to ensure that national constitutions become living documents that are respected by all sectors of society so that what is provided for in the Constitution is reflected as political reality on the ground.

[4] Today South Africa has 140 political parties, while Botswana and Zambia have 13 and 30 parties, respectively.

Table 1: Voter turnout in the Southern African subregion (2000)[5]

BOTSWANA	High voter turnout of 77 per cent in 1999.
LESOTHO	Declining voter turnout from 72 per cent in 1993 to 58 per cent in 1998.
MALAWI	Mixed voter turnout. High voter turnout of 78 per cent in 1999 national elections. Low voter turnout of 15 per cent in 2000 municipal elections.
MAURITIUS	High voter turnout of 80.87 per cent of registered voters who cast their votes in the 2000 national election. This is an increase of close to 2 per cent compared to the 79 per cent voter turnout achieved in 1995.
MOZAMBIQUE	Mixed voter turnout. Low voter turnout of 14.58 per cent in the 1998 municipal elections (opposition boycott). High voter turnout of 70 per cent in the 1999 presidential and parliamentary elections.
NAMIBIA	Declining voter turnout from 76 per cent in 1994 to 62 per cent in 1999.
SOUTH AFRICA	Mixed voter turnout. High voter turnout of 89.3 per cent in 1999, but only 50 per cent for the municipal elections of 1995/96 and 2000.
SWAZILAND	Generally low voter turnout, achieved 60 per cent in 1998.
ZAMBIA	Declining voter turnout – less than 50 per cent in 1996 (opposition boycott), and 26 per cent in 1998 municipal elections.
ZIMBABWE	Declining voter turnout from 95 per cent in 1980 to 54 per cent in 1990 and less than 50 per cent in 2000. Only 32 per cent voted in the 1996 presidential elections.

Source: Electoral Institute for Eastern and Southern Africa.

14. Another challenge to good political governance in the subregion is the dominant party system. Despite the liberal democratic model in the subregion, many countries are characterised by dominant parties. The dominant party system is entrenched in Botswana, for example, where the Botswana Democratic Party (BDP) has ruled the country since 1996. The ruling ZANU-PF in Zimbabwe has been in power since independence in 1980 with the result that creating conditions for genuine political pluralism has not been possible. Similarly, the overwhelming political power of the ruling ANC party in South Africa and the risks this poses to both the competitiveness of the multi-party system and authority of the Constitution should not be underestimated. In Swaziland, even though the new Constitution has removed all the vestiges of the 1973 Royal Decree, which outlawed political parties and entrenched Royal absolutism, it still remains ambiguous on the right

[5] Voter turnout is recorded as the percentage of officially registered voters, not the estimate of the total eligible voting population. Averages would be considerably lower in some cases if turnout was measured the other way.

to form political parties. This, invariably, makes genuine and effective popular participation in national decision-making problematic.

15. In addition, good political governance in Southern Africa is compromised by voter apathy. As can be seen from table 1 above, popular participation in elections, as a measure of good governance, has been fluctuating over the last decade[6]. Explanations for this include public distrust of political and electoral processes, social exclusion and political disenfranchisement. Others are logistical inhibitions such as long distances to voter registration points and inadequate access to information on voting procedures. One lesson from this is that, while political liberalization may be used to reverse voter apathy, there is need for reform in institutions and processes that serve as catalysts for constitutional and democratic consolidation with a view to establishing credible electoral systems and procedures.

16. The positive trends in terms of the proliferation of political parties across the subregion have, unfortunately, not been matched by any growth in internal party democracy, organization and management. Many political parties are still characterized by weak internal management structures while, in the majority of cases, the formation of political parties is top-down with little consultation. Leadership of political parties is as political an issue as the organization itself. Undoubtedly, the effectiveness of any political party in respect of its contribution to a working democracy is heavily dependent upon its leadership. The leadership issue remains problematic largely due to weak internal management structures and lack of internal democracy.

2.2 Gender Representation

17. Concerns for gender representation rest on the fundamental need for mainstreaming women in economic and political processes. Women in the Southern African subregion account for the majority of the population. However, despite their numerical strength, they remain hugely marginalized from setting and leveraging the economic, political and social agenda. Women's representation in policy-making and legislative organs such as the executive, legislature, judiciary and the civil service is central to promoting gender equity in politics. It is also important to give active institutional support to organizations that promote the interests of women in both economic and political arenas.

18. In recognition of the importance of mainstreaming gender in governance, and as shown in box 1 below, AU and NEPAD have, as part of their objectives, the requirement to mainstream gender in the African development agenda. This commitment has been strengthened by the Declaration on Gender Equality by the African Heads of State and Government at the 3rd Ordinary Session of the AU Assembly that was held in July 2004. The Declaration reaffirms their commitment to the promotion of gender equality at all levels of human development. It, further, commits them to enacting and reviewing relevant pieces of legislation with a view to strengthening women's land, property and inheritance rights.

[6] This is generally most apparent amongst young voters, high-income voters and diaspora voters. However, increased access to information and education among women has reduced the gender gap in voting in most of the countries.

Box 1: Mainstreaming gender in governance

Both NEPAD and AU have the mainstreaming of gender in the development process in Africa as one of their basic objectives and principles. The following policy measures are recommended:

- All African countries should have gender-affirmative action policies, which seek to increase the participation of women in all decision-making and governance structures to no less than 30 per cent. A gender commission should be established to monitor progress and enforcement of this policy;
- Female education should be encouraged in which some preference is given to female candidates in admission policy at all levels of education from primary to tertiary;
- Private sector employers should be encouraged to have gender equity principle as part of their corporate employment and management policy; and
- National discussion on gender issues should be encouraged as a basis for promoting dialogue and deconstructing the cultural and traditional barriers against women's equality in society.

Source: Synopsis of the African Governance Report, 2005: 10.

19. Most countries in Southern Africa have acceded to key subregional, regional and international agreements and conventions on gender equality. These include the Convention on the Elimination of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action (PLA) and the Convention on the Rights of the Child (CRC). Member States are also signatories to the SADC Declaration on Gender. The Declaration commits leaders to, among others, apportioning to women 30 per cent of seats in their Parliaments. These commitments have played a significant role in according women positions of leadership across the subregion. South Africa and Zimbabwe have women Vice-Presidents, while Zambia has a woman opposition political party President and a woman Auditor-General.

20. In addition, many countries in the Southern African subregion have established institutions that focus on gender affairs. Botswana has a Division of Women's Affairs in the Ministry of Labour and Home Affairs (MLHA) and Malawi has a Ministry for Gender, Youth and Community Services (MGYCS). In Zambia, there is a Ministry of Women Affairs and South Africa has the Office on the Status of Women (OSW) in the President's Office and a Commission on Gender Equality (CGE).

21. Table 2 below shows a classification of countries based on the share of seats held by women in national Parliaments. In Mozambique, the proportion of women in Parliament is 30 per cent. Relevant proportions for Botswana, Lesotho and Zimbabwe are 27, 23 and 16.7 per cent, respectively. South Africa is, in fact, in the top league of countries that have made tremendous progress in mainstreaming gender in national decision-making and is currently ranked seventh in the world in terms of women representation in Parliament. This rating surpasses most countries in Europe and puts the country on a similar footing with others such as Norway and Denmark. Countries in the subregion have also made commendable strides in promoting the role of women in

the corporate world. There are, for instance, several examples of female managing directors of both public and private firms.

Table 2: Share of seats held by women in National Parliament (%)*

Weak or More – Less than 10 %	Mauritius, Swaziland
10-25 %	Botswana, Lesotho, Malawi, Namibia, Zambia, Zimbabwe
Greater than 25%	South Africa, Mozambique

Source: ECA, 2005: 31 (modified)

22. It is evident, therefore, that significant steps have been taken to scale-up women's participation in politics in the Southern African subregion. However, serious challenges remain. Levels of female representation and participation in politics, for example, are still relatively low. The primary cause of weak representation and participation of women in politics, in part, resides in certain cultural practices and traditions. In this regard, countries such as Mauritius and Swaziland amply demonstrate how a society's traditional and cultural heritage can have a significant impact on women participation in politics. In many societies it is still held that it is more beneficial to educate a boy rather than a girl and early marriage acts as an impediment to the education and advancement of the girl-child.

23. The sad reality that prevails, therefore, is that while national Constitutions in many countries provide for equal opportunity and progressive gender laws have been passed, certain traditions and cultural practices continue to bottleneck the advancement of women and realization of gender equality. Consequently, there are increasing calls for radical reviews of negative cultural and traditional practices that obstruct the effective translation and implementation of policies and legislation targeted at enhancing the status of women.

2.3 Electoral Processes, Practices and Mechanisms

24. The legitimacy and integrity of any electoral process resides in the extent to which its various structures, institutions and processes that govern the conduct of elections create conditions for competitive and fair elections. Indeed, people's confidence in the electoral process is a function of, *inter alia*, the perceived transparency and accountability of voting practices and mechanisms for conflict resolution or adjudicating contentious electoral outcomes. Given this background, the nature and manner of operation of national institutions tasked with the organization and management of elections are key considerations in institutionalizing the culture of multi-party elections. If national electoral institutions are perceived to be corrupt, unaccountable and non-inclusive, the probability is that national and local election outcomes will be dismissed as illegitimate.

25. At the subregional level, SADC member States have agreed on a set of basic 'Principles for Election Management, Monitoring and Observation' (PEMMO). The PEMMO are an outcome of a resolution of Heads of State and Government to promote common systems and political values through institutions that are democratic, legitimate and effective. The principles are founded on the understanding that broadening of frontiers of democracy demands more than holding scheduled

national and local elections. Furthermore, deepening democracy should, further, be embellished by generally accepted values that ensure fair electoral practices predicated on representation, accountability, inclusiveness, transparency, gender equality, tolerance and respect for diversity.

26. The SADC Principles are meant to address the following electoral concerns:

- The need for a comprehensive constitutional and legal framework;
- The need for transparent and accessible pre-election procedures (including the delimitation process, voter registration and candidate nomination);
- The equitable use of the media and public resources and issues of political party finance;
- The organization and management of the election phase, including the location of polling stations, their layout, and access to them, the secrecy of the ballot, and the counting process;
- The post-election phase, including the settlement of election disputes and ways of ensuring that results are acceptable; and
- The requirements for unhindered, credible, professional and impartial monitoring and observation of the electoral process.

27. At the national level, the majority of countries have established Electoral Commissions which have significantly contributed to enhancing the credibility of elections in the subregion. However, despite these positive developments, many Presidential and Parliamentary elections have been marred by allegations of corruption, bribery and violence. Allegations have also been levelled against the conduct of Electoral Commissions during national and local government elections, which have reduced the legitimacy of these institutions.

28. Table 3 below shows the results of the AGR Expert Survey in regard to the legitimacy of electoral authorities. Despite the fact that 57.6 per cent of respondents in the Expert Panel Survey were of the opinion that political parties accept the legitimacy of the electoral authority as manager of the electoral process, there is still a fairly strong perception in the Southern African subregion that Electoral Commissions are far from being legitimate.

Table 3: Expert opinion on the legitimacy of the Electoral Authority

Country	Political Parties Accept the Legitimacy of the Electoral Authority as Manager of the Electoral Process	Political Parties regard the Electoral Authority to be under the Influence of the Ruling Party	Political Parties regard the Electoral Authority to be openly biased towards the Ruling Party
Mauritius	98	2	-
South Africa	97	5	2
Namibia	92	10	1
Lesotho	75	12	5
Botswana	66	37	-
Malawi	42	44	17
Mozambique	33	50	9
Zambia	32	53	9
Zimbabwe	29	61	61
Swaziland	12	31	50
Average	57.6	30.5	19.25

Source: Adapted ECA, 2005: 46

29. There are several explanations for this but the major one is the inadequate public funding that goes to Electoral Commissions. In many cases, allocations from the national treasury usually fall far short of planned expenditures with the result that their operational capacity and independence are severely compromised. The operational capacity of Electoral Commissions is further undermined by unattractive remuneration and poor conditions of service. Another explanation relates to the mode of appointment of Heads of Electoral Commissions. In the majority of cases, this is the function of the Head of State. Even though appointments of Heads of Commissions are, in certain countries, subject to parliamentary ratification, it is, however, perceived that parliamentary oversight does not influence the eventual selection.

30. The unequal access to public resources by opposition political parties is another concern. Due to limited resources, opposition political parties, quite often, fail to campaign or reach all constituencies during elections. In addition, unequal access to both electronic and print media by political parties is particularly apparent in countries in which the media is owned and controlled by the government. In Malawi, for example, even though the Parliamentary and Press Elections Act provides every political party with the right to have its campaign reported by the Malawi Broadcasting Corporation and in every newspaper circulating in the country (AGR 2005:44), only 23 per cent of Experts surveyed were of the opinion that the mass media operates within a free and competitive environment where rights are only infrequently violated by the government or ruling party.

CHAPTER 3: STATUS OF ECONOMIC MANAGEMENT IN SOUTHERN AFRICA

31. Good economic management pertains to the manner in which elected and appointed public officials mobilize and allocate resources within the broad framework of competing national demands. It also pertains to the extent to which members of the public are able to leverage and influence the direction of economic policy-making and allocation of public resources. The direct link between the nature of a country's policy and regulatory framework and good economic governance now occupies centre stage in the sustainable human development discourse. Indeed, there is now a broad consensus that good economic and corporate governance are requisites for economic growth.

3.1. Public Financial Management and Accountability

32. The main objective of fiscal and monetary reforms in the Southern African subregion is to establish systems that efficiently and effectively manage public resources and reduce poverty. Central to this objective is the integrity and inclusiveness of the budgetary process, efficiency of revenue collection and fiscal discipline. Budgetary discipline is, particularly, key to effective public financial management and should be guided by a political commitment to a prudent and rational expenditure culture.

33. Studies across Africa amply demonstrate that the public expenditure management (PEM) systems of most governments are weak. Evidence also suggests that some countries undertake spending without budget authority, make commitments that are not backed by resources and suffer from poorly maintained accounting systems. These weaknesses have led to, among others, poor budget performance outcomes and unnecessary budget over-runs.

34. In order to address the problem of poor budgetary performance, it is important to adhere to good public resource management ethics. In this regard, a sound PEM system should be characterized by:

- A clear legislative basis for budgeting with rules that are amenable to strict adherence and sanctions;
- A well defined and comprehensive budget with minimal extra-budgetary activities;
- A strong and capable Ministry of Finance that is able to enforce budget discipline;
- Formal restrictions on budget deficits and expenditures;
- An effective accounting and auditing system with capacity to produce timely fiscal reports;
- An adequate remuneration and benefit system for the civil service; and
- Clearly established and adequately disseminated laws and regulations.

35. Over the last couple of years, various reforms of public financial systems have taken place across the Southern African subregion with a view to enhancing monetary and fiscal accountability and transparency. Namibia, for example, has been engaging initiatives to strengthen adherence to internationally accepted Codes and Standards such as the IMF's Code of Good Practices on Fiscal Transparency (see box 2). Many governments have also been enhancing fiscal accountability and transparency through the strengthening of public oversight institutions such as Anti-Corruption Commissions, Auditor-General's Office, Accountant-General's Office and similar others. This has, to some extent, resulted in curbing cases of fiscal malfeasance, reducing corruption in tax collection and increasing public confidence in institutions of economic management. The Lesotho Government has established the Lesotho Revenue Authority (LRA) after putting the three tax departments under one Board of Directors. This was done as a means of improving flexibility in operations, increasing efficiency and effectiveness in tax collection and offering better services to tax payers.

36. Governments in the Southern African subregion have, in various forms, also stepped up their fight against corruption in the management of public resources. In this regard, nearly all countries in the subregion are signatories to the African Convention on Preventing and Combating Corruption (ACPCC) that was adopted by the African Union Heads of State and Government in 2003. The Convention establishes:

> …procurement standards, accounting standards, transparency in funding of political parties and recognizes the need for civil society participation. It also requires African countries to establish as criminal offences, bribery, diversion of property, trading in influence, illicit enrichment, money laundering and concealment of property (President Thabo Mbeki, "Lesotho says No to Corporate Corruption", The Post, Friday, August 25, 2006: 27).

37. In demonstrating commitment to fighting corruption, a number of countries in the subregion have prosecuted high-profile cases of misuse and diversion of public resources. An outstanding case is the prosecution of the Chief Executive Officer of the Lesotho Highlands Water Project (LHWP). The Chief Executive Officer was indicted and successfully prosecuted on charges of receiving huge amounts of money in the form of bribes to favour certain international firms in the award of contracts for construction of the Katse Dam. Zambia has also been prosecuting a number of high political figures in the previous Government of President Frederick Chiluba on corruption charges and diversion of public resources.

Box 2: Namibia excels in monetary and financial management

Namibia has sought to promote transparency in its monetary and financial systems by adhering to and fully implementing the IMF's Code of Good Practices on Transparency. The Bank of Namibia formed a committee to examine the degree to which its practices conformed to the requirements of the Code. The committee concluded that Namibia was already in compliance with many of the Code's provisions and recommended several measures for areas not in compliance that were later adopted, including disclosing information on the boards of all organizations on which the governor, deputy governor and senior officials of the Bank serve; posting particulars of its tender policy and putting the terms of reference of the overnight credit facility on the website; and publishing monthly information on the bank's foreign exchange reserve assets, liabilities and commitments. It also signed a Memorandum of Understanding on the consultative framework with the Namibian Financial Institutions Authority and included the number of grievances and complaints reported to the bank on unfair banking practices and the action taken on them in the bank's annual report.

Source: ECA, 2005: 73.

38. The other significant initiative is the adoption of the Medium-term Expenditure Framework (MTEF) approach to public financial management. The MTEF is a comprehensive resource management tool that links policy-making, planning and budgetary management on a multi-year rolling basis. The advantage is that this approach allows for public expenditures to be driven by national development policy priorities and resource availability. In this respect, the MTEF is a tool that permits revenue and expenditure forecasting in the short to medium-term. It also enhances predictability and comes with a multi-year sectoral programme with cost estimates, a strategic expenditure framework, resource allocation plans among sectors, including sectoral budgets.

39. It is, however, important to acknowledge the fact that preparation of budgets within a medium-term fiscal framework is not a practice entirely new to the subregion. In Botswana, for example, multi-year budgeting and planning have their antecedents in the economic planning systems that were part of the paradigm of government in the first two decades after independence under National Development Plans (NDPs). The planning process in Botswana has proved to be effective and substantial reserves have been built up, enabling the government to withstand periodic downturns in the diamond export market. This has won the country accolades, especially with regard to the fact that proceeds of mineral revenues have been channelled to key sectors such as education, health and physical infrastructure. Indeed, Botswana's NDP-predicated MTEFs have been a critical ingredient in its unique record of effectively utilizing mineral resources for national development. In addition, prudent checks on manpower growth, which are an integral part of the planning and budgeting systems, have helped Botswana avoid the downward spiral in real pay and supporting expenditure experienced by other countries in the subregion.

3.2. Domestic Revenue Mobilization and Tax Administration

40. Public revenue is the lifeblood of the State and taxation is the primary mechanism for revenue generation. The tax structure is generally composed of direct and indirect taxes. Direct taxes often include corporation tax, personal income tax (e.g. Pay-As-You-Earn (PAYE)), withholding tax, rental income tax, tax on interest on bank savings, presumptive income tax and tax on demerit goods (alcoholic beverages and tobacco). Indirect taxes include those on domestic goods and services such as Value-Added Tax (VAT). Indirect taxes further comprise taxes on

international trade transactions such as import duty, VAT on imported goods and services and excise duties on specific imported goods. Generally, indirect taxes on goods and services are the major revenue bases. However, direct taxes on income and wealth are important revenues in many of the poorer countries in the subregion. In Malawi, for instance, direct taxes generate over 40 per cent of total tax revenues.

41. During the 1980s, tax reforms became part of the larger structural adjustment programmes due to the increased awareness of the extensive administrative problems and constraints associated with tax systems across the subregion that often resulted in widespread tax evasion and enforcement problems. Many of the reforms were focused on the central government tax system. In order to increase revenue and curb corruption, a number of countries (e.g. South Africa) have implemented comprehensive reforms of their tax administrations and have established and/or strengthened revenue authorities (see box 3 below).

Box 3: Reform in the administration of the tax system in South Africa

Responsibility for resource mobilization in South Africa is in the hands of the South African Revenue Service, created in 1997 as an independent agency responsible for tax collection and administering the tax system. One of the early actions was a complete overhaul of the tax administration and information system. Tax regulations and procedures were published and disseminated widely to assist taxpayers in completing their tax returns, and an extensive media campaign aimed to increase public awareness of tax rules and procedures to enhance compliance and transparency and create a sense of equity in the tax system. Thanks to these and other efforts, the South African Revenue Service has achieved outstanding gains in efficiency, broadened the tax base and increased compliance with the tax legislation. One measure of success is that the consolidated revenue for 2001/02 was 6.1 per cent greater than the 2001 budget's estimate. The South African Revenue Service is projecting that this gain in revenue collection will be sustained in the medium to long -term.

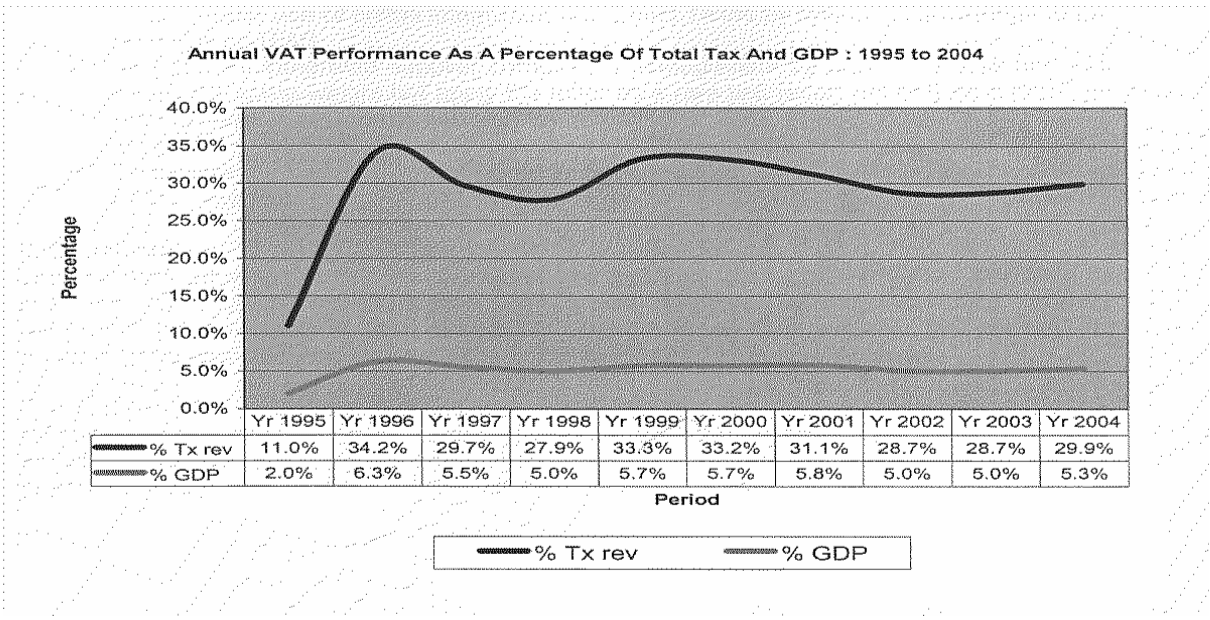
Source: ECA, 2005: 61.

42. South Africa has been implementing tax reforms through the South African Revenue Services (SARS) with a view to strengthening tax administration and collection and has been successful in meeting revenue collection targets. In fact in 2001/2002, South Africa exceeded its revenue collection target by 6 per cent largely due to reforms in the administration of the tax system (AGR, 2005: 61).

43. The Zambian Government has, on its part, embarked on tax reforms which have primarily involved the de-linkage of the Customs and Excise Departments from mainstream government administration. In April 1994, the de-linkage resulted in the formation of the Zambia Revenue Authority (ZRA) as a corporate entity under the 1993 Act of Parliament. In April 1995, Parliament enacted the Value-Added Tax (VAT) Act that saw the introduction of VAT and scrapping of Sales Tax. This resulted in a highly centralized VAT administration structure, which was, eventually, decentralized in response to the growing corporate demand for speedy tax services. One of the dividends of the tax reforms was an increase in tax revenue collections from 1995 onwards (see fig. 2).

Figure 2: VAT Contribution to GDP – Zambia

Annual VAT Performance as a Percentage of Total Tax and GDP: 1995 to 2004



Source: Zambia Revenue Authority

44. Evidence across the subregion suggests that, despite major tax reforms, there is a public perception that tax collection regimes are still constrained by a number of factors. Very few respondents in the Expert Panel Survey, for instance, were of the opinion that tax regimes in their respective countries were equitable and fair (see table 3). Endemic corruption, tax evasion and lack of transparency in the tax system continue to militate against effective public revenue collection and financial management and are depriving governments of desperately needed resources for development.

Figure 3: Expert opinion on the equitability of the tax system

More than 50% of experts surveyed	25-50% of experts surveyed	10–25 % of experts surveyed	Less than 10% of experts surveyed
Botswana Namibia South Africa	Lesotho Zimbabwe Mauritius, Mozambique	Malawi Swaziland	Zambia

Source : ECA, 2005:65

45. The expert opinion, especially with regard to corruption, is supported by the results of the Household Survey. The Survey found that tax officials are second to Police officers in terms of corruption. In Zimbabwe, for example, more than half the households surveyed said that tax officials demand bribes for services rendered (AGR 2005: 63). Only in Namibia and South Africa was this value below 20 per cent. With regard to transparency, only in Botswana, Mauritius, Namibia and South Africa did more than 50 per cent have confidence in the transparency of the system. As might be expected, countries that have transparent tax systems tend to have less tax evasion and less corruption in the tax system. Conversely, countries that perform poorly in one area also tend to perform badly in the other two. Botswana, Mauritius, Namibia and South Africa have performed well in all the three areas. Lesotho has embarked on far-reaching measures targeted at promoting transparency and addressing corruption (see box 4).

46. Another serious concern is the failure by many national authorities to broaden the tax base. Most of the tax regimes are characterized by a concentration of taxes collected from formal sector businesses and employees to the exclusion of the burgeoning informal business sector. This has, invariably, caused any efforts to optimize revenue collections to squeeze the formal sector beyond its capacity to keep abreast with tax obligations resulting in the cyclical problem of tax evasion. In addition, inadequate tax collection capacity causes a vicious circle whereby the inability of national authorities to collect sufficient levels of revenue results in an inability to recruit and retain skilled personnel to manage and collect sufficient tax revenue.

Box 4: Lesotho takes decisive measures to fight tax evasion

In Lesotho, the measures outlined by the Ministry of Finance to combat tax evasion dealt mainly with enforcement measures:

- Have zero tolerance for tax evasion;
- Strictly apply existing laws;
- Increase enforcement activities;
- Establish specialist teams that move around the country to root out illegal activities;
- Strengthen border controls;
- Punish officials guilty of bribery and corruption;
- Issue and monitor compliance with a code of conduct for all officials;
- Exclude from government contracts companies that fail to demonstrate that their taxes are in order;
- Improve the standard of services provided by the authorities to legitimate business and trading communities; and
- Establish the Lesotho Revenue Authority and put the tax department under one Board of Directors to improve flexibility in operations, thereby increasing efficiency and effectiveness in tax collection and offering better services to taxpayers.

Source: ECA, 2005: 64

47. Increasing the efficiency of the tax system is, in itself, not enough. A related constraint is the lack of a taxpaying ‘culture’ which is one of the largest obstacles to building a firm and sustainable

revenue base. As already established, taxes are perceived to be unfair and people receive few tangible benefits from tax collections. Genuine tax reforms require time as well as commitment of the country's government. Secondly, when benefits from tax collection are widespread but costs are concentrated on specific groups, the likelihood is that affected groups will organize themselves and oppose the tax regime. Thirdly, there are always costs and risks associated with tax reforms. Costs of reform are almost always immediate, while benefits are often spread over the future. In an effort to address the problem of tax evasion and other concerns related to tax administration, the Lesotho Government designed and implemented a range of tax reforms (see box 4).

3.3. Transparency and Independence of Monetary and Financial Systems

48. Most countries in the subregion have made commendable strides towards enhancing the integrity, transparency and accountability of their monetary and financial systems. In this respect, special emphasis has been placed on improving the capacity of central banks and other regulatory institutions to monitor and instil discipline in the financial and commercial banking sector. In Mozambique, the Banco de Mozambique (BM) has been playing an important role in radically transforming the country's monetary and financial system. Using Law No. 15/99, for instance, the Bank has established principles, rules and regulations to govern resolution of conflict of interest in monetary and financial transactions. It also publishes its Annual Reports and audited accounts for public scrutiny. The Bank of Mauritius has been striving towards ensuring monetary and financial transparency and accountability through public dissemination of information regarding its monetary policy and goals. In South Africa, the South African Reserve Board periodically announces its inflation targets together with time frames within which to attain them. It also convenes monetary policy forums for all interested parties and stakeholders as a means of deepening participation in leveraging monetary policy.

49. The integrity of any monetary and financial system is gauged by the extent to which it is able to exercise its independence from external control and pressures. Evidence suggests that there are a number of challenges that constrain efforts targeted at enhancing the integrity and operational independence of monetary and financial systems in the subregion. In many cases, the dominance of the executive in appointments of heads of central banks tends to compromise operational independence. While, appointment of central bank heads by the Head of State is the norm around the world, the fact of the matter is that the practice lends central banks to the dictates and control of the executive. In the case of central banks in Lesotho, Namibia and Swaziland, operational autonomy is somewhat constrained by the membership of these countries in the Common Monetary Area (CMA). Under the CMA arrangement, the South African Reserve Board largely determines and steers monetary policy that the rest of the members, invariably, adopt. It would appear that the only sustainable means of making central banks independent from executive control and pressure is enshrining the independence of the Central Bank Governor in the national Constitution.

50. Operational autonomy of most central banks in the subregion is also stymied by lack of security of tenure of the Governor and members of the Board of Directors. In Botswana, Lesotho, Malawi, Mauritius, Swaziland, Zambia and Zimbabwe, the tenure of Central Bank Governors and members of the Board of Directors is heavily influenced by the Head of State or Minister of Finance. South Africa is an exception in that the independence and security of tenure of the Governor is ring-fenced by the national Constitution and the South African Reserve Bank Act.

3.4. Financial Regulation and Supervision

51. Effective regulation and supervision of banks and other financial institutions is crucial to ensuring stability and credibility in the financial system. The main objectives of regulating and supervising banks and other financial institutions are proper valuations of assets, prompt recognition of losses, early corrective measures to prevent insolvency and prompt action to deal with failures. The Basil Committee on Banking Supervision identified a number of preconditions for effective banking supervision in its Core Principles for Effective Banking Supervision. These include:

- An effective framework consisting of sound and sustainable macroeconomic policies;
- A well-developed public infrastructure;
- Effective market discipline;
- Procedures for fair and effective resolution of business disputes and an appropriate level of systemic protection;
- Clear responsibilities and objectives for each supervisory agency;
- Operational independence and adequate resources for each agency;
- A suitable legal framework for banking supervision; and
- Appropriate arrangements for sharing information among supervisors.

Box 5: Regulatory and supervisory arrangements in Botswana

…arrangements for regulating and supervising banks and other financial institutions in Botswana are still evolving, with several bodies in the government, central bank and other agencies sharing overlapping responsibilities and interests. For example, while the Bank of Botswana regulates and supervises the financial institutions it licenses, mainly commercial banks, the Ministry of Finance and Development Planning is responsible for development financing institutions, insurance companies and pension funds, and there is a separate body for the stock exchange. Some of these regulatory authorities, such as the Bank of Botswana, have independence and credibility, but others, such as those responsible for non-banking financial institutions, lack independence.

Source: ECA, 2005: 76

52. At the subregional level, the SADC Committee of Central Bank Governors (CCBG) passed a resolution in April 2003 to establish a bank supervisory body in the subregion as a contribution to regional integration initiatives in Africa. The inaugural meeting of the SADC Subcommittee of Bank Supervisors (SBS) was held 19-20 November 2004. Objectives of the SBS include:

- Promotion and enhancement of bank supervision through adherence to and promotion of international supervisory standards;
- Harmonization of banking legislation, supervision systems and practices;
- Implementation of the Core Principles for Effective Banking Supervision;
- Anti-money-laundering compliance and combating of terrorist financing; and
- Formulation of training programmes in conjunction with regional and international bodies.

53. Box 5 highlights the myriad of challenges that Botswana faces in its efforts to streamline its regulatory and supervisory institutions. Several studies have demonstrated that in Southern Africa, the problem does not lie with formulating and adopting principles, rules, procedures, codes and standards of good and internationally accepted behaviour. Rather, the problem is how to implement and enforce them at national and subregional levels. Other challenges facing regulatory and supervisory institutions in the subregion include overlapping mandates, political interference, limited institutional capacity and weaknesses in enforcement procedures.

CHAPTER 4: STATUS OF CORPORATE GOVERNANCE IN SOUTHERN AFRICA

54. Governance touches upon many areas of human operations. It touches on how economies and the entities within it are managed and it also touches upon the political and judicial methods of governing a country and how disputes are resolved in particular communities. Corporate governance is, however, specific to business practices in private and public institutions. It is understood to refer to the manner in which the power of a corporation is exercised in the stewardship of a corporation's total portfolio of assets and resources with the objective of maintaining and increasing shareholder value and satisfaction of other stakeholders. It involves the set of relationships between a company's management, its board, shareholders and other stakeholders and provides structures for monitoring the achievement of company objectives.

55. Corporate governance requires the establishment of an appropriate legal, economic and institutional environment that allows companies to thrive as institutions for advancing long-term shareholder value and maximum human-centred development while remaining conscious of their other responsibilities to stakeholders, the environment and society. Corporate governance is, therefore, not only about the maximization of shareholder wealth but also an effort to balance shareholder interests with those of other stakeholders to achieve long-term sustainable value whilst contributing to the overall socio-economic development objectives of the countries in which corporations operate.

56. Implied in this broad definition is the concept of Corporate Social Responsibility (CSR). Good governance promotes efficient, effective and sustainable corporations that contribute to the welfare of society by creating wealth and employment. CSR promotes responsive and accountable corporations: legitimate corporations that are managed with integrity, probity and transparency and recognize and protect stockholder rights. All these elements and the concept of corporate governance also stem from the concept of democracy.

57. Good corporate governance is particularly key to the transformation and management of both public and private firms in the Southern African subregion. This is because, given the long history of active State participation in many national economies during which business was subjugated to promoting political objectives, operational paradigms of firms need to be attuned to internationally accepted business Codes and Standards. Indeed, there should, henceforth, be a clear operational demarcation between business and the State. The institution of a culture of good corporate governance is also necessary for ensuring that firms take cognizance of their responsibility towards sustainable natural resource use and environmental preservation. This is particularly important with respect to extractive industries such as mining, logging and similar others.

4.1. Codes and Standards for Corporate Governance

58. A number of institutions have developed corporate governance standards to improve the way corporations behave and the way stakeholder interests are protected. Among these are the following:

- Organization for Economic Cooperation and Development (OECD) Principles of Corporate Governance;
- King I (1994) and King II (2004) Reports on Corporate Governance;
- The African Peer Review Mechanism (APRM) of the New Economic Partnership for Africa's Development (NEPAD);
- Guidelines and Principles for Corporate Governance of the Commonwealth Association for Corporate Governance (CACG); and
- The Cadbury Report (U.K).

59. Most corporate governance guidelines and standards encourage corporations to shift from the traditional single bottom line (i.e. profit objective) to a triple bottom line objective that includes economic, environmental and social issues. Consequently, today's generation of companies are becoming more concerned with the mutually reinforcing relationship among profit, environmental sustainability and effective social inclusion.

60. The King Report, and in particular its updated version, highlights the need for requisite structures for ensuring probity, accountability, transparency and the triple bottom line. In this regard, the Report addresses the composition of the Board of Directors, separation between the Board Chairman and the Chief Executive Officer and the remuneration of Board Members. Other operational requirements are also addressed in the Report such as board meetings, internal audits, sustainability reporting, communication, reviews of internal systems, processes and procedures, and self-assessment against corporate objectives. The King Report further states that every company should engage its shareholders in determining the company's standards of ethical behaviour and commitment to organiztional integrity by codifying its standards in a code of ethics through:

- Creating systems and procedures for the introduction, implementation, monitoring and enforcement of its code;
- Assigning high-level individuals to oversee compliance with the ethical code;
- Assessing the integrity of new appointees in the selection and promotion procedures;
- Exercising due care in delegating discretionary authority;

- Routine communication with and training all employees regarding enterprise values, standards and compliance procedures;
- Providing, monitoring and evaluation and auditing safe systems for reporting of unethical or risky behaviour;
- Enforcing appropriate discipline with consistency; and
- Responding to offences and preventing re-occurrence.

61. However, due to the transitional nature of most economies in the Southern African subregion, the adoption of corporate codes and standards is problematic due to unclear business ownership structures, lack of and/or underdeveloped institutions and limited human capabilities. In addition, the adoption of corporate standards may be constrained by the small size of many corporations and the rigorous requirements of corporate accounting and auditing standards.

4.2. Privatization and Corporate Governance

62. Many Southern African countries embarked upon structural adjustment programmes at the behest of Bretton Woods institutions of the World Bank and the International Monetary Fund (IMF) starting in the mid-1980s. Such programmes consisted of two main components. The first was macroeconomic that primarily involved trade liberalization accompanied by fiscal and monetary discipline. The second, which is usually referred to as the 'second-generation' reform programme, largely comprised institutional reforms and strengthening markets and governance.

63. An important component of structural reforms was the rationalization of State-Owned Enterprises (SOEs). By the late 1908s, many Southern African enterprises were bloated and run by poorly qualified managers. In addition, corporate practices fell behind international norms, as did laws and regulations. The ultimate aim of privatizing (or corporatizing) SOEs was to transform them into viable, competitive, economic organizations. Consequently, the corporate structure has changed drastically in many countries in the subregion. In South Africa, for example, the mining finance houses dominated the economy as late as 10 years ago. Since then, the situation has changed and their monopolistic hold over the industry has drastically reduced. At the same time, legislation, regulations, listing rules and accounting standards are converging towards international norms.

64. In the past 15 years, liberalization and privatization have been core elements of development strategies and the development of capital markets has become necessary and complementary to the development of the private sector. The establishment of stock exchanges in the Southern African subregion has been one of the most significant drivers of capital market and private sector development. In order to become competitive, attract foreign investment and stimulate domestic investment, most countries in the subregion have established stock exchanges. In Zimbabwe, the Zimbabwean Stock Exchange (ZSE) has adopted listing rules based on those of the London Stock Exchange (LSE) and the Johannesburg Stock Exchange (JSE). The Institutes of Directors (IoD) has also been effective in enforcing corporate governance standards derived from the UK Cadbury Report, the South African King Reports and others similar.

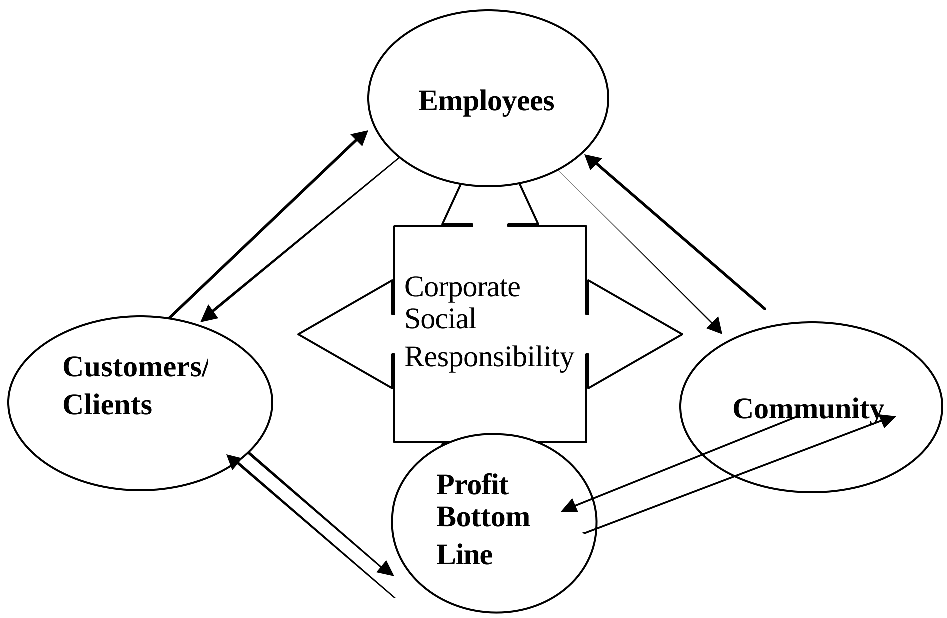
65. The Lusaka Stock Exchange (LuSE) is developing links with the JSE which, by association, ensures that companies adhere to the same corporate governance and listing requirements. In addition, many listed companies in Zambia are now registered under the Companies Act which regulates the minimum number of directors in a firm and obligates firms to abide by internationally accepted accounting standards. By 2005, there was no specific corporate governance code for Botswana. However, most listed companies have close links with the JSE and are, therefore, guided by the requirements in the King Reports. All companies in Botswana are expected to comply with international accounting standards that are regulated by the Botswana Institute of Accountants. Related to good corporate governance is the fact that the best privatization mode is that which is executed through capital markets. This is because markets help diversify ownership as well as enhance transparency and efficiency in pricing and corporate governance.

4.3. Corporate Social Responsibility

66. The need to build and inculcate a culture of Corporate Social Responsibility (CSR) in both the public and private sectors is now widely acknowledged. This is due to a variety of reasons among which is the waning capacity of many States in Africa to effectively deliver public services. In the majority of countries in the Southern African subregion, for example, economic and social infrastructure such as education, health and similar others have all but collapsed. Socio-economic infrastructure deterioration has been compounded by the devastating impact of the HIV/AIDS pandemic which has adversely compromised public service delivery in many countries. In the circumstances, CSR is increasingly playing a complementary role in maintaining public services to needy communities.

67. CSR is about running a business in a manner that strikes a strategic balance between the profitability imperative and meeting needs and social concerns emanating from the environment in which the firm operates. This includes employees, customers and communities (see fig. 4). CSR is generally understood to refer to the gamut of corporate responses to economic, social and environmental concerns which arise as a result of demands of the society at large (Pirie, 2005). CSR involves a deliberate designation of resources on the part of a firm for promotion of programmes that may, *prima facie*, not have overt and immediate impact on the profit bottom line. These may include a firm's allocation of resources to staff skills enhancement programmes, support to small business development schemes, infrastructure rehabilitation, health, public education, environmental management and similar other ventures. In particular, corporate investment in environmental sustainability ensures that a firm's business operations take due account of the need to protect the environment, public health and safety in a manner that contributes to the wider goal of sustainable development.

Figure 4: Four-way approach to Corporate Social Responsibility (CSR)



Adapted from Michelle Pirie, *"The Rationale for Community Involvement: A Business Perspective"*, (Paper presented to the Workshop on "Ensuring Return on Investment from Your HIV/AIDS Policy: From Company to Community" February 2005).

68. CSR is playing an increasingly significant role in Southern Africa, especially in the extractive sector, mainly due to the significant negative social and environmental impacts and the inherent finiteness of the resources. In Zambia, CSR has played an ameliorative role on the Copperbelt in the context of significant social disruption and uncertainty caused by the privatization of mining firms. Konkola Copper Mines (KCM), the largest private sector employer in Zambia, for instance, has been making significant contributions to the improvement of economic and social conditions of local communities. These include capital investment projects, employment and human resource development programmes and CSR projects. In 2005 alone, KCM spent over US$ 7 million on its CSR programmes.

69. Responding to stakeholders, minimizing negative impacts and maximizing positive impacts are said to have a positive effect on profits, at least in the medium to long-term. However, even though there are several potential incentives from CSR initiatives such as ensuring the 'social license to operate', many investors are still not sure about the relationship between CSR and profits. In addition, there are critical perspectives that argue that CSR is primarily about the projection of a "caring image" without significant changes to socially or environmentally harmful business practices. Indeed, there is a public perception that CSR activities of mining companies and other corporations in certain cases fall far short of the yardsticks of accountability and fairness.

4.4. Sustainability Reporting

70. Sustainability Reporting (SR) is especially key to good corporate governance. It involves corporate systems and arrangements for continually informing relevant stakeholders about activities of the company in the realms of governance, business management, social, health, safety, environmental and community/philanthropic undertakings. SR is not an exclusive domain of listed companies. It is also being practised by an increasing number of non-listed companies and parastatals that routinely report on their non-financial performance.

71. Good SR is characterized by timely, easily accessible, inclusive, systematic and comparable provision of user-friendly data and information on all company operations requiring public disclosure. It requires an unambiguous commitment by management to a clear vision of the company and a distinct reporting hierarchy with obligations and penalties. Table 4 below shows an extract from Eskom's Annual Report. The indicators that have been used suggest integration of the triple bottom line mainstream business reporting with CSR interventions through the presentation of key data that allow for year-on-year comparison.

72. There are currently no generally accepted guidelines for SR. However, the Global Reporting Initiative (GRI) Guidelines are, perhaps, the closest to internationally accepted SR standards. The GRI recognizes that sector-specific guidance must be developed to supplement the general information provided in the guidelines. At present, the GRI has embarked on the development of a third generation of guidelines called G3. Revised Guidelines will build on the strengths of the existing ones leading to more relevant, comparable, and auditable data. The new Guidelines are also expected to be more user-friendly.

Table 4: Triple bottom line indicators

	Group				Eskom	
	2003	2002	2001	**2003**	2002	2001
Financial/business performance indicators						
Total assets. Rm	**96474**	82482	76909	**93374**	80186	74709
Capital and reserves. Rm	**40683**	37717	34148	**39203**	36412	33361
Net financial market liabilities. Rm	**3634**	9150	12041	**5507**	10871	16021
Revenue. Rm	**32848**	29684	26112	**31680**	28158	24983
Net profit for the year after tax. Rm.	**3534**	3707	2561	**3226**	3185	2272
Cash flows from operating activities. Rm.	**12664**	11808	8641	**12256**	11633	7464
Average selling price of electricity, cents per kWh				**16.08**	14.98	13.76
Average total cost of electricity sold, cents per kWh				**13.56**	12.48	11.90
Return on total assets, %	**10.35**	13.07	11.01	**10.58**	11.92	10.21
Real (inflation-adjusted) return on total assets %				**0.53**	1.69	1.17
Debt-equity ratio	**0.09**	0.24	0.41	**0.14**	0.30	0.48
Debt-equity ratio (inc. long term provisions)	**0.30**	0.46	0.61	**0.35**	0.52	0.67
Productivity improvement for the year, %				**2..50**	1.60	0.50
Staff employed, number	**31972**	32357	33032	**28938**	29359	29969
Technical/business performance indicators						
Total electricity sold, GwH				**196980**	187957	181511
Coal burnt in power stations, Mt				**104..37**	96.46	94.14
Energy availability factor, %				**87.50**	89.30	92.00
Peak demand on integrated system				**31.928**	31621	30599
Nominal capacity, MW				**42011**	42011	42011
Net maximum capacity, MW				**39810**	39810	39810
Power lines (all voltages, km)				**336270**	352010	316339
Electricity customers, number				**3505**	3418	3275
Environmental/social performance indicators						
Specific water consumption by power stations /kWh sent out				**1.29**	1.27	1.26
Relative particulate emission, kg/MWh sent out				**0.28**	0.29	0.31
Carbon dioxide emissions, Mt				**190.1**	175.2	169.3
Radiation release, milliSieverts (mSv)				**0.0123**	0.0060	0.0192
Disabling injury incidence rate, index				**0.37**	0.45	0.50
Work-related fatalities, number				**5**	11	8
Employment equity, %				**56.3**	54.6	53.1
Gender equity, %				**27.8**	24.5	21.7
People with disabilities, %				**1.4**	0.16	n/a
Electrification, number of homes connected per annum				**175396**	211628	209535

Source: Eskom Annual Report 2003

73. The GRI currently provides the best practice framework for company public reports on corporate governance and economic, social and environmental impacts. Eventually, sector-specific guidelines will be developed for the mining industry. It would, however, appear that company SRs are still perceived as primarily meant for public relations. Evidence also suggests that sustainability reporting has yet to be made part of corporate culture in Southern Africa. Indeed, it would appear

that it is mostly large firms that are practicing SR on a regular basis and have the capacity to adhere to the requirements of SR practices.

74. There are several advantages of effective and routine SR. However, among the most important is the fact that it provides interested stakeholders a useful window on operations of a company vis-à-vis its corporate objectives, environmental and social concerns, including other demands emanating from the environment in which it conducts business. In this regard, SR should not be a static one-off undertaking. Rather, it should be part and parcel of the "DNA" of a company with adequately budgeted functions and responsibilities.

CHAPTER 5: INSTITUTIONAL CHECKS AND BALANCES IN SOUTHERN AFRICA

75. The executive has historically been the most powerful institution of governance in Africa. It initiates and enacts laws, rules and regulations and ensures their compliance and is also the main provider of public goods and services, including security and defence. The executive also controls major material and financial resources, mobilizes people, and provides employment (AGR, 2005). In this respect, the executive occupies a strategic position and constitutes the fulcrum upon which turns policy-making and implementation. It is at the centre of decisions regarding disbursement of public financial resources. It is, in addition, the nerve centre of social service delivery and the major agency through which anticipated dividends of democracy are realized.

76. When assessing institutional effectiveness and accountability of the three arms of government, i.e. the executive, judiciary and the legislature, issues of capacity, efficiency, effectiveness, accountability and transparency form the core of the debate. Institutional capacity, on the other hand, heavily depends on the quality, calibre and legitimacy of elected and appointed public officials. This is because there is ample evidence that a properly functioning civil service can make up for a weak elected political authority.

77. Conversely, an inefficient civil service will most likely undermine a good elected political leadership. The quality of relationships among the civil service, political authority and service delivery is, therefore, determined by the degree of professionalism of public officials, the degree of representation within the regime and power sharing arrangements between the centre and local communities. In this respect, effective separation of powers among the executive, legislature and judiciary is a cardinal requirement for efficient social service delivery and good governance.

5.1. Institutional Effectiveness of Legislatures

78. An analysis of the ECA Country Reports demonstrates that most Constitutions in the subregion provide for Parliament as the legislative organ of government with the power to initiate, scrutinize and pass legislation. The independence of Parliament from the executive and the judiciary is enshrined in many of the Constitutions, while checks and balances are seen as the cornerstone for good governance.

79. It is, however, necessary to distinguish what is provided for in a Constitution from the political realities on the ground. Even though a Constitution may provide for a separation of powers amongst the three arms of government, the actions and behaviour of the executive might tend to compromise effective checks and balances. Quite often the executive has tended to monopolize power and abuse its discretionary authority. This often happens when one dominant political party, as is the case in Zambia and Zimbabwe, is in control of the presidency and has a majority in Parliament. Or, indeed, if the Constitution grants the President the discretionary powers to dissolve Parliament.

80. Legislative effectiveness and independence should entail freedom from undue interference from the executive. Experience, however, points to the fact that many legislatures in the subregion continue to face serious challenges in exerting their independence due to a variety of constraints.

The first is inadequate and irregular funding from the treasury. Under-funding and irregular disbursements have caused legislatures to sub-optimally perform their traditional legislative functions. Due to these and other related constraints, many Parliaments in the subregion meet for limited sessions in any one year.

81. In Mozambique, for example, the National Assembly has a provision for only two regular sessions a year for a maximum of 45 working days. The Malawian Parliament meets, on average, eight to ten weeks a year and operates on a budget of well below US $4 million. In Botswana, Parliament, on average, sits for between 97 and 100 days in a year. In Zambia, operations of Parliamentary Select Committees are limited by inadequate budgetary allocations, while in Lesotho it is reported that Parliamentarians do not have offices and support services such as library facilities and computers. Legislative independence is further compromised by economic incentives such as loans and gratuities for Members of Parliament (MPs). These tend to compromise the readiness of MPs to criticize actions of the executive.

82. Another key constraint against the effective operation of the legislature in the subregion is executive control over the introduction of legislation in Parliament. Additionally, the Head of State is highly predominant in the appointment of key positions such as the Speaker of the National Assembly. This causes the executive to influence the legislative process unduly. It is also true that the dominance of Parliament by ruling party MPs also contributes to attenuating their oversight of the executive. In Malawi, Zambia and Zimbabwe the President has the freedom to call for party caucus meetings, which, in reality, constrains ruling party MPs from taking independent positions on controversial motions. In addition to this, even though Parliament is constitutionally mandated to scrutinize and sanction proposed budgetary expenditure, the reality in many cases is that the release of resources remains the discretion of the executive. This effectively means that Parliament has little control over expenditure outcomes.

83. Given the foregoing impediments to legislative independence, many Parliaments in the subregion are perceived not to be effective, accountable, transparent and independent. Most Parliaments are also perceived to be corrupt. According to the AGR, "…Namibia followed by Ghana, Botswana and South Africa were found to be the least corrupt in Africa…" (AGR, 2005: 126). Consequently, even the 10 countries under review scored well under 50 per cent in terms of the Expert Opinion on whether the legislature is largely or completely corrupt (see table 6).

Table 6: Expert Opinion on whether the legislature is largely or completely corrupt – share of Experts surveyed by country (%)*

Namibia	Botswana	S.Africa	Lesotho	Zimbabwe	Mauritius	Zambia	Mozambique	Malawi	Swaziland
3	*3*	*4*	*7*	*12*	*18*	*19*	*21*	*22*	*29*

Source: ECA, 2005: 127

5.2 Institutional Effectiveness of the Judiciary

84. The judiciary is the traditional protector of the Constitution and should only be subject to and limited by the Constitution and not any other institution, person or group of persons. The judiciary should act as an impartial arbiter, a repository of justice, and be independent and accountable in discharging its mandate. The inalienable freedom of the judiciary is universally acknowledged. According to Principle 4 of the UN General Assembly Resolution 40/146 of December 13, 1985, each state is obliged to:

- Guarantee the independence of the judiciary in the Constitution or law of the country;
- Observe and respect the independence of the judiciary; and
- Provide adequate resources to enable the Judiciary to properly perform its functions.

85. Evidence from the subregion indicates that some judiciaries have been robust in demonstrating operational independence. In South Africa, for example, the judiciary has prosecuted high-profile cases of corruption. The recent indictment of senior officials of the ruling party on corruption charges and the sacking of a number of magistrates are examples of the degree of independence of the South African judicial system. In Malawi, the High Court declared null and void the President's ban on mass demonstrations at the height of the third-term debate. Botswana and Namibia also have fully or largely free judicial systems.

86. The extent of the independence of the judiciary is further influenced by the security of tenure of judges. The tenure of judges in Namibia, for example, is for life and may only be breached by the President on the advice of the Judicial Service Commission. Furthermore, the salaries and other conditions of service in South Africa and Namibia are superior relative to other countries in the subregion, which tends to insulate them from corruption.

Table 7: Expert Opinion on independence of the judiciary from branches of government - Share of Experts surveyed by Country (%)*

	Fully or Largely Independent	Somewhat Independent	Hardly or Not Independent
Namibia	96	2	1
South Africa	80	9	1
Botswana	73	26	1
Lesotho	50	20	20
Mauritius	58	32	8
Malawi	42	40	18
Zimbabwe	41	36	23
Zambia	32	38	30
Mozambique	18	24	57
Swaziland	12	21	64
Average	**50.2**	**24.8**	**22.3**

Source: ECA, 2005: 129

87. There are several institutional deficiencies that limit the effectiveness of the judiciary. These include inadequate number of independent law review commissions, inadequate trained human resources, poor funding and ineffective judicial service commissions. Other serious impediments to judicial independence include the overbearing influence of the Head of State in the selection and rewarding of Judges. This has been the case in Lesotho, Swaziland, Malawi, Zambia and Zimbabwe where the Heads of State have involved themselves in determining salaries and conditions of service of Judges. The generally poor funding of judicatures in the subregion has caused suitably qualified lawyers to opt for private practice. Quite often, this results in sub-optimal adjudication of justice in the public judicial system.

Box 6: Impediments to judicial effectiveness

- Few African countries have independent law review commissions and those that do have not been able to upgrade laws, rules and regulations in response to domestic socio-economic changes and the challenges of globalization. Most of the laws in many African countries are archaic, with their origins in the colonial period and colonial authoritarian objectives. They need to be reviewed and repealed or amended to reflect current needs;

- The existence of "executive-minded" judges has also undermined the effectiveness of the judiciary. Because of the political consideration in their appointments, they tend to be sensitive to the interest of the executive and are thus not totally impartial in their deliberations and decisions;

- The use of foreign languages in court proceedings and other legal transactions has tended to restrict the dispensation of justice to poor and illiterate people to whom both the laws and the medium in which they are transmitted are incomprehensible; and

- Although Judicial Service Commissions exist in several African countries, they tend to be ineffective because their roles are primarily exhortative and not executive. They are rarely able to sanction judges who are corrupt or who consistently make unsound or poor judgments.

Source: ECA, 2005: 130

5.3 Institutional Effectiveness and Accountability of Executive Branches

88. One of the most serious challenges facing democratic governance in Africa is how to effectively constrain the excessive powers of the executive whilst, at the same time, not diluting its constitutional obligations and mandate. In many cases, power is so much concentrated in the executive that the business of government literally revolves around the Head of State. He discretionally appoints the Vice-President, Ministers, Deputy Ministers, chief Cabinet Secretary, Permanent Secretaries, Ambassadors, Heads of Public Service Commissions and military, intelligence and Police Chiefs. Consequently, although the legislature and the judiciary are supposed to have equal and countervailing powers, the reality is that the executive branch of government invariably determines the pace and temperature of economic and political governance.

One way of ring-fencing the oversight role of the legislature and the judiciary would be to afford these two arms of government the power to veto executive appointments to constitutional offices.

89. Ideally, public officers such as the Director of Public Prosecutions (DPP), Auditor-General and Heads of Public Service Commissions are expected to act independently from the executive. Similarly, the civil service is expected to be apolitical and non-partisan in its conduct and dispensation of public services. However, this has not been the case in many countries in Southern Africa. In fact, many constitutional office holders and civil servants have continued to be prone to executive manipulation. In some cases, appointments into the civil service have been influenced by ethnic considerations. The relatively weak position of the legislature and the judiciary vis-à-vis the executive creates space for fiscal impropriety and lack of transparency in the management of public resources. Indeed, because it is the executive that recruits and remunerates key members of the judiciary and appoints Ministers from Parliament, it effectively drives the legislative and judicial agenda.

90. In order to rein in excessive powers of the executive and enhance its accountability and transparency, some countries in the subregion have instituted appropriate pieces of legislation. In Zambia, for example, the Republican Constitution under Article 34(5) compels the President and other senior government officials to declare their assets and liabilities before the Chief Justice upon taking office. This, ideally, prohibits the use of insider government information such as securing business contracts for personal benefit. Ostensibly, the Act prescribes that any breach of its provisions may lead to loss of a Ministerial post or Parliamentary seat.

5.4. The Role of Civil Society in Institutional Checks and Balances

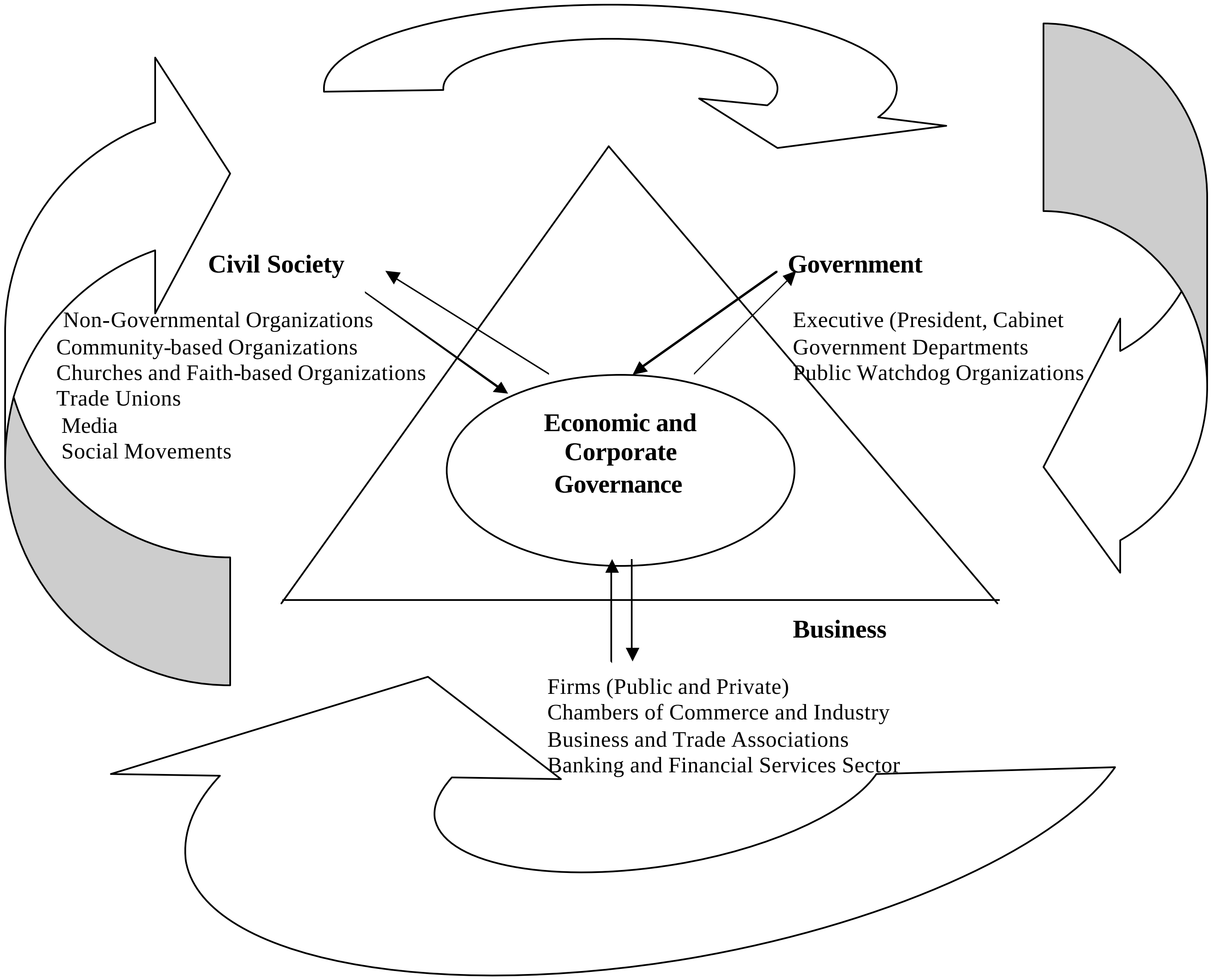
91. Independence of civil society organizations (CSOs) from State control is critical to their ability to operate autonomously. This is especially important in respect to exposing abuse of power and enforcing accountability and transparency in government. In this regard, the growing influence of the civil society is largely a consequence of the realization that popular participation is essential for leveraging the national economic and political agenda which is central to good governance.

92. In keeping with this understanding, many national Constitutions in Southern Africa now enshrine the freedom to form and operate CSOs. In Mozambique, for example, the Constitution of Mozambique under Article 34 prescribes the importance and role of the civil society in national development. In Zambia, the National Capacity Building Programme for Good Governance (NCBPGG) states that civil society plays a significant role in building civic knowledge, attitudes and behaviour necessary to promote change and acts as a counter-balancing force in countries with a weak opposition.

93. Figure 5 below demonstrates the mutually re-enforcing relationships among the civil society, government and business. Civil society, for instance, has directly complemented government poverty alleviation programmes in the subregion. This has especially been the case in instances where the government had lacked adequate resources to fully implement planned poverty alleviation programmes. CSOs have also played a significant role in influencing and leveraging corporate social responsibility interventions. They have equally played a key role in protecting citizens' rights and challenging patent abuses of power. In South Africa, for example, women and youth groups were part of the struggle against Apartheid and have continued to check excesses of

the government in the post-Apartheid era. In Malawi and Zambia, CSOs prominently featured in the re-introduction of multi-party democracy. In Namibia, the Namibia Non-Governmental Forum (NANGOF), which represents some 60 non-governmental organizations, has been highly active in monitoring the governance record of the government.

Fig. 5: The Governance Tripod



Adapted from Michelle Pirie, op. cit.

94. Evidence from the AGR, however, demonstrates that the influence of CSOs varies according to the laws and practices in a given country. Additionally, the capacity and leverage on policy-making is contingent upon the degree of independence CSOs enjoy and the willingness of the executive to grant non-state actors a voice in policy-making. In table 8, it is evident that there is

a direct correlation between the degree of democratic participation and the extent to which CSOs are able to influence public policymaking and programmes.

95. In South Africa, the Government has been undertaking initiatives targeted at institutionalizing a culture of CSO participation in national affairs. Consequently, slightly more than 40 per cent of respondents in the Expert Panel Survey felt that CSOs have a strong or fairly strong influence on government policies and programmes. Conversely, in Zimbabwe, where democratic participation has been less favourable, only 18 per cent of respondents felt that CSOs have a strong or fairly strong influence on government policies and programmes. In Swaziland, 65 per cent of Expert respondents felt that CSOs have weak or no influence on government policies and programmes (see table 8).

Table 8: Expert Opinion on the influence of civil society organizations on government policies and programmes – Share of Experts surveyed by country (%)*

	Strong or Fairly Strong Influence	Limited Influence	Weak or no Influence
South Africa	41	51	8
Namibia	39	39	22
Lesotho	30	40	30
Botswana	29	59	12
Mozambique	23	43	32
Mauritius	21	50	30
Malawi	20	49	31
Zambia	19	62	19
Zimbabwe	18	44	32
Swaziland	11	25	65
AVERAGE	**25.1**	**46.2**	**28.1**

Source: ECA, 2005: 133

96. An independent and vibrant media is a critical ingredient for an autonomous, active and robust civil society. It helps in informing and educating the public and providing avenues for non-state actors to interrogate government policies and actions. Indeed, an independent media provides the engine room for collecting and processing public opinion and views on the status of governance in the executive, legislature and judiciary. According to the AGR, there are very few countries in the Southern African subregion in which the media is under strict government control or influence. In Namibia, for example, all newspapers are privately owned which considerably enhances their independence and ability to check and balance the executive and expose abuses of power and corrupt practices. In Mauritius, although the media is said to be independent, the Independent Broadcasting Authority (IBA) places formal restrictions on the extent of foreign ownership of newspapers. According to the AGR, the mass media in Swaziland operates within an environment where freedom of expression is under threat or under State control or where rights are frequently violated.

CHAPTER 6: KEY GOVERNANCE CHALLENGES IN SOUTHERN AFRICA

97. Over the last 15 to 20 years, the Southern African subregion has witnessed numerous changes on the political and economic landscape. One-party state systems have been abandoned and state ownership and control of national economies is less apparent. Civil society is increasingly transforming itself into a major player in leveraging the national economic, political and social agenda, while there is a steady consolidation of democracy, political inclusiveness, expanded popular participation and improved economic management. Many governments are, in addition, making concerted efforts towards deepening the role of the private sector in restoring and sustaining economic growth and employment creation. All these and other measures are meant to improve public service delivery and broaden frontiers of democracy and democratic governance. However, despite these considerable positive changes, many challenges remain.

98. The first is the inadequate institutionalization of the culture of political pluralism that tends to sideline opposition political parties in the management of national affairs. In terms of political representation, it is widely accepted that political parties are vital for broadening and deepening the frontiers of democratic governance. Evidence on the ground, however, suggests that political parties are weak and many suffer from a lack of internal democratic governance, inadequate organizational and managerial skills, poor leadership and lack of access to public resources.

99. In terms of gender representation, SADC has set a target of 30 per cent for women's representation in Parliament and other State organs for all its member States. Consequently, many countries in the subregion have undertaken measures, such as law and institutional reform, as a means of enhancing women's political and economic empowerment. These, among others, include ratification of international agreements, conventions and protocols regarding the promotion of gender equity. Despite these and other positive developments, women's participation in national economic and political affairs in the subregion is still relatively low.

100. In terms of institutional effectiveness and accountability, one of the major challenges is how to effectively harness the powers of the executive and creatively balance its discretionary authority, while not diluting its ability to execute its Constitutional mandate and functions. In regard to the legislature, the challenge is that political realities and practices on the ground do not contribute to enhancing its independence. This is compounded by inadequate resource allocations and monopolization of budgetary decision-making by the executive. In the event, the lack of independence translates into a failure by legislatures to effectively check and balance the executive. Of similar concern is the fact that despite constitutional guarantees for an independent judiciary, the perception in most countries in the subregion is that the judiciary is only partially independent. As is the case with the legislature, inadequate budgetary allocations undermine the judiciary's capacity to operate effectively.

101. Evidence demonstrates that one of the most serious challenges facing economic management is how to ensure that the macro-economic framework is sound and is supportive of sustainable development. The PEM systems of many Southern African countries, for instance, have weaknesses that are associated with both budget preparation and execution mechanisms. In this regard, there is widespread concern with respect to discrepancies between commitments and actual

disbursements. There is also the challenge of dealing with a set of binding constraints that inhibit sustainable growth. These include, among others, currency volatility and inhibitive costs and inefficiency of logistics, including policy and regulatory environments that bottleneck the development of SMEs. Macroeconomic policy instability, high levels of inequalities in countries such as South Africa and chronic poverty levels in others such as Malawi and Zambia gravely compromise national and subregional initiatives targeted at democratic governance and poverty reduction. In order to address these constraints, it is imperative that macroeconomic policies be linked to socio-economic policies in housing, water and sanitation, electricity, education, health and skills development.

102. Corporate governance initiatives are severely constrained by inadequate institutional structures for internalizing corporate governance culture, ethics and standards. This is largely because of the transitional nature of many economies and political systems in Southern Africa. Other challenges and constraints to good corporate governance include interlocking relationships among the government and the financial sector and weak legal and regulatory frameworks. There is also the challenge of balancing strategic interests of the corporate sector against those of citizens and the need to improve corporate governance in SOEs.

103. Governments in Southern Africa have generally acknowledged the positive role that civil society is able to play in national development and especially in mobilizing and processing popular concerns and demands. The challenge, however, is how to improve dialogue between government and the civil society. Other challenges facing the civil society include their grossly inadequate resource bases, serious capacity gaps in human skills development and insufficient training in the formulation of strategic visions and objectives. The civil society, in addition, faces constraints related to underdeveloped institutional capacity for planning and research, including inadequate access to technology and information.

104. Capacity has been identified as one of the main missing links in Africa's development and democratization process. Within the framework of good governance, capacity entails the ability of institutions of governance to efficiently and effectively perform their constitutionally or politically mandated functions or roles. Performance of mandated functions is, however, so limited by financial constraints that many governments rely on external donor support to execute national development programmes. In many respects, this ties national development policies and programmes to external influence and control with the result that there is a gap between popular development aspirations and government policy-making.

105. Inadequate capacity and operational autonomy of public watchdog institutions and electoral commissions also serve to undermine efforts targeted at broadening frontiers of democratic governance. The institutional capacity of the public service is, on its part, constrained by inadequate and weak human resources and poor conditions of service that result in lack of morale and commitment.

106. The AGR results show that most African households surveyed were of the view that there was corruption amongst most public officials. This was particularly the case with the police and tax officials. On a microlevel, corruption diverts scarce resources away from improving the lives of the poor and compromises public service delivery. On a macrolevel, corruption increases the cost of doing business and, hence, detracts prospective domestic and foreign investors. On an institutional

level, corruption reverberates across the executive, legislature, judiciary, private sector and civil society organizations. Consequently, the major challenge is how to craft appropriate systems and sanctions for making corruption unattractive and severely punishable in both public and private sector domains.

107. Finally, one of the most serious challenges to governance in Southern Africa is the HIV/AIDS pandemic. Adult seropositivity rates in excess of 20 per cent are found in many countries in the Southern African subregion, while in Swaziland and Botswana they are pushing to an hitherto unimaginable level of 40 per cent. With an HIV/AIDS infection rate of nearly 40 per cent, South Africa is reputed to have the fastest infection rate in the world (ECA, 2205: 164). HIV/AIDS has far-reaching implications for governance and development. In addition to killing millions of individuals and causing serious economic contractions and dislocations, the pandemic threatens sustainable economic growth, poverty reduction and institution of good political, economic and corporate governance.

Box 7: The devastating effects of the HIV/AIDS epidemic

The HIV/AIDS epidemic has created serious governance challenges for African countries, including:

- The weakening of the institutional capacity of African States as work forces are devastated by the epidemic;
- The diversion of scarce resources to treat HIV/AIDS from the other basic needs of society;
- The decline in capital formation and economic growth as human capital and productivity decline;
- The deepening of the social crisis caused by the dislocation of families due to death from HIV/AIDS; and
- The threatening of national security due to high rates of infection among military personnel.

Source: ECA, 2005: 164-65

108. It is evident from box 7 that the governance implications of the pandemic are immense and widespread. However, as noted elsewhere in this paper, Southern African governance institutions are not in good shape to face the challenges posed by the pandemic. The first impact is loss of human resources, experience and networks. Productivity is reduced when staff absent themselves from work due to illness, are caring for the sick or attending funerals. HIV/AIDS also has national security implications. Soldiers, policemen and other security personnel are among the occupational categories with the highest prevalence of HIV. Given the high levels of HIV/AIDS infection, the level of readiness of security personnel to serve becomes compromised. Equally affected are public service delivery institutions that are under severe pressure.

109. HIV/AIDS is a unique challenge that requires much more than a narrow public health response. In this regard, any prevention and mitigation interventions must hinge on multi-sectoral responses. This should, invariably, engage communities in HIV/AIDS prevention, treatment and care programmes and activities. There is also need to involve stakeholders in policy-making and programme management. This will require the establishment of strong operational interfaces among national, provincial and local government administrations. It is expected that this will result in more effective people-level interventions against the HIV/AIDS pandemic.

CHAPTER 7: RECOMMENDATIONS FOR ACHIEVING GOOD GOVERNANCE IN SOUTHERN AFRICA

Political Governance:

- The culture of constitutionalism should be promoted through, *inter alia*, enhancing popular participation in politics and ring-fencing the rule of law;

- There should be increased civic/public education with a view to enhancing political awareness and participation in politics;

- National, subregional and international electoral standards, rules and regulations should be enforced at both national and subregional levels;

- In order to enhance internal political party democracy, parties should review recruitment, election and remuneration procedures;

- In order to ensure a level playing field, clear mechanisms for funding political parties should be established in countries that currently do not have provisions for political party funding. Clear accountability requirements should be established including mechanisms for disclosure of sources of political party funding;
- All national electoral Laws and Acts should enshrine equal access to public resources (funding, print and electronic media, security, etc.) for all duly registered political parties. In order to ensure this, there should be mechanisms for expeditiously addressing blatant biases towards the ruling party;

- National election authorities should be given space to monitor the election process from voter registration, verification of registers, voting through to post-election conflict management;

- Post-election conflict management mechanisms should be strengthened with a view to facilitating the adjudication of election petitions and other election-related complaints;

- Political parties should ensure that they espouse clearly defined ideologies and policies with a view to affording the electorate unambiguous electoral choices;

- The SADC Protocol on reservation of 30 per cent of seats in Parliament for women and other international gender-related conventions and agreements should be enforced and monitored at both national and subregional levels;

- International conventions on holding of elections and election monitoring, such as those under AU, UN, SADC, EISA and others similar, should be harmonized with a view to ensuring comparability of electoral outcomes and the adoption of good electoral practices;

- APRM focal points should be established at both national and subregional levels; and

- Youth participation in politics should actively be promoted through mainstreaming the youth and youth movements in economic and political decision-making structures at national, subregional and regional levels.

Economic Management:

- National authorities should simplify business registration procedures through, *inter alia*, reducing the number of authorization points/offices;

- Tax collection and management regimes should be restructured with a view to making them user-friendly to the business community;

- Tax bases should be broadened and stiffer penalties imposed for non-compliance;

- Mechanisms for ensuring expeditious consideration of the Auditor-General's annual reports should be established and enforced;

- The Auditor-General's Office should be granted the power to prosecute those found guilty of misuse of public resources;

- Monetary and fiscal policies should be founded on existing country-level socio-economic data and not be driven by dictates of international financial institutions such as the IMF and the World Bank;

- National and subregional level mechanisms should be established for structured public-private sector and civil society dialogue on socio-economic issues;

- Communities and other key stakeholders should proactively be engaged in the national budgeting process;

- Public expenditure oversight institutions such as Parliamentary Public Accounts Committees, Anti-Corruption Commissions, Offices of the Ombudsman, Drug Enforcement Commissions and similar others, should be strengthened through targeted capacity building programmes and legal reform;

- Linkages between and among SMEs and the communities in which they operate should be explored with a view to engaging the latter in meaningful income-generating activities and eventually reducing poverty; and

- There is need to establish whistle-blower protection mechanisms at both national and subregional levels.

Corporate Governance:

- Governments should be empowered with relevant information on good economic and corporate governance codes and standards;
- Economic and corporate governance focal points should be established at national and subregional levels as well as regional and subregional corporate governance indices;
- Sustainability Reporting should be made mandatory for all duly registered firms;
- Environmental Impact Assessments (EIAs) should be mandatory for all proposed major investments;
- Institutions dealing with good corporate governance concerns should compile a register of companies that are practicing good corporate governance ethos;
- A subregional economic and corporate governance forum should be established; and
- Internationally accepted good corporate codes and standards should be adapted for use at national and subregional levels.

Institutional Checks and Balances:

- The separation between the executive, legislature and judiciary should be strengthened through adequate funding and ensuring the operational autonomy of the legislature and judiciary;
- There should be clear rules and guidelines on the appointment of judges and other senior judiciary officials. These should include the ring-fencing of the security of tenure for judges;
- Public service workers in the executive and the judiciary should adequately be remunerated as a means of curbing corruption and "moonlighting";
- At the beginning of each Parliamentary term, newly elected Members of Parliament should be inducted in regard to the business of the House and what is expected of them by members of the electorate;
- National authorities should establish Constituency Offices where they do not currently exist in order to bridge the gap between the electorate and Members of Parliament;
- Each Parliament should provide an office for MPs, adequate research staff and other resources in order to strengthen their oversight role and analytical capacity;

- The role of the civil society should be enshrined in national Constitutions and strictly enforced; and

- Public watchdog organizations, such as Auditor-General's Office, Anti-Corruption Commissions, and Drug Enforcement Commissions should be accorded prosecutive powers as a means of strengthening their oversight mandates.

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