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**MEASURING AND MONITORING PROGRESS TOWARDS GOOD  
GOVERNANCE IN AFRICA: THE AFRICAN GOVERNANCE REPORT II  
(AGRII)**

**BOTSWANA COUNTRY REPORT**

Prepared by



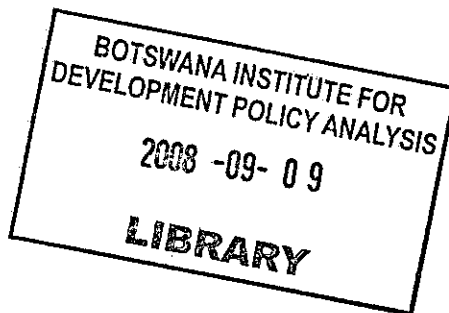
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## ACRONYMS

AAT	Association of Accounting Technicians
ACCA	Association of Chartered Certified Accountants
ACDC	Association of Citizen Development Consultants
ARV	Anti Retroviral
BBS	Botswana Bureau of Standards
BCP	Botswana Congress Party
BDC	Botswana Development Corporation
BDP	Botswana Democratic Party
BEAC	Botswana Economic Advisory Council
BEDIA	Botswana Export Development and Investment Agency
BFTU	Botswana Federation of Trade Unions
BIA	Botswana Institute of Accountants
BIDPA	Botswana Institute for Development Policy Analysis
BITS	Botswana Information Technology Society
BNF	Botswana National Front
BOCCIM	Botswana Confederation of Commerce, Industry and Manpower
BOCONGO	Botswana Council of Non Governmental Organisations
BOTEC	Botswana Technology Centre
BPC	Botswana Power Corporation
BPS	Botswana Police Service
BSE	Botswana Stock Exchange
BURS	Botswana Unified Revenue Services
CEDA	Citizen Entrepreneurial Development Agency
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CKGR	Central Kalahari Game Reserve
COBIT	Citizen Owned Businesses in Information Technology
CPD	Continuing Professional Development
CSO	Central Statistics Office
CTB	Central Tender Board
DCEC	Directorate on Corruption and Economic Crime
DDC	District Development Committee
DPSM	Directorate of Public Service Management

ECSAFA	East, Central and Southern African Federation of Accountants
EISA	Electoral Institute of Southern Africa
ESAAMLG	Eastern and Southern Africa Anti Money Laundering Group
FAP	Financial Assistance Policy
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
FES	Friedrich Ebert Foundation
FIAS	Foreign Investment Advisory Services
GDP	Gross Domestic Product
HIV/ AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
HLCC	High Level Consultative Council
IASB	International Accounting Standards Board
IASC	International Accounting Standards Committee
IDA	International Development Association
IEC	Independent Electoral Commission
IFAC	International Federation of Accounts
IFRIC	International Financial Reporting Interpretations Committee
IFSC	International Financial Services Centre
IRD	Internal Revenue Division
ITA	Income Tax Act
JSC	Judicial Service Commission
LAPAC	Local Authority Public Accounts Committee
LEA	Local Enterprise Authority
MELS	Marx Engel's Lenin and Stalinist Movement
MFDPP	Ministry of Finance and Development Planning
MIGA	Multilateral Investment Guarantee Agency
MISA	Media Institute of Southern Africa
MLG	Ministry of Local Government
MLHA	Ministry of Labour and Home Affairs
MP	Member of Parliament
MTEF	Mid Term Expenditure Framework
MTI	Ministry of Trade and Industry
MTR	Mid Term Review
NBC	National Business Conference



NDP	National Development Plan
NEMIC	National Employment, Manpower and Incomes Council
NGO	Non Governmental Organisation
NSPR	National Strategy for Poverty Reduction
OECD	Organisation of Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
PAC	Public Accounts Committee
PDSF	Public Debt Service Fund
PEEPA	Public Enterprises Evaluation and Privatization Agency
PMS	Performance Management System
PMTCT	Prevention of Mother to Child Transmission
PPADB	Public Procurement and Asset Disposal Board
PPP	Public Private Partnership
RADP	Remote Area Development Programme
RDC	Rural Development Council
RSF	Revenue Stabilisation Fund
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAICSA	Southern African Institute of Chartered Secretaries and Administrators
SHAA	Self Help Housing Agency
SMME	Small Medium and Micro Enterprise
UNCITRA	United Nations Commission on International Trade Law
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
VAT	Value Added Tax
VDC	Village Development Committee
WIPO	World Intellectual Property Organisation
WITS	Work Improvement Teams
WUC	Water Utilities Corporation

## EXECUTIVE SUMMARY

1. Good governance, characterised by open, participatory societies, with transparent and accountable systems of governance, is a vital necessity for development. Good governance requires that there is a political system that provides opportunities for all its citizens; participation that ensures broad inputs in governance and development decision-making from all stakeholders; effective system for transfer of power and renewal of political leadership; competitive, free, fair and transparent elections; political, administrative and financial accountability; effective regulation, parliamentary oversight and auditing; transparency, predictability and availability of valid information about government decisions and performance and public access to this information; ethical conduct of public affairs; effective public sector management with stable macroeconomic policy, effective resource mobilisation and allocation systems; responsiveness to citizens; adherence to the rule of law in a manner that protects personal and civil liberties; equity, public safety and security, access to justice for all; and effective and fair legal institutions that ensure justice.
2. The overall objective of this project is to measure and monitor the progress of African states towards good governance. Botswana is one of the states that are undertaking this project for the second time, having participated in the initial studies that culminated in the production of the *African Governance Report 2005*.
3. Botswana's governance agenda is guided by the Long Term Vision for Botswana (Vision 2016), which serves as the principal guide for the governance of the country. The Vision 2016 was a culmination of a process of national consultations and provides a framework for addressing Botswana's challenges, to make it a better society by 2016, the 50th anniversary of independence. It identifies seven "pillars" or ideals, which are: to build an educated, informed nation; a prosperous, productive and innovative nation; a compassionate, just and caring nation; a safe and secure nation; an open, democratic and accountable nation; a moral and tolerant nation; and a united and proud nation. These ideals guide all political, social and economic activities, including the National Development Plans. The Vision reaffirms the national principles of Self-Reliance, Unity, Development, and Democracy, which have guided Botswana's development since independence. These social and political ideals provide the context for national economic development, whose objective is to attain sustained development; rapid economic growth; economic independence; and social justice.
4. Botswana's governance performance has been quite impressive. The country is generally regarded an example of a successful developmental state with desirable capabilities. Botswana has utilized economic growth to deliver public goods and services, through deliberate efforts to reduce poverty, and to cultivate social harmony and political stability, while maintaining an open and democratic political system. Hence economic and political governance assessments made by the World Bank, African Development Bank, the Mo Ibrahim Foundation, World Economic Forum, Transparency International, the Commonwealth Business Council, etc., have all ranked Botswana highly. The country's success has been attributed to good policy choices, the utilisation of capable state machinery, and the operation of a realistic economic development planning process.
5. The economic growth of the country has not automatically translated into structural change, or resolution of persistent development challenges such as poverty, marginalisation and inequality. The diamond export sector predominates, and economic diversification has not materialised. However, the country practices sound macroeconomic management, and exercises prudence in the allocation of national resources for social and economic development. The government's budgeting, planning, and procurement systems are based on sound policy and institutional foundations, and are accompanied by institutionalized accounting and auditing systems. These are backed by effective anti-corruption efforts. The public sector is, therefore, quite well managed; systems are available for the management and accountability of state entities. The central bank effectively performs its monetary

functions and the supervision of the banks. The regulation of non-bank financial institutions will soon be performed by a dedicated agency.

6. The environment for private sector development is favourable, and there is respect for private property, contracts, and international agreements. The government has active engagement with the private sector. The governance of the corporate sector is characterized by adherence to international accounting and audit principles, and application of international anti-corruption agreements, which together with the domestic legal framework and institutions ensure good corporate governance practices. A functional taxation system, and company registration and reporting are the principal means for ensuring the accountability of private businesses. However, the enhancement of the private sector requires a competition policy and competition commission, as well as independent regulatory frameworks.
7. Despite the favourable macroeconomic performance and political achievements, Botswana is confronted with some critical economic and social challenges, including the inability to diversify the economy, inflation, serious income inequalities, high levels of unemployment and considerable poverty, vulnerability to weather changes, as well as changes in the world prices of its major commodities. The high prevalence of HIV/AIDS threatens the economy's productive capacity and affects the public institutions' efficiency and effectiveness in service delivery. There have also recently been concerns about political stability, growing corruption, moral decay, and the over-centralisation of the state. These challenges threaten the otherwise good performance of the capable state, and the sustainability of its development model.
8. Botswana seeks to improve governance, and in January 2007 launched a National Governance Programme (in conjunction with the UNDP), which is specifically aimed at the enhancement of service delivery through focus on three areas: building human capabilities, improving processes for efficiency, and the structure and culture of the public service. This is complementary with UNECA's proposed measures to enhance good governance, which will involve creating mechanisms for monitoring progress, including the formulation of codes of good governance in the social and economic spheres, creation of an appraisal system, and dissemination of best practices, etc.
9. In terms of measuring and assessing the progress of good governance, this report notes that comparison between the AGR I and AGR II studies do not reveal any significant changes in the nature of the state and governance. Similarly, the comparison of the principal indices used in the international rankings of Botswana in areas of political and economic governance does not show significant differences. Actually, in comparison to other African countries, Botswana remains a "shining example" in terms of various measures of governance. However, the country exhibits some marginal declines in certain indices, such as Transparency International's corruption perceptions index, and the World Bank Institute's World Wide Governance Indicators.
10. Botswana has since independence practised constitutional democracy with a multi-party political system and a functional separation of powers. Even through the executive branch is structurally predominant over the legislature; there is no undue interference of the executive in the operations of the legislature and the judiciary. The electoral process is characterised by regular and credible five-yearly elections, which have so far been deemed legitimate and credible. The political system, which is inclusive and liberal, allows for a free media and participation of civil society. Non-state actors are not officially restricted. There is, therefore, adherence to constitutionalism and the maintenance of a liberal democratic regime. The trend in political governance has, therefore, favoured the maintenance of a democratic, pluralist and liberal system of government.
11. The Constitution of Botswana provides for internal checks and balances amongst the three principal institutions of the state, and the executive recognizes and respects the functions,

responsibilities and roles of the other branches of government. There is, therefore no undue executive interference with the operations of the legislature and the judiciary. The decisions of the judiciary, even those that are against the executive, are always respected. The traditional institutions of governance are officially recognized, and are utilized to maintain social stability and cohesion. Although free to organize and operate, the non-state actors have minor roles as watch dogs and players in the policy process.

12. The executive branch is effective in policy determination and the development planning and budgeting processes. The quality and integrity of the executive are high. There is little corruption, and the levels of transparency and accountability are adequate. Public sector reforms are not pronounced, and there lacks a comprehensive and integrated approach to such reforms. Public service delivery, which is accessible, widespread and relevant, is constrained by the lingering problem of "lack of implementation capacity", which undermines the otherwise capable state institutions. There are concerted efforts to respond to the challenges of the HIV/AIDS pandemic that threatens both the social fabric and the human and institutional capacities for public service delivery.
13. On the international arena, Botswana is a good citizen that is signatory to all important international agreements, covenants, and conventions. Despite the absence of a human rights commission, there is respect for human rights and the rule of law by the law enforcement agencies. Civil and political rights of individuals and groups are respected, there is no censorship and there are no political prisoners in the country. The good governance of the country is thus enhanced by the respect for the law and respect for civil, political, cultural, social and economic, and generally human rights.
14. Despite Botswana's demonstrated capabilities, the adequacy of institutional structures, and availability of adequate financial resources, the country suffers from less than optimal performance in policy and programme implementation. There are problems with capacity to fully implement, in time, the National Development Plans. There are inadequate systems for monitoring and evaluation of implementation. The public sector performs below expectations, and this is a cause of serious concern, especially since there are sound policies, institutions and financial resources that could facilitate effective performance of state functions. There are, therefore, several capacity gaps that are identified in the Botswana political and administrative systems, which are implied in the recommendations below.
  - i. The Executive requires policy research units in all ministries or utilisation of the services of those outside the state institutions, accompanied by the establishment of a comprehensive system of monitoring and evaluation of ministerial and departmental policy and programme implementation.
  - ii. The legislature needs improvement of the administrative and technical support for Parliament. Consideration should also be given to providing state financial support for political parties in order to strengthen the opposition and their role in enhancing democracy.
  - iii. The Judiciary requires attracting and retaining qualified and experienced staff. The government should also expedite the introduction of alternative dispute resolution mechanisms, such as arbitration and small claims courts, to de-congest the formal court system.
  - iv. The local government councils could be boosted by further decentralisation, especially regarding revenue generation, local development policy making, planning and implementation. The government should develop a comprehensive and integrated decentralization policy and strategy to guide the decentralization process. The government should also improve the remuneration and conditions of service of local authority staff.

- v. In consultation with non-state actors, especially civil society organisations, political parties and community based organisations, the government should endeavour to devise policies and strategies that would address the non-state actors' capacity limitations, in terms of education, skills, experience, organisational ability, financing, operational efficiency and effectiveness.
  - vi. The private sector already operates in very favourable conditions, but requires a competition policy and competition commission, and clear regulatory policies and independent regulatory bodies.
- 15 Botswana had reasonable state capacity to map out a relatively autonomous development path because of the absence of strong international financial institution influence. The country's exceptional political, social and economic developments have largely been due to the capable political and administrative leadership, and democratic accountability that has ensured the responsiveness of the state to public demands and aspirations of the citizens. Botswana's good governance has been underpinned by the presence of economic wealth, and prudent, democratically elected, responsible, accountable, and legitimate leadership. These national attributes need to be sustained and improved upon.

In order to sustain good governance and state capacity, Botswana requires applying or improving upon several principles and practices. These are outlined in the following paragraphs.

- i. Botswana needs to maintain democratic practices that have developed over the years. The conduct of regular, free, fair, multiparty elections is crucial for maintaining the legitimacy and trust that the government enjoys.
- ii. The country needs to continue with prudent planning and management of financial resources, which have been a hallmark of Botswana's success. The good management of revenues from diamonds, and investments in social and economic infrastructures are the basis upon which Botswana's state capabilities may be enhanced for the good of all.
- iii. The challenges posed by the high prevalence rates of HIV/AIDS and persistent poverty across the country require continued widespread provision of social services and inclusiveness of benefits. These problems can be addressed through continuous vigilance and innovation in approaches.
- iv. There needs to be continuing commitment to strengthening existing public responsibility and accountability systems. There is need to enhance the capable state by strengthening political, administrative and financial accountability of state institutions.
- v. Deliberate efforts are required for the development of the human capacities of all stakeholders, especially Parliament, Judiciary, civil society and community based organisations.
- vi. There is also need to continue with, and strengthen, the engagement of the state with non-state actors such as the local communities, non governmental organisations, trade unions and other civil society organizations in national development policy, planning and implementation, and governance processes.
- vii. There needs to be continued government commitment to the formulation of sound policies, and the implementation of development projects and programmes. There should be clear definition and understanding of the functions, responsibilities and roles of the various actors (state, civil society, private sector, traditional leadership,

women, youth, etc) in the policy formulation and implementation processes.

- viii. It is crucial to establish and operate an effective system of evidence-based policy making, accompanied by a functional system of monitoring, assessment and evaluation of the impacts of policy and programme implementation, and progress towards set objectives, goals and targets.

## 1 INTRODUCTION

Good governance is a vital necessity for development. There is a common belief that the over-extension of the state relative to its capabilities during the immediate post-independence period (1960s-1980s) resulted in the African states' inability to deliver public services that they purport to make available to their citizens. The inadequate provisions of economic and social infrastructure and the "closed" political, administrative and law enactment systems are now considered to have been devoid of popular participation, thus preventing civil society an opportunity to be involved in the shaping of events and outcomes that affected the lives of ordinary people. States were characterised by inadequate transparency and accountability, and there was little or no independent oversight of executive decisions and performance. It is now considered that these systems constrained social and economic progress. This was so because there was no serious attention to the rule of law; corruption and nepotism were allowed to become rampant; and access to public and private social and economic services and opportunities were grossly inequitable.

Developments since the mid-1990s in political, economic and social situations point to an improvement in democratic governance, and give credence to the idea that good governance and peace are preconditions for development. Until the East Asian crisis, the growth prospects of many African countries appeared brighter than at any time since the decade of independence. Many countries engaged in liberal political and economic reforms, and most African states now appear determined to settle conflicts in a peaceful manner, and maintain order and stability in their political relations.

### 1.1 Objectives of the governance project

The overall objective of the governance project is to monitor the progress of African states towards good governance. According to the UNECA, good governance "encompasses a range of actions aimed at creating more open, participatory societies, and promoting greater accountability and transparency in public Affairs".<sup>1</sup> There are a number of essential components of good governance, such as political representativeness, institutional effectiveness and capacities to deliver public goods and services, ensuring sound economic management, etc. The essential components of good governance may be broken down into a number of requisite factors, including a political system that provides opportunities for all its citizens; participation that ensures broad inputs in governance and development decision-making from all stakeholders; effective system for transfer of power and renewal of political leadership; competitive, free, fair and transparent elections; political, administrative and financial accountability; effective regulation, parliamentary oversight and auditing; transparency, predictability and availability of valid information about government decisions and performance and public access to this information; ethical conduct of public affairs; effective public sector management with stable macroeconomic policy, effective resource mobilisation and allocation systems; responsiveness to citizens; adherence to the rule of law in a manner that protects personal and civil liberties; equity, public safety and security, access to justice for all; and effective and fair legal institutions. Good governance may thus be observed where there is "a capable and effective state; a state in which the public service, the legislature, the judiciary and statutory bodies are empowered to provide an enabling environment for the private sector and civil society to play their respective roles in a mutually reinforcing manner."<sup>2</sup>

<sup>1</sup> UNECA, Terms of Reference for Reviewing and Updating C.1 Expert Panel Survey and C.3 Desk Research Study Towards the Second African Governance Report (AGR II).

<sup>2</sup> Ibid.

The Botswana study's objectives are, therefore, to monitor the country's progress towards good governance, through examination of political representativeness, institutional effectiveness and economic management. The emphasis is on determining whether there has been enhancement of the capacity of the state to deliver, to improve the enabling environment for the participation of the private sector and civil society in economic, political, and social governance. As a country that was involved in the pilot study (AGR 2005), the study aims at comparative monitoring and evaluation of good governance.

## 1.2 Botswana's governance agenda

Botswana in 1997 adopted the *Long Term Vision for Botswana (Vision 2016)*<sup>3</sup>, which serves as the principal guide for the governance of the country. The Vision 2016 was a culmination of a process of consultations that had been initiated in 1996 by the former President, Sir Ketumile Masire. It seeks to provide a framework for addressing Botswana's challenges, to make it a better society by 2016, the 50<sup>th</sup> anniversary of independence.

The Vision 2016 identifies seven "pillars" or ideals, which are: to build an educated, informed nation; a prosperous, productive and innovative nation; a compassionate, just and caring nation; a safe and secure nation; an open, democratic and accountable nation; a moral and tolerant nation; and a united and proud nation. These ideals are supposed to guide all political, social and economic activities, including National Development Plans. Emphasis is placed on the desire that all programmes and projects must include practical activities that would lead to the attainment of the national ideals, in order to achieve *kagisano*, or social harmony. In other words, the Vision reaffirms the national principles of Self-Reliance, Unity, Development, and Democracy, which have guided Botswana's development since independence in 1966. Additional to the principles is that of *Botho*, or humaneness. These social and political ideals provide the context for national economic development, whose objective is to attain sustained development; rapid economic growth; economic independence; and social justice.<sup>4</sup>

Botswana is actively engaged in enhancing governance and in January 2007 launched a National Governance Programme in conjunction with the UNDP. The programme is aimed at improving governance with specific emphasis on service delivery. The focus is on three areas: building human capabilities, improving processes for efficiency, and the structure and culture of the public service. This programme is complementary with UNECA's proposed measures to enhance good governance, which will involve creating mechanisms for monitoring progress, including the formulation of codes of good governance in the social and economic spheres, creation of an appraisal system, and dissemination of best practices, etc.<sup>5</sup>

Botswana also recently concluded consultations for the *European Community-Botswana 2008-2013 Country Strategy Paper (10th EDF)*, in which funding is expected to be allocated for sectoral budget support in human resource development, civil society development, and technical assistance. Due to the importance given to governance

<sup>3</sup> Government of Botswana, 1997. *Long Term Vision for Botswana: Towards Prosperity for All (Vision 2016)*.

<sup>4</sup> The National Development Plans (NDPs) detail the government's plans and priorities. The first was the *Transitional Plan for Social and Economic Development, 1966-68*, which was followed by the *National Development Plan 1968-73*. Botswana is currently implementing *National Development Plan 9, 2003/04-2008/09*. NDP9 is the first to be formulated after adoption of the Vision 2016.

<sup>5</sup> *Ibid.*



within the framework of the EC-Botswana cooperation under the 10th EDF, Botswana underwent a country governance assessment in 2006.<sup>6</sup> Based on this assessment, Botswana is expected to submit a list of commitments to improve governance in the following areas: political/democratic governance; political governance/ rule of law; control of corruption; governance effectiveness; economic governance; internal and external security; social governance; international and regional context; quality of partnership. The achievement of these governance commitments would lead to release of an "Incentive Tranche" of up to a quarter of the 10th EDF allocation. Similarly, the African Development Bank in 2006 also conducted its a governance assessment to "promote dialogue on governance based reforms and capacity building programmes."<sup>7</sup>

### 1.3 Botswana's governance performance

Botswana has generally been regarded a developmental state with impressive capabilities, because it has been able to deliver public goods and services. There has been economic growth, deliberate efforts to reduce poverty, and maintenance of social harmony and political stability. The country has maintained an open, democratic multi party political system. Economic and political governance assessments made by the World Bank, African Development Bank, the Ibrahim Index of African Governance, World Economic Forum, Transparency International, the Commonwealth Business Council, etc., have ranked Botswana highly.<sup>8</sup>

The following figures and tables are illustrative of the rankings accorded Botswana by the World Bank Institute (WBI), Mo Ibrahim Institute and Transparency International (TI). The 2006 WBI governance indicators show that Botswana ranks above the average for all sub-Sahara African countries in terms of voice and accountability; political stability; government effectiveness; regulatory quality; rule of law; and control of corruption. In 2007 the Mo Ibrahim Foundation ranks the country third after Mauritius and the Seychelles out of 48 countries overall, in terms of safety and security; rule of law, transparency and corruption; participation and human rights; sustainable economic opportunities; and human development. Transparency International has ranked Botswana as the least corrupt country in sub-Saharan Africa from 2005 to 2007. All these indicate a very positive perception of Botswana in terms of good governance.

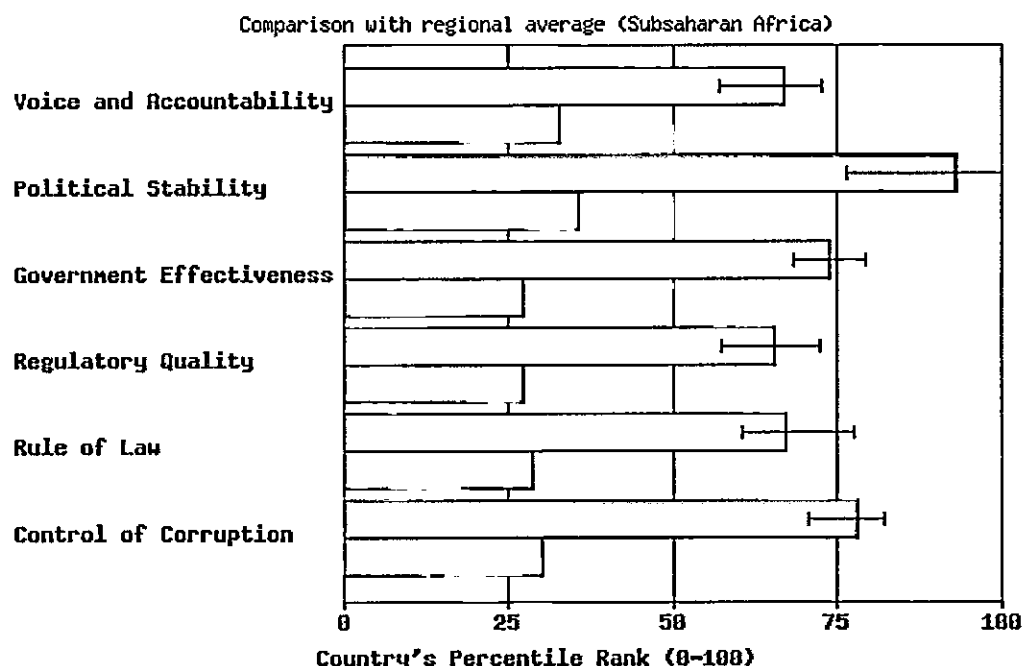
Thus, Botswana's political and economic development has been regarded exceptional, from being one of the poorest countries on earth at the time of independence in 1966, to its a current status as a successful upper middle income country. The success has been attributed to good policy choices, the utilisation of capable state machinery, and the operation of a realistic economic development planning process.

<sup>6</sup> European Union Delegation to Botswana, 2006. *Governance Profile for Botswana, June 2006*. (Based on a report prepared by the Public Sector Reform Unit, BIDPA and consultations with the stakeholders, 2nd June and 27th July 2006)

<sup>7</sup> African Development Bank/African Development Fund, 2007. *Botswana Country Governance Profile (Draft)*, April 2007.

<sup>8</sup> See, for example, World Bank, 2006. *Africa Development Indicators 2006* (September 2006); Ibrahim Index of African Governance 2007; World Economic Forum, 2006. *Global Competitiveness Report 2005-2006*; Bertelsmann Stiftung, 2006. *Bertelsmann Transformation Index 2006*; Transparency International, (various years), *Global Corruption Index*; Commonwealth Business Council, 2005. *Business Environment Survey 2005. Private sector Views*. September 2005; European Union Delegation to Botswana, 2006. *Governance Profile for Botswana, June 2006*. (Based on a report prepared by the Public Sector Reform Unit, BIDPA and consultations with the stakeholders, 2nd June and 27th July 2006); UNECA, 2005. *African Governance Report, 2005*.

**Figure 1.1: WBI Botswana governance indicators compared to sub-Saharan Africa 2006**  
**BOTSWANA**



Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2007: Governance Matters VI: Governance Indicators for 1996-2006

Note: The governance indicators presented here aggregate the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, and international organizations. The aggregate indicators do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. Countries' relative positions on these indicators are subject to indicated margins of error that should be taken into consideration when making comparisons across countries and over time.

**Table 1.1: Ibrahim Index of African Governance: Botswana 2000, 2002 and 2007**

	2007	2002	2000
Ranking out of 48 countries	3	3	3
Ibrahim index of African governance (%)	73	72.7	72
Safety & Security	75	75	75
Rule of law, transparency & corruption	88.3	89	87.3
Participation & Human rights	75.5	78.1	78.1
Sustainable economic opportunity	58.1	53.1	52.2
Human Development	67.9	68.2	67.1

Source: *The Ibrahim Index of African Governance 2007*, Appendices A, B and C.

**Table 1.2: TI Corruption Perception Index (CPI): Botswana 2007**

Year	World Ranking	Regional Ranking: Africa	Score
2007	38	1	5.4
2006	37	1	5.6
2005	32	1	5.9

Source: Transparency International, *Bribe Payers Index (BPI)* (supply side of corruption, i.e. the propensity of firms from industrialised countries to bribe abroad, and the *Global Corruption Barometer (GCB)* (general public attitudes toward, and experience of corruption).

Despite the favourable macroeconomic performance and political achievements, Botswana faces some critical economic and social challenges, including the inability to diversify the economy, inflation, serious income inequalities, high levels of unemployment and considerable poverty, vulnerability to weather changes, as well as

changes in the world prices of its major commodities, and a high prevalence of HIV/AIDS, which threatens the economy's productive capacity and affects the public institutions' efficiency and effectiveness in service delivery.<sup>9</sup> There have also recently been concerns about political stability, growing corruption, moral decay, and the over-centralisation of the state. These challenges threaten the otherwise good performance of the capable state, and the sustainability of its development model.

#### **1.4 Outline of the report**

The report has ten chapters. Chapter One is the Introduction and outlines the objectives of the study; Botswana's governance agenda, and its historical performance in governance. Chapter Two outlines the methods used in researching and compiling this report.

Chapter Three details the nature of political governance, through discussion of the regime type; democracy, political representation and social inclusiveness; public voices; and legitimacy and integrity of political leadership and the electoral process.

In Chapter Four, we discuss economic and public financial management, with emphasis on economic growth and the management of taxation, resource allocation, public enterprises, and the monetary and financial system. Chapter Five concentrates on government support for private sector development and issues of corporate governance, including the protection of property rights, incentives for private sector development, and promotion of good corporate governance.

Chapter Six is about state institutional checks and balances. It outlines the constitutional provisions, and actual interactions in the operations, and performance of the Executive, Legislature, Judiciary and Non-State Actors. Specific attention is placed on assessing the effectiveness and accountability of the Executive in Chapter Seven. This chapter examines the roles and performances of the public service, local governments, traditional structures of governance, law enforcement agencies, in service delivery. It also considers the nature of public policy making, transparency and accountability of the Executive.

Chapter Eight places emphasis on human rights and the rule of law, with discussions of the constitutional and legal frameworks and actual practices in safeguarding human rights and securing the rule of law. The chapter thus considers the role played by law enforcement agencies and non-state actors, civil and political rights, social economic and cultural rights, and whether conditions exist that either limit or promote these rights.

Chapter Nine is concerned with an examination of the state of capacity building for strengthening good governance. It also assesses institutional gaps in the capacities of the Executive, Legislature, Judiciary and the Non-State Actors. Lastly, the chapter provides some recommendations on areas of that require capacity development.

Chapter Ten concludes the study with a summary of the main findings that are discussed from Chapters Three to Nine. The chapter presents a comparison of the findings from the AGR I and AGR II studies, and suggests recommendations that Botswana could consider in order to sustain and/or enhance good governance and a capable state.

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<sup>9</sup> African Development Bank/African Development Fund, 2007. *Botswana Country Governance Profile* (Draft), April 2007.

## 2 METHODOLOGY

This chapter outlines the methods used, and details the steps that were followed, in conducting the Botswana governance study. It provides a brief statement of the objectives and scope of the research, the research instruments and their specific objectives, the targets of research, and an overview of how the instruments C.1, to collect information from the selected Expert Panel, and C.3 for desk-based research were administered.

As part of a continent-wide project aimed at monitoring progress towards good governance, the report from the study will culminate in the production of the *African Governance Report II*, which is a follow-up to an earlier one that was published as the *African Governance Report 2005*. The project's objective is to establish a mechanism for monitoring performance in various dimensions of the capable state in Africa, through a systematic collection and analysis of qualitative and quantitative data using selected key indicators.

The study utilizes two research instruments, which are based on the original instruments used in the 2001-03 studies, but re-formatted and fine-tuned after several methodology and review workshops conducted by the ECA from 1999 through to 2004. The workshops included members of the research teams, academics and practitioners. The last review of the instruments was right after the completion of Rounds I and II of the first governance study, in December 2004 at an Ad-hoc Expert Group Meeting where a general recommendation was made to retain the instruments for Round III, which is the current study.

The first instrument is a questionnaire, named C.1, and is opinion-based, with the objective of gathering perceptions about governance. It was used to collect responses from appropriately represented segments of society, notably, the Expert Panel. The second instrument is named C.3, which was employed to collect complementary and supplementary information and data through desk research. The aim of C.3 was to collect additional facts to reinforce the perceptions expressed in C.1. Both the instruments sought information about governance, specifically relating to (i) Political Representation (ii) Institutional Effectiveness and Accountability and (iii) Economic Management.

UNECA designed and provided the research instruments, the guide manuals for administering them, and the template for writing the report. These guides and templates were the Structure and Contents of the Chapter on Methodology, Appendix C.4: Associated Definitions and Explanations of Terms, and Table of Contents for AGR II.

### 2.1 Establishment of a Steering Committee

A Steering Committee was set up consisting of six representatives of key stakeholders. The committee consists of Mr. Alpheus Matlhaku, formerly the Clerk of Parliament (National Assembly); Dr Marc Meinardus of the Friedrich Ebert Foundation (FES); Mr. Norman Moleele of the Botswana Confederation of Commerce Industry and Manpower (BOCCIM); Prof. Mpho Molomo of the Department of Political and Administrative Studies, University of Botswana; Ms Alice Mogwe of Ditshwanelo-Botswana Centre for Human Rights; and Dr NH Fidzani, the Executive Director of BIDPA and an ex-officio member, and the research team leader, Prof. Jonathan Mayuyuka Kaunda, who serves as the secretary to the committee.

The Steering Committee held its first meeting on 20 March 2007. The meeting's aims were to introduce the governance study, seek guidance on its management, and solicit buy-in and ownership. The meeting discussed the terms of reference of the AGR II, the work plan and scheduling of the research project, and plans for the Expert Panel Seminar. Two further meetings of the Steering Committee were agreed; one to be held after the production of the draft country report and the other after the Stakeholders' Conference.

## **2.2 The pre-launch in Country Conference**

An invitation to attend an Expert Panel Seminar was sent to 100 people. The seminar was held on Wednesday 28 March 2007 at the Grand Palm Hotel, Gaborone. Invitees were drawn from a group of variable social, economic and political backgrounds. Out of the one hundred invitees, only 35 turned up. The profiles of the expert panel participants are attached as Appendix D.

The seminar commenced with welcome remarks by Dr. N. H Fidzani, the Executive Director of BIDPA. Professor Jonathan Mayuyuka Kaunda, who is the team leader for the project, presented a background paper titled "The State of Governance in Botswana", which outlined the history of the current project as emanating from the UNECA's project on "Monitoring Progress Towards Good Governance in Africa", whose outputs were the *African Governance Report 2005*, which synthesized 28 country reports, and the country report that was published as *The State of Governance in Botswana 2004*. The team leader explained the objectives of AGR II, the essential components of good governance, and the purpose of the questionnaire, which was to solicit the participants' opinions on the progress of good governance in Botswana. Thereafter, questions and comments were received, followed by a brief discussion. Lastly, the participants were requested to complete the questionnaire.

## **2.3 The Expert Panel Survey**

The objective of the expert panel survey was to seek from the participants, opinion about the progress of Botswana's governance.

### **2.3.1 Study Design**

A purposive sample included individuals from the civil society, the private sector, political parties, academia, and oversight institutions. Government officers, particularly from the civil service, were left out because the study is meant to assess the performance of government. The selection of the Expert Panel was based on the criteria developed by the UNECA, and based on the following characteristics:

- 1) Age of 25 years and above.
- 2) Social status.
- 3) Education, preferably degree holders in the social sciences, liberal arts and law, with several years work experience. The panel members had to be socially, economically, or politically active citizens.
- 4) Interest in the nation's affairs, as professed and practiced in recent years.
- 5) Relationship with political parties and government.
- 6) Academics, researchers, lawyers, leaders and professionals working with NGOs, business leaders, retired former professionals, and church leaders active in social issues.
- 7) Citizenship and/or nationality. [The participants had to be from Botswana].
- 8) Reasonable balance of ethnic, gender, religious and regional representation.

The research instrument C.1 (see Appendix C) had been designed and pre-coded by UNECA. The only addition made by BIDPA was the biographical section to the instrument. The data collection, processing and analysis were all based on instructions in the 'Guide Manual for Administering the Research Instrument' provided by UNECA.

### **2.3.2 Data Collection**

The participants of the Expert Panel Seminar were invited to complete a questionnaire at the seminar. The administration of the C1 questionnaire therefore adopted a focus group approach. The purpose of this method was to maximise the response rate by using a more efficient and a less cumbersome method of collecting data than individual visits to each of the participants. Unfortunately, there was a low rate of attendance at the seminar (35 out of 100), despite confirmations that we had received prior to the date of the event.

The low rate of attendance prompted a review of methodology. BIDPA engaged three temporary research assistants to complete the data collection exercise after the seminar. The duties of the assistants were to deliver the questionnaires to invitees that had not pitched up for the seminar, make sure that the questionnaires were filled, and return later to collect questionnaires. The questionnaires had to be self-administered, and the respondents largely dictated the dates when they were to be collected. This obviously led to delays in the completion of the exercise.

The research assistants distributed 77 questionnaires, out of which 55 were duly filled and collected. Altogether, 112 questionnaires had been distributed at both the seminar and through the research assistants and the completed total were 90. The overall response rate was 80.4 per cent.

The expert panel respondents were individuals from all major sectors such as parastatals, private sector, civil society, political parties, and academia and oversight institutions. Seventy-two per cent were male, and 66 per cent aged 40-59. The majority (almost 90 per cent) had a post-graduate qualification (30% bachelor's; 46% master's; 13% doctoral degrees). The majority, 44 per cent, were trained in the social sciences, followed by about 18 per cent each in accounting, business, and education; about nine per cent in humanities; six percent in science; three per cent in engineering and two per cent in computing. Their occupations were overwhelmingly in administration (60%), with others in lecturing (14%), legal practice (8%) and about four per cent each in journalism, accountancy and private consultancy. The majority (76%) were of the Christian faith and 10 per cent indicated no religion. The detailed profile of the Expert Panel respondents is in Appendix D.

### **2.3.3 Data Processing and Analyses**

Every questionnaire was checked in order to detect, and as far as possible, 'eliminate errors in the completed questionnaires. As the questionnaires had been pre-coded, further coding was deemed unnecessary. The data was entered into the computer and a thorough cross-checking was done after that. The analysis of the data involved the use of descriptive statistics, which was limited to production of frequency tables only, as requested by UNECA. All the processing utilised the Statistical Package for the Social Sciences (SPSS 13.0 version).

## **2.4 The Desk-based research**

Two BIDPA-based research assistants were engaged in desk-based research that was guided by the instrument C.3, as provided by UNECA. One concentrated on Political Representation and Economic Management and Corporate Governance. The other

focused on Institutional Effectiveness and Accountability. The C.3 guide sought factual information that would back up, validate or invalidate the responses obtained from the expert panel.

#### *2.4.1 Stakeholders' draft report*

The findings from the C.3 desk study and the responses from C.1 are the basis for the analysis in the Country Report and the Country Profile. This draft report will be presented to stakeholders, to solicit their feedback, which would lead to refinement of the Botswana governance report prior to finalisation.

#### *2.4.2 Limitations and problems encountered*

The major problem was the low response rate for the expert panel seminar. The seminar occurred a whole calendar month after the initial planned date because of a low response rate to our invitations. This had an effect on the scheduling of the inaugural Steering Committee meeting, because that meeting had to discuss, amongst other things, the composition of the Expert Panel. The second problem was actual turn up of the confirmed invitees, which was too low at only 35 per cent. We heard complaints about "questionnaire fatigue"; that some prospective participants were tired of government surveys whose outcomes they did not know. Other participants were asking what was there in the exercise for them? What "inducements" and "incentives" were available for their participation? Essentially, they were asking for payment, which we could not provide.

The administration of the expert panel questionnaire was delayed because of the two-stage process whereby we had to conduct the Expert Panel Seminar first, and then later follow up the people that failed to attend the seminar. At the time of data collection, we could not find some respondents because of duty commitments and inability to find time to respond to the questionnaires. It was also difficult to collect questionnaires from respondents residing outside Gaborone. Some complained that the questionnaire was too long. Follow-up of the respondents was difficult; it took a lot of time and was expensive.

However, there were no problems with the use of the C.3 guidelines; the gathering of information and access to crucial data was not impeded in any way.

### 3 POLITICAL GOVERNANCE

This chapter is based on information gathered using instruments C.1 and C.3. It outlines the trends of political governance, especially the political space, current challenges and democratic processes. It includes assessments of democracy; political representation and social inclusiveness; the legitimacy of political institutions; the voice of the people and freedom of expression; and the legitimacy and integrity of the electoral process.

#### **Democracy and pluralism**

The majority of the expert panel respondents (about 68%) stated Botswana has a multiparty democracy while 30 per cent thought there is a stable multi party democracy. These responses are largely the same percentages as in the last study of 2003.<sup>10</sup> In fact, political representation is quite free and wide, in spite of the predominance of the ruling Botswana Democratic Party (BDP), which has been in power since independence. Botswana has been a stable political system that has maintained a democratic and pluralist orientation.

#### **Acceptance of the democratic framework**

About half (51%) of the participants in the expert panel expert panel regarded the democratic framework for conducting politics acceptable and entrenched in all social and political groups. About 37 regarded the framework to be accepted by all groups but not firmly entrenched. However, a significant (combined) 88 per cent considered the system to be accepted, which places those who claimed that it was not appreciated by all (7%), and regarded with suspicion by ruling circles but still selectively employed to project a democratic image to the outside world (6%), in minority. The conclusion is that the democratic framework is regarded to be largely accepted in all social and political groups, although there may be some doubts about its entrenchment. However, there was consensus that the political system is democratic, with political power distributed through free and competitive elections in a multiparty electoral system.

#### **3.1 Democratic regime and structure of political representation**

Botswana is a multi party democracy, which has held regular elections every five years since the period just prior to independence. The last Parliamentary and Local Government council elections were in October 2004. The elections were declared free, fair, and representative of the peoples' will by international observers and other regional election monitoring bodies, including the Electoral Institute of Southern Africa (EISA), African Union, SADC, and the SADC Parliamentary Forum.

##### **3.1.1 Adherence to constitutionalism**

Botswana has been a constitutional democracy since independence in 1966. There is respect for the Constitution and adherence to the national guiding principles, which are Democracy, Development, Self-Reliance, Unity and *Botho*. The principal organs of the state are the Executive (President and Cabinet), Parliament and Judiciary. The traditional system of governance, *bogosi*, is officially recognized and partially integrated into the formal governance structure.

There have been several amendments to the constitution. But the most important ones have been changes to citizenship laws; introduction of the Independent Electoral Commission; limitations on the term of office of the executive President; introduction of the absentee ballot; changing voting age from the age of 21 to 18; making the

<sup>10</sup> The comparative figures for 2003 are 68.5 and 28.3 for multiparty democracy and stability.



Constitution tribally-neutral; re-definition of the role of the Attorney General and creation of a Directorate of Public Prosecutions.<sup>11</sup> Most of these amendments have contributed to establishment of a more accountable, transparent, fairer and balanced form of political governance.

### 3.1.2 Evolution toward multiparty democracy

Botswana has always been a multi party democracy. There have been regular and freely contested elections that have seen participation by a number of parties. There are about 30 political parties in Botswana, eight of which registered for and actually participated in the general elections of 2004. However, opposition parties appear to be ineffective in challenging the ruling Botswana Democratic party. The capability of opposition parties becoming effectively representative is questionable, because amongst them, only the Botswana National Front (BNF) has ever had significant representation in Parliament (13 representatives in a parliament of 40, or 32.5% of elected members in 1994). However, due to internal squabbles and splintering, that number declined to only 6 or 15 per cent in the 1999 general election, only to rise again to 12 out of 57 or 21 per cent in the 2004 general elections. The table below shows the election results from 1965 to 2004.

Table 3.1: Elections and parliamentary seat distribution 1965-2004

	1965	1969	1974	1979	1984	1989	1994	1999	2004
BDP	28	24	27	29	28	31	31	33	44
BNF	-	3	2	2	5	3	13	6	12
BPP	3	3	2	1	1	0	0	-	0
BiP/IFP	0	1	1	0	0	0	0	-	-
BCP	-	-	-	-	-	-	-	1	1
BAM	-	-	-	-	-	-	0	0	0
MELS	-	-	-	-	-	-	-	-	0
NDF	-	-	-	-	-	-	-	-	0
Total*	31	31	32	32	34	34	44	40	57

Sources: IEC, 1999; IEC, 2004. *Report to the Minister of Presidential Affairs and Public Administration on the 2004 General Elections*

Key: - did not contest; 0 contested but did not win a seat; \* Total elective seats, excluding specially elected MPs.

### 3.1.3 The presidential-parliamentary leadership system

This sub-section examines the principal structures of government and how they relate to each other. It briefly discusses the composition of the Executive, Parliament and Judiciary, then the scope of the separation of powers. It concludes that even though the separation of powers is exercised; it is not as clear-cut as in a true presidential system such as the United States of America. This is because there is over-lapping membership of the Executive and Parliament, a characteristic that is reminiscent of a British style parliamentary system of government.

#### Formation of the Executive

Ninety-three per cent of the expert panel respondents affirmed that the formation of the executive is fully competitive although it is indirect. The system is considered to be competitive because parties are not constrained in competition for parliamentary seats. There is no direct election for the President, who is both Head of State and head of the Executive branch of government. The President is selected amongst the Members of the

<sup>11</sup> See *The State of Governance in Botswana 2004* (BIDPA/UNECA); African Development Bank/African Development Fund, 2007. *Botswana Country Governance Profile* (Draft), April 2007.

National Assembly, and is the leader of the largest party represented. However, the President ceases to represent the constituency that elected him/her upon assuming the presidency, but like the Cabinet Ministers and Assistant Ministers, remains a Member of Parliament. The President selects the Vice President, whom the Legislature must endorse. However, there are no provisions for the impeachment of the President. The appointment of members of the cabinet from the list of Members of Parliament is at the discretion of the president.

### **Parliament**

Regular and periodic elections are the basis for the composition of Parliament. There are 57 elective seats, and four specially elected ones, making a total of 61 Members of the National Assembly. The proportion of specially-elected members is only 6.5 per cent of the total. The four specially elected members are selected by the President from lists provided by all the parties represented in the new parliament, in accordance with the provisions of an act of parliament.<sup>12</sup> The Parliament has responsibility for representation the electorate, making laws, and approving national policy, development plans and strategies. It has a watchdog role through 20 Parliamentary Committees, one of the most important being the Public Accounts Committee (PAC). In theory, an MP can be recalled for non-performance but in reality none has ever been recalled.

The Parliament's main power to formulate laws for the governance of the country is exercised through the passing of bills that the President must assent to, and cause to be published in the *Government Gazette* prior to their coming into operation. The Parliament has to receive, discuss and approve all executive budget proposals or estimates prior to actual expenditure of public moneys. This power extends to the National Development Plan, which is also formulated by the Executive and cannot be implemented unless it is formally approved by Parliament.

Despite Parliament having the power to exercise some significant checks on the powers of the President, the Executive is nevertheless relatively predominant over the Parliament, which is not effective in countervailing the powers of the Executive. The President has significant powers in relation to Parliament, including to summon its meetings at any time, and to dissolve it. The relative weakness of Parliament is also partly a consequence of its composition. Parliament is numerically dominated by Ministers or Assistant Ministers, who are members of the Executive, and selected by the President from amongst the pool of parliamentarians. Currently, 20 out of the total of 61 Members of Parliament, or about one third of parliamentarians, are also members of the Executive branch. These MPs cannot effectively question executive decisions and actions because they have to abide by the principle of collective responsibility; as members of the Executive, they cannot question the Executive while they sit as legislators in Parliament. There have, therefore never been instances when the Executive's policies, plans and strategies have been vetoed by Parliament.

The other source of the Executive's predominance stems from the weakness of Parliament, which has undeveloped staff capabilities to conduct of its work. Parliament does not have research staff to serve the MPs; constituency offices are undeveloped and do not have qualified and experienced staff. These capacity limitations impact negatively on the capabilities of MPs to gather relevant information and analyse it for their parliamentary presentations and deliberations. Lastly, the Parliament has no power and authority to impeach the President.

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<sup>12</sup> *Constitution of Botswana* 58(2)

### **The traditional system of governance**

*Bogosi*, the traditional system of governance, complements the other government institutions. There is the *Ntlo ya Dikgosi*, or House of Chiefs, which consists of hereditary representatives, and elected chiefs for areas that do not have the hereditary chieftainship. The House of Chiefs is advisory on tribal, cultural and land matters, but is consulted, and discusses executive and legislative matters, in the interests of the tribes and their tribal organisations. The major contribution of the traditional authorities in the governance structure and processes of Botswana is maintenance of social cohesion and stability.

### **The Judiciary**

The Judiciary is relatively independent and professional; thus it has integrity and is regarded with respect by the other branches of government. It is established under Section 95 of the Constitution of the Republic of Botswana as an independent arm of government and has "unlimited original jurisdiction" to administer justice. The Judiciary hears both civil and criminal cases, and its organizational and operational structure was strengthened after a 2001 referendum. There are three layers of courts: the Court of Appeal is at the apex, followed by the High Court and Magistrates Courts down the hierarchy. The traditional chiefs and headmen (*bogosi*) administer customary law and deal with civil and minor criminal cases. There are no religious courts. Only the High Court has power to impose the death penalty.

The appointment of the judges of the High Court and the Court of Appeal, Registrars and magistrates is done by the President, on the recommendation of an independent Judicial Service Commission (JSC). The JSC is responsible for administration of the conditions of service of the judicial officers. The judges of the High Court and the Appeal Court enjoy lifetime tenure, but may retire upon reaching age 70. They cannot be arbitrarily removed from office. Should there be need for possible removal of a judge from office, the President is required to establish a tribunal that would investigate and recommend disciplinary action.

The representation on the Judicial Service Commission includes representatives of civil society, in the form of the Law Society of Botswana. This ensures a considerable degree of independence in the operations of the commission. There are so far no instances of the Executive interfering in the functioning of the Parliament, Judiciary and the JSC.

### **Leadership, separation of powers and constitutional rule**

Even though no strict separation of powers is practiced in the relations between the Executive and Parliament, which is partly due to the influence of the British parliamentary system of government (since Botswana was a Protectorate of the United Kingdom), there is considerable respect for the existence and operations of the different branches of government. Although the Executive is eminent and predominant in the entire political and administrative system, there have not been cases of its interference in the operations of the Legislature, the Judiciary and even the Independent Electoral Commission.

The Parliament conducts important functions of law making, selection of the President and endorsement of the Vice President, as well as approval of government budgets, expenditures, and the National Development Plan. However, its powers of checking the policies and performance of the Executive are not fully realized. This is due to the structural composition of the Parliament and the functional relationship that the hybrid

presidential-parliamentary system imposes upon the government branches. The fact that about one-third of the members of parliament also belong to the Executive branch as ministers and assistant ministers, means that in numerical terms, the executive branch is over-represented in Parliament. Functionally, these members of both the Executive and Parliament cannot effectively check executive decisions and actions of which they are part, because they are required to uphold the collective responsibility of Cabinet. The operations of the Parliament thus appear to be routines, and consist mainly of endorsement and legitimating of the policies, development plans, budgets, and implementation strategies of the Executive.

However, in as much as the National Assembly lacks effective checks over presidential powers, and cannot impeach the President, the running of the system of governance has been based on the principle of upholding democratic practices and traditions, which are based on constitutional rule.

#### ***3.1.4 The unitary government structure***

Botswana's structure of government is unitary. The central government is headquartered at Gaborone. The territory is sub-divided into 10 administrative districts that headed by District Commissioners. From the pre-independence days, the office of the District Commissioner has operated as a representative of the central government in the district. This office also coordinates rural development and decentralised development planning through the District Development Committees (DDCs) and Village Development Committees (VDCs). There is devolved local government, consisting of 11 district councils, two city councils, and four town councils. Land administration is done by Land Boards, whose boundaries are largely similar to the district councils'. In addition to District Administration and the Local Authorities, there is also Tribal Administration that incorporates the traditional governance structures (*bogosi*) into the other structures of governance, and is considered a major local government institution.

### **3.2 Social inclusiveness in political representation**

This sub-section discusses constitutional provisions, and the actual practices that ensure political representation of all sections of society. It considers the questions of whether the political system is socially inclusive of minority groups, and the repercussions on acceptance and legitimacy of the regime.

Political representation and social inclusiveness, as well as political accountability, are ensured through regular five yearly general elections for the National Assembly and local government councils. The electoral process is functional, free and fair. The current Parliament is the ninth since independence in 1966. The National Assembly consists of 61 members (57 elected Members of Parliament and four specially elected representatives. Of the registered voters, there is quite a high turnout in the general elections. For example, 77.11% of the registered voters cast their ballot in the national elections of 1999, compared to 76.20% in 2004.

#### ***3.2.1 Regional, ethnic and religious representation***

Regional, ethnic and religious representations have thus far not been problematic issues in Botswana's electoral and representation processes. Botswana uses a first-past-the post electoral system rather than proportional representation. This system has a tendency of skewing results to the advantage of parties that have majority support, but does not reflect the exact extent of support for losing parties. Typically, the 2004 electoral outcome favoured the biggest party. Whereas the BDP garnered only 52 per cent of the popular vote; the combined opposition obtained 48 per cent. However, the

BDP obtained 77 per cent of the seats in parliament.

The picture is decidedly not favourable with regard to representation reflecting the social composition of the electorate in the Executive, the Judiciary and National Assembly. The appointments to cabinet are done by the President exercising his prerogative. According to Section 42, subsection (3) of the Constitution of Botswana, appointments of the office of minister or assistant minister shall be made by the president from among members of the National Assembly provided that not more than four persons may be appointed as minister or assistant minister from among persons who are not members of the National Assembly but are qualified for elections as such. The president uses his discretion to appoint the specially elected Members of Parliament. Due to the minimal representation of women in the National Assembly after the 2004 elections, the President used his power to make special appointments to select three female MPs whom he also incorporated into the executive as ministers and assistant ministers. The President also appoints the Chief Justice and the judges, acting in accordance with the advice of the Judicial Service Commission. However, there has not been affirmative action in favour of women in the Judiciary.

The past and current composition of the Executive and the Judiciary do not show any correspondence with the social composition of the electorate. However, no persons belonging to minority groups have been elevated to positions of power on the basis of their regional, ethnic or religious origins.

### **3.2.2 Gender representation**

Women constitute about 52 per cent of Botswana's population. But their representation in the principal organs of the state does not match their numerical presence in the country. There are four women amongst the total of 24 ministers and assistant ministers. The proportion of women in the Executive of 26 (including the President and Vice President) is thus 15 per cent. Appointment to the civil service is based on merit, and in the early 2000s, women held 40% per cent of the top civil service positions.<sup>13</sup> The picture is less positive in parliament, where out of 57 elected members, only four are women.<sup>14</sup> Out of the four specially elected MPs, three are women and all of them were selected into cabinet. Likewise, the judiciary also does not have adequate representation of women. Of the 15 High Court judges, only one is a woman. However, the Attorney General, who is chief legal advisor to the government, is a woman. So is the Deputy Speaker of Parliament. Generally, Botswana has not managed to match women's representation to their numerical proportion in terms of national population.

### **3.3 Public Voices and legitimacy of Political Framework**

The existence of free and private media, associations and their engagement with the institutions of government determines the nature of state-society relations and the legitimacy of the political system. In Botswana, there is freedom of association, speech

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<sup>13</sup> BIDPA, 2003. *Report of the Consultancy on the State of Governance in Botswana*, Prepared for the Economic Commission for Africa (Basic input into the *UNECA Governance Report 2005*).

<sup>14</sup> A consequence of the democratization of primary elections in the ruling Botswana Democratic Party in the run-up to the 2004 general elections was that more women lost out to male candidates, leading to an ultimate decline in the number of elected female MPs from 12 to only 4. The democratisation process in the BDP introduced open primary elections, referred to as "bulela ditswe". Prior to this time, the party's central executive would determine who would stand in the primary elections and presented the candidates to the party members for endorsement. However, the new system left decision-making for primary selection of candidates to the constituencies and wards. The new openness led to the defeat of many aspirant female MPs and Councillors, leading to an unexpected and rather controversial result. It appears that the previously centralised primary selection system somehow assured female representation through positive discrimination, and a supposedly democratic opening of the process led to limited female representation in the political system.

and movement. These fundamental freedoms are guaranteed in the Constitution of the Republic of Botswana. In practice, there have not been major contraventions of the constitutional principles, or significant restrictions imposed on the exercise of the rights.

### *3.3.1 Media*

Access to media and other resources was regarded equal for all political competitors by 17 percent of the expert panel respondents. Those who thought it was somewhat and largely accessible were evenly distributed at 37 per cent each; but 10 per cent thought it was largely or not at all equally accessible. Actually, the private media co-exists with public media. The media is free to write and publish what they want. There is no official censorship and journalists and news reporters are not subject to official registration or licensing. People generally, and employees of the media in particular, are not arrested for what they say, even if critical of government or official policies and practices. No restrictions are placed on the freedom of information and international newspapers, magazines, the Internet, film, television and other means of communication are open and accessible.

### *3.3.2 Civil Society*

Civil society is allowed to operate freely. Organised groups are only required to register with the Registrar of Societies in order to be officially recognized. This registration, which is done under the Societies Act (Cap. 18:01), is similar to that of political parties, as this act governs the registration and regulation of all societal organizations.

There are no restrictions on holding political, social and professional or other meetings. Demonstrations are allowed under permit obtained from the Botswana Police Services. Although the right to strike is protected, a strike may only be permitted after all arbitration has failed. Even though some critics regard this condition as restrictive of the workers' right to strike, it is a reasonable condition that places emphasis on consultation, dialogue and negotiations prior to strike action, which could potentially damage employer-employee relations.

The freedom of thought, conscience and religion are not officially restricted. Thus, you will find that the 30 or so registered political parties follow divergent ideologies. These range from the ruling BDP's capitalist tendencies; the social democratic-orientation of the BNF and BCP; and the leftist Marx Engel's Lenin and Stalinist Movement (MELS) party. The country's academic institutions are not suppressed or forced to reflect the official ruling party ideology or policy preferences. Independent policy research and analysis, which is at times critical of official policies and actions, is allowed in the country. There are no political prisoners in the country. Religious groups of all types, ranging from the Christian, Hindu, Muslim, Apostolic, etc. exist and operate wherever they wish.

In summary, civil society and community based organisations, trade unions, professional associations, and political parties all establish and operate in a regulatory environment that is not restrictive but very permissive.

Botswana does not have violent internal political and social conflict or civil war. Likewise, the country is not engaged in any conflict or war with another country. There are, therefore, no conflict resolution processes that are currently going on internally and externally. The absence of social conflict appears to verify that the political framework is generally accepted by residents of the country; and that there is legitimacy of the state and its institutions.

### **3.4 The integrity and legitimacy of the electoral process**

The focus of this sub-section is on the institutional framework and processes of conducting and participating in elections. It discusses the formation, composition and management of political parties; mode of administration of the electoral process; characteristics of the electoral authority; and assesses the credibility and transparency of the electoral process.

#### **3.4.1 Political Parties**

Political parties are treated similarly to all other societal organizations. Any new organization that seeks official recognition has to register with the Registrar of Societies on the prescribed application forms. The entity must consist of a minimum of ten members; a constitution; and regulations, rules, or bye-laws governing the proposed entity's operations.<sup>15</sup>

#### **Formation of political parties**

Political parties have the freedom to form, recruit members and campaign for office, in what has so far been a relatively open political system. The formation and registration of political parties is governed by the Registrar of Societies and guided by the Societies Act. The requirements of forming a political party are that it must be registered with the registrar by applying and providing the constitution and objectives of the party, and a list of at least 10 possible members. The names of the party members and all other relevant documents must be submitted to the registrar. The application and constitution are scrutinised for compliance with the national constitution. Cases of a party's non-compliance with the Societies Act may attract sanctions, which include payment of a fine or de-registration of the party. However, there has so far never been official de-registration of a party, although voluntary dissolution has happened.

Any citizen is free to form a political party, which only has to register with the Registrar of Societies, and not with the Independent Electoral Commission (IEC). The latter does not register political parties but concentrates on electoral administration. Botswana therefore treats all political parties merely as "societies", which demonstrates the freedom and ease with which political parties may be formed.

#### **Recruitment of members of political parties**

The recruitment to membership of political parties is officially and in practice not constrained. The campaigning for political office is unrestricted, as long as the candidates meet the requirements of the Societies Act and the Electoral Act.<sup>16</sup> The scope of activities for political parties is not restricted, but defined by their constitutions. The Registrar of Societies regulates the activities of societies, including political parties. For example, Section 15 of the Societies Act requires all societies to furnish annual returns to the registrar by 31 March of each year.

The electoral law does not provide any regulation for the recruitment of political party members. It also does not provide for public funding of political parties by the government. Opposition parties claim this disadvantages them, and they have urged amendment to the electoral law so that it may allow the funding of political parties through public funds, a fact that they claim would level the playing field for all political parties that contest elections. Another feature of the electoral law is that it is concerned

<sup>15</sup> Societies Act (Cap 18:01)

<sup>16</sup> Societies Act (Cap 18:01); Electoral Act (Cap. 02:07).

with administration of elections rather than the sanctioning of the formation and growth of independent political parties. The formation and growth of independent political parties is determined by the Society's Act.

#### **Management of political parties**

The constitutions of political parties determine the manner of their management and regulate the governance within the parties. The party rules differ from one to another, as the different parties are guided by their different constitutional and organisational arrangements. Generally, all parties require that every party candidate wishing to stand for parliamentary or local elections be subjected to primary elections and approval by a central committee.

#### **Participation of political parties in the electoral process**

Eight political parties participated in the 2004 elections. The contested constituencies were 57, out of which the ruling BDP won 44; the Botswana National Front (BNF) 12 seats and Botswana Congress Party (BCP) one.

There are no laws that govern parties' relative access to public owned media and other means of communication. However the national public broadcasters, *Radio Botswana* and *Botswana TV*, cover political party activities according to their own editorial policies. There are no restrictions on parties' movements during election campaigns. There are no laws governing parties' access to resources, and they receive funding from different national and international individuals and institutions without regulation. However, Section 79 of the Electoral Act states that the election expenses of any candidate shall not exceed P20 000. We have not determined this is enforced.

#### **Effectiveness of political parties**

In reality, most of the political parties are weak in terms of human and organisational capacities. There are frequent splits in the main opposition party, the Botswana National Front. Of the eight major parties, at least three, the Botswana Independence Party/Independence Freedom Party (BIP/IFP), Botswana Congress Party (BCP) and National Democratic Front (NDF) splintered from the Botswana national Front (BNF). The opposition parties have so far failed to unite and are individually too weak to challenge the dominant ruling Botswana Democratic Party (BDP).

However, the ruling Botswana Democratic Party's capacity has over the years been considerably strengthened through the co-optation of experienced former top public servants. The opposition parties have not had this privilege. More than half the MPs who are members of the ruling BDP in the post-2004 National Assembly are former public servants who had previously served in the mainstream civil service, local authorities or the army. The BDP's tendency to attract public servants into its ranks is illustrated by the fact that the President is a former Secretary to the President, Permanent Secretary for Finance and Development Planning, Governor of the bank of Botswana, and employee of an international financial institution; the Vice President, and the Minister for Foreign Affairs used to be commanders of the armed forces; the minister responsible for the Administration of Justice, Defence, Safety and Security in the President's Office is a former Attorney General.

Political parties are therefore of varying strength and effectiveness. The opposition parties are weakened by internal struggles and disunity amongst their lot. They are financially and organisationally weak. They are unable to provide a viable alternative to the ruling BDP.



### **3.4.2 Credibility and transparency of the electoral process**

The manner of administration of the electoral process is determined by the characteristics or capabilities of the electoral authority, and the nature of its conduct determines whether elections are seen to be free, fair, credible and transparent.

#### **Election mode**

The majority of the expert panel respondents (86%) indicated that the National Assembly is constituted under a fully competitive multiparty electoral system while 13 percent considered it a form of representation of a small minority. The general picture is that elections are competitive, free and fair and conducted within a multiparty process. The terms of office for all elected officials are fixed, and except for the President and specially elected MPs, their on re-election is unlimited. Both the President and the specially elected members should not serve more than two terms. However, after serving a term as a specially elected member one can stand for office at the next general elections, to be voted into power by the electorate. As for local authority (district, town and city council) elections, most respondents (81%) stated that their formation was through a fully competitive, free and fair multiparty electoral system. However, 18 per cent thought it reflected the selection of a small minority. The overall picture is that a higher proportion of respondents believed that parliamentary elections are more competitive than local government elections.

#### **Characteristics of the electoral system**

Section 65 of the Constitution of Botswana establishes an Independent Electoral Commission (IEC) which consists of a chairman, who must be a legal practitioner at the level of a judge of the High Court, and five other persons recommended by the All Party Conference<sup>17</sup> to the Judicial Service Commission, which appoints the commissioners. The State President does not select the commissioners and chairperson of the IEC.

The functions of the IEC are to conduct and supervise elections of the elected members of the National Assembly and Local Government Councils; conduct of a referendum; efficiently, properly, freely and fairly manage the electoral process; give instructions and directives to the Secretary of the Commission in regard to the exercise of his functions under the Constitution and Electoral laws generally; and to perform such other functions as Parliament may by law prescribe.<sup>18</sup>

The security of the electoral process was also viewed very differently by expert panel participants. Forty-four per cent thought the government provides reasonably good security to all legally registered political parties to ensure independence of movement and operation throughout the country; 36 per cent said government provides full security; three per cent stated government provides very little security; and 10 per cent responded that no security was provided.

With regard to electoral control systems, 51 percent of the respondents thought that the electoral system legally and practically ensures fully effective legal action against violations and an effective mechanism to challenge election results; 26 per cent largely effective mechanisms to challenge results; and 19 per fairly effective mechanisms to challenge results. Only four per cent had negative observations that the electoral system rarely ensures effective legal actions. Actually, the Botswana elections have been free

<sup>17</sup> The All Party Conference is an informal forum where the ruling and opposition political parties engage in a frank manner on how to tackle national issues such as the conduct of the elections and electoral reform.

<sup>18</sup> Republic of Botswana, *Constitution (Amendment) Act*, 1997.

from malpractice or violence, and there are mechanisms for inspecting the electoral rolls, checking and validating electoral results, and for mediation of electoral disputes, appeals, objections and cancellations. However, there have never been significant complaints concerning the conduct of elections, or refusal of parties to accept the election result at past elections. Although individual candidates have at times disputed constituency results, such occurrences have been few and resolved.

The IEC exercises general supervision over the registration of voters, and conducts elections for the elected members of the National Assembly and the members of elected local authorities. The electoral authority's capacity to perform electoral functions is not constrained by funding difficulties because Botswana does not suffer significant financial problems. The IEC is, like any other state agency, quite well resourced. The financial resources available for the functioning of the IEC are adequate, as the commission is fully funded through the public budget. The staff complement is 142, with 24 operational officers (2 to 3 per constituency) who conduct voter and civic education in the field. The IEC recruits polling officers from the public service, which makes it somewhat free from political influence. For the 2004 elections, there was one returning officer and 15 assistants for each of the 57 constituencies. Similarly 2,178 presiding officers and 8,712 polling officers were recruited. These were from district administration, local government, and public schools. The constituency delimitation exercise, which is done after every 10-year national census, is conducted by an ad-hoc Delimitation Commission; thus the staffs of the IEC are not over-stretched by conducting the delimitation. Although the IEC is well resourced to perform electoral functions, more could be done about improving voter education, which is not adequately done.

The autonomy and operational activities of the IEC are constitutionally guaranteed, and in practice there has not been interference in its functioning. The composition and powers of the IEC and election officials are clearly defined by the law. There has so far been a fair degree of independence from the ruling party. There have not been any major problems to undermine the independence, impartiality and credibility of the authority of the IEC. The perceptions that the IEC is autonomous, non-partisan, and credible are strengthened in its conduct. The manner of selection of commissioners is also transparent and accepted by all major political players. The involvement of the All Party Conference and the Judicial Service Commission ensures that there is widespread acceptance, legitimacy, and credibility of the IEC appointments. The functions of the secretary are subject to the directions and supervision of the electoral commissioners.

Above all, there is actual separation and division of responsibilities for party registration, delimitation of constituency boundaries, and electoral administration. As pointed out elsewhere, the Registrar of Societies registers political parties and the IEC specializes in electoral administration. Likewise, a separate and distinct Delimitation Commission determines constituency boundaries. The Delimitation Commission is appointed by the Judicial Service Commission (not the President) when parliament has made a provision or passed a law altering the number of seats or elected members of the national assembly or after a comprehensive national population census has been held. Its processes are consultative, thus ensuring transparency and fairness of procedures for demarcating electoral districts. The IEC operates autonomously from the Registrar of Societies and the Delimitation Commission. Apart from announcing the election date(s) and issuing the electoral writ, the Executive branch (President) does not appear to directly influence the operations of the IEC.

### **3.4.3 The Legitimacy and credibility of the electoral process**

The legitimacy of the Independent Electoral Commission as manager of the electoral process was recognised by 21 per cent of the respondents. A further 42 per cent stated it was accepted by all political parties, while 33 percent thought political parties and candidates regard the electoral authority to be under the influence of the incumbent government/ruling party. One third of all respondents is a significant proportion, and casts some doubt about perceptions of the acceptance and legitimacy of the IEC.

The views of the expert panel respondents on the **credibility** of the electoral system were mixed. Whereas 36 percent said that it is acceptable to all political parties, less than half (43%) thought so and 20 per cent thought it was only marginally acceptable. There are doubts, therefore, on whether the electoral system is fully credible, although electoral law was regarded as credible by 48 per cent of the respondents. With regard to the autonomy and independence of the electoral system, about half (48%) of the respondents saw electoral law ensuring the autonomy and independence of the electoral system from all organs of state and political parties. Only two per cent said the electoral law is designed to sustain the incumbent government /ruling party.

The IEC is considered to ensure **transparency** of the electoral system by 52 per cent of the respondents. Despite this, 36 per cent thought it only ensures a largely credible and transparent registration, voting and results reporting process, while nine per cent said it ensures a somewhat credible and transparent registration, voting and results reporting process. Only three per cent thought it was less than credible and that there is no free and fair competition for political power.

With regard the **fairness** of the IEC, 36 per cent of the respondents said the electoral authority is largely impartial in its activities, 33 per cent stated it is always impartial in all its activities, 23 per cent that it is fairly impartial. Only one per cent felt the electoral authority is rarely impartial while 7 per cent said the electoral authority is controlled by the incumbent government/ruling party. To a large extent the electoral authority is perceived to be impartial.

**Inclusiveness and accessibility** for all the adult population are ensured through the registration and voting procedures. These are independent from ruling party control and free from intimidation and abuse. There are no legal exclusions that prevent or discourage resident adults from registering, voting or standing for office. The proportion of registered voters that actually voted at past elections shows quite high voter turnout. For example, 552,849 people registered to vote while 421,272 actually voted in the 2004 elections. This was 76.2 % of the total registered voters. The corresponding numbers were 459,662 and 354,446 in 1999 (77.1 % of the total registered voters), and 370,356 and 281,931 (76.1%) in 1994.

In general terms, the IEC is regarded acceptable, legitimate and fair. Its control systems ensure security, recourse to the law, and transparency. Access to the media and other resources are not constrained by the electoral process, which is generally perceived to be credible. The electoral system, legally and practically, ensures fully credible and transparent registration, voting and results reporting processes. The electoral process is generally considered legitimate and credible. There have not been significant complaints against electoral administration and the results of elections. A multi party electoral system, with regular five-yearly elections, has prevailed over the years.

### **3.5 Conclusion**

Botswana is a constitutional democracy characterized by a long-standing tradition of multi-party politics. The unitary state system incorporates a constitutional and actual separation of powers, which is respected by all three branches of government. However, the structural interactions of the principal arms of government tend to favour executive dominance, which has nevertheless not led to undue interference of the executive in the operations of the legislature and the judiciary. The electoral system's legitimacy and integrity has meant that there have been regular and credible elections, which serve to renew the political leadership (even though the ruling party has dominated the electoral results since the first general elections in 1965). The political system is inclusive and accessible, and provides a voice for the media and civil society, which are not officially constrained in terms of formation and operations. Overall, the trend in political governance shows adherence to constitutionalism, the maintenance of a liberal and democratic regime, and commitment to renewal of the political leadership through regular, free, fair, legitimate, and credible elections.

## 4 ECONOMIC GOVERNANCE AND PUBLIC FINANCIAL MANAGEMENT

The focus of this chapter is on the manner in which the government manages the economy, specifically public finances. The emphasis is, therefore, on economic growth, development and structural transformation; management of public finances; taxation system; monetary and fiscal institutions and instruments; and public enterprises.

### 4.1 Economic growth, development and structural transformation

About 41 per cent of the expert panel respondents considered that the government actively pursues sustainable development, while about 33 per cent thought it largely did so. The majority therefore had a positive view of the government's efforts at promoting sustainable development. Additionally, the views of the respondents on the government's drive for rural development were mostly positive. Forty-four per cent of the respondents stated that government is always striving for rural development. The government's measures to generate employment are seen to be moderate though 32 percent of the respondents said the government takes largely effective measures to generate employment. On the contrary 16 percent of the respondents said the government rarely takes effective measures to generate employment.

Botswana has little foreign aid dependence. Less than two per cent of the government budget is financed from foreign grants.<sup>19</sup> The early years of independence were characterized by dependence on British aid, but sources of external assistance diversified to include the World Bank's International Development Association (IDA), the Swedish and Norwegian governments, as well as Canada, the United States of America, the Federal Republic of Germany and the African Development Bank. The prospects of rapid economic growth, institutionalization of a government with clear political commitment, priorities, direction and realistic expectations, and its ability to establish and operate an effective and feasible planning process, all appear to have attracted donors.<sup>20</sup> The discovery of minerals, especially copper nickel and later diamonds, led to substantial economic growth from the early 1980s.

#### 4.1.1 Trends in GDP and structural change

The major policy thrusts of *National Development Plan 9* (NDP9) are economic diversification, employment creation and poverty reduction, continued macroeconomic stability and financial discipline, public sector reforms, environmental protection, rural development, human resource development (including the fight against HIV/AIDS) and disaster management.<sup>21</sup> The Mid-Term Review of the NDP9 revealed that these policy intentions have not been fully realised, and there had been mixed results.

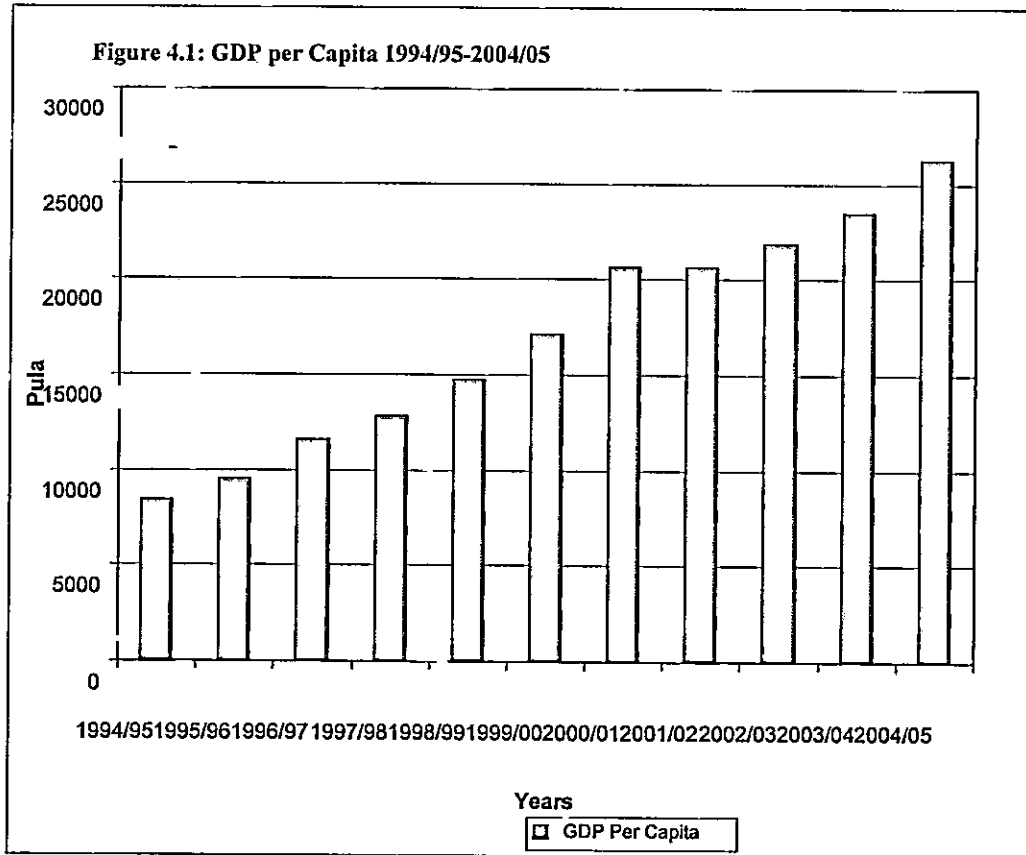
The macroeconomic framework, though showing signs of weakness, is good. The growth rate of real GDP was 7 per cent from 1988 to 1997; above 5 per cent between 1998 and 2003, but fell to slightly below 5 per cent since 2004. Per GDP capita income grew positively throughout the decade from 1994/95 to 2004/05 (see Figure 4.1 and Table 4.1). The GDP is reported to have contracted by 0.8 per cent in 2005/06, a sharp fall from the 9.2 per cent growth rate (revised from an initial estimate of 8.4 per cent) in 2004/05 and below the forecast 4.2 per cent expansion for 2005/06 in the Mid Term

<sup>19</sup> Republic of Botswana, Budget Speech 2007.

<sup>20</sup> Stevens, M, 1981. "Aid Management in Botswana: From One to Many Donors", in Charles Harvey (ed.), 1981. *Papers on the Economy of Botswana*, Heinemann Educational Books, 1981; Harvey, C and SR Lewis, 1990. *Policy Choice and Development Performance in Botswana*, Macmillan, 1990.

<sup>21</sup> Republic of Botswana, Ministry of Finance and Development Planning, 2003. *National Development Plan 9, 2003/04-2008/09*.

Review (MTR) of NDP9. As a result, the average annual GDP growth rate for the first half of NDP 9 (2003/04 – 2005/06) was reduced to 3.8 per cent from 4.7 per cent projected in the MTR. The government attributed the lower performance of non-mining sectors to (unanticipated) slower productivity growth and real exchange rate appreciation.<sup>22</sup> Official data shows declines in growth in several key sectors: 4.4 per cent decline in the mining sector real GDP; agriculture (-3.6 per cent), manufacturing and construction (both -3.3 per cent) from 2004/05 to 2005/06.



Source: Ministry of Finance and Development Planning

**Table 4.1: Per capita GDP growth rates (at constant 1993/94 prices)**

	2001	2002	2003	2004	2005
Total GDP / capita	6.5	-0.9	7.0	1.0	5.8
GDP / capita excl mining	1.4	2.6	6.3	3.1	-0.5

Source: Annual Economic Report Feb 2006, Ministry of Finance and Development Planning; Standard Bank Group Economics, June 2006)

Meanwhile, the remaining non-mining sectors grew at an average of 3.0 percent. Notably, diamond mining, which is the largest component of the mining sector, continued to experience uneven growth. Overall, the economy continues to be structurally unbalanced and dominated by the diamond industry.

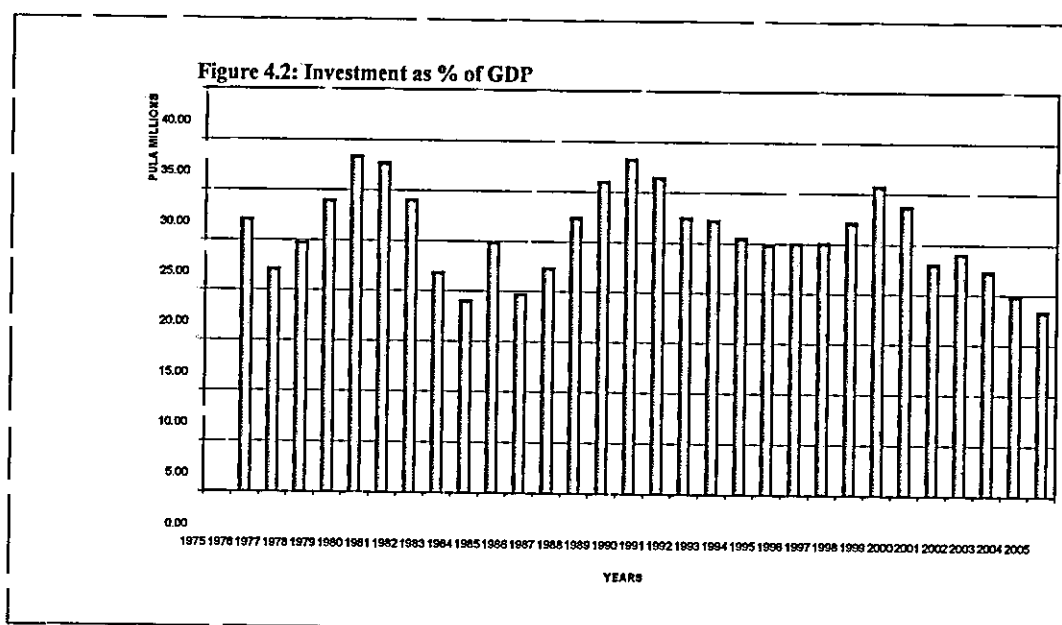
<sup>22</sup> Republic of Botswana, Ministry of Finance and Development Planning, *Medium Term Review of the NDP9*.

The savings rate had been over 35 per cent of GDP since 1994. Investment as a percentage of GDP declined from 23 per cent in 2001/2002 to 18.3 per cent in 2004/2005. The low performance of foreign direct investment is attributed to inadequate supply of skilled manpower, high cost of utilities, and the small size of domestic market; all of which make the country an unattractive destination for FDI.

Table 4.2: Investment in future growth (aggregate investment as % GDP)

Year	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005
GFCF/GDP	23.0	24.0	22.2	19.8	18.3

Source: Annual Economic Report Feb 2006, Ministry of Finance; Standard Bank Group Economics, June 2006)



Source: Ministry of Finance and Development Planning

Inflation is high and averaged 11.6 per cent in 2006 (compared to 8.6 per cent in 2005). It was 7.2 per cent in August 2007. Although there are signs that it is being controlled, it is still above the SADC recommended level of 7 per cent, and also above the Bank of Botswana's inflation objective of 4-7 per cent for 2007.

The size of government is quite substantial because it plays a significant role in the economy. Government employment constitutes 40 per cent of formal sector employment. Its consumption has accounted for about one quarter of GDP since the 1980s, and it was more than half of the non-mining GDP in 2003/04. The share of household consumption in 2004/05 was less than 30 per cent (down from 60%).<sup>23</sup> The high proportion of government's involvement in the economy is due to development spending, which is responsible for pushing domestic demand and the growth of the construction sector. The government's budget surpluses are a major source of savings in the economy, and the government has had a significant role in the financial sector. In the period from the early 1980s to late 1990s, the government had set up a number of development finance institutions to promote national development. It also became the

<sup>23</sup> Jung Yeon Kim, "A Narrow Economy and High Unemployment, Twin Problems for Botswana", International Monetary Fund, Botswana: Selected Issues and Statistical Appendix, IMF Country Report No. 07/228, July 2007.

biggest lender to the parastatals and local authorities through the Public Debt Service Fund (PDSF) and the Revenue Stabilisation Fund (RSF). The high proportion of GDP emanating from government consumption and the high level of formal sector employment make the size of government quite large.

#### 4.1.2 Trends in social development

There is a high prevalence of the HIV/AIDS pandemic, whose effects also threaten the social fabric and productive capacity of the economy, as well as the efficiency and effectiveness of state institutions. The burden on the institutions for health care is enormous. A recent survey by the Central Statistics Office (CSO) indicates that the percentage of households receiving care and other assistance for people who have been seriously ill for more than three months was 57 in 2001 and 64.6 in 2004, and the percentage of households with orphans and receiving support for those orphans was 34.3 in 2004.<sup>24</sup> Perhaps partly due to the HIV/AIDS epidemic, population growth has fallen to below 2.5 per cent since 2001. Life expectancy has declined from the upper 60s to 41 years. Table 4.3 shows basic social development indicators in 2006 and Table 4.4 the selected social indicators for 2002 (compared with sub-Saharan Africa and the Southern African Customs Union group).

Table 4.3: Social development indicators, 2006

Life expectancy at birth (in years)	41.4
Mortality rate, infant (per 1,000 live births)	80
Mortality rate, under 5 (per 1,000)	110
Literacy rate (adult)	78.9
School enrolment, primary (male, net)	79.2
School enrolment, primary (female, net)	82.7
School enrolment, secondary (male, net)	50.7
School enrolment secondary (female, net)	58.5
Paved roads (of total roads)	55
Telephone mainlines (per 1,000 people)	87.2
Water source access (urban)	100
Water source access (rural)	90
Sanitation facility access (urban)	88
Sanitation facility access (rural)	43

Sources: International Monetary Fund (IMF), Botswana: Statistical Appendix, *IMF Country Report No. 06/65*, February 2006.

Table 4.4 shows that Botswana ranks highly in terms of GDP per capita (10 times that of the average for sub-Saharan Africa), population living below USD 1.00 per day, adult literacy, fixed and mobile telephone lines per 1,000 people. The country compares favourably with other Southern African Customs Union (SACU) countries in terms of ranking on the Human Development Index, infant mortality and life expectancy at birth, etc.

But the country is confronted with difficult challenges in maintaining or improving the levels of social development. As pointed out above, HIV/AIDS appears to have reduced life expectancy and places an enormous burden on the economy. The government has thus declared HIV/AIDS a “national emergency”, and elevated it into the main priority

<sup>24</sup> Republic of Botswana, Central Statistics Office, 2004. *Botswana AIDS Impact Survey-II: Preliminary Results*, 16 December 2004.



at the top of the national health agenda.<sup>25</sup> The government thus recognises the need to direct substantial of resources towards fighting this pandemic, as well as to provide other social services to improve the lives of the populace.

Table 4.4: Selected Social Indicators in 2002

	Botswana	Sub-Saharan Africa	SACU 2/	Upper Middle Income countries	Lower Middle Income countries
Rank in UNDP Human Development Index out of 175 countries 1/	128	152	129	80	131
GDP per capita (US\$, 2003 for Botswana)	4,660.00	464	1,363.50	5,116.00	1,184.00
Population below US\$1 a day (percent, 2003 for Botswana)	30	46.5	29.6		
Adult literacy rate (percent)	78.9	63.2	82.9	89.7	63.6
Net primary enrolment ratio (percent of relevant age group)	81		82.3	93	
Infant mortality rate (per 1,000)	80	108	76	19	104
Fixed line and mobile telephones (per 1,000 people)	328	54		344	45
Life expectancy at birth (years)	41.4	45.8	41.5	73	59.2

Sources: United Nations, Human Development Report 2004; WDI Database; and IMF staff estimates.<sup>26</sup>

1/ Based on average of HDI value of group of countries except Botswana.

2/ Includes Lesotho, Namibia, South Africa and Swaziland.

#### 4.1.3 Trends in poverty, inequality and employment

Unemployment and poverty are high. The Ministry of Finance claims that the poverty rate has declined from 46.6 per cent in 1985/86 to 30.2 per cent in 2002/03, and that unemployment is at 17.06 per cent.<sup>27</sup> Income inequality is significant, and cannot be easily reduced due to the low levels of employment in the mining and beef sectors, failure to diversify the economy and the decline of the agricultural sector, which now accounts for only three per cent of GDP. Trends in national rates of unemployment of youth and urban-rural population by gender show no improvement, but a rather worsening situation. Both male and female youth face unemployment in all the regions of the country. The highest rate is in the age groups 15-39, ranging from 13.3 to 33.9 per cent. Lower age groups exhibited higher unemployment rates. Across strata, the highest unemployment rates were in the age groups 15-19 to 25-29. Unemployment is higher in the urban villages followed by rural areas then cities.<sup>28</sup>

In 2005 BOCCIM drafted an employment creation strategy for Botswana and this influenced the government to set up the Botswana Economic Advisory Council (BEAC). This non-statutory, government-private sector partnership was assigned to engage in consultation and provide advice on national economic issues. Its members were from government and the national and international economic and business communities. The work of Council was advisory and its formation was "motivated by the need for Botswana to pull together suggestions made to Government to improve the investment climate and accelerate economic growth from various stakeholders". It was mandated to advise Government on a sustainable long term development strategy with regards to policies and programmes for sustainable long term economic diversification

<sup>25</sup> Republic of Botswana, National Aids Coordinating Agency (NACA), 2003. *Botswana National Strategic Framework for HIV/AIDS, 2003-09*; Steglic, C, 2004, "Botswana's HIV/AIDS Programme: A Model for SADC?"

<sup>26</sup> Jung Yeon Kim, "A Narrow Economy and High Unemployment, Twin Problems for Botswana", International Monetary Fund, Botswana: Selected Issues and Statistical Appendix, IMF Country Report No. 07/228, July 2007.

<sup>27</sup> Republic of Botswana, Budget Speech, 2007; Republic of Botswana, CSO, Stats Brief 2002/03. *Household Income and Expenditure Survey 2002/03*. Estimates of poverty and unemployment vary, depending on whether numbers are obtained from the government of the United Nations agencies.

<sup>28</sup> BIDPA, 2005. *The Youth Employment Challenge in Southern Africa: Policy Responses and Programmes Targeting Young Women and Men at the National Level*. (Report prepared for the Department of Culture and Youth, Ministry of Labour and Home Affairs, August 2005).

and growth, employment generation, attraction of significant levels of Foreign Direct Investment and reduction in poverty. It reported directly to Government through the Office of the President. The BEAC submitted its report in September 2006 but this report has not been published. It is unclear the extent to which its recommendations are being implemented.

#### ***4.1.4 Growth, economic and social development, reduction of poverty and economic inequalities***

There are a number of policies and programmes that the government of Botswana has undertaken to reduce poverty, income inequalities and general marginalization of the poor and remote area inhabitants. These initiatives involve education, rural development; remote area dweller development, poverty reduction, development of small and medium enterprises, and gender mainstreaming, etc.

##### **Basic education**

The Botswana government ensures access to a 10-year basic education for all citizens. According to the UNDP human development index Botswana attained 78.9 per cent adult literacy rate. The government is currently undertaking expansion of 26 junior secondary schools and renovation of several other older schools. The completion of the expansion will assist in decongesting the schools, thereby reducing the class sizes from 57 to 40. Other major developments include the expansion of the University of Botswana, construction of the Botswana International University of Science and Technology and the medical school. The educational developments are the construction of the Oodi College of Applied Arts and Technology, expansion of the Gaborone Technical College, the Auto Trades Training Centre, and the Selebi Phikwe College of Applied Arts and Technology.

##### **Poverty reduction policies and strategies**

Botswana's poor, marginalised and vulnerable groups include the unemployed (in both urban and rural areas), remote area dwellers, orphans, the destitute, youths, etc. Botswana is officially a rich country but has acute poverty and unemployment problems. The government realises this contradiction and has placed rural development and poverty alleviation at the top of the government's agenda, as reiterated in various budget speeches.

The policies and programmes that address the plight of the vulnerable groups in society include the National Development Plans, National Policy on Rural Development (2002), the National Strategy for Poverty Reduction (NSPR), the Remote Area Development Programme (RADP), and an extensive range of social protection programmes that are aimed at fulfilling the national objectives of sustainable development, rapid economic growth, economic independence, social justice, and *botho*.<sup>29</sup>

The 2002 National Policy on Rural Development acknowledges the disproportionate concentration of the poor and vulnerable in rural communities. It advocates continuation and enhanced coverage and accessibility of welfare oriented interventions, and recommends strategies that would lead to poverty alleviation. Its objectives are to reduce rural poverty and promote improved and sustainable livelihoods through retaining of subsistence livelihood opportunities for those without adequate alternatives; establishment of a viable rural commercial sector; reducing, where socially acceptable,

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<sup>29</sup> These first four objectives have been reiterated in all NDPs, starting with the *Third National Development Plan* (NDP 3); *Botho*, or humaneness first appeared in the Vision 2016 document, amongst whose pillars is the ideal of attaining a "Compassionate, Just and Caring Nation".

the livelihood dependency of people on government hand-outs; maintaining and improving rural capital in the form of skilled labour, economic infrastructure and natural resources; increasing agricultural productivity; and involving communities and the private sector through a participatory rural development process. In addition, that priority must be given to strengthen the technical and administrative capacities of Local Authorities, with a view to gradually expanding their functions and broadening their mandate over local development concerns.<sup>30</sup>

The 2003 Review of the Remote Area Development Programme (RADP) reiterated that remote area dwellers are a component of the rural development and poverty problem. Hence the general approach of the rural development policy should be maintained, with modifications for the marginalised people. The objectives and strategy of remote area development had to be “more holistic and ensure broad-based development to combat poverty by developing sustainable livelihoods, creating economic opportunities, building local capacity, and supporting the social and political development of people in the remote areas”. The RADP should thus aim at promoting the social, cultural and economic advancement of people in remote areas without detriment to their unique culture and tradition. In particular, the review recommended that remote area development goals, objectives and strategies be guided by several basic principles, namely: promotion of rural development; poverty reduction; creation of sustainable livelihood systems based on self reliance and environmental conservation; enhancement of community development; and implementation of affirmative action for the historically marginalised and disadvantaged.<sup>31</sup> The review report was accepted by the government in December 2003.

A National Strategy for Poverty Reduction was adopted in 2003.<sup>32</sup> A Multi-Sectoral Committee on Poverty, which is a sub-committee of the Rural Development Council, was established to coordinate the implementation of the National Poverty Reduction Strategy and to carry out the relevant monitoring and evaluation of the poverty alleviation programmes. Its other responsibilities are to monitor the provision of social safety nets and other social security interventions; link district and community level initiatives aimed at poverty reduction with national level initiatives; and analyse options that can provide employment opportunities to address the needs of the poor and enable them to engage in sustainable livelihoods.

Altogether, the Revised Rural Development Policy, the Remote Area Development Programme, and the National Strategy for Poverty Reduction are aimed at reducing poverty, and complement each other in advocating the promotion of employment creation, self reliance, and increased agricultural productivity. They are aimed at providing opportunities for income generation and involvement in economic activities, to create employment and to enhance popular participation in the development planning and implementation processes as a basis for broad, balanced and sustainable development.

However, the implementation of the various policies and programmes is not as effective

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<sup>30</sup> BIDPA, 2001: *Review of the Rural Development Policy*. (Report prepared for the Ministry of Finance and Development Planning, RDCD, Gaborone. (The basis of the *National Policy on Rural Development of 2002*).

<sup>31</sup> BIDPA, 2003. *Report of the Review of the Remote Area Development Programme* (Prepared for the Ministry of Local Government).

<sup>32</sup> Republic of Botswana, Ministry of Finance and Development Planning, 2003. *National Strategy for Poverty Reduction of 2003*, (As approved through Presidential Directive Cab 14/2003), April 2003.

as expected because of structural, organizational and capacity limitations. This is because of the "implementation capacity" problems that Botswana is challenged with. The problem is that even though there appears to be sound policies and strategies, adequate institutional and organisational capacity and machinery, human resources, as well as financing for planned and budgeted for activities, the implementation of various projects and programmes by ministries and local authorities is often incomplete or fails. These failures are officially blamed on the shortcomings of contractors that appear to lack adequate human capacities, skills and competencies to undertake projects.<sup>33</sup> The poor state of affairs in the implementation of public sector projects is recognised and the government has proposed the setting up of Ministerial Technical Units to improve the management of project implementation.

#### **Support for enterprise development**

The government has other initiatives, such as the Citizen Entrepreneurial and Development Agency (CEDA) and Local Enterprise Authority (LEA), to encourage job creation and self employment. CEDA's objective is to create sustainable employment opportunities through development of sustainable citizens businesses. The CEDA young farmers fund is targeted at the youth, whereby youth that have just left school are provided start-up grants to establish own businesses. LEA promotes and facilitates entrepreneurship and enterprise through mentoring, training in business skills, and technology support for product development. The policy on Small Medium and Micro enterprises in Botswana strives to create an enabling environment within for SMME establishment, growth and development.

#### **Mainstreaming of women in national development**

A dedicated department of Women's Affairs in the Ministry of Labour and Home Affairs (MLHA) was established to be the leading organization on gender issues. It has the mandate to promote or enhance the status of women; improve and fully integrate women in the national development process; guarantee their welfare and reasonable representation in the education, socio-economic, cultural, legislative and legal systems. The department's objectives are quite ambitious: to enhance the status and role of women in decision-making and leadership at all levels; promote access to and control of factors of production and to remove all forms of legal and socio-cultural constraints on women's participation across all sectors of development; promote health, especially reproductive health and rights, including family planning; enhance the education and skills training of women and girls; eliminate the growing poverty among women particularly female headed households; and create awareness of gender issues at all levels.<sup>34</sup>

Despite the provisions of a policy and institutional framework for effective incorporation of women in social, economic, cultural and governance processes, and the fact that Botswana has signed and ratified international instruments with regards women, actual accomplishments are not that significant. For example, gender mainstreaming in the workplace and universities has yet to be attained; the ideal of having at least 50% women representation in parliament is also distant. The problems appear to emanate from human capacity constraints and the fact that the international instruments, agreements and protocols are not immediately interpreted or incorporated into domestic laws. Due to similar constraints, there is a low level of reporting on the implementation of (all) international agreements.

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<sup>33</sup> The problem is acknowledged in various budget speeches presented by the Minister of Finance and Development Planning. See Government of Botswana, *Budget Speech*, 2004, 2005, 2006, and 2007.

<sup>34</sup> [http://www.gov.bw/index.php?option=com\\_content&task=view&id=30&Itemid=40](http://www.gov.bw/index.php?option=com_content&task=view&id=30&Itemid=40)

### **Social safety nets**

Arrangements for social safety nets are in place, and there are welfare programmes including drought relief and labour-based relief programmes; payments to World War II veterans; old age pensions; hand-outs to destitute persons, people with disabilities, orphans and vulnerable children; supplementary feeding programmes; community home-based care; free anti-retroviral (ARV) treatment, etc.<sup>35</sup> These complement the basic education, rural development, remote area dweller programme, support for small enterprises, and the women's programmes, in addressing poverty, unemployment, and general marginalisation.

#### ***4.1.5 The overall macroeconomic framework***

The current economic and social situation in Botswana is characterised by favourable macro-economic performance, but the country faces some economic and social challenges that are typical of under-developed countries. Overall, the macroeconomic framework is sound. However, it is faltering due to the declines in GDP growth; investment as a percentage of GDP; continued high level of unemployment; unresolved economic inequalities; increased allocation of national resources to the fight against HIV/AIDS; the decline in productivity that may be attributed to the effects of the HIV/AIDS pandemic; and the inadequacies associated with the "lack of implementation capacity". The lingering challenges include inability to diversify the diamond export-dependent economy and effectively respond to changes in the world prices; successfully control inflation; reduce poverty, income inequalities, and unemployment; and vulnerability to weather changes.

## **4.2 Public financial management**

### ***4.2.1 Government revenue as a percentage of GDP***

Government revenue as a percentage of GDP has increased from about 18 in 1996 to almost 23 per cent in 2005 (See Table 4.5). Overall, the budget position has been favourable, with both the development and the recurrent components showing surpluses in 2007. These surpluses have enabled public sector savings and contribute toward development expenditure. Botswana is, therefore, not dependent on foreign aid and has significant foreign exchange reserves of USD 9.1 billion as at June 2007<sup>36</sup>, which is enough to cover more than 30 months of import of goods and services. Overall balance of international payments is favourable with a current account surplus of P9.3 billion (USD 1,600 million) in 2006.<sup>37</sup> This is due mainly to diamond exports, which account for over 70 percent of export revenue.<sup>38</sup> As the economy has not diversified, the other major exports remain copper-nickel and beef. The favourable current account balance, coupled with the very low debt service portfolio, has led to foreign exchange reserves growing.

### ***4.2.2 Recurrent expenditure as percentage of total budget***

The government's expenditure is broadly within the normally accepted range. The government introduced the "fiscal rule" in the Mid Term Review of NDP 9, which aims at setting a "sustainable fiscal position, while maintaining Government's stabilising

<sup>35</sup> BIDPA, 2006. *Consultancy on the review of Social Safety Nets, Final Report*, March 2006. (Prepared for the Ministry of Finance and Development Planning).

<sup>36</sup> Bank of Botswana Balance Sheet as at June 30, 2007. Published as Government Notice No. 469 of 2007, Republic of Botswana, *Government Gazette*, Vol. XLV, No. 57, 31 August 2007.

<sup>37</sup> Republic of Botswana, Budget Speech 2007.

<sup>38</sup> Republic of Botswana, CSO, Stats Update December 2006.

function". It is a measure to "fine-tune" the machinery and process of public sector financial management by allocating not more than 75 per cent to the recurrent budget, and at least 25 per cent to development budget, and ultimately attaining a ratio of 70:30 by the end of NDP 9, in financial year 2008/09. However, the government has attempted to clear some of the expenditure backlogs that are due to implementation problems alluded to above, and the 2007/2008 recurrent budget, including statutory expenditure estimates, is 16.2 percent higher than that of 2006/2007.

**Table 4.4: Pattern of Government Expenditure as percentage of GDP**

	2001/02	2002/03	2003/04	2004/05	2005/06
Recurrent Expenditure	28.6	32.4	33.4	32.3	32.4
Development Expenditure	10.6	11.8	11.0	9.2	9.1
Repayment of loans	-0.3	-0.3	-2.4	-0.7	-0.3
Other	0.4	0.1	0.0	0.0	0.0
Expenditure and net lending	39.3	44.0	42.1	40.8	41.3

SOURCE: 2006 Annual Economic Report & BIDPA calculations

**Table 4.5 Government Revenue as a percentage of GDP 1996-2005**

Type of tax	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Income tax and transfer tax	1149.7	1252.3	1939.5	1984.7	2592.2	3422.3	3703.3	4555.2	4451.6	4591.2
VAT and sales tax	219.3	248.3	327.8	400.5	483.7	523.7	519.7	1254.5	1572.5	1885.0
Customs Excise	828.4	896.1	1184.5	1259.3	1929.9	2183.5	1730.4	1567.4	2245.5	3226.4
<b>TOTAL TAX COLLECTIONS</b>	<b>2197.4</b>	<b>2396.7</b>	<b>3451.8</b>	<b>3644.5</b>	<b>5005.8</b>	<b>6129.5</b>	<b>5953.4</b>	<b>7377.1</b>	<b>8269.6</b>	<b>9702.6</b>
GDP (Pula Millions)	12,261.7	14,203.9	17,730.6	20,114.5	23,755.9	28,244.7	34,787.2	35,693.4	38,688.3	42,580.4
Percentage of Collections to GDP	17.92	16.87	19.46	18.11	21.07	21.70	17.11	20.66	21.37	22.78

Source: Ministry of Finance and Development Planning

#### 4.2.3 Public budget appropriations

Table 4.6 indicates the public budget allocations to government ministries and departments for the 2007/8 financial year. The table reveals that over a quarter (almost 28%) of the annual public budget is derived from revenue appropriations. The allocation of public finance favours, in descending order, education (20%) local government (11%), the State President (10%). The military budget is covered under the office of the President. Health (6%) and works and transport (5%) are the other sector ministries that also receive more than five per cent of the budget allocations. Agriculture, with about three per cent of the budget allocation, is not highly prioritized.

The public budget's allocations to education, local government, and state president imply the government's preoccupation with capacity development, provision of public goods and services, and the onslaught on HIV/AIDS. Education reflects the commitment to upgrading existing facilities and the introduction of a new university of science and technology. The Ministry of Local Government (MLG) is the principal means by which public service delivery is made. Local government councils are responsible for a wide range of social services that include primary education, primary

health, water (including waste water), sanitation, tertiary roads, social and community services (including social safety nets), remote area development, etc. The Ministry of State President also takes care of the National Aids Coordinating Agency (NACA), which is responsible for the nation-wide response to the HIV/AIDS pandemic.

**Table 4.6: Public budget allocations to government ministries and departments, 2007-08**

Vote	Ministry/Department	Amount in Pula	Percentage
100	Parliament	61,805,640.00	0.3
200	State President	2,433,140,220.00	10.0
300	Ministry of Finance and Development Planning	664,814,420.00	2.7
400	Ministry of Labour and Home Affairs	549,970,910.00	2.2
500	Ministry of Agriculture	695,269,280.00	2.8
600	Ministry of Education	4,995,547,620.00	20.4
700	Ministry of Trade and Industry	311,192,640.00	1.3
800	Ministry of Local Government	2,816,355,870.00	11.5
900	Ministry of Works and Transport	1,333,174,840.00	5.5
1000	Ministry of Minerals, Energy and Water Resources	540,555,920.00	2.2
1100	Ministry of Health	1,574,054,820.00	6.4
1200	Administration of Justice	78,247,520.00	0.3
1300	Attorney - Generals Chambers	72,396,120.00	0.3
1400	Auditor General	30,100,230.00	0.1
1500	Ministry of Foreign Affairs and International Cooperation	219,060,670.00	0.9
1600	Independent Electoral Commission	49,070,500.00	0.2
1700	Office of the Ombudsman	6,290,410.00	0.0
1800	Ministry of Lands and Housing	443,883,320.00	1.8
1900	Ministry of Communications, Science and Technology	483,690,930.00	2.0
2000	Ministry of Environment, Wildlife and Tourism	329,776,660.00	1.3
2100	Industrial Court	9,699,850.00	0.0
9100	Appropriations from Revenues	6,754,761,000.00	27.6
	<b>TOTAL</b>	<b>24,452,859,390.00</b>	<b>100.0</b>

Source: Appropriation (2007/2008) Act, 2007, passed by the National Assembly on 20 March 2007, Botswana Government Extraordinary Gazette Supplement A, dated 31<sup>st</sup> March, 2007

#### ***4.2.4 Medium Term Expenditure Frameworks and other systems and frameworks to review, monitor, assess and evaluate the impact of public expenditures***

Botswana does not have the type of MTEF as imposed on many countries by the international financial institutions. However, it has its own system for assessing public finance management. The system is anchored on various processes: internally there is use of project memoranda in the project initiation processes, annual project reviews, and mid-term review of the National Development Plan; externally, the control over expenditure by the Accountant General and use of checks provided through the Auditor General and the Public Accounts Committee of Parliament. All government ministries and departments have to use standardized project memoranda for initiation of development and other projects. These memoranda act as contracts with regard to activities and the resources allocated for the projects' implementation. The Accountant General monitors expenditure of all ministries and departments. The annual project review meetings are held at the MFDP every October, during which all ministries and departments assess progress and problems relating to their activities. There is also the mid-term review of the National Development Plan, which assesses the attainment of the entire range of activities that were planned for and for which resources had been

allocated in the NDP and the annual budget. External control involves the scrutiny exercised by the office of the Auditor General and Parliamentary oversight over public expenditure, done through the Public Accounts Committee (PAC).

#### ***4.2.5 Rules and procedures for government procurement, their transparency and effectiveness***

Government procurement is sub-contracted to a state agency, the Public Procurement and Asset Disposal Board (PPADB)<sup>39</sup>, which was set up in 2002 to take over the responsibility of the former Central Tender Board (CTB). The overall functions of the PPADB are adjudication and awarding of tenders. The PPADB is responsible for ensuring a procedural, transparent, and fair public procurement and asset disposal process. The ultimate aim is to establish the PPADB as a full time regulator and auditor of government procurement.

As a parastatal established outside of the normal constraints of a government department (which the CTB was), the PPADB is more autonomous. The PPADB Board has representatives from the private sector. Its establishment was justified because the government perceived the need for reform and transparency of the procurement system. Whereas the PPADB deals with central government procurement, the parastatals and local government authorities have their own procurement systems in place. Each ministry has a tender committee, which handles tenders of up to a set limit (Pula 1.0 million) while the PPADB is responsible for tenders above this amount.

The PPADB uses the United Nations Commission on International Trade Law (UNCITRA) 1996 guidelines as a benchmark for its operations. The evaluation of the tenders is the responsibility of the originating ministry or department. Statutory Instrument number 20 of 2006 introduced mediation and arbitration procedures, to enhance the work of the PPADB.<sup>40</sup> The government uses a non-restrictive bid system in most areas of procurement. Nevertheless, preferential treatment of citizen contractors and suppliers, in line with the local preference scheme and localization policy is allowed.<sup>41</sup>

In practice, the PPADB is more efficient and effective than the CTB used to be. It operates a functional system, with clearly defined and transparent rules and procedures for government procurement, which are effectively implemented and monitored.

#### ***4.2.6 Mechanisms for the post-evaluation of contract performance***

The PPADB does not conduct monitoring of contract performance. This function is the responsibility of the implementing ministry or department and the MFDP (See 4.2.4). The PPADB only requires that implementing organisations provide end of activity reports.

#### ***4.2.7 Procedures for designating auditors/controller generals, their independence and resources***

The Constitution of Botswana prescribes the processes for the appointment of the Auditor General. This is a "specified office", meaning that although the Auditor General

<sup>39</sup> Republic of Botswana, *Public Procurement and Asset Disposal Act* (Cap. 42:08).

<sup>40</sup> *Public Procurement and Asset Disposal (Independent Complaints Review Committee) Regulations, 2006; Public Procurement and Asset Disposal Regulations, 2006.*

<sup>41</sup> African Development Bank/African Development Fund, 2007. *Botswana Country Governance Profile* (Draft), April 2007.



is appointed by the President, the incumbent's tenure is constitutionally protected, similarly to that of a High Court judge. The Auditor General cannot be dismissed without due cause and process, but may choose to retire at own will.

#### ***4.2.8 Government accounting/auditing and internal control systems and their effectiveness***

Public expenditures are governed by the Finance and Audit Act, and are subject to internal controls. The internal budget controls are in place and enforced. The Permanent Secretaries of the ministries/departments and chief executive officers of public authorities and other entities are the accounting officers for their entities. There is the office of the Accountant General, which is responsible for administration of public disbursements and receives reports of expenditures of all the ministries, departments and agencies of government. The office of the Auditor General is responsible for auditing and reporting on the accounts of all Government and ministries, departments and public authorities. The Auditor General's office is autonomous and not under the direction and control of any other authority apart from the act under which it was set up. The Auditor General submits reports to the minister responsible for finance, who presents the reports to Parliament. The Parliament has a Public Accounts Committee, which is responsible for investigating any unauthorised expenditures and other irregularities, through the testimonies of the controlling or accounting officers (Permanent Secretaries, heads of parastatals, and chief executive officers of public entities).

The office of the Auditor General is quite effective. It produces timely reports every year.<sup>42</sup> These reports are the basis for the Parliament's scrutiny of the expenditures and conduct of the accounting officers of government ministries, departments, and heads of the parastatal organisations. In reality, the reporting to Parliament through the minister does not imply that the minister can alter or influence the findings and/or recommendations of the Auditor General. The minister is only a conduit for the submission of the reports to Parliament, and the Auditor General is only controlled by the act that set up the office. There has never been interference with the Auditor General's reports so far, by the Minister of Finance, other members of the Executive, or other political leaders.

The government has sought to strengthen accounting and auditing systems. The Ministry of Finance and Development Planning introduced a new accounting and budgeting system in September 2004. The system focuses on the computerization and decentralization of revenue accounts, budgeting and expenditure, which would synchronise on-line, all ministries' and departments' main accounts with the office of the Accountant General. The system is being implemented.

#### ***4.2.9 Effective follow-up action taken by the executive, legislative and judiciary branches on the reports of the auditor/controller general***

A major problem arises with follow-up action against errant public officers. Neither the Auditor General nor the Public Accounts Committee has the power of sanction. The PAC's reports may lead to referral of an accounting officer to face sanctions, such as surcharge and even dismissal. But beyond the reports, it cannot enforce the recommendation to make sure that the public officer is actually disciplined, punished or prosecuted. The powers of sanction and discipline are reserved to the supervising officer

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<sup>42</sup> See for example, Republic of Botswana, *Reports of the Auditor General on the Accounts of the Botswana Government* (For the Financial Years Ended 31<sup>st</sup> March of 2005; 2004; 2003; 2002).

for the accounting officer, who in most cases is the Secretary to the President. We do not have information on actual sanctions and dismissals made due to recommendations from the Auditor General's and parliament's Public Accounts Committee.

***4.2.10 The capacity and effectiveness of bodies and procedures for combating corruption in public financial management, such as anti-corruption commissions, civil society monitoring organizations, media based "watch-dogs", and legislation and arrangements to combat money-laundering and drug-trafficking***

Although there are functional systems of accounting, auditing and parliamentary oversight for proper utilization of public resources, there are instances of corruption and other crimes. Botswana has a legal framework and institutions to combat financial corruption and associated crimes. The legal framework is provided by the Corruption and Economic Crime Act (Cap. 08:05), Proceeds of Serious Crimes Act, Banking Act (Act No. 13 of 1995), and Banking (Anti-Money Laundering) Regulations, 2003. At regional level, Botswana in 2001 ratified the Protocol Against Corruption in the Southern African Development Community (SADC), and at the global level, the country has ratified the Rome Statute of the International Criminal Court (2000).

The institutions for combating corruption are the Directorate on Corruption and Economic Crime (DCEC), Office of the Ombudsman, the office of the Auditor General, while the Botswana Police service and judicial system enforce the law and administer justice. Botswana also actively cooperates with the Financial Action Task Force (FATF) and is a member of the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG).

The DCEC was established in 1994 and it investigates and prosecutes cases of official corruption, money laundering, and other economic crimes. It also provides public education on prevention of corruption. The DCEC has a specialised unit that investigates cases of money laundering, and is guided by the Banking and Anti Money Laundering Regulations.

Although it does not deal with financial corruption, there is the Office of the Ombudsman that was created in 1995, and complements the work of the DCEC. The Ombudsman is charged with ensuring ethical and fair public service conduct, which is essential in combating corruption. The Ombudsman is mandated to investigate complaints of injustice or maladministration in the Public Service, received from the public (including bodies corporate) and if such complaints are valid to make recommendations to the appropriate authority for compliance therewith. From the year 1997 to 2004, the Ombudsman received 3,773 complaints, of which 2,501 (66%) were resolved.<sup>43</sup>

The media has played an important role in combating corruption by informing and educating the public and providing leads for investigations. However, there is currently no legislation to protect whistleblowers; assistance has been sought from the Commonwealth Secretariat to develop a model law on whistle blowing. [Section 45 of the Corruption and Economic Crime Act protects whistle blowers but such protection is only limited to court proceedings].

Transparency International, which is a leading international non governmental organisation concerned with combating corruption, has a chapter in Botswana.

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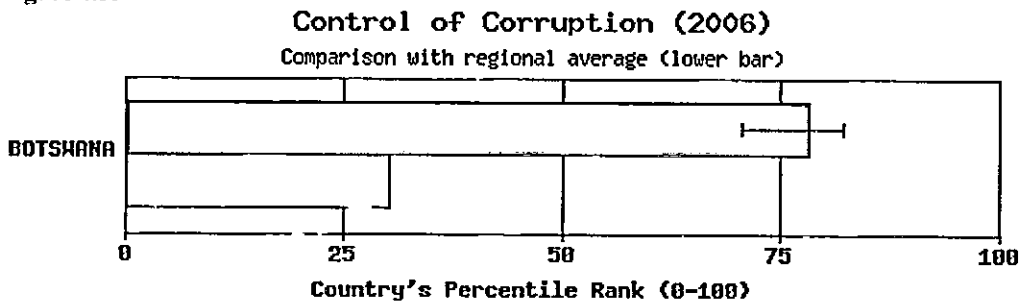
<sup>43</sup> Republic of Botswana, Office of the Ombudsman, *Annual Report 2003/2004*.

Transparency International ranks Botswana as the least corrupt country in Africa, although the world ranking declined from number 32 in 2005 to 38 in 2007. Additionally, its rating dropped from 6 out of 10 in 2004 to 5.4 in 2006 (See 1.3).

The World Bank Institute's governance indicators also present Botswana in very favourable light in terms of control of corruption. Figure 4.3 below shows that Botswana performs well above the sub-Saharan average for its measures and effectiveness of control of corruption.

The legal and institutional frameworks for combating corruption are, therefore, available and functional.

Figure 4.3:



Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2007: Governance Matters VI: Governance Indicators for 1996-2006

Note: The governance indicators presented here aggregate the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, and international organizations. The aggregate indicators do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. Countries' relative positions on these indicators are subject to indicated margins of error that should be taken into consideration when making comparisons across countries and over time.

#### ***4.2.11 Trends in the number of corrupt public officials subject to disciplinary or judicial procedures and the rate of conviction***

The DCEC's major investigations of corruption in 2005 involved fraud, money laundering, and public procurement. Altogether, 1,951 cases were reported in 2005, of which 642 (33%) qualified for investigation. The public sector investigations involved the Ministry of Local Government (13.03%), which is the parent ministry for local authorities; Ministry of the State President (8.82%); Works and Transport (7.89%); Education (5.26%); Labour and Home Affairs (4.08%); Finance, Lands and Housing, (3.03% each), etc.<sup>44</sup> Altogether, 51 cases were submitted to the Directorate of Public Prosecutions and 14 were completed in various courts. From the completed cases, there were 10 convictions, 2 acquittals and one withdrawal. In 2006, 1,778 cases were reported and 617 were investigated. Of the investigated cases, 32 cases registered at the courts, of which 10 were finalized, with 7 convictions and 3 acquittals. However, information about the number of corrupt public officials who are subject to disciplinary procedures is not available.

#### ***4.2.12 The results of anti corruption monitoring activities***

The results of corruption monitoring activity, including those against corrupt government officials, corporate corruption, drug trafficking, suspicious bank transactions, and money-laundering, undertaken by legislative, executive and judiciary

<sup>44</sup> Directorate on Corruption and Economic Crime (DCEC), *Annual report 2005*.

branches on reports submitted by anti-corruption bodies are difficult to determine.

#### 4.3 Management of the Tax System

The majority of the expert panel respondents (77%) considered that the tax system was mostly or always equitable. However, less than half (46%) thought tax collection was efficiently managed but more than half (57%) believed that tax administration was sometimes affected by evasion.

##### 4.3.1 Main sources of government revenue

There is transparency of the rules and procedures governing the imposition and collection of taxes. Each annual budget outlines any changes that would be made to tax rates and the taxation information and rates are readily available from the Botswana Unified Revenue Service (BURS).

Botswana's main sources of government financing are tax revenue (57.8%), non-tax revenue (40.7%) and grants (1.5%) (See Table 4.7).

**Table 4.7: Sources of Government Financing: Percentage of Total Revenue**

	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
Tax Revenue	47.5	52.2	51.6	56.1	53.0	57.8
Non-tax Revenue	52.0	47.2	48.0	42.0	45.9	40.7
Grants	0.5	0.6	0.4	1.9	1.0	1.5
Total Revenue	100	100	100	100	100	100

Source: Ministry of Finance and Development Planning, BIDPA calculations

The major sources of tax revenues are incomes, capital transfers, customs and excise, and value added tax and. Table 4.3 shows that almost half (47%) of tax collections are from income tax and capital transfer tax. Significant portions also come in from customs and excise and value added tax.

**Table 4.8: Proportions of tax revenues, 2005/06**

Type of tax	Pula millions	%
Income tax and capital transfer tax collections	4,591.2	47.3
Customs and excise	3,226.4	33.3
VAT and sales tax	1,885.0	19.4
Total tax collections	9,702.6	100.0

Source: Ministry of Finance and Development Planning

The total revenues and grants for 2007/2008 financial year are estimated at P27.18 billion. Mineral revenues are estimated at P10.89 billion (40%); customs revenue at P7.40 billion (27%); non-mineral income tax revenue at P3.55 billion (13%); VAT revenue at P2.52 billion (9%); Bank of Botswana revenue at P907 million (3%); while the balance of P1.91 billion or 7 percent would be income from various fees and charges, including cost recovery, property and interest incomes.

##### 4.3.2 The efficiency of the tax system in meeting targets for resource mobilization

The tax collection is efficient. The Internal Revenue Division (IRD) is responsible for the assessment and collection of income tax, value added tax, fuel levy and capital transfer tax. The actual tax revenue collected for the financial year ending 31st March 2006 (FY 2005/06) exceeded the original estimate by P108 million or 1.39 per cent. The tax collection is quite efficient in meeting targets for resource mobilisation.

#### ***4.3.3 Tax evasion, corruption and transparency in the tax system***

Internal Revenue Division has implemented a number of strategies to keep tax arrears under control, including arranging payment plans with tax payers, issuing garnishee orders, and securing court summons. The IRD has developed a debt collection manual that aims to provide debt collecting officers with the necessary guidelines to pursue tax defaulters in a consistent and focused manner. Tax compliance rates have improved after the introduction of a requirement to provide a tax clearance certificate when bidding for government tenders.

There exist penalties against tax evasion. These are of two broad categories: civil penalties imposed by the commissioner at his discretion or incurred automatically by statutory provision and penalties imposed by a court at the conclusion of criminal proceedings. Conviction for tax evasion incurs a fine not exceeding P4000 and to two years in prison.

#### ***4.3.4 Equity in the tax system***

The Botswana tax system is equitable since tax concessions are offered depending on sectors of the economy and not based on residential status of taxpayers. Tax incentives are embodied in the Act (see below) and as such they are granted in a transparent and fair manner. The tax rules and procedures governing their imposition and collection are efficient and fair and transparent. There is a tax threshold of P30, 000, which is meant to stimulate effective demand. The value-added tax system is functioning well even though it was introduced only five years ago, in 2002. However, the basket of zero rated goods needs to be widened to take care of the poor.

One of the functions of an effective and equitable system of taxation is to provide incentives for social development and to promote lagging economic sectors. The government's taxation policy aims to promote investment and economic growth; reduce dependence on a limited number of revenue generating sources; and increase revenue creation through active management and sound taxation policy. The taxation system provides incentives for lagging economic/social performances. It encourages direct (local and international) investment in all sectors. It is a comparatively very competitive tax system within the SADC region. Corporate tax is at a flat rate of 25 per cent for business in general; whereas it is 15 per cent for manufacturing, showing the policy bias towards that sector.

#### **4.4 Management of Public Enterprises**

The management of public enterprises was perceived to be independent of the government or ruling party by only 43 per cent of the expert panel respondents. However, about 26 percent of the respondents thought it was either fully dependant or hardly independent. Only 13 stated it was fully independent. The overall picture is that there are doubts amongst the expert panel respondents about the independence of public enterprise management. With regard to corruption, almost half (48%) thought the public enterprises were largely free or free from corruption; with another 43 per cent stating they were fairly free; and only nine per cent that they were largely free. The overall perception is that the public enterprises are not seriously corrupt.

#### **Patronage systems**

The effectiveness of public enterprise management is variable. One factor that negatively affects management performance is the system of patronage appointments to the board of directors and senior management. Some of these people appear not to know

or understand their functions and roles, and show signs of owing allegiance to the appointing authority rather than to the entity they are supposed to oversee and guide or manage. Cases of corruption have been common in some enterprises, and this also affects the performance of management.

The problems of board and management functions and allegiance, as well as corruption may be partly due to the lack of effective regulatory policies and authorities to perform the regulatory functions. A number of public enterprises are supposed to be regulated by their parent ministries. However, the ministries have been unable to effectively control the activities of these corporations because ministries are more oriented towards bureaucratic control rather than setting and enforcing regulatory policies. They do not have expertise and capacity for effective enterprise regulation. In some instances, the interventions from parent ministries have stifled the autonomy of parastatals, thus relegating them to mere extensions of ministries rather than enhancing their autonomy and operational performances.

Public enterprise managers have to cope with internal as well as external political pressures. Some have neglected the core business of the enterprise and spend more time and energy managing the external relations with their ministerial heads and members of the board who represent particular interests. There tend to be strong pressures from political and economic interests that wish to influence the operations of certain corporations, to the detriment of the objectives of those corporations. Senior public enterprise management thus find themselves in situations whereby they do not effectively manage their entities because of these distractions.

#### **Attraction and retention of appropriate staff**

Another negative factor affecting the management performance of public enterprises (and all parastatals for that matter) is their inability to attract the best trained, qualified and appropriate human resources for their executive direction, and performance of other functions such as human resource management and financial administration. The system of patronage has a tendency to circulate the same functionaries in different entities, as if the country lacks people with the appropriate and relevant qualifications and experience to perform top management tasks. Observations reveal that where parastatals have been able to hire highly qualified and experienced staff, these would be constrained by bureaucratic interference from government ministries and departments.

Another problem of attraction and retention of requisite human resources stems from the policy of remuneration that imposes a ceiling on the remuneration of employees in the public sector. There is an unwritten rule, which is rigorously enforced through the officially-appointed boards of directors, that no public servant in any ministry, department, or parastatal, may earn more than the Secretary to the President. This ceiling is unrealistic, as it does not take account of the need to attract the best skills and experience for highly technical and very demanding jobs. The parastatals cannot, therefore attract and retain appropriate human resources.

#### **Monitoring and evaluation of performance**

There lacks an effective mechanism for monitoring and evaluating public enterprises. This is despite the presence of the Public Enterprises Management Unit (PEMU) at the Ministry of Finance and Development Planning. Its mandate is to analyse and advise on financial performance of public enterprises and suggest measures for improving their efficiency. The central government has overall responsibility for regulating the operations of parastatal entities through relevant parent ministries. The laws creating

parastatals provide for Boards of Directors. The managements of the parastatals consist of the boards and senior management of the entity. Corporate governance of the entities is responsibility of the boards, whose members are appointed by the government. Often, the chairpersons of the boards are permanent secretaries of the parent ministries.

Each ministry responsible for parastatals under its sector is charged with appointing members to the board. The law that creates an enterprise states the operational jurisdiction of each entity. Over the years, each enterprise has had the parent ministry functioning as the monitor and evaluator of its performance. But this system has proved to be ineffective and inadequate.

The Auditor General is responsible for auditing and reporting on the accounts of all government ministries, departments and other public authorities. Public enterprises may engage private auditing firms to audit their accounts. All accounting officers of public entities are supposed to produce audited annual statements of account and they are answerable to their boards and the Public Accounts Committee of Parliament. The procedures for monitoring the accounts of non-governmental public bodies, including public enterprises, are similar to that of the ministries and departments of government (See 4.2.8).

The Parliament has a traditional role in overseeing the operations of parastatals, but just like the ministerial system of operational regulation, it has not been effective in this role. Public corporations are products of parliamentary legislation and are expected to account to Parliament. However, there is hardly any discussion of public entities' annual reports and accounts in the sittings of parliament. There are instances when legislators query the activities and performance of parastatals, but ministers appear to be at liberty to either respond or not.

Following the adoption of the privatization policy of 2000, the government established the Public Enterprise Evaluation & Privatization Agency (PEEPA) in 2001. PEEPA was set up to manage the privatization of state assets and assist with functions such as selection of the board and top management, monitoring performance, and improving reporting systems. The objective of the privatisation policy is to redefine the role of government in the national economy. The prescription is to reduce direct provision of services by the government, and limit its role to facilitation and regulation of the operations of the private sector.<sup>45</sup> The introduction of PEEPA was an attempt to institutionalize a more effective regulatory, monitoring, and evaluation regime. PEEPA is mandated to oversee the management of public enterprises in pursuance of government privatization policy. Its effectiveness in regulating the business of the parastatals has yet to be realized.

However, in 2003 the Government of Botswana, through PEEPA, commissioned a consultancy to examine and advise on regulatory reforms for public infrastructure and utilities. The study was "to review the existing policy and regulatory frameworks in the country's infrastructure (transport) and energy, water and communications utilities. The aims of the study were to assess the market or operating environment of these industries, identify required regulatory reforms, and to advise on an appropriate organisational framework for regulatory policy delivery."<sup>46</sup> We have not verified the

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<sup>45</sup> Republic of Botswana, *Privatization Policy for Botswana* (Government Paper No.1 of 2000); Kaunda, JM, 2004, "Public Sector Reforms in Botswana", *BIDPA Special Briefing, July 2004*.

<sup>46</sup> The consultancy, titled "Consultancy Services to Review and Advise on Appropriate Regulatory Reforms for Infrastructure and Utility Sectors in Botswana" was conducted by Stone and Webster Consultants in collaboration

status of implementation of the recommendations of the report. However, this shows that there are active attempts to improve the regulatory framework for the operations and management of public sector entities.

Board membership and occupancy of chief executive positions appear to be influenced by considerations that emphasise rewarding loyal supporters rather than selection based on merit. The challenge for PEEPA and attempted reforms in the regulatory framework is to transform this system and implement more effective means of managing, monitoring and evaluating the performance of public sector entities.

#### *4.4.1 Size of the public sector and the effectiveness of strategies and policies of divestiture*

The Botswana public sector contributes about 16-18 per cent of GDP. There are a number of parastatal organizations, in all sectors of the economy. They consist of the single regulatory body, the Botswana Telecommunications Authority (BTA), public enterprises, utility providers, etc<sup>47</sup>. Despite the privatisation policy and setting up PEEPA to lead the privatisation process, the size of the public sector has not been reduced. Actually, central government, local government and parastatal employment has remained constant at about 44 per cent of formal sector employment while private sector employment only grew by seven tenths of one per cent from 2001 to 2004.<sup>48</sup> Divestiture policies do not seem to have had any significant effect on reducing the size of the public sector.

Botswana has had a divestiture policy since independence. The government sought to encourage private sector activity and deliberately pursued policies that were not imposed onto the country through external conditionality. In 1970, the government set up the Botswana Development Corporation (BDC), which is a 100 per cent public-owned financial institution. BDC pioneered privatisation through divestiture of public sector enterprises.<sup>49</sup> The BDC's strategy was to set up agricultural, commercial, industrial and real estate enterprises from which it would divest once they attained maturity. The corporation also engaged in raising capital for future investment, encouragement of market competition, diversification and encouragement of citizen participation in private business. In 2000 the government adopted the *Privatisation Policy for Botswana*, which acknowledged the inefficiency of the large and cumbersome public sector and advocated its re-orientation from direct service provision to facilitation and regulation. The setting up of PEEPA in 2001 was meant to accelerate privatisation while re-orientating the public sector to its new role.

However, PEEPA faced considerable problems right from the start: its foundation was not institutionalised since there is no enabling legislation and regulatory framework to guide the privatisation process. PEEPA's Privatisation Master Plan faced inordinate delays; it took five years to be approved by government. There appears to have been

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with BIDPA.

<sup>47</sup> The following are the major ones: Air Botswana; Botswana Agricultural Marketing Board; Botswana Bureau of Standards; Botswana Development Corporation; Botswana Export Development and Investment Authority; Botswana Football Association; Botswana Housing Corporation; Botswana International Financial Services Centre; Botswana Meat Commission; Botswana National Productivity Centre; Botswana National Sports Council; Botswana Post; Botswana Power Corporation; Botswana Railway; Botswana Technology Centre; Botswana Telecommunications Authority; Botswana Telecommunications Corporation; Botswana Tourism Board; Botswana Training Authority; Citizen Entrepreneurial Development Agency; Public Enterprises Evaluation and Privatization Agency; Public Procurement and Asset Disposal Board; Rural Industries Promotions Company; Water Utilities Corporation.

<sup>48</sup> Kaunda, JM, 2004, "Public Sector Reforms in Botswana", *BIDPA Special Briefing, July 2004*.

<sup>49</sup> Kaunda, JM, 1999, "The Botswana Development Corporation: Divestiture Policy and Citizen Participation in the Private Sector", *Development Southern Africa*, Volume 16, No. 2, 1999.



considerable resistance to the plan, and no privatization had been accomplished since PEEPA was set up.

#### ***4.4.2 Independence of the management of public enterprises***

Public enterprises are managed under the articles of association or the acts under which they were formed. All of them have boards of directors, which are normally appointed by the responsible or parent ministry. Chief executive officers are appointed by the boards. However, most boards are dominated by government representatives who are mostly permanent secretaries. The independence of many public enterprises is compromised by the predominance of government representatives.

The independence of public enterprises' management from government control is thus minimal. As stated above, government, through the ministries, appoints the boards of directors of the public sector entities where government representation is often more pronounced than that of non-state representatives. Most chairpersons of the boards are permanent secretaries who represent the parent ministries. In turn the boards are authorized by law to appoint chief executive officers and some senior management staff. Generally, these appointments tend to reflect political patronage rather than merit. Actually, most members of such boards are either active members of, or sympathisers of the ruling party.

#### ***4.4.3 Profitability, efficiency and effectiveness of public enterprises***

The performance of public enterprises is just satisfactory, although some have shown declines in profitability over the last few years. In his 2007 budget speech, the Minister of Finance and Development Planning stated that the "average net return on the shareholder equity held by Government (including reserves) at the beginning of the 2005/06 financial year in the 12 commercially run public enterprises was 7.1 percent".<sup>50</sup> This was a decline of one percentage point from 2004/05. The lower average net return was attributed to a decline in the net profits of the Botswana Power Corporation (BPC), the Water Utilities Corporation (WUC), and a net loss by Air Botswana. These are some of the largest and most important public corporations.

### **4.5 Integrity in the Monetary and Financial System**

Generally, the expert panel respondents' views were that the Bank of Botswana (central bank) is independent, and pursues highly sound fiscal policies. The central bank was also considered effective by 81 per cent of the respondents. There appears, therefore, to be confidence in the integrity of the central bank.

#### ***4.5.1 The appointment and tenure in office of the principal officials and members of the policy making bodies of central banks and monetary authorities***

The Bank of Botswana Act establishes the central bank, whose objectives are to promote and maintain monetary stability, an efficient payments mechanism, and the liquidity, solvency and proper functioning of a soundly based monetary, credit and financial system, to regulate the banking sector, and contribute to the economic development of the country. It has a board, which is responsible for the policy and general administration of the bank. The board consists of eight members and its chairperson and ninth member is the Governor, who is also the chief executive officer. The Governor and Deputy Governors of the Bank of Botswana are appointed by the State President, and hold office for a period not exceeding five years.<sup>51</sup>

<sup>50</sup> Republic of Botswana, Budget Speech 2007.

<sup>51</sup> Bank of Botswana Act, 1996 (No. 19 of 1996).

#### ***4.5.2 The autonomy of central banks and monetary authorities***

The Bank of Botswana concentrates on monetary policy and instruments whereas the Ministry of Finance and Development Planning is responsible for fiscal policy and related matters. However, the Bank of Botswana is not “autonomous” and has to work very closely and cooperatively with the ministry in its operations, especially because it also has “social responsibility” and other development functions.

#### ***4.5.3 The policies and effectiveness of central banks and monetary authorities in controlling interest rates, inflation and ensuring an effective exchange rate regime***

The Bank of Botswana’s policy is to maintain a stable exchange rate against a basket of currencies of major trading partners. An emphasis is on achieving and maintaining macroeconomic stability and to provide an environment that is conducive to investments. Since the exchange rate determines the competitiveness of local producers, the other objective of exchange rate policy is to maintain the country’s competitiveness as measured by the real effective exchange rate. There is an expectation that productivity improvements, and restraint on upward adjustments of administering prices will contribute to lower and stable inflation and a competitive real exchange rate. Interest rates are effectively controlled. However, inflation rates are more difficult to control, partly due to “imported” inflation, which Botswana cannot control.

#### ***4.5.4 Policies and effectiveness of central banks and monetary authorities in supervising banks and other financial institutions***

The Bank of Botswana submits to the Minister of Finance and Development Planning an annual statutory report on its bank supervision activities. The report covers an overview of the banking sector’s performance, including capital adequacy; update on operational activities of the supervised entities; and any other developments in the financial sector.<sup>52</sup> The report is also made public. Generally, bank supervision is efficient and effective.

In December 2006, Parliament approved the establishment of the Non-Bank Financial Institutions Regulatory Authority (expected before end of FY 2007/08), which will supervise all non-bank financial institutions and services, such as insurance and asset management, including those functioning outside the country but registered locally with the International Financial Services Centre (IFCS). The new regulatory authority will have the power to institute representative legal action on behalf of insurance claimants who have suffered losses, and to place any non-deposit-taking financial company under statutory management in cases where such has contravened the law.<sup>53</sup>

#### **4.6 Conclusion**

Botswana has had impressive GDP growth. However, this growth has not necessarily led to structural change in the economy, which continues to be characterised by dependence on revenues from diamond mining and exports. Actually the predominance of diamonds in the national economy is reflected by the failure to diversify it, despite several policies and schemes that have been undertaken throughout the years. Nevertheless, the overall macroeconomic management has been sound, exemplified in the prudent allocation of national resources in general infrastructure and social development. Nevertheless, there are persistent and chronic developmental challenges, such as poverty and inequality that continue to pose considerable challenges to social development. This is compounded by the devastating effects of the HIV/AIDS

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<sup>52</sup> Bank of Botswana, *Banking Supervision Annual Report*, 2005, 2004, 2003, 2002, etc.

<sup>53</sup> Non-Bank Financial Institutions Regulatory Authority Bill, 2006.

pandemic, which threatens both the social fabric and institutional effectiveness of the state institutions in delivering social goods and services. Budgeting, planning, and procurement systems are based on sound policy and institutional foundations. Accounting and auditing systems are also present and are backed by fairly effective anti-corruption efforts. The public sector is generally well managed, with systems in place for the management and control of state entities, to ensure their accountability. Although not independent, the central bank effectively performs its monetary and supervisory functions over the banks. There is also progress on the establishment of a regulatory authority for the non-banking financial institutions (building societies, insurance companies, etc).

## 5 PRIVATE SECTOR DEVELOPMENT AND CORPORATE GOVERNANCE

This chapter focuses on government's measures, and their effectiveness, in developing the private sector. It also discusses the partnerships between the public and private sectors, the protection of property rights, and corporate governance.

### 5.1 Development of the Private Sector

The views of the majority of the expert panel respondents are summarized in the following statements. The government is generally supportive of the informal sector and encourages its development. The government is perceived to take effective measures to ensure competition in the economy. The government has measures in place to ensure ready access to all enterprises to land, credit and public utilities. Entrepreneurs are free to operate throughout the country. Government takes measures to remove restrictions to doing business such as licensing requirements, restrictions on private ownership and the repatriation of profits. The tax system encourages both local investments and foreign investment.

Botswana has undertaken various initiatives to promote the private sector. However, these policies and institutions are more oriented to organized, registered private sector entities than the informal sector. There are actually no clearly discernible policies and institutions that are designed for informal sector development. Botswana has sought to establish a generally business-friendly economic policy environment. Although trade requires a licence, there are no foreign exchange controls; trade policy is open; non-tariff barriers to imports are few; and taxation is favourable, with a standard income tax rate of 15 per cent for manufacturing and international financial services and a top rate of only 25 per cent for individuals.

#### *5.1.1 Policies and institutions to encourage the development of the informal sector.*

Expert panel respondents did not have a consensus on government's support for the informal sector. Twenty per cent stated government does not or rarely encourages the informal sector. Twenty-one per cent thought it sometimes does; while 31 and 28 per cent respectively thought it usually or always encourages informal sector development. In reality, there are no specific policies with regard to informal sector development. Despite the absence of specific policies and institutions to foster its development, the informal sector is allowed to exist and freely operate.

#### *5.1.2 Measures, resources and institutions to encourage the development of the informal sector.*

As pointed out above, there are no specific policies and programmes for the development of the informal sector. However, there are measures, resources and institutions established to foster formal small, medium and micro business enterprises, as discussed below.

#### *5.1.3 Strategies, policies, institutions and resources for the development of small and medium-scale enterprises and their effectiveness*

Private sector development has benefited from a number of policies and initiatives in the context of its policy of "citizen empowerment". These include the Financial Assistance Policy (FAP) and the Small, Medium and Micro Enterprises (SMME) Policy. Additional support is provided through implementation of the privatization, industrial development, and agricultural policies. The long-awaited competition policy is expected to improve the environment for private enterprise. The Privatization Policy

was adopted in 2000 with the intention of fostering private sector participation in the development process through private business initiatives. The implementation of the policy anticipates a simultaneous withdrawal of government from certain business activities. Likewise, the Industrial Development Policy seeks to increase the scope for the private sector to grow, through increasing private ownership of assets and responsibility for the provision of goods and services in the economy. The competition policy, once approved, would support private sector enterprise through levelling the playing field and making private sector enterprises easier to set up and manage.

Institutions that have been established to promote Semmes include the Citizen Entrepreneurial Development Agency (CEDA) that acts as a financial scheme, which is integrated with business support measures such as counselling and mentoring; the Local Enterprise Authority (LEA), which gives support for capacity development for running enterprises; the Botswana Bureau of Standards (BBS), which was set up to enhance the quality and standards of domestic industries; and the Botswana Technology Centre (BOTEC), which focuses on developing prototype products and production processes that could be commercialized by the local private sector. There also exists the Small Business Council (SBC), which assists in reviewing all policies, programmes and legislation in support of small medium and micro scale enterprises.

#### *5.1.4 Policies and institutions to reduce the cost, duration and number of procedures to establish a new enterprise or expand an existing one and their effectiveness.*

There are a number of initiatives that have been undertaken in Botswana to reduce the cost of doing business. In 2003, the government accepted a report of the World Bank's Foreign Investment Advisory Service (FIAS) that had conducted an overview of the business legal framework, and studied regulatory and administrative barriers to investment. The objective of the study was "to identify the major legal, regulatory and administrative impediments to investment and to recommend steps for streamlining, simplifying and increasing transparency in order to help improve the environment for business to help strengthen the business environment for all investors—domestic and foreign alike."<sup>54</sup> The report identified a number of obstacles to businesses, such as the access to land, obtaining work and residence permits for expatriate employees, long duration for business licensing, etc. The government has, through the ministries of Finance and Development Planning (MFDP), Trade and Industry (MTI) and Labour and Home Affairs (MLHA), and the Botswana Unified Revenue Services (BURS), instituted a number of measures that are now bearing fruit in improving the regulatory and administrative systems more efficient and effective in serving the public and encouraging the investor. There have, therefore been changes in tax administration, customs services, business licensing, and issuance of various permits.

The success of the policies and institutions in reducing the cost, duration and number of procedures to start business cannot be easily determined, as the efforts are quite new and in the early stages of implementation. But initiatives of entities such as BEDIA, whose mandate is to promote Botswana as the preferred destination for foreign direct investment and to promote exports, are beginning to bear fruit. Through its one stop window, BEDIA is providing multiple facilities, including applications for work and residence permits; industrial licenses; infrastructural facilities such as land, factory space and utilities services, under one roof, thus curtailing the time and effort

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<sup>54</sup> FIAS, 2003. *Botswana: Further Improving the Regulatory and Procedural Framework for Encouraging Private Investment* (Draft).

previously spent on tedious procedures to start a business.

#### ***5.1.5 Tax incentives for local and foreign investments***

The corporate and personal taxes range from the general rate of 35 per cent to 15 per cent for manufacturing and other companies registered through the International Financial Services Company (IFSC), and 25 per cent general tax rate for individuals. The lowered tax rates are aimed at attracting foreign investment and encouraging business development.

The following tax incentives, which are embodied in the Income Tax Act (ITA), are offered in Botswana:

- International Financial Services Centre (IFSC) companies are taxed at 15 per cent
- Manufacturing companies are taxed at 15 per cent
- 200 per cent deduction of approved training expenditure;
- Initial allowances on industrial buildings;
- Deduction of mining capital allowance amounting to 100 per cent of mining capital expenditure in determining chargeable income of a person carrying out a business of mining (mining companies are taxed at higher than the normal current company tax rate of 25 per cent, depending on their profitability);
- Unlimited carry forward of losses for mining companies.

#### ***5.1.6 Other incentives to facilitate local and foreign investments and their effectiveness (access to infrastructure, utilities, capital, and training).***

Non-tax incentives for local enterprise includes subsidized loans like those offered by CEDA, and the Local Procurement Scheme, which was introduced in April 1997 with the objective of reserving 35 per cent of government purchases to locally based manufacturing enterprises. The major facilitator for foreign investment is the Botswana Export Development and Investment Authority (BEDIA), which seeks to attract both foreign direct investment and entrepreneurs. The Botswana International Financial Services Centre (IFSC) was established to diversify the economy from mining and beef industries and develop the potential of financial services. The Botswana Development Corporation (BDC), set up in 1971, promotes joint ventures with foreign companies. There are also a number of bilateral agreements between Botswana and other countries, including South Africa, Malawi and Zambia, and double taxation treaties with South Africa, Zambia, Sweden and the United Kingdom. Internationally, the country has agreements with the Multilateral Investment Guarantee Agency (MIGA), Overseas Private Investment Corporation (OPIC). In 1996 the government set up the Export Credit Insurance and Guarantee Company Botswana to support foreign direct investment (FDI). The guarantor offers insurance to export led manufacturing firms and to financial institutions (insurance for their credit to the customers).

#### ***5.1.7 Trends in the volume and sectoral distribution of local and foreign investments***

Botswana's attraction of foreign direct investment is low. This is on account of the country's satellite economic status to South Africa, a small internal market, low level of competitiveness, low productivity, the disincentives emanating from the local preference schemes that act as incentives for locals but are a disincentive to foreign investors, high rate of inflation, and also high interest rates. Private investors on the Botswana Stock Exchange (BSE) account for less than 10% of the total market capitalization. Companies listed on the stock market include brewing, finance, information technology, oil distribution, property, security, tourism, and general. The

auctioning of Bank of Botswana Certificates has in the past years dominated the money market, but recently the bond market has picked up, rising to a current total of 25 bonds in early 2007.

#### ***5.1.8 Measures and institutions to ensure competition in the economy and their effectiveness***

Botswana is in the process of finalizing the competition policy. The Competition Act will be derived from this. The competition policy and law will complement policies and laws that seek to achieve private sector as well as overall social and economic development. The competition policy aims to achieve the following: control or elimination of restrictive business practices or arrangements among enterprises; acquisition and/or abuse of dominant positions of market power, which limit access to markets or unduly restrain competition; or regulation or policing of mergers, takeovers, joint ventures and interlocking directorships.<sup>55</sup>

#### ***5.1.9 The impact of crime and insecurity on the development of the private sector***

Botswana is generally safe and secure for business. Corruption is not as widespread as in most sub-Saharan countries. It is not a systemic phenomenon; that is, it is not a way of life that dictates what can be done or not. General crime is relatively low.

#### ***5.1.10 Government efforts to ensure that all entrepreneurs can operate freely throughout the economy and their effectiveness***

The general business climate has attractions on offer to the private sector, with a number of incentives for investment. There is freedom to open and conduct business, within the requirements of the existing official policies and the law. The political and economic environments are stable; public institutions for dispute resolution and enforcement of the rule of law are competent and non-corrupt. The legal system for the enforcement of contracts is predictable and transparent. And the corporate tax rates are some of the lowest in the region. There is open access to capital for private sector investors, even though the small and medium size enterprises are relatively constrained, in comparison to larger, mostly foreign owned firms, in accessing credit due to the high interest rates. Bank supervision by the central bank, the Bank of Botswana, is quite effective and thus the banking system functions satisfactorily. As a member of the Southern African Customs Union (SACU), the customs regulations of Botswana are transparent and enforced in the context of this sub-regional arrangement. Property acquisition and ownership are not restricted, and based on the ability to pay. Labour regulations are generally investor friendly. In general, there are no systematic inequalities in access to land, credit, public utilities, legal protection, etc.

#### ***5.1.11 Other measures to create an enabling environment for the development of the private sector***

The government policy framework is designed to provide a stable business environment where the private sector is free to pursue profitable business opportunities. As mentioned in Chapter 4, exchange rate policy aims at achieving macroeconomic stability and providing an environment that is conducive to investment. The monetary authorities have aimed to maintain exchange rate stability in relation to the country's major trading partners, to establish competitiveness, lower and stabilise inflation and have a competitive real exchange rate. The key objective of fiscal policy is to support price stability and promote international competitiveness by keeping public sector demand for resources within the limits imposed by the available supply of those

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<sup>55</sup> Draft Competition Policy for Botswana, 2000, Para. 2.3

resources. Hence government lowered tax rates for individuals and companies to make Botswana a more attractive place for private sector investment.

## **5.2 Partnership between the Public and Private Sectors**

Botswana officially recognizes that the state alone cannot cater for all national development needs. The privatization policy acknowledges the need for the private sector to take its rightful place as an engine of growth; hence the formulation of the Privatisation Master Plan for its implementation.<sup>56</sup> The government has sought to forge close partnerships with the private sector in infrastructure. A policy, legal, institutional, and regulatory framework for public private partnerships (Pops) is thus being developed. The institutional framework for this is provided through Public Enterprises Evaluation and Privatization Agency (PEEPA), Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) and the High Level Consultative Council (HLCC).

PEEPA was established in 2003, as a consequence of the privatisation policy of 2000, to handle the government's divestiture portfolio. It facilitates the participation of private sector in the provision of services and raises awareness on the role of the private sector in the provision of infrastructure. Peep's role is to also to ensure that private sector involvement is preceded by detailed diagnostic and strategic studies, and identification of the functions, services and capabilities required of the partners.

Public-private partnership in Botswana involves structured consultation through the National Business Conference (NBC) and the High Level Consultative Council, (HLCC). These are the formal structures through which government-private sector engagement is done at the highest level.

### ***5.2.1 Importance given by the government to the role of the private sector in promoting Economic growth, social and economic development, poverty alleviation, and reducing economic inequality.***

The institutionalised and regular consultations that are held between government and the private sector are testimony to the importance that government places on the role of the private sector in Botswana's social and economic development. The consultations are at two levels: the HLCC, which meets twice a year, in May and November, and the NBC that is held bi-annually.

The NBC is jointly organised by BOCCIM and the government and meets once every two years. It is attended by the business community, all Government Ministers and Members of Parliament. It was established at the initiative of the private sector, which was convinced that it had a role to play in promoting the economic development of the country through the removal of constraints in policy and law as well as barriers that hinder private sector development.

The HLCC is chaired by the State President and includes all the ministers, permanent secretaries, heads of economic-oriented public sector entities, representatives of BOCCIM, SBC, Vision 2016, labour, and the Botswana Institute for Development Policy Analysis (BIDPA), etc. Its broad terms of reference are the improvement of the performance of the economy through effective partnership between the public and private sectors. The HLCC was established after a realisation that the NBC was not meeting frequently enough to discuss all the issues that the players thought were

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<sup>56</sup> *Privatisation Policy for Botswana* (Government Paper No. 1 of 2000); *Privatisation Master Plan*, June 2005. However, the Competition Policy, which would complement privatization initiatives, is still under consideration.



pertinent. It was thus set up as a formal structure for regular public-private sector dialogue. More specifically, HLCC seeks to promote dynamic and productive Pops, share information on current international economic trends in terms of their impact on business development, monitor the implementation and effectiveness of national economic policies and development strategies, and exchange news and information on economic issues of interest to the private sector so as to build consensus on strategies for developing a prosperous nation.

### *5.2.2 Policies, institutions and mechanisms to associate the private sector in economic decision making*

The majority (69%) of expert panel respondents regarded that the government affords the private sector satisfactory participation in policy making that affects the sector's development. An even higher percentage of respondents (78%) thought the public sector is a partner of the private sector.

In fact there are functional institutional mechanisms and procedures for government consultation with the private sector. This is through three major forums: the High Level Consultative Council (HLCC), National Business Conference (NBC), and the National Employment, Manpower and Incomes Council (NEMIC), a government-labour-employer forum. There are other private sector entities that seek to influence public policy, including the Association of Citizen Development Consultants (ACDC), Citizen Owned Businesses in Information Technology (COBIT), and the Botswana Information Technology Society (BITS). Citizen entrepreneurs are represented in the Public Procurement and Asset Disposal Board (PPADB) through COBIT. The HLCC, National Business Conference and the Business and Economic Advisory Council (referred to elsewhere) were all set up following pressure from BOCCIM. BOCCIM is an independent representative private sector organization whose mission is to promote the sustained development of the private sector.

These forums have formalized state-private sector consultation. The setting up of these consultative bodies shows the high level of government commitment to engage the private sector. However, these entities may advise government on policies and strategies but the final decisions are made by state executive authorities.

### *5.2.3 Effectiveness of the collaboration between the public and private sectors*

Whereas (78%) perceived the public sector and private sector acting as partners, 54 per cent thought this partnership is ineffective while 23 per cent thought the collaborative mechanisms were always effective. The dialogue in the HLCC is well developed, structured and effective. The interchange between the public and the private sectors has managed to influence public policy; a number of initiatives have developed from the dialogue. Cases are the establishment of the Botswana Export Development and Investment Agency (BEDIA), Citizen Entrepreneurial Development Agency (CEDA), and the Privatisation Policy of 2000.

## **5.3 The Protection of Property Rights**

The general perception of respondents (83%) was that government often and always takes effective measures to enforce contracts and protect property rights. In fact, Botswana has requisite legislation and practices governing the security of private property, including land and other assets, freedom to trade anywhere in the country, and enforcement of contracts. However, the competition policy, to regulate monopolies, has yet to be finalised (See 5.1.8).

The Constitution of Botswana (Sections 8 and 9) guarantees the protection of property. The Ministry of Lands and Housing is responsible for the Management of land and related functions in both urban and rural areas as well as facilitating housing delivery. There are three categories of land, which are state land, customary or tribal land, and freehold land. State and customary land cannot be bought but could be leased for specific uses for periods of up to, respectively, 99 and 50 years. Freehold land is available for purchase by anyone for investment activities or residential purposes. The minimum age requirement for acquiring land is 21 while the minimum age requirement for acquiring financial assistance from some institutions is 18. Individuals are free to trade anywhere in the country as long as they satisfy the requirements of the licensing authorities (See 5.1.10).

There is compliance with constitutional provisions and court rulings, even if they are not in favour of the government. There have not been cases of Executive decisions overriding those of the courts. There is reasonable professionalism, integrity and fairness in the administration of justice.

#### ***5.3.1 Laws and institutions to enforce business contracts and their effectiveness***

Botswana has an effective legal system that is accessible, and maintains high standards of adherence to the rule of law, respect for contracts and protection of property rights. The independence of the Judiciary is protected by the Constitution and in practice. There are a number of legal and institutional requirements that businesses must comply with to enjoy protection of their contracts, including the Companies Act (Cap. 42:01), Registration of Business Names Act (Cap. 42:05), Botswana Unified Revenue Service Act, 2003 (Act No. 17 of 2004), and others dealing with industrial property, copyright and neighbouring rights, etc.

#### ***5.3.2 Laws and institutions to protect individual property rights***

The fundamental freedoms of individuals, including the protection of the security of property are respected in Botswana. The Constitution of Botswana (Sections 8 and 9) guarantees these freedoms and rights and in practice, there have not been major contraventions of the constitutional principles, or significant restrictions imposed on the exercise of the rights. Property may not be expropriated without due process and compensation.

#### ***5.3.3 The protection of the rights of shareholders***

With 88% per cent of expert panel respondents in the affirmative that government often or always effectively protected shareholders' rights, the environment is perceived to be business-friendly. Just as with business contracts and individual property rights, the rights of shareholders are protected constitutionally and in practice by adherence to the Companies Act (Cap. 42:01) and enforcement of various laws and regulations.

#### ***5.3.4 Adherence to international agreements and conventions for the protection of patents and intellectual property rights and the effectiveness of this protection***

Botswana has signed a number of international agreements relating to industrial and intellectual property. These are the Paris Convention for the Protection of Industrial Property (Accession 15 January 1998. E.I.F 15 April 1998); WIPO Copyright Treaty (Accession 27 October 2004. E.I.F. 27 January 2005; Berne Convention for the Protection of Literary and Artistic Works (Accession 15 January 1998. E.I.F 15 April 1998; Protocol on Marks; adopted by Administrative Council at its seventeenth session held in Banjul, the Gambia on 15-19 Nov, 1993 (Accession (10 June 2003); Patent Cooperation Treaty, done at Washington, US, on 19 June 1970) (Accession 30 July

2003. E.I.F. 30 October 2003; WIPO Performance and Phonograms Treaty, adopted in Geneva, Switzerland on 20 December 1996 (Accession 27 October 2004. E.I.F. 27 January 2004); Convention Establishing the World Intellectual Property Organization; Signed at Stockholm on 14 July 1967, and amended on 28 September 1979 (Accession 15 January 1998. E.I.F. 15 April 1998). Botswana respects all these international agreements.

#### **5.4 Corporate Governance**

The expert panel's perception of transparency and accountability in corporate governance was that government sometimes ensures it (21%) and often or always does so (67%). About 12 per cent had an opposite view; that government never or rarely ensures transparency and accountability in corporate governance.

##### ***5.4.1 The effectiveness of laws and institutions to ensure good corporate governance***

Botswana has yet to adopt a corporate governance code but recognises those of South Africa, the Organization of Economic Cooperation and Development (OECD) and the United Kingdom. In the absence of a national code, most corporate entities are regulated by performance contracts and board charters. The Directors' Institute of Botswana has developed guidelines based on the South African codes (King I and King II), the OECD principles, and the combined UK code. The Institute is spearheading the quest for improving corporate governance practices, and is developing Botswana's own code, which it will be enforcing. The Institute, in conjunction with PEEPA, also assists in recruiting the directors and board members of public corporations.

##### ***5.4.2 Transparency and accountability of corporate governance***

There are effective laws, standards and procedures to ensure transparency and accountability in the corporate governance of all enterprises, public and private. Stakeholder and shareholder rights are effectively protected. In the public sector, the office of the Auditor General has a constitutional mandate as the watchdog of central government ministries, departments and other public sector agencies. The Auditor General reports to Parliament, and thereby ensures accountability and transparency in the use of public resources. Oversight over the banking sector is provided by the Bank of Botswana (for institutions that it licences). The Ministry of Finance regulates other financial institutions such as insurance companies, pension funds, etc. The Botswana Non-Financial Institutions Regulator is due to take over the ministry of finance's role during FY2007/08. There is adherence to international standards for banking supervision, and international accounting standards for both the public and private sectors. The Bank of Botswana has adopted all the new and revised Standards issued by the International Accounting Standards Board (IASB) and the international Financial Reporting Interpretations Committee (IFRIC) that are relevant to its operations and effective for annual reporting periods beginning on January 1, 2006. The Botswana Institute of Accountants (BIA) also has international standards for the conduct of its functions of regulating the accounting profession (See 5.4.4).

Private sector accountability is ensured through their being answerable to shareholders rather than to the public. Private companies, unlike the publicly owned entities, are neither subject to the Finance and Audit Act, nor are they made accountable through the scrutiny of the Auditor General and the Public Accounts Committee of Parliament. Nevertheless, all corporate entities must comply with national legislation, including the Companies Act (Cap. 42:01), Registration of Business Names Act (Cap. 42:05), Botswana Unified Revenue Service Act, 2003 (Act No. 17 of 2004), and others dealing

with industrial property, copyright and neighbouring rights, etc.

All private companies have to be formally registered with the Registrar of Companies in the Ministry of Trade and Industry (MTI), and must obtain the necessary licenses from the various licensing authorities (depending on nature of business). They must pay taxes to the Botswana Unified Revenue Service (BURS), abide by environmental regulations, local council bye-laws and any other government laws and regulations. Companies registered on the stock exchange must also abide by its regulations. All companies are also required to file annual post-incorporation returns with the Registrar of Companies. It is through such compliance measures for registration, licensing, taxation and obedience of other laws and regulations that both public and private sector companies are made transparent and accountable.

#### ***5.4.3 Measures to fight corruption in the private sector***

Currently, the DCEC's mandate is limited to the public sector. There are suggestions that the mandate should be expanded to cover the private sector as well. Nevertheless, the anti-money laundering provisions, the effective policing and legal systems, and existing acts of parliament, laws and regulations provide a broad framework for combating corruption throughout the country.

#### ***5.4.4 Adherence to international accounting and audit standards for the private sector***

The Botswana Institute for Accountants (BIA), a private organization established by the profession, regulates the accounting profession and grants certificates of accreditation. It prescribes standards of conduct for independent accountants and auditors and for practising accounting firms, and takes necessary disciplinary action to assure adherence to such standards. Through a review process, BIA establishes and enforces minimum standards of auditor performance and behaviour, which satisfy the need for independent assurance that corporate financial reports fairly reflect corporate activities.

BIA is a member of the International Federation of Accountants (IFAC), and the East, Central and Southern African Federation of Accountants (ECSAFA). It has joint examination schemes with ACCA, AAT, SAICSA and CPD. The BIA adopts the IFAC Code of Ethics in total, and it reports that companies are effectively complying with GAAP in the preparation and presentation of audited financial statements. Although BIA is the standard setting body, it has not formulated national standards but adopted in full the international standards, such as those of the International Accounting Standards Committee (IASC). It also recommends the adoption of standards set by the International Federation of Accountants (IFAC).

#### ***5.4.5 The demonstration of civic responsibility and consciousness by the private sector***

Different companies have own social responsibility programmes and display civic awareness in various forms, such as providing for the poor, destitute and orphans.

### **5.5 Conclusion**

Botswana has a favourable environment for private sector development. Its open-market, free enterprise policies are backed by promotional institutions for free enterprise. Property rights, contracts, and international agreements are respected. There is a functional consultative process between government and private enterprise, although the voice of organised business is more pronounced than that of informal business. Standards of corporate governance are maintained through adherence to

international accounting and audit principles. International anti-corruption agreements and the national legal framework and institutions are effective in ensuring good corporate governance. The taxation and company registration systems are functional and ensure that registered business is accountable to the laws of the country. Nevertheless, the country lacks a competition policy and institution, and a comprehensive independent regulatory framework.

## 6 INSTITUTIONAL CHECKS AND BALANCES

The state is an institutional arrangement through which political power and authority is exercised through the three branches of government, the Executive, Legislature and Judiciary. The Executive's principal functions are to formulate and decide on public policies, implement or translate policies into projects and programmes, and manage government business. The Legislature's role is to enact law, authorise, adopt and approve the implementation of public decisions. The role of the Judiciary is to interpret the law, review the legality and constitutionality of policies, administrative actions, laws, regulations, etc. Many political systems manifest the predominance of the executive branch, due to its centrality in government affairs, which has the potential to undermine the accountability and responsiveness of the executive.

The Constitution of Botswana establishes three principal organs of the state, the Executive (Chapter IV), Parliament (Chapter V) and Judicature (Chapter VI). The constitution specifies the appointment and powers of principal public service offices, including the Public Service Commission, Auditor General, judges, etc., and fundamental issues concerning public finance and its management (Chapter VIII). This chapter examines the interactions of the three branches of government, and measures and mechanisms that are in place to regulate the relationships of the three branches. It seeks to explain constitutional provisions for exercising checks and balances, and the prevailing political culture that ensures political accountability.

### 6.1 The Constitution

About half of the expert panel respondents (51%) considered that the Constitution of Botswana provides significant checks and 29 per cent that it provides for full checks and balances amongst the different branches of government. Meanwhile, 13 percent said it provides limited checks, five percent that it had very few checks or no checks and balances.

The Constitution of Botswana is the supreme law of the country, which provides for constitutional and democratic governance. The country also has a set of national guiding principles of Democracy, Development, Self-Reliance, Unity, and *Botho* that underpin the practice of governance, which have been enumerated in various documents, official speeches and pronouncements, since independence (See 1.2).

Accountability is the practice of ensuring that elected and appointed officials are held responsible for discharging public mandates, by accounting for their decisions, actions and non-actions to the public, from which their authority is derived. The operations of the three branches of government are subject to internal accountability mechanisms. The executive branch is subject to Parliamentary control in translating policy into action. The Executive can neither implement policies, plans and other decisions nor spend public funds without parliamentary approval.<sup>57</sup> Parliament, which is empowered to make laws for the peace, order and "good government" of Botswana, is restricted by the special procedures under Section 89 of the Constitution, which prescribe the setting up of a Referendum for decisions on certain issues. The Parliament is also controlled by the requirement that its mandate be renewed in regular elections that are held every five years.<sup>58</sup> The Judiciary, which interprets the law, acts as the watchdog over executive

<sup>57</sup> See Sections 47(3), 48(4) of the Constitution.

<sup>58</sup> Ibid. Section 86; See also speech by the minister for Presidential Affairs and Public Administration - Hon. Phandu T.C. Skelemani, at the official opening of the Seminar on Survey of Botswana's National Integrity Systems (NIS),

decision making and action as well as interpreting the legality and constitutionality of laws made by Parliament.<sup>59</sup>

All the branches of government are bound by constitutional provisions that seek to protect the fundamental rights and freedoms of the individual. Chapter II states that “every person in Botswana is entitled to the fundamental rights and freedoms of the individual whatever his race, place of origin, political opinions, colour, creed or sex”<sup>60</sup>. Specifically, the rights and freedoms relate to (a) life, liberty, security of the person and the protection of the law; (b) freedom of conscience, of expression and of assembly and association; and (c) protection for the privacy of his home and other property and from deprivation of property without compensation.<sup>61</sup> Individuals may thus seek redress in the courts, should any of their rights be violated by any of the branches of government.

### Constitutional amendment

The procedures for amending the constitution are impartial and inclusive, and are provided in Section 89 of the Constitution of Botswana. It is only Parliament that has authority to amend the Constitution. It is a national representative body that consists of representatives from various constituencies of the country. Constitutional amendments are often preceded by widespread consultations of ordinary people assembled in the *kgotlas*, which are village assemblies that are the seat of traditional governance structures. The constitutional amendment procedures in Parliament include initiation, debate and amendment, then approval. These procedures, as outlined in Section 89 of the constitution, are followed in practice. First, a bill has to be published in the *Government Gazette* for not less than 30 days before it can be introduced into the National Assembly for amendment; the bill is presented to the President for assent after the National Assembly has voted for an amendment; and in some cases the final amendment might require calling a national referendum. There are, therefore, no arbitrary amendments of the Constitution of Botswana.

There have been a number of constitutional amendments since 1992. Some examples are:

- Constitutional Amendment Act No. 27 of 1992, which amended section 58 (a) of the Constitution with regard to the number of elected members of the National Assembly. It substituted the words “34 elected members” with the words “40 elected members”. This number has since been increased to 57 in 2003 following the Delimitation Commission exercise of 2002.
- Constitutional Amendment Act of 1997: This act lowered the voting age from 21 to 18 years. It also allowed Botswana residing outside the country to vote.
- Constitutional Amendment Act No. 16 of 1997 amended section 39 of the Constitution, with regard to the election of the Vice-President. It provided for “automatic succession”, removing the necessity of an election upon the death of the incumbent president.

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<sup>59</sup> Republic of Botswana, *Constitution of Botswana*, CHAPTER VI: The Judicature.

<sup>60</sup> Republic of Botswana, *Constitution of Botswana*, Chapter I: The Republic; Chapter II: Protection of Fundamental Rights and Freedoms of the Individual, Article 3.

<sup>61</sup> *Constitution of Botswana*, Chapter II: Protection of Fundamental Rights and Freedoms of the Individual, Article 3 (a); (b); (c).

- Constitutional Amendment Act No. 15 of 1997 amended sections 65, 66 and 67 of the Constitution, with regard to the appointment of the Independent Electoral Commission and Secretary to this Commission.
- Constitutional Amendment Act No. 2 of 1999; This amendment affected Sections 95, 96, 97, 99, 100, 101, 103 and 127(1) of the Constitution with regard to the judicial system, substituting words such as “puisne judges” with the words “judge of the High Court”. The amendment also substituted 65 years with 70 years, for the retirement of judges.
- Amendments to Sections 77, 78, 79 of the Constitution of Botswana removed reference to the “major tribes” and sought to make the constitution tribally neutral and non-discriminatory. It also ushered in changes to the constitution and composition of the House of Chiefs (*Ntlo ya Dikgosi*), by providing for election of tribal representatives in areas where there were no traditional dynasties.

Other constitutional amendments have involved the citizenship laws, electoral reforms, limitation of the term of the President, re-definition of the role of the Attorney General and creation of a Directorate of Public Prosecutions. In general, these reforms have sought to improve democratic governance.

## 6.2 Effectiveness of the Executive

The Executive branch of government consists of the President, the Vice President, and the Cabinet. These are backed by an elaborate arrangement of ministries, departments, parastatal and public enterprises, and other agencies of the state. The Office of the President has the role of providing conceptual and operational leadership at national level. It is responsible for overall policy decision making, direction of implementation, and coordination, monitoring and evaluation of interrelated ministerial policies, programmes and operations. The President is the chief executive officer, and “In the exercise of any function conferred upon him by this Constitution or any other law, the President shall, unless it is otherwise provided, act in his own deliberate judgement and shall not be obliged to follow the advice tendered by any other person or authority.”<sup>62</sup> The President also chairs the meetings of the Cabinet, whose responsibility is to advise the President on government policies and such other matters as referred to it by the President.

The expert panel respondents rated the executive branch as being largely free from subordination of external agencies. Altogether, 73 per cent stated it was independent in most or all areas of policy. Actually, there is an elaborate institutional framework for the performance of all governmental functions, including the executive’s. Botswana does not have severe funding problems; hence financial resources are available for the performance of executive functions. However, despite the constitutional provisions, the Executive branch appears to predominate over the Legislature, thus limiting its countervailing powers on the Executive. For instance, checks and balances are weak partly because the President’s power to dissolve Parliament is not matched by reciprocal powers of Parliament to impeach the President. Executive dominance is manifested in the fact that ministers are appointed from members of Parliament who thereafter continue to sit in Parliament while also being members of the Executive. They cannot functionally criticise decisions and actions of which they are part (as Ministers and

<sup>62</sup> Constitution of Botswana, Sec 47 (2).



Assistant Ministers) when they sit as members of parliament who are supposed to exercise an oversight role over the executive. This explains why Parliament has never vetoed any Executive decisions, plans, budgets and actions.

Although there is no strict separation of powers of the Executive and the Legislature, there is in practice considerable respect for the separate and distinct existence and operations of the different branches of government. There are no obvious cases of undue interference of the Executive in the operations of the Legislature, Judiciary, and autonomous entities such as the Independent Electoral Commission. The Executive effectively performs its functions of policy determination, direction of implementation, and coordination of government activities.

### 6.3 Effectiveness of the Legislature

The legislature in Botswana is known as the Parliament. It consists of the President and the National Assembly. The National Assembly is subjected to general elections every five years under a system of universal adult suffrage. There are currently 61 Members of Parliament (MPs), of which 57 are elected and four are specially selected by the President from lists prepared by all parties represented in the assembly. The role of the National Assembly is to represent the electorate, make laws, and approve national policy, development plans, strategies, and budgets. There are 20 Parliamentary Committees that are supposed to facilitate the administrative and management of the representative body, and play the role of watchdog over executive policies and actions. One of the most important parliamentary committees is the Public Accounts Committee (PAC). In theory, an MP can be recalled for non-performance but in reality none has ever been recalled.

Botswana also has the House of Chiefs (*Ntlo ya Dikgosi*), which consists of hereditary representatives, and elected chiefs for areas that do not have the hereditary chieftainship. This body is advisory to government on tribal, cultural and land matters, and performs some judicial functions. It is consulted in practice, and discusses executive and legislative matters, in the interests of the tribes. The inclusion of traditional authorities in the official governance structure and processes of Botswana is hailed as one of the factors that have contributed to social cohesion and stability.

Expert group respondents had mixed perceptions regarding the independence of the legislature. Whereas 16 per cent stated that the legislature is not or rarely free from subordination, 12 per cent thought that such freedom only applies in some areas, and a combined 70 per cent thought it was free from subordination in most or all areas. However, only 61 per cent considered that the legislature was usually or always effective, and parliamentary controls were considered effective by only 53 per cent.

The reality on the ground is that legislative independence is subject to constitutional checks and balances. The National Assembly is subject to renewal every five years, through the holding of a general election. The President may dissolve it at any time. The judiciary also scrutinizes the legality and constitutionality of the laws and acts that are passed by Parliament. The legislature's own powers to scrutinise the executive and hold it to account are exercised through parliamentary question time and debates on the executive's budget proposals. The legislature is also able, through various committees, such as the Public Accounts Committee, to call the executive to account. The overall picture is that despite its relative freedom, it does not exhibit sufficient countervailing powers to check or control the executive. There are no instances whereby the executive's policies, budget proposals or decisions have been vetoed by parliament.

### ***6.3.1 Powers of the legislature to initiate, scrutinise and amend legislation***

The law making powers of Parliament are provided by Section 86 of the Constitution of Botswana. The effectiveness of such powers depends mostly on the effectiveness and capacity of the individual legislators. In the past, most of the legislators lacked skills in a number of areas and were mostly of lowly education. Hence their participation in legislation tended to be limited and would often be overshadowed by the more knowledgeable members of the Executive. However, there has been a change, with the Parliament now filled by moderately and well educated members, whose contribution is more meaningful and cannot always be overridden.

### ***6.3.2 Parliamentary committees***

The parliamentary committees have several functions, roles and responsibilities, including scrutiny of, and oversight over government activity. There are 20 such committees, and they include the Law Reform Committee, Public Accounts Committee, Business Advisory Committee and the Committee on Subsidiary Legislation, Government Assurances and Motions Passed by the National Assembly.<sup>63</sup>

#### **Public Accounts committee (PAC)**

This committee consists of between six and ten members appointed at the commencement of every parliamentary session. One of the members is appointed chairperson of the committee. The chairman and three of the committee members form a quorum. The duties of the committee are to examine the accounts and statements prepared and signed by the Accountant General in accordance with the provisions of the Finance and Audit Act. The PAC also examines the accounts of any statutory body.

The PAC's scrutiny covers all the executive government ministries, departments, parastatals and specialised agencies, and also includes the security and oversight agencies (police; defence force, DCEC, Parliament, Judiciary, IEC, etc.). It produces reports that lead to referral of an accounting officer to face sanctions, such as surcharge and even dismissal. The PAC is functional and effective. However, it lacks sanctioning and enforcement powers to ensure that erring public officers are actually disciplined, punished or prosecuted because those powers are reserved to the supervising officer for the accounting officer, and this is in most cases the Secretary to the President. There is a proposal, under review by relevant authorities, to strengthen the PAC so that its work should include assessing the performance of public accounting officers (Permanent Secretaries and Chief Executive Officers of parastatal entities).

#### **Business Advisory Committee**

This committee consists of the Speaker of the National Assembly, as chair person, the Leader of the house, Leader of the Opposition and Whips of all parties. Three members of this committee including the Speaker form a quorum. Its functions and roles are to recommend the time that should be allocated for discussion of the stage(s) of certain government bills like the appropriation bill and other business; indicate in the proposed timetable, the different hours at which the various stages of the bill or other business should be completed; prioritise individual items of the business and when it deems necessary; and present on a weekly basis its resolutions to the house. Although this committee is largely concerned with procedural matters, it sets the framework in which the operations of parliament are done. It is, therefore, crucial for the efficient and

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<sup>63</sup> Standing Orders of the National Assembly of Botswana, pp. 81, 83 and 84.

effective functioning of the whole parliamentary system. It functions effectively.

#### **Finance and Estimates Committee**

The committee consists of seven private members appointed at the commencement of each session. One of the members is appointed chairman of the committee. The chairman and four other members form a quorum. Its duties are to examine whether the funds are well allocated within the limits of the policy implied in the ministerial and departmental estimates; suggest the form in which the estimates shall be presented to parliament; suggest alternative procedure in order to bring about efficiency and economy in administration; consider and recommend for approval or otherwise all proposals by the government entailing supplementary expenditure from public; and examine the estimates of a ministry or department during the financial year. The functioning of this committee is effective, as there are no cases whereby the budgetary sessions of parliament have been hampered by its malfunctioning.

#### **Committee on Subsidiary Legislation Government Assurances and motions passed by the National Assembly**

The Committee on Subsidiary Legislation, Government Assurances and Motions Passed by the National Assembly advises Parliament on progress of implementation of motions. This committee is appointed at the commencement of every session. It examines subsidiary legislation, considers whether it is in accord with the general objects of the act pursuant to which it is made; whether it unduly trespasses on rights previously established by law. Other areas of scrutiny are whether it contains matter in which in the opinion of the committee should properly be dealt with in an act of parliament; whether for any reason the form or purport of it calls for elucidation; and whether it unduly makes rights dependant upon administrative and not judicial decisions.

#### **Law Reform Committee**

The Law Reform Committee reviews all legislation passed by the National Assembly as referred to it by the house. It reviews all legislation passed by the National Assembly and advises on reforms that are required in the laws. The committee consists of the Attorney General and seven other members appointed at the commencement of each session. The committee reports to the house.

The Standing Orders of the National Assembly gives parliamentary committees powers to question ministers (the Executive); they are, therefore, the principal means through which the legislature exercises checks on the executive. We are unable to determine the number or percentage of recommendations made by parliamentary committees that are acted on by government in any given year.

#### **6.3.3 Specialised committees**

There are a number of specialised legislative committees that assist and advise the house in processing legislation, such as the Committee of the Whole Assembly and Select Committees. According to the Constitution of Botswana Sections 87-89 and Standing Orders of the National Assembly pages 51-55, a bill that has been referred to any of the specialized committees is discussed in terms of detail rather than the underlying principles. Specialised committees may make amendments, as long as they are relevant to the subject matter of the bill.

#### **6.3.4 Legislative procedures**

The procedures for legislation start with the giving of a notice to the National Assembly

by a Minister, Assistant Minister or Attorney General to present a bill. A bill is presented by hand to the Clerk of Parliament, who makes a first reading. The bill is given a short title corresponding to the title by which it will be cited when it becomes an act or a law. After legislative discussion and acceptance, the President must assent to the bill. When the president withholds his assent, the Bill is returned to the National Assembly. If after the President has withheld his assent, the National Assembly has to resolve within six months whether to withdraw or present again for assent. The President is given 21 days within which to decide, unless he dissolves the National Assembly sooner. When a bill that has been duly passed and assented to, it becomes law and the President must have it published in the *Government Gazette*. Laws are only applied once made by parliament, assented to by the president, and officially published in the *Government Gazette*.

#### ***6.3.5 Bills originating from outside government***

Only a Minister, an Assistant Minister or the Attorney General may present a bill to the National Assembly. However, this does not preclude lobby groups such as civil society organisations from advocating and pressurising for the passing of particular legislation.

#### ***6.3.6 Parliamentary facilities***

There are a number of facilities and services available to members of the legislature to perform their legislative and scrutiny functions. However, these are not adequate. Members have a research unit and a library, which they access for materials they might need to enhance their understanding and knowledge. Also, each constituency has an office with administrators employed to assist the Member of Parliament. These employees are paid by the government. They also have other benefits and privileges and these are given as long as one is a legislative member, regardless of party affiliation or gender. These include housing, car allowance and other privileges provided for in the National Assembly (Powers and Privileges (CAP. 02:03) Act. For example, immunity from legal proceedings enable members to voice their opinions without fear of civil or criminal proceeding being instituted against them for words they could have spoken before, or written in a report to the Assembly or to a committee, or by reason of any matter or thing so brought by him by petition, bill, motion or otherwise.

#### ***6.3.7 Number of legislative sittings***

The legislature sits three times in a year, in November, February and July. The dates for these sittings are determined by the Business Advisory Committee of Parliament and approved at the Office of the President. According to Section 93 of the Constitution of Botswana, the President may at any time summon a meeting of the National Assembly. The Standing Orders of the National Assembly provide that meetings of the Assembly (other than the first meeting of any session, which is according to the Constitution, called by the President), shall begin at such times as the Speaker may determine. The Assembly sits on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, but not public holidays. The Assembly may only sit on Saturdays or Sundays when a minister moves that it sits on that day.

#### ***6.3.8 The capacity of the legislature to effectively perform their functions.***

The legislature has reasonable capacity to perform their functions, but some members lack the expertise and skills, hence they make limited contributions to the functioning of the legislature. This often leads to instances of dominance by the executive who are often well educated. However, this seems to be slowly changing as more former government employees are becoming legislators and therefore are more capable (See 3.4.1).

### ***6.3.9 The rigour of legislative procedures for approval and supervision of taxation and public expenditure.***

The budget process is detailed and is mostly a bureaucratic affair. The budget preparation process starts with ministries and departments submitting items to the Division of Budget Administration of the MFDP in June, culminating in the approval of the Annual Budget by Parliament in March the following year. The financial year commences on 1<sup>st</sup> April and ends on 31<sup>st</sup> March of the next year. The process involves the state bureaucracy (executive institutions, including the Ministries, Departments, Parastatals, MFDP, DPSM, Cabinet, and various committees, etc.) and Parliament. Public budgeting process follows very strict procedures that require prior approval by Parliament of public expenditure. Extra-budgetary expenditure is very rarely allowed because even the executive's supplementary budgets must first be approved before the funds can be expended. (See Appendix H for details of the budgeting process).

### ***6.3.10 Financial auditing procedures***

The procedures for financial auditing of government revenue and expenditure, including public sector bodies, are clearly stated and rigorously followed. The Office of the Auditor General is a specified office, which means that the incumbent is appointed by the President but enjoys protected in tenure like a High Court judge. The office conducts both financial and performance auditing of all government institutions and agencies, except the parastatals whose acts stipulates that own boards will appoint the auditors. The Auditor General audits and reports on the public accounts of most authorities of the Government, and must be satisfied that all reasonable precautions are taken to safeguard the proper collection, custody and disbursement of public monies and stores.

According to the Finance and Audit Act, the Auditor General is required to draw the attention of the minister any apparent lack of economy, efficiency and effectiveness in the expenditure or utilisation of public monies or public stores. The Auditor General has powers (Section 32, Finance and Audit Act) to require any person to produce to him such books, records, reports or documents in that person's custody as he may consider necessary or expedient to examine in order to fully discharge those duties. He also has powers to require any public officer to give him any explanation or information. Section 32 (3) and (4) states that the Auditor General may without payment of any fees, cause search in and extracts to be taken from any book, record, report or other documents in any public office. The Auditor General also must have access, at all reasonable times, to all offices, stores, workshops, other premises whatsoever and sites subject to his audit. Such powers are also contained in Section 124 of the Constitution of Botswana. Section 124(5) of the Constitution of Botswana provides that the Auditor General, in exercising official functions, shall not be subject to the direction or control of any other person or authority. The independence of the Auditor General is in fact respected. However, the just like the PAC, the office does not have sanctioning and enforcement powers.

The ability to audit depends on the availability or adequacy of manpower to carry out the tasks. The auditor general's office like all other government departments is often faced with the problem of lack of resources in this regard. Therefore, not all auditing tasks are undertaken in a given year. The establishment has about 200 staff with only 50 having university degrees. However, there are efforts to further develop human and institutional capacities. This includes the computerisation of information management processes.

The Public Accounts Committee of Parliament safeguards the use of public resources. Its function is to scrutinise public expenditure by all ministries, departments, and other government agencies. It relies on the reports of the Auditor General and reports to the National Assembly. The PAC is effective, as discussed in the sub-section on parliamentary committees (6.3.2).

#### 6.4 Effectiveness of the Judiciary

The Judiciary is the third arm of Government set up under Section 95 of the Constitution of the Republic of Botswana. It hears and determines both civil and criminal cases. There are three layers of courts: the highest is the Court of Appeal, followed in rank and importance by the High Court and at the lowest level, the Magistrates Courts. There is also the Industrial Court. Coexisting with the magisterial court system are the Customary Court of Appeal and the Customary Courts. The division of labour is well defined: the magisterial/high court system hears all civil and criminal cases; customary courts are limited to civil and minor criminal cases; Only the High Court can impose the death penalty for convictions in murder, treason and violent piracy cases.

The majority of respondents (90%) perceived the judiciary to be largely or fully independent. However, only half (50%) thought the lower or first access courts were accessible and a similar proportion (53%) believed that those who had access obtained full justice. While 57 per cent stated the judiciary was largely free from corruption, 26 per cent believed it was above corruption. The overall perception is that Botswana's judiciary is free and relatively uncorrupted, but access to justice is not adequate. With regards the appointment and promotion of judges, 47 per cent said judges are usually appointed and promoted on their own merits; 34 per cent that they are always appointed and promoted on their own merits; and 13 percent that this was only sometimes so. The judges are therefore seen to be appointed and promoted on merit.

##### 6.4.1 Independence of the courts

The Botswana courts operate independently and are free from executive interference. The judiciary exercises its responsibilities without fear or favour. Nonetheless, such independence does not imply that they are insulated from other branches of government. The President exercises constitutional control through the power of appointment of judges. Section 96 (1) and (2) of the Constitution of Botswana prescribes the manner of appointment of the Chief Justice and the judges of the High Court. The President, as the head of the executive prescribes qualifications for appointment of magistrates into the various magistrates' grades.<sup>64</sup> However, the President is advised by the Judicial Service Commission (JSC) in the performance of these functions.

The high and magisterial court system is paralleled by the customary courts that are presided over by the chiefs (*dikgosi*). At the customary court level, the Minister responsible for justice appoints, by notice in the *Gazette*, the Director of Tribal Administration and the Deputy Director of Tribal Administration who are civil servants.<sup>65</sup> The minister has power to recognise or establish customary courts, define their jurisdictions, and prescribe the constitution of any such courts, the order of precedence among the members, or powers and duties of any persons acting as assessors in those courts. The minister also has powers to dismiss or discipline any member of a customary court who appears to have abused his power or proved unworthy or

<sup>64</sup> Constitution of Botswana, Section 96 (1) and (2); High Court Act, Section 3; Magistrates' Act, Section 8 (2).

<sup>65</sup> Customary Courts Act, Sections 4 (1) and 5 (1).

incapable of exercising official duties. The chief may submit for the consideration of the minister recommendations for the recognition, establishment, abolition or variation in jurisdiction of customary courts within his area, and the minister makes the decision.<sup>66</sup> The above shows that the judiciary is not wholly independent from the executive, even though the judiciary enjoys non-interference on its day to day activities. The executive branch, through the President and the Minister of Local Government, respectively, exercise constitutional and statutory controls over judicial appointments and recognition of tribal chiefs.

The independence of the judiciary is an aspect of the rule of law and has been respected and practiced. The executive and the legislature do not interfere in the functions of the courts. Court decisions have always been accepted by the executive. For example, there have been instances where individuals have sued the government or officials of government and won in court and the government respected the decisions of the courts. Cases in point include, *Unity Dow vs. Attorney General*, whereby Ms Dow challenged the constitutionality of the Citizenship Act, which she alleged was discriminatory. She won the case and the act was subsequently amended. Another case was that of a minority group, the *Basarwa vs. Attorney General*. They alleged that their government had forcibly removed them from their ancestral lands, and that this was unconstitutional. Government lost the case, but accepted the decision of the courts and allowed them to return to the Central Kalahari Game Reserve (CKGR).

Therefore, the judiciary is fully independent and discharges its responsibilities without fear or favour. Government accepts and respects the decisions of the courts. This shows that there is the respect of the rule of law. The result is that there is a predictable legal environment under which the public has faith in the judicial process. The Judiciary has shown considerable independence from the Executive, as well as maturity in the interpretation of the law for the benefit of citizens. It operates in an environment that is conducive to the performance of its functions. There have not so far been cases of Executive interference in the Judiciary's operations. Overall, the independence of the Judiciary is protected by the Constitution and generally there is compliance with constitutional provisions.<sup>67</sup> The drift of professionals to the private sector is the major challenge to its delivery capacity.

#### ***6.4.2 Appointments, tenure and dismissal of judges and magistrates***

As with the appointment of the Chief Justice and the Judges of the High Court, the President of the Court of Appeal and its judges are also appointed by the President, with the advice of the Judicial Service Commission. The qualifications required are comparable to international standards that apply to countries of the Commonwealth.<sup>68</sup> The retirement age of judges is 70 years, or such other age as may be prescribed by Parliament. However, the president acting in accordance with the advise of the Judicial Service Commission, may permit a judge who has attained that age to continue in office for such period as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before he attained that age. There is no arbitrary removal of judges; they can only be removed from office for reasons of inability to perform the functions of office or for misbehaviour. There is a provision that the President may cause such a removal to be investigated by a tribunal

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<sup>66</sup> Customary Court Act, Sections 7 (1) and (2), 8 (2), 9 and 10.

<sup>67</sup> See European Union Delegation to Botswana, *Governance Profile for Botswana, June 2006*. (Based on a report prepared by the Public Sector Reform Unit, BIDPA and consultations with the stakeholders, 2<sup>nd</sup> June and 27<sup>th</sup> July 2006).

<sup>68</sup> Constitution of Botswana, Sections 100 and 96.

appointed by the President. The tribunal is supposed to be constituted by chairman and not less than two other members, who hold or have held high judicial office. Their function is to enquire into the matter and report the findings to the President. The President will then act according to the advice from the tribunal, by either removing or not removing that judge from office.<sup>69</sup> Judges' tenure is thus constitutionally guaranteed and there are no arbitrary dismissals.

#### **6.4.3 Judicial corruption**

There have not been any significant reports of judicial corruption, although there is potential for its occurrence. That is why the Chief Justice Julian Nganunu warned the judiciary that nothing would cost it dearly than the public perception that it was so corrupt that it could be bought. The Chief Justice was addressing magistrates, and cautioned that if the judiciary should deteriorate to that position, then it faced the risk of being looked down upon and despised.<sup>70</sup> The judiciary is perceived to be generally free of corruption.

#### **6.4.4 The role and scope of customary systems of law**

The customary courts exercise civil jurisdiction over cases and matters in which a defendant is ordinarily resident within the area of jurisdiction of that court, or the cause of action arose wholly therein. The chiefs, who are the presidents of the customary courts, also act to promote the welfare of the members of their tribes. They also carry out any instructions given to them by the minister and ensure that their tribes are informed of any development projects in the area which affect them. They also convene *Kgotla* meetings to obtain advice as to the exercise of their functions from their subjects.<sup>71</sup> They preside over criminal charges and matters in which the offences were committed wholly or partly within their area of jurisdiction.

The customary courts have jurisdiction to hear and determine suits for the recovery of liquid civil debts due to the state or any town or district council. The customary courts have no jurisdiction over cases in which the accused is charged with treason, riot or any offence involving the security or safety of the state, an offence in consequence of which death is alleged to have occurred, bigamy, bribery, offences concerning counterfeit currency, robbery, offences against insolvency law or company law, and rape. They may also not try any cases or proceedings whereby divorce or a declaration of nullity of marriage or an order for judicial separation is sought where such marriage has been contracted other than in accordance with customary law.<sup>72</sup> There is a high degree of public confidence in the customary systems of law as manifested in the large numbers of litigants who take their cases to such courts. They handle around 80% of all court cases in the country.<sup>73</sup> As part of the judicial system, the customary courts enjoy independence from the executive in their day-to-day court activities. However, they are subject to control by the executive, which confirm the chiefs' appointments, and have to officially recognise the establishment, recognition, abolition or variation in jurisdiction of the customary courts. The executive also define the jurisdiction as to causes of action and the limits of jurisdiction to be enjoyed by the courts.<sup>74</sup> Nevertheless, the customary

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<sup>69</sup> *Ibid.* Section 97.

<sup>70</sup> *Mmegi* Newspaper, Tuesday 13 March 2007; [www.mmegi.bw](http://www.mmegi.bw).

<sup>71</sup> Chieftainship Act, Section 15.

<sup>72</sup> Customary Courts Act, Sections 13 to 15.

<sup>73</sup> K.C. Sharma, 2005. "Role of Traditional Structures in Local Governance for Local Development; the Case of Botswana".

<sup>74</sup> Customary Courts Act, Sections 7, 8 and 9.



system of law is quite effective, and may be credited with the establishment of conditions in which social harmony and stability are maintained in Botswana.

#### ***6.4.5 Resources for carrying out judicial functions***

The effectiveness of the judiciary depends on human and organizational capacities and the adequacy of financial resources for carrying out their functions. Trained, skilled, and experienced human resources are inadequate at all levels of the judicial system. The judiciary has problems of staff retention and cannot compete with private legal practice, which is more competitive and attracts the skilled and experienced lawyers. This has caused delays in the administration of justice as there are not enough magistrates and judges to quickly dispose of cases. The customary legal system is faced with inadequate people who understand basic legal principles, as well as administrative staff to assist the functioning of the customary courts.

#### ***6.4.6 Procedures for reviewing the laws***

The Attorney General's chambers are responsible for reviewing the laws of Botswana. They are advised by the Parliamentary Law Review Committee. The Drafting Division reviews the statutes and laws. The Department of Public Prosecutions deals with criminal law and the International Commercial Division deals with commercial issues. The Civil Division deals with civil matters. These divisions give their reports to the drafting division which in turn reviews the laws. However, there is a new Law Revision Division that will be in charge of intensifying the review and updating of laws.

#### ***6.4.7 Control exercised by the judiciary over its own budget and staff***

The judiciary has control over its budget and staff. The Accountant General is responsible for payment of salaries and benefits. However, the Judicial Service Commission administers the conditions of service of magistrates, registrars and judges.

#### ***6.4.8 Comparative earnings between public and private legal practice.***

Private legal practitioners who own law firms determine their own salaries. However, they do not pay their employees much. The employees are expected to augment their salaries through commission. This means the more cases one handles, the more money they will make. Few firms pay well. On the other hand, public legal practitioners have job security, housing allowance, car allowance, robe allowance etc. As pointed out above, it appears that private practice is more lucrative than working for the judiciary, as evidenced by the large number of public legal practitioners opting for private practice.

#### ***6.4.9 The coverage of the rule of law***

The rule of law has always been a feature of Botswana's democratic system and is fully respected by all. No one is above the law. Therefore, every person and every institution is subject to the laws of the country. There are no areas, groups or individuals that are above or beyond the reach of the law. The protection of the law extends to all people and institutions; there is no systematic exclusion of anyone, including vulnerable sections of the population, from the law's protection, especially in respect of their physical security. No one is excluded from the protection offered by Botswana's laws and legal system. The access of citizens to justice, including traditional legal systems where appropriate is free but it does have some constraints such as the prohibitive cost of litigation. Litigation is very expensive and limits many people's access to legal assistance. This, apart from attachment to tradition, might account for the high use of the customary court system alluded to above.

#### ***6.4.10 The average waiting time for cases to be brought to trial in the different levels of court***

The average waiting times for administering and disposing of cases varies. As noted above, there are delays in disposal of cases, including appeals. There are no official time frames that are set to hear cases in both the magistrates' and the higher courts. Generally time frames depend on the existing case loads, whether a case is being contested or not, and other administrative realities. We currently do not have figures for the percentage of cases in the different categories (criminal, civil, or commercial) disposed of in any given year. However, partly due to delays in the administration of justice, there are a number of prisoners that are awaiting trial. This causes overcrowding in the prisons. In 2004, the total number of persons incarcerated in prison was 35,371. Out of these, 4,495 (4,162 males and 333 females) or 12.7 per cent, were remand prisoners awaiting trial.

#### ***6.4.11 Legal aid system***

Poor people are often unable to afford adequate legal services. In such instances, government funded lawyers are provided. However, this is done for only those who are charged with offences for which the penalty could be death. Even so, such lawyers are often not adequately paid and hence cases end up being handled by lawyers who lack the skills to handle cases of such seriousness. There seems, therefore, to be inadequate legal assistance for the poor who are in need of defence.

#### ***6.4.12 Alternative justice systems***

There are alternative justice systems for resolving disputes. The first major alternative justice system was the establishment of the Industrial Court in the 1990s. There are proposals that are still under consideration to establish Small Claims Courts and Commercial Courts, and to reform the system so that there will be more emphasis on alternative disputes resolution through arbitration. Additional justice provisions are provided through circuit courts which help reduce the backlog of murder and traffic cases. In Gaborone, there are specialised traffic courts in Gaborone and Francistown. Family courts are also being set up.

#### ***6.4.13 Discrimination and inequalities in the operation of the justice system***

Vulnerable groups such as minorities and women are also the most affected by poverty. The expensive access to legal aid and justice therefore also affects these groups more than the wealthier members of society. Nevertheless, there is no systematic discrimination against anyone on the basis of their gender or social status. The legal system equally and effectively protects all people and their basic civil and political rights. Every citizen potentially has access to the legal system regardless of their gender, religion or ethnic origin.

The constitutional provisions for the protection of basic civil liberties, political rights, cultural rights and economic rights, are not obviously or deliberately trampled upon. The Constitution of Botswana provides for the protection of fundamental rights and freedoms of individuals, which are: protection of right to life, personal liberty; from slavery and forced labour, inhuman treatment; deprivation of property; protection for privacy of home and other property; provisions to secure protection of law; protection of freedom of conscience, expression, assembly and association, movement; and protection from discrimination on the grounds of sex, race etc. People may apply to the High Court for redress, should any of these rights be violated.<sup>75</sup> In fact, there is general respect for the law, human rights are not systematically violated; there are no arbitrary

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<sup>75</sup> Constitution of Botswana, Sections 3 to 16.

arrests, suspects are charged and brought to court in reasonable time; there is absence of official systematic torture or victimisation of individuals. There is no evidence of imposition of arbitrary penalties and sanctions by law enforcement agents.

#### **6.4.14 Human Rights Commission**

There is no Human Rights Commission or legislative Human Rights Committee. The guarantees for the protection of people's rights that are entrenched in the Constitution of Botswana, the existing law enforcement and justice systems are perceived by government to be adequate for safeguarding human rights. Therefore a commission is deemed unnecessary. The functional legal and justice system appears adequate and effective in protecting civil liberties and political rights of citizens. There is an independent non-governmental organization, Ditshwanelo-Botswana Centre for Human Rights, which champions human rights causes. It functions unhindered and is sometimes quite critical of government, especially its reluctance to abolish the death sentence.

#### **6.4.15 Oversight institutions**

The office of the Ombudsman was established in 1995. It receives complaints of injustices, addresses cases of injustice, ensures ethical and fair public service conduct, and makes suggestions for the improvement of public service delivery. Its effectiveness is shown in the high rate of compliance by the public sector institutions to which the office has sent recommendations. From 1997 to 2004, the Ombudsman received 3,773 complaints, of which 2,501 (66%) were resolved.<sup>76</sup> As a publicly funded office, it has never had a real problem with the availability of funds for its operations. Its challenges include a low level of staffing, and a high staff attrition rate.

### **6.5 Effectiveness of non-state actors**

#### **6.5.1 Participation**

Participation may broadly be defined as a process of engagement and involvement of stakeholders in public decision making, resource allocation, and implementation of decisions. Its crucial characteristic is the empowerment of people to engage and be involved in decisions on, or to influence the direction of, their lives. It therefore involves the interactions of the state, in different forums and at various levels of engagement, with civil society, the private sector, women, youth, marginalised and vulnerable groups. Participation facilitates the operation of checks and controls on the decisions and actions of government, provides channels for the aggregation and articulation of needs, demands and requirements of the non-state actors.

The expert panel respondents were overwhelmingly positive about non-state actors' standing in the political system. Almost 89 per cent regarded that civil society organisations (CSOs) were functioning independently of government. Out of these, 49 per cent stated that government actually encouraged them to function.

#### **6.5.2 Constitutional and legal framework for participation**

Botswana provides a constitutional and legal framework for CSO participation in the political system, which allow and encourage the freedom of association. As a result, all forms of civil society organizations, including NGOs, community organisations, employers' organisations, trade unions and public officers' staff associations all operate in Botswana. A policy framework for non-governmental organisations, to provide a framework for Government-NGO relations and collaboration, assistance and support to

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<sup>76</sup> Republic of Botswana, Office of the Ombudsman, *Annual Report 2003/2004*.

NGOs, and to establish institutional structures and processes to operationalise and guide the collaboration was adopted in 2004.<sup>77</sup> Prior to this, the NGOs had on their own initiative developed a Code of Conduct to regulate their operations and to ensure accountability to both donors and the society they serve or represent. This code was subsequently incorporated into the policy document.

### **6.5.3 Institutions and forums for participation**

The institutions and forums for involvement of stakeholders in consultations with government include the traditional *kgotla* or village assembly, Village Development Committees (VDCs), District Development Committees (DDCs), National District Development Conference (NDDC), Local Authorities (District, Town and City Councils), the Rural Development Council (RDC), and the High Level Consultative Council (HLCC). Therefore there are adequate forums for consultation at various levels, ranging from the village to the national. However, the government uses the *kgotlas*, VDCs and DDCs merely for information rather than “bottom-up” consultation. For example, government officials travel around the country informing people about decisions proposed by government and they gather people’s views, which then are supposed to be incorporated in the final decisions. In effect, most government decisions appear to be pre-determined.

The private sector’s consultation and involvement in public decision-making is done through the HLCC, and the bi-annual National Business Conference (NBC), the National Employment, Manpower and Incomes Council (NEMIC, a government-labour-employer forum). The HLCC, NBC and the Business and Economic Advisory Council (BEAC) were all set up following pressure from the Botswana Confederation of Commerce, Industry and manpower, which is essentially a private sector business advocacy organisation representing employers.

Most NGOs are not as effective as could be. They tend to focus on “filling the gaps” left by government in service delivery. They are not effective in engagement with the state and in advocacy. This is because of human and financial capacity constraints. NGOs do not have adequately trained skilled and experienced people in their ranks. They are unable to attract and retain such staff because of poor remuneration and uncompetitive working conditions. Often they are personality-driven and tend to reflect personal commitments to single causes. They tend to lack institutionalization; when the drivers of the causes leave, the NGOs collapse. The NGOs tend to suffer from governance problems, especially the lack of internal democracy, accountability, and transparency. The re-classification of Botswana as a middle income country also left a number of NGOs without financial support that used to come with foreign aid.

While institutions are open and freely participatory, it appears that non-state actors lack the capacity to participate effectively because of human and organizational capacity constraints. An example is the failure of the Botswana Federation of Trade Unions (BFTU) to participate in the HLCC, despite its being invited all the time this body meets.

### **6.5.4 Organised protests against government**

The incidences of organised protests against government policy or legislation are few. CSOs in Botswana have often been weak on account of organizational deficiencies.

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<sup>77</sup> Republic of Botswana, 2004. *National Policy on Non-Governmental Organizations*. (Approved by Cabinet on 3<sup>rd</sup> March 2004, Presidential Directive Cab. 8(b)/2004).

There have been a few notable incidences of protest, such as opposition to privatization in 2004. The Botswana Council of Non-Governmental Organisations (BOCONGO) organized an anti-privatisation workshop where CSOs questioned the implementation of the privatisation policy; raised concerns about lack of accountability and transparency; and the negative effects that the process would have on the poor. A minority group representative organization, the First People of the Kalahari, has also protested relentlessly over the relocation of the *Basarwa* (bushmen) from the Central Kalahari game Reserve, and even took government to court. The CSO won the case and government accepted and respected the judiciary's decision (See 6.4.1 and 6.4.13).

#### **6.5.5 Independence and effectiveness of the media**

The expert panel respondents' perceptions were that the media operates within a completely free environment (34%), while 39 percent stated the media operates within an environment where mass media rights are only infrequently violated by the government and/or ruling party. This indicates a lack of consensus on government-media relations. The media is also supposed to help promote government transparency and accountability. But the expert panel was once again quite divided on non-state actors' role in this. Eleven per cent perceived that CSOs do not or rarely promote transparency and accountability, while 39 per cent it fairly does, 28 per cent that it moderately does, and 22 per cent that it effectively does. The contribution of non-state actors, of which the media are a component, to promote transparency and accountability was perceived to be low.

The constitutional and legal framework does not place any restrictions on media freedom. Actually, there is a small but growing private media and press that are relatively free in operations. It co-exists with the public media. The state media is owned by government and hence it is not independent from government. Private media is privately owned by a few individuals and companies. Whereas there are a number of private newspapers, there is lack of pluralism in its ownership. There is one government owned newspaper, *The Daily News* and six privately owned newspapers, namely, the *Sunday Standard*, *The Voice*, *Echo*, *Mmegi*, *Mid-Week Sun*, and *The Guardian* (ownership of the latter three is in the hands of a related group of companies). There are two government owned radio stations (*RBI* and *RB2*), two private owned radio stations, namely *Gabz fm*, which is more for the elderly listeners and it broadcasts only to the Gaborone community, and *Yarona fm*, a more youthful station broadcasting to Gaborone and other areas in its vicinity. There is one Government owned television station *Botswana Television (BTV)* and a private television station, *Gaborone Broadcasting Company (GBC)* which broadcasts only to Gaborone and does not have original content.

The effectiveness of the private press and media investigating government is stifled by the absence of a law on access to information; there is no equivalent of an "Access to Information Act". Journalists and reporters depend on the willingness of government officials to provide information, since there is no law that binds officials to give journalists information. This constrains investigative journalism.

#### **6.5.6 Legislation on press and media ownership**

There are no restrictive laws governing the ownership of press and media. The Constitution of Botswana provides for protection of the freedom of speech and expression and journalists draw on this protection to express their views. There are, however, public authorities that regulate press and media. The National Broadcasting Board of Botswana regulates and promotes growth of the broadcasting industry. There

is also an industry organization, the Press Council of Botswana, which promotes the interests of the private press, and was responsible for developing the Botswana Media Code of Ethics that governs the conduct and practice of all media practitioners. Also, each media sector has its own code of ethics and these align with the Press Council Code of Ethics. The Botswana chapter of the Media Institute of Southern Africa (MISA Botswana) also operates freely and it seeks to promote media diversity, pluralism, self-sufficiency and independence.

#### **6.5.7 Summary: non-state actors**

In summary, there are clearly established systems for consultations involving the government and non-state actors. There is openness in the political system and government actually consults the public on policy and legislation. However, there is a perception that most of this consultation is in the form of government informing the various stakeholders about its policies and plans, rather than seeking inputs into the formulation of those policies and plans. Non-state actors have capacity constraints in advocacy and engagement with the state. They have low human capacity, organizational weaknesses, and financial difficulties that constrain their functioning and make them ineffective in public participatory processes. The press, though free, is rather small, and its ownership is concentrated. Its effectiveness as a watchdog is doubtful because it lacks influence in the political system.

#### **6.6 Conclusion**

The Constitution of Botswana provides for internal checks and balances amongst the three principal institutions of the state. The Executive President has considerable centrality and powers and cannot be impeached by the legislature. There is also numerical dominance of ministers and assistant ministers in the National Assembly. This is a structural impediment to legislative checks on the powers and actions of the executive, as the principle of collective responsibility diminishes the effectiveness of the members of cabinet who are in the legislature to exercise this function. Nevertheless, there has so far always been respect by the executive, of the functions, responsibilities and roles of the other branches of government. There has not been interference in the operations of the legislature and the judiciary. Actually decisions of the judiciary are always respected, even if they go against the executive. Customary structures of governance are officially recognized, but they are not independent, as the executive utilizes them for confirming its policies and actions, and to complement the justice and social stabilization systems. Non-state actors, who are freely able to organize and operate, are visible but have a minor role to play in the policy process and acting as watchdog.

## **7 INSTITUTIONAL EFFECTIVENESS AND ACCOUNTABILITY OF THE EXECUTIVE**

The executive is central to overall national policy determination, implementation, and review. This centrality often leads observers to rate national performance on the basis of the executive's efficiency and effectiveness. The characteristics of the executive determine the extent of its efficiency, effectiveness, and the trust and confidence that society places in government institutions.

### **7.1 Quality of the executive and the public service**

As pointed out earlier, the independence of the executive branch of government was highly rated; about three quarters (73%) of the expert panel respondents regarded the executive to be independent in most or all major areas of policy. Less than half (41%) of the respondents regarded the composition of senior public servants largely reflects the cross section of society, while only 18 per cent said it fully reflects the cross section of society, and 15 per cent stated it hardly or does not at all reflect the cross section of society. Nevertheless, a combined total of 60 per cent regarded the top echelons of the senior civil service to be largely or fully reflective of the cross section of society. With regard to corruption, the executive fared very well, with 68 per cent stating it was largely free, and seven per cent, completely above corruption. There appears, therefore, to be consensus that the executive is independent, broadly representative, and largely untainted by corruption.

#### ***7.1.1 Quality of political leadership***

The quality of political leadership is high, in terms of education, skills, experience, and integrity. The President is well educated, with a master's degree, and has served in various institutional capacities as permanent secretary, governor of the central bank, secretary to the president, and senior official in an international financial institution. The Vice President is a graduate of Sandhurst Academy and former commander of the armed forces. Ministers are generally well educated, with a number of them having earned post-graduate qualifications and gained experience in the civil and public services, academia, and the private sector. The Members of Parliament (from whose pool ministers, assistant ministers and the top executives are selected) are also well qualified (and most are former public servants).

#### ***7.1.2 Features of the civil service***

The staffing of the civil service, especially at lower levels, is not adequate. For example the ratios of nurses to patients, teachers to students, and police to population are said to be below the desired levels. But recruitment is based on merit; the civil service have the necessary education, training, and skills required and to spare.

#### **Selection, Promotion and Evaluation procedures in the civil service**

The selection and promotion of civil servants is based on merit. There is no data on how representative civil servants are of the social composition of society. This is because no such data are collected. Employment is not based on race, gender, ethnicity, etc., but on merit. The vacancies in the public services are usually advertised and candidates have to apply for the post. In order to be selected, a person must satisfy the scheme of service that lays down the qualifications for that office.<sup>78</sup> Promotions are also based on merit. There are probationary periods (usually six months) for new or promoted employees. A performance management system is being rolled out in the civil service and the local

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<sup>78</sup> Public Service Act, Sections 7 and 8.

authorities.

#### **Public servants' political neutrality**

Employees in the public/civil service are supposed to be politically neutral since the law does not allow public servants' active participation in politics. The Constitution of Botswana states that "it is misconduct for a public officer to engage in any activity outside his official duties which is likely to involve him in political controversy or to lead to him taking improper advantage of his position in the public service". Civil servants are not allowed to hold political office while employed in the civil service. However, there is a very close relationship between the top levels of the civil service and political office. It is quite common for permanent secretaries and other top civil servants to retire from public service then immediately join the ruling party. They are then elected into political office and selected as ministers and assistant ministers. There appears, therefore, to be a close symbiotic relationship between the political elite and the state administrative system. A number of the current ministers are former civil servants and military officers. (See 3.4.1).

#### **Women in the civil service**

Botswana is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (signed on the 13th August 1996); Optional protocol to the convention on the Elimination of all forms of Discrimination Against Women (22 December 2000); and the SADC Declaration On Gender And Development (1997). Botswana has no problems with ratification of international agreements. The main problem seems to be domestication into local laws, and in adequate human capacity for implementation and reporting on the progress of implementation.

There is actually considerable support given to women's betterment. There is a national policy on women and development, which addresses women's issues and seeks to enable them to participate fully in the economy, without undue hindrances. Institution-wise, a dedicated department of Women's Affairs was set up in the Ministry of Labour and Home Affairs (MLHA). It was established to be the lead organization on gender issues. The mandate of this department is quite broad: to promote or enhance the status of women; improve and fully integrate women in the national development process; guarantee their welfare and reasonable representation in the education, socio-economic, cultural, legislative and legal systems. The overall objective is to "enhance the status and role of women in decision-making and leadership at all levels; promote access to and control of factors of production and to remove all forms of legal and socio-cultural constraints on women's participation across all sectors of development; promote health, especially reproductive health and rights, including family planning; enhance the education and skills training of women and girls; eliminate the growing poverty among women particularly female headed households; and create awareness of gender issues at all levels".<sup>79</sup> The reasons for failure to have adequate women's representation seem to be other than presence of an enabling policy and institutional framework for the promotion of women's interests.

The reality on the ground is that there are more males than females in higher positions of the public service, and males tend to hold higher positions than females. As pointed out earlier (See 3.2.2) the proportion of women in the Cabinet is 15 per cent; they held 40% per cent of the top civil service positions in the early 2000s; they are only four out

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<sup>79</sup> [http://www.gov.bw/index.php?option=com\\_content&task=view&id=30&Itemid=40](http://www.gov.bw/index.php?option=com_content&task=view&id=30&Itemid=40)



of the 57 elected MPs; there is only one woman out of the 15 High Court judges.

Minority groups such as the *Basarwa* are also not adequately represented in the civil service. However, this is not due to discrimination. The *Basarwa* prefer to stay with their own communities and so they go back to rural areas, rather than seek employment in the public service, even after they have graduated from university. The few that seek employment tend to prefer non-government organizations that work with their communities.

### **7.1.3 Remuneration, training and facilities in the public sector**

#### **Remuneration and conditions of service**

The working environment, remuneration, and conditions of service for public servants are not very attractive. There is considerable turnover of staff. For example, there has recently been an exodus of nurses and police officers who left the service because they felt the public service was unrewarding. Hence staff retention in government is low.

However, salaries in the public sector provide a living wage because government always considers inflation when increasing employees' remuneration. Typically, there is on average an across the board salary increment for the public sector every two to three years. The salaries are paid on time, on fixed dates. Government employees are allowed to organize and collectively bargain. There is the Botswana Public Employees Union (BOPEU), which represents the collective interests of government employees. This shows that government does not hinder public sector workers from unionising.

#### **Career prospects for civil servants**

Civil servants generally have a stable career path. They are employed on permanent and pensionable conditions and enjoy several benefits, including subsidization of medical insurance, access to subsidized housing schemes, and government assistance with motor vehicle purchases. However, progression from the lower ranks to the middle and especially highest cadre (directors to permanent secretary levels) tends to be slow. This is not exceptional to Botswana since the civil service is hierarchical and there are therefore fewer posts at the top. As with colonially-bequeathed civil services, long service rather than performance has tended to be one of the principal criteria for promotion. In some cases, promotions do not seem to be particularly based on one's performance. But this is likely to change with the implementation of the performance management systems, whereby employees will be rewarded according to the effort they put into their work and the results they produce.

All posts in the civil service have job descriptions. Training programmes for civil servants are available and departments have training plans in place. Salaries and increments follow a particular, clearly defined salary structure that is accessible to all civil servants.

#### **Infrastructure and equipment for the civil service**

Infrastructure and equipment are available for the performance of civil service functions. Botswana does not suffer from serious shortages of government funding, and the national budget provides sufficient funding for the operations of all the ministries and departments. Ministries, departments and other executive agencies have to submit expenditure estimates through the annual budget process, and these are processed in a uniform manner. Public funds are allocated according to perceived need and requirements as determined by the annual budget ceilings.

#### **7.1.4 Civil service reforms**

The period soon after independence saw introduction of some civil service reforms. The administration of the state through district commissioners and tribal administration were carried over from the colonial government. The reforms were largely structural and involved the creation of institutions for social service delivery and promotion of development. They involved expansion of the institutions of the state through creation of District Councils, District Development Committees, Village Development Committees, and the Land Boards. Apart from these early structural reforms, there have not been any fundamental structural changes in the civil service. There are some micro-level, administrative process and capacity development reforms that have since been undertaken and are ongoing. Of these latter types, four are prominent and have been implemented for at least twelve years. These are organisation and methods (O&M) work improvement teams (WITS) performance management systems (PMS) and the computerisation of personnel records and management systems.

The O&M reviews aimed at clarifying and aligning ministerial and departmental goals and objectives with structures and functions to effectively attain national policies and plans. Although implemented for more than 10 years, the impact of O&M on the performance of ministries and departments has never been measured. WITS was meant to encourage team approaches to solve problems arising in the implementation of policies. The WITS strategy started in 1993 and was only successful a handful of organisations, including the Botswana Police Service (BPS). There were problems that employees misunderstood and confused it with PMS (which it is supposed to complement), and its monitoring was ineffective.

PMS is aimed at improving individual and organisational performance and capacity for formulating and implementation of organisational plans for effective public service delivery. Introduced in 1999, it involved formulation of strategic plans and a system of quarterly performance measurement and review. However, most government agencies failed to use the prescribed measurement tools and lacked adequate education and awareness processes to make employees understand the technique. The effort was not well-focused in implementation, its introduction to local authorities was delayed, and it faced considerable resistance in implementation.

The computerisation of personnel management systems started in 1997, but was beset by problems of updating records, and inadequacy of capable staff to operate the system. A major technical constraint was linking ministerial and departmental human resources management systems with the Accountant General's payroll system.<sup>80</sup>

The major weakness of the above-mentioned reforms are, therefore, that there was little compliance to measurement standards within the government ministries and departments, inadequate capacity to carry out the required changes, resistance to change, and the lack of monitoring and evaluation.

There have been other public administrative reforms involving financial management, decentralisation, and privatisation. These have largely been evolutionary, incremental and uncoordinated and not been accompanied by sufficient accountability for attaining results. Privatisation has basically stalled for a myriad of reasons, including lack of clear

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<sup>80</sup> Republic of Botswana, Ministry of Finance and Development Planning, 2003. *National Development Plan 9, 2003/04-2008/09.*

policy guidelines, legal and institutional frameworks for implementation. It is difficult to assess the real impact of all these reforms so far.

## **7.2 Effectiveness of procedures for combating corruption & integrity of the executive branch**

The expert panel respondents had differing perceptions about corruption in the executive, the civil service, the public sector in general and in the tax system. Almost 68 per cent stated that the executive was largely free from corruption while seven per cent thought it was completely free from it. Meanwhile, 88 per cent perceived that the civil service was fairly (50%) or largely (38%) free from corruption. Comparatively, the assessment of public enterprises was that they were largely free (49%) and free (9%) from corruption. The picture that emerges is that there is a perception that whereas the top echelons of the executive appear to be untainted by corruption, the operational levels of the civil service and the public enterprises seem to be quite affected by corruption.

### **Institutions for combating corruption**

The legal framework and institutions for combating corruption have been discussed in Chapter 4. The principal legal framework for combating corruption is the Corruption and Economic Crime Act (Cap. 08:05), which established the Directorate on Corruption and Economic Crime (DCEC). Set up in 1994, the DCEC investigates and prosecutes cases of official corruption, money laundering, and other economic crimes and provides public education on prevention of corruption. The Corruption and Economic Crime Act currently only covers the public sector, and there are proposals that it should be amended to make it more inclusive. Although Section 45 of the act protects whistle blowers; such protection is only limited to court proceedings. There is no other legislation to protect whistleblowers, but there are efforts to develop the legislation with assistance from the Commonwealth Secretariat.

There is also other legislation against money laundering and drug trafficking. These are the Proceeds of Serious Crimes Act, Banking Act (Act No. 13 of 1995), and Banking (Anti-Money Laundering) Regulations, 2003. Botswana ratified the Protocol Against Corruption in the Southern African Development Community (SADC) in 2001. The country has ratified the Rome Statute of the International Criminal Court (2000). Botswana is a member of the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG) and actively cooperates with the Financial Action Task Force (FATF).

The DCEC has three divisions: Investigation, Prevention, and Public Education. In 2006 its offices in Gaborone (the capital) and Francistown (the second largest city) had 143 staff. Of the total, 57 were investigators and each had an average work load of 16 cases. This case load was deemed to be heavy by the Director of the DCEC. Of the total number of cases reported to the DCEC in 2005, one-third qualified for investigation. The cases included public procurement irregularities; fraudulent claims by a service provider; and money laundering. The DCEC has investigated most government ministries, including the Office of the State President, Works and Transport, Local Government, Labour and Home Affairs, etc.<sup>81</sup> Its coverage is, therefore, broad, and it functions autonomously, without interference from the executive. It has plans to open a third office in Maun, which is the largest town in the north of the country.

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<sup>81</sup> DCEC, *Annual Report 2005*.

The major criticism of the DCEC is based on a perception that it focuses on the “small fish” and lets the big ones off the hook. Evidence of this criticism is hard to come by. Another criticism is that its location in, and the fact that it reports to the Office of the President rather than directly to Parliament, compromises its work. Again there is no hard evidence that this constrains the operations of the DCEC.

Actually, the DCEC is quite strong in its capabilities. The office of the Director of the DCEC is the equivalent to that of a Permanent Secretary. As such, the director is appointed by the President on permanent and pensionable terms. It has adequate staff, and is currently conducting a study to better understand the causes and impacts of corruption, so that it can refine its strategies for combating crime and corruption. There is a suggestion that the Director’s powers should be strengthened, through the transformation of the post into a “specified position”, which would be a constitutionally entrenched and protected position similar to that of High Court Judges and the Auditor General. Secondly, there is a suggestion that the Director should report directly to Parliament rather than to the President. This would ensure that the DCEC is directly answerable to the elected representatives of the people, rather than the Executive. However, these suggestions are yet to be made official proposals.

Transparency International (TI), which campaigns world wide against corruption, has a chapter in Botswana. Although its ranking by TI dropped from 6 out of 10 in 2004 to 5.6 in 2006, Botswana still ranks as the least corrupt country in Africa. There are no formal media organisations to combat corruption, although the private press plays some role in exposing it.

### **7.3 Role and capacity of local governments**

Decentralisation is the de-concentration and dispersal of responsibilities within the central government local level institutions, and the devolution of power to local authorities. Botswana has 10 administrative districts. This section focuses on devolved local institutions rather than the de-concentrated administrations.

At independence, Botswana initiated the process of decentralization that involved creation of district institutions. The devolved Local Authorities are rural and urban local government bodies, namely, District Councils, Town Councils, and City Councils. These were established by and derive their authority and functions from the District Councils Act (1965), and the Townships Act (1955). Altogether there are 28 local authorities, including six town councils, 10 district councils and 12 land boards. The local authorities are essentially agencies for provision of public services, including water and sewerage reticulation, refuse collection, primary education, health clinics, etc. The Land Boards are responsible for allocating rural and tribal land. The official objective of Botswana’s decentralization is to promote grass roots development through popular participation, facilitation of sustainable rural development and efficient service delivery. The strategy is to provide localities with basic facilities such as potable water, health, and educational facilities. District Development Committees (DDCs) and Village Development Committees (VDCs) were established through the Presidential Directive of 1969. They are responsible for spearheading development for their areas. These plans are submitted to the responsible district council for vetting, appraisal and funding. However, due to the national prioritisation processes, projects identified by the VDCs are not necessarily funded.

Expert panel respondent’s perceptions of local government capacity were that it was generally low (55%). The resource allocation for service provision for local authorities

was deemed inequitable or rarely equitable by 13 per cent of the respondents, while only eleven per cent thought it was fully equitable. The rest, 75 per cent, took a middle ground view that there was fair and moderately equitable distribution. They considered that local government accountability mechanisms were generally ineffective (25%), fairly effective (42%) and moderately effective (28%), while only six per cent thought they were fully effective. The local authorities are thus considered to under-perform, while resource allocation is generally fair and accountability mechanisms quite effective.

### ***7.3.1 Structure, power, independence and resources of local government***

Local authorities are not independent of central government; the Ministry of Local Government exercises considerable control through financial administration and human resource management provisions. The ministry is the focal point for planning and coordinating the local authorities. It retains the power of final approval over most activities of local authorities.<sup>82</sup>

The proportion of public servants employed by local authorities is quite significant. The Ministry of Local Government staffing bill is 14% of total public expenditure. The recruitment, hiring, deployment, disciplining, promotion and regulation of the conditions of service of senior staff in the local government councils is centralised at the Ministry of Local Government (MLG). The government justifies centralised recruitment on the basis that it ensures that the councils get equal access to scarce manpower and that it minimises the possibility of corruption. However, the local authorities have responsibility for employing very low level staff such as cleaners, gardeners, etc.

The percentage of the national government expenditure allocated to local government is quite substantial. The Ministry of Local Government was allocated almost 16 per cent of the 2007 national budget. However, the responsibility of local authorities to determine own priorities over expenditure is significantly limited. Local authorities merely serve as agencies for planning and execution of local development programmes in their respective areas of jurisdiction. Their responsibilities include the exercise of delegated authority from the central government. For example, Land Boards hold the tribal land in trust and allocate it for agricultural, residential, commercial and general development purposes. Tribal Administration is headed by chiefs who exercise considerable influence on tribal people in the rural areas by providing leadership in maintaining traditional customs and serving as spokespersons for their tribes on issues of a traditional nature. They preside over customary courts and the *Kgotla* where public consultations and dissemination are done. District and urban councils are just agencies of the central government for provision of social services, benefits and amenities.

### ***7.3.2 Extent of financial autonomy of local government***

The percentage of local government expenditure that is raised locally is not significant. All categories of local authority, that is, district councils, urban councils, and land boards are wholly dependent on central government for their development budget, and significantly dependent on the centre for their recurrent budget. The land boards and district councils receive up to 95% of their recurrent requirements from central government, while the urban councils rely on central government for up to 70% of their recurrent income.<sup>83</sup> The independence exercised by local government in raising and

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<sup>82</sup> K.C. Sharma, "Botswana: Decentralisation for democratisation and Strengthening of local Government", in P.S. Reddy, ed. *Local Government Democratisation and Decentralisation; a Review of the Southern African Region*. Pp.73-74.

<sup>83</sup> NDP9, p.392.

spending revenue is also curtailed. The urban councils may raise substantial revenues from taxation on real property. Beyond that, the other sources of revenue are insignificant for both the rural and urban councils, such as abattoir fees, cemetery fees, Self Help Housing Agency (SHHA) service levies, water and sewerage connection fees, etc. The rural councils are especially disadvantaged by the small revenue bases that they are exposed to. The result is that all the councils have to depend heavily on central government for the balance of their recurrent annual revenue, and virtually entirely on central government for their capital spending programmes.

### **7.3.3 Local government capacity/accountability**

The national government controls, directs, supervises and provides guidance to matters at the national level. It maintains a function of national interest that local government cannot undertake. Government distributes revenue according to the needs of every local authority as presented in the local authorities' budget estimates. The national government closely monitors local authority expenditures. The disbursement of funds for district level projects is done by the centre, just as the monitoring and evaluation of development projects is. Local authorities are accountable to the Ministry of Local Government to which they are required to submit reports on their projects. The Ministry of Local Government is in turn accountable to the Ministry of Finance and Development Planning for local authority expenditures and progress of implementation. All financial power rests with the central government, except to the extent that the central government may delegate any financial control to the organs of local government. Therefore, the central government retains the right to keep a very close watch and control over any financial authority granted to the various branches of local government. Central government may intervene if it so wishes, may withdraw any delegated authority, and may delay any recommended changes in financial administration.<sup>84</sup>

The mechanisms of national government monitoring of local government include the enforcement of the Finance and Audit Act (discussed in Chapter 4) and other technical controls. For example, the department of Local Government Technical Services was established in 2006 to improve project implementation and accountability by local authorities. The Local Authorities Public Accounts Committee (LAPAC) was established in 1999, to improve accountability. The functions and powers of LAPAC are to examine accounts of every district council, city council, town council, township authority and land boards and to report examination of such accounts, financial statements and audits to the minister. LAPAC is responsible for enforcing performance in the implementation of projects and programmes, submission of monthly financial and management statements, and final accounts. However, due to inadequate capacity, local authorities often lag in the production of up-to-date financial accounts. Government has undertaken initiatives to improve the performance of local authorities, including a computerization programme; training especially in computer literacy; provision of equipment and mentoring; and updating the accounts by sub-contracting to private companies. Consequently, in 2005 the backlog of un-audited accounts of local government councils had been reduced from 5 to 2 years.

### **7.3.4 Electoral system and political accountability of local authorities**

The local government councils at district, town and city levels are subject to renewal through the electoral process. The general elections that are held every five years

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<sup>84</sup> Derek J. Hudson, "Financial Arrangements for Local Government – some comments on the Botswana situation", in Andrew Briscoe, ed. *Local Government financing in Southern Africa*. P.5)

simultaneously cover the National Assembly and the councils. The percentage turnout during the 2004 general elections was 76.2% (421,272 out of 552,849) of total registered voters.<sup>85</sup> The elections are administered by the Independent Electoral Commission (See Chapter 3). The elections have been held in a free and fair manner, and serve to legitimize the councillors.

#### **7.3.5 Cooperation with stakeholders in policy formulation and responsiveness**

Local authorities do not formulate policies or set standards for performance. These are functions of central government. There is a relatively high level of centralisation of public policy making and public sector management and local authorities are merely implementers of central government policies, the centrally determined development plans and annual budgets. There are no legislative provisions empowering the Local Authorities to establish significant sources of revenue, and they consequently depend substantially on central government grants and subventions. The local authorities also do not set performance or other standards.

#### **7.4 Role of traditional structures in government**

Traditional governance institutions are officially recognized. Their legitimacy and authority is confirmed through the Constitution of Botswana; Chieftainship Act; Customary Courts Act; Penal Code; Local Police Act; Local Government (District Councils) Act; Tribal Territories Act; and House of Chiefs (Powers and Privileges) Act.

Since the traditional chiefs are officially recognised by law, they are remunerated by the state. Paramount Chiefs are members of the House of Chiefs (*Ntlo ya Dikgosi*); an advisory body that complements the elected National Assembly. The area or village chief is the presiding officer at the *kgotla*. It is a public meeting, council, or traditional law court, where community decisions are usually arrived at by consensus. The institution of the *kgotla* is administratively supported with staff and other operational resources by the Department of Tribal Administration of the Ministry of Local Government (MLG).

The President, Ministers and Members of Parliament and Councillors use the *kgotla* for nation building and to popularise and explain the national development policies and plans. The state bureaucracy utilises the *kgotla* for consultations in the national development planning process (through the Village Development Committees and the District Development Committees). The Parliamentary Law Reform Committee also uses it to solicit opinions on what laws require revision.

The role of traditional structures in government is to complement the administration of justice in the country through customary courts which handle a large number of cases (about 80% of the total) in the country. People in the rural areas continue to have respect for and faith in the traditional structures. Hence the customary courts are more popular in the rural areas and they are easily accessible and more comprehensible to ordinary people. They are not as technical and expensive as the magisterial courts.

Traditional leaders also continue to play a pivotal role in the development process of the country. The principle of consultation which is necessary for democracy and development is dependant upon the *kgotla* system. They also help political institutions and the administration to obtain their legitimacy, especially of public policies and

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<sup>85</sup> IEC, 2004. *Report to the Minister of Presidential affairs and Public Administration on the 2004 General Elections*, p.12.

development plans. They are used for consultations and public participation, in a manner that brings an element of bottom-up influence in development as they are closest to the people and hence encourage grass-roots participation in policy formulation and participation.

The traditional structures are not independent of the government. As stated above, they are subject to official recognition through official acts. These acts stipulate the manner of interactions with formal state structures, and the jurisdictions of the traditional authorities. The chiefs thus have to be officially recognized and confirmed by the minister of local government. Also, the district commissioners, who are central government agents representing it at district level, review the cases tried and sentences imposed by the customary courts. Therefore, traditional structures possess limited powers and are not independent of government.

The traditional institutions of governance therefore still exist and play complementary and reinforcing roles in the governance of Botswana. They are significant providers of judicial services and are used in the resolution of local civil, and minor criminal cases. They are utilized for public mobilization in support of government policies and plans. The institutions are also regarded highly for the preservation of customary culture and tradition. The political cohesion and stability of Botswana is greatly influenced by the role that traditional leaders play in governance.

## **7.5 Role and capacity of law enforcement agencies**

### ***7.5.1 Effectiveness of the system of policing***

The expert panel respondents perceived that the composition of the Botswana Police Services (BPS) largely reflects a cross section of society. That was the view of about 86 per cent of the respondents. However, only six per cent thought the police force was adequately equipped for its work, while about 69 per cent thought it was fairly or reasonably equipped, and 26 per cent stated it was not well or poorly equipped. As for the respect for human rights, 93 per cent perceived that the police usually or always respected human rights. The overall picture is that even though the police may not have all the equipment they require for performing their functions, their composition is a reflection of society and they respect human rights.

The system of policing is effective but under strain because of additional duties necessitated by greater need for policing due to the influx of Zimbabwean illegal immigrants, and rising crime levels. However, it is responsive to the needs of society. For example, local community needs are being fulfilled through increased coverage of patrol services. The government is utilizing "special constables" who are not full police officers but complement the work of the officers. There is also increased collaboration of the Botswana Police Service in joint nightly patrols with the Botswana Defence Force, especially during festive times such as Easter and Christmas, when crime tends to increase.

The variety of crimes handled by the police includes murder, robbery, burglary, and petty crimes. For example, there were 254 incidences of murder in 2002; 291 in 2005 and 261 in 2006. Robberies, 2,046 (2002); 2, 487 (2003); 2, 816 (2004); 2321 (2005) and 2,983 in 2006. Burglary incidences were 5, 585 (2002); 7,207 (2003); 7,792 (2004); 7,278 (2005); and 7,245 in 2006.<sup>86</sup> The ratio of police officer to population is

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<sup>86</sup> Annual Report of the Commissioner of the Botswana Police Service for the Year 2006.



rather low. In 2005, there were 6,320 police officers for the total population of about 1.7 million (1 police officer for 269 people). The problem is officially acknowledged by government. Police numbers obviously need augmentation; and that is why there is employment of the special constables.

Police pay is in line with the rest of civil service pay. There is a common payment scale that is applicable to the whole civil service. However, there has been of late a lot of concern about the conditions of service of the police officers, which has led to a number of them leaving the Botswana Police service in search of greener pastures. There is, therefore, a problem of staff retention, which is constraining the effectiveness of the police.

#### ***7.5.2 Corruption of the law enforcement agencies***

The expert panel group perceived that the law enforcement agencies were largely free from corruption (46%), while another 46 per cent thought they were largely or fairly corrupt. Only eight per cent thought the law enforcement agencies were completely free from corruption! Actually, the measures for ensuring accountability ensure that corruption is checked.

#### ***7.5.3 Police accountability***

The accountability of the police is insured through several means, including appointment of the police commissioner, use of internal codes of conduct, and recourse to the law. All the law enforcement and security institutions are governed by Constitutional and statutory provisions. The law enforcement institutions, that are the police, armed forces, paramilitary forces, etc, are all under democratic control and oversight by constitutional civilian authorities. The appointment of their heads is done by the President, who is a civilian and represents the people of Botswana. The President acts on the recommendations made by the relevant service commission. A minister is the political head of the ministry under which the police, armed and security apparatuses operate. These ministers have responsibility for the good conduct of all employees in the ministry, in this case, the police. He minister is answerable to Parliament, which is democratically elected and represents the will of the people of Botswana.

There are disciplinary measures to deter and punish police brutality, misconduct and corruption, such as fines, reprimands and demotion to lower ranks and dismissal. In addition, there are the offices of the Ombudsman, the Auditor General, the Directorate on Corruption and Economic Crime that are supposed to safeguard the public interest. Police officers who commit crimes are prosecuted in the courts of law and do not enjoy any particular favours from the justice system, which applies equally to all inhabitants of Botswana.

#### ***7.5.4 Respect for basic human rights by law enforcement agencies***

The police and other law enforcement agencies are supposed to respect the basic human rights of the population, as the Constitution guarantees these. The Botswana Police is mandated to protect life and property, prevent and detect crime, apprehend offenders, bring offenders to justice, maintain security and public tranquillity and generally enforce all written laws. These encompass the basic human rights and therefore, the police do respect human rights. Where there have been complaints against police heavy-handedness, such cases have been dealt with effectively by applying the law, disciplining and taking other corrective measures. So far the residents of Botswana have

had reasonable guarantees of security and protection of human rights by the law enforcement system.

About 42 per cent of the expert group respondents perceived that violations of human rights by police and prisons are usually and regularly monitored by civil society organisations, while 27 per cent thought they were never or rarely monitored, and 31 per cent thought they were sometimes monitored. The fact is that there is reasonable monitoring but this is not very pronounced, partly because there is only one human rights monitoring organisation in the country, Ditshwanelo-The Botswana Centre for Human Rights.

The law is generally respected. The incidence of arbitrary arrest is very uncommon, and individuals suspected of crimes are charged and brought to court in reasonable time. Security personnel that are alleged to have mistreated anyone are exposed, investigated and prosecuted. Human rights are not systematically trampled upon; there is no evidence of systematic torture or victimisation of individuals or groups of people. Likewise, there are no cases of arbitrary penalties and sanctions being imposed by the security or law enforcement agencies.

Prisons are rather overcrowded, partly due to delays in the administration of justice. Prisons thus have limited holding capacity, which puts tremendous pressure on available facilities and resources, and further impacts negatively on prisoners' living conditions.<sup>87</sup> However, they are well funded by the state. There is no evidence of the overcrowding reaching a point where it threatens basic human rights and dignity.

#### *7.5.5 Access of lawyers to prisoners*

There are set procedures for lawyers' access to prisoners. The government provides lawyers for people who are charged with murder and are in custody. However, the prisoner may choose to hire own counsel should they feel that the government lawyer is not competent or fit to effectively represent their cases. There is a prison visiting committee assigned at each prison, which is appointed by the minister to inspect, and check the preparation of meals, address prisoners collectively and attend to individual prisoner's concerns. After such visits, the committee prepares a report that is sent to the relevant authorities for their consideration and attention.

#### *7.5.6 Training programmes in human rights awareness for the police and prison officers*

The Police College has courses on human rights. The same applies to new recruits for the Local Police who are under the control of Tribal Administration. Prison officers have similar exposure to human rights courses.

#### *7.5.7 Confidence in law enforcement organs*

A quarter (24%) of the expert group responses were that citizen's confidence in law enforcement organs was low (implying that they perceived that citizens had low or no confidence in the law enforcement agencies). Only 12 per cent considered that citizens had high confidence, while the rest stated some confidence (31%) and moderately high confidence (32%). The picture is that there is generally confidence in the law enforcement agencies' functioning. We may deduce from the sub-sections on corruption in law enforcement agencies, police accountability, and respect for human rights, that

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<sup>87</sup> Botswana Prison Service, *Annual report 2003*.

the law enforcement agencies have the general confidence of the public.

#### ***7.5.8 The integrity, competence and effectiveness of prosecutors***

Initially, some of the prosecution work was done by police officers. However, it became evident that the officers were not conversant with legal matters. Therefore, the task of prosecution has since been taken away from the police and fully transferred to lawyers in the Department of Public Prosecutions in the Attorney General's chambers. These are trained and professional legal personnel. Police officers only come in as state witnesses. Thus, the major penal system reform has been the removal of prosecuting functions from the Botswana Police Service to the office of the Director of Public Prosecutions. This ensures separation of investigation from prosecution, thus avoiding potential conflict of interest. The professional prosecuting authority is supposed to be more effective.

#### **7.6 Transparency and Accountability of the executive**

Transparency refers to a process of making available information about government intentions, allocation and use of public resources, plans, and achievement or non-realisation of results by the government. It means offering the public access to knowledge and information that would allow for scrutiny of government policies, plans, actions, and utilisation of public resources. Transparency also means providing an enabling environment for consultation and participation of stakeholders in the public policy processes. The extent to which a government is transparent shows in its information disclosure and dissemination, and the handling of public procurement and assets disposal, degree of press freedom, and the extent to which the executive is accountable.

Accountability is the practice of ensuring that government officials, both elected and appointed, are held responsible for discharging their functions. These functions are public mandates, in which case accountability means answering for decisions that have been taken, actions that have been done, and the results that have been attained. Accountability, therefore, implies that there must be established policies, rules, regulations, standards, etc. and that these must be enforced. In that case, we may talk of political accountability, which focuses on answerability for political decisions and actions; administrative accountability, which refers to answerability for implementation of public policies; and financial accountability, which focuses on the allocation, spending, control and reporting of the utilisation of public resources in accordance with legally accepted standards of budgeting, accounting and auditing.

##### ***7.6.1 Transparency of the executive***

According to about half (48%) of the expert panel questionnaire respondents, government information is available but not readily accessible to the public. Another 17 per cent considered that the information is available and accessible; 18 per cent freely available and accessible to the public; and a combined 17 per cent that it was not available, or available but inaccessible to the public. Only 18 per cent stated current information on government performance is freely available and accessible to the public. In about one-third (34%) of the responses, the perception is that information is and freely available and accessible. There is, therefore, a perception amongst the expert panel respondents that the availability and accessibility of information could be improved.

In reality, the access of the public, the press and media in general, to public information is relatively free. Government policy documents, acts, regulations, reports, etc. are

freely available for anyone who wants to access them. The Press Secretary in the Office of the President even circulates to any subscriber anywhere in the world, the weekly *Tautona Times*, which is a free electronic press circular. The publication disseminates the press schedules of the President; reports on meetings; statements, speeches of the President and Cabinet ministers; presents selected press clippings from foreign newspapers; and reports on other events and activities of interest to those with interest in following government and public sector issues about Botswana.

As pointed out elsewhere, there is co-existence of the public with private media; no official registration of journalists and reporters; freedom of information and access to foreign and local newspapers, film, television, the Internet; no censorship of entertainment and news; or the imprisonment of people critical of government policies and activities. However, the National Security Act<sup>88</sup> is sometimes criticised for constraining employees of the state from providing certain information requested by journalists and the media in general. However, similar acts exist in a number of countries; they are enacted for the purpose of upholding the security and integrity of national interest.

Although the media is relatively undeveloped and still growing, the press and media in general are independent and free. The press criticises the government, its officials, the traditional leaders, and even the President. There is official tolerance of such criticism, which is often done by two newspapers, *Mmegi-The Reporter* and the *Sunday Standard*. The Media Institute for Southern Africa (MISA) has a local chapter, to which press and media entities are free to join and participate without hindrance.

#### **7.6.2 Political accountability of the executive**

Similar to the responses on transparency, 48 per cent of the expert panel respondents' perception was that the government mostly acts in a publicly accountable manner. Another 29 per cent thought it sometimes acts so; 14 per cent that it always acts in a publicly accountable manner. Only eight per cent thought the government rarely acts in a publicly accountable manner.

The Constitution of Botswana entrenches a number of internal accountability mechanisms in the operations of the executive in relation to the Parliament and Judiciary. The principal responsibilities of the executive are to give policy direction and lead in the implementation of approved policies, plans and programmes of government. However, the President is subject to parliamentary selection after every election. Thereafter, the President has to account to parliament. Parliamentary control is exercised in the translation of policy into legislation and implementation activities. Parliamentary approval is required prior to executive implementation of policies, national development plans, programmes and other decisions. Likewise, public funds cannot be spent without parliamentary approval of the proposed budget allocations.<sup>89</sup> These are some of the principal means of ensuring the political accountability of the executive, and provide checks and balances in the functioning of government.

In addition to the Constitution of Botswana having various provisions for constitutional and democratic governance, there is also the Vision 2016, which guides the performance of the executive. The vision adds the notion of *botho* to the national guiding principles of Democracy, Development, Self-Reliance, and Unity that underpin

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<sup>88</sup> Republic of Botswana, *National Security Act*, (Cap. 23:01).

<sup>89</sup> See Sections 47(3), 48(4) of the Constitution.

the practice of governance. These national guiding principles complement constitutional provisions for political accountability and good governance.

### **7.6.3 Administrative accountability of the executive**

The political means of accountability also ensure that the executive is accountable for any actions in the implementation of policies and plans. Parliamentary question time, annual reports of the state ministries, departments and other agencies all serve to ensure that the executive is responsible and accountable for the implementation of government policies, plans, and programmes.

The Office of the President is responsible for operational leadership at national level, including direction of policy and implementation, coordination, monitoring and evaluation of ministerial, departmental and state agency policies and operations. A major role in all this is played by the Ministry of Finance and Development Planning, the lead organisation for planning, budgeting, and monitoring of government (development) activities.<sup>90</sup> The other executive agencies, that is, ministries, departments, parastatals and other state agencies implement policies and programmes that are approved by parliament.

The MFDP's Division of Economic Affairs is responsible for macroeconomic policy formulation and national development planning, and the Division for Budget Administration is responsible for budgeting, fiscal, and monetary policies (in conjunction with the Bank of Botswana). The national development planning process has been the basis of Botswana's prudent fiscal management, which ensures rigorous project appraisal and evaluation, and strict adherence to financial regulations in the implementation of projects and programmes. The NDPs, which are of six-year duration, are subject to mid-term review, when progress is assessed and projections and expenditure estimates that were made in the NDP are revised.<sup>91</sup> These processes of administrative accountability actually work, despite the "implementation capacity" constraints that are faced in the execution of policies, plans, projects and programmes.

### **7.6.4 Financial accountability of the executive**

Financial accountability involves mobilisation and utilisation of financial resources, following procedures meant to ensure probity in the use of resources, checks and balances in revenue collection and use, and monitoring the use of those resources. The supervision, control and management of all public funds are done by the minister of Finance and Development Planning, through Permanent Secretaries<sup>92</sup>, who are the accounting officers. The accounting officer must ensure that established procedures for accounting and auditing are adhered to.

Botswana's system of financial accountability is strict. It requires that all public funds be approved by Parliament before expenditure can take place, and extra-budgetary expenditure is prohibited. Although there is a provision allowing the executive to shift funds between administrative units and later seek legislative approval, this hardly occurs; the normal practice is to prepare supplementary budgets and have them approved by Parliament prior to expenditure of funds.

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<sup>90</sup> See Appendix H for details of the process of annual public budgeting, which illustrates the centrality of the role of the MFDP.

<sup>91</sup> Government of Botswana, Ministry of Finance and Development Planning, *National Development Plan 9, 2003/04-2008/09; Mid-Term Review of NDP 9, November 2005.*

<sup>92</sup> Finance and Audit Act, Section 5.

The Finance and Audit Act provides for control and management of public funds, and empowers the Accountant General to make payments once Parliament has approved. The Accountant General is responsible for collection of revenues, recording the receipt and expenditure of Government funds, and payment of salaries. This means the Accountant General controls all government expenditures. The same act establishes the office of the Auditor General, responsible for post-expenditure auditing and reporting on the accounts of all Government ministries, departments and other public authorities. The Auditor General submits reports to the minister responsible for finance, who presents the reports to the National Assembly. The Public Accounts Committee of Parliament bases its scrutiny of government executive agencies on the Auditor General's reports. The PAC is functional in its oversight functions, ensuring that the executive branch of government is fully accountable for financial management. The composition of the PAC includes both ruling and opposition party members, thus it is balanced and performs its functions without fear or favour.

#### **7.7 Policy-making process and coherence**

The executive branch's independence has been indicated elsewhere (See 6.2). The question that arises here is: "How well is government informed and organised to decide and implement policy priorities?" Several ministries have policy and research units, including Ministry of Foreign Affairs and International Corporation (Division of Research and Information Services); Ministry of Agriculture (Department of Agricultural Research); Ministry of Education (Division of Planning, Statistics and Research); Ministry of Communications, Science and Technology (Department of Research, Science and Technology). These units are quite specialised, and undoubtedly have policy influence in their respective areas of expertise. However, most ministries and departments do not have policy and/or research units.

The national development planning process, which is spearheaded by the Ministry of Finance and Development Planning, aggregates and coordinates all national policies and plans into the six-year NDP. The NDP is government's medium term policy and planning document that guides all development activities. The NDP framework thus provides the framework for government's policy decision-making and implementation.

The procedures for monitoring and improving performance are available in most ministries and departments. All parastatals and public enterprises are required to produce annual reports on performance, utilization of public funds, etc. Generally reports are available to the public, upon demand. The government introduced the Performance Management system, which is being rolled out to all ministries, departments and local authorities (See 7.1.4). The aim of the performance management system is to motivate and improve employees' performance.

The responsibility for government statistics lies with the Central Statistics Office, a department within the Ministry of Finance and Development Planning. The statistics are reliable and comprehensive. However, there tends to be considerable delay between the collection of the data and release of the analyses.

Botswana has not adopted the Medium Term Expenditure Framework as other countries that have been compelled to do so through conditionality imposed by the international financial institutions. However, it has its own, home-grown system of medium term planning and budgeting, with a comprehensive annual review (budget process) and mid-term review of the NDP, which practically serves the same purpose as the MTEF. This system, therefore, integrates the entire government institutions' planning and budgeting

systems.

There is the medium term review of budget allocations by the Ministry of Finance And Development Planning, in conjunction with the executive ministries and departments. The NDP and budget reviews are utilized to assess the impact and effectiveness of policies (See 7.6.4).

The ministries and departments also have internal audit units and there is effective use of audit reports in government agencies. However, the internal audit units within the ministries and departments have not been very effective in conducting the audits, and have failed to advise accounting officers on the necessity for reviewing internal control systems. Hence, in order to improve their functioning, the Office of the Auditor General organized a National Workshop on Public Accounts in November 2006, to which all public sector accounts desk officers (administration, finance and supplies) and internal auditors were invited.

The policy guidance and coordination in the office of the Chief Executive is effective. The executive power of Botswana is vested in the President, who exercises such powers directly and through delegation. The cabinet advises the President with respect to policies and other matters referred to it by the President. The Ministry of Finance, through the coordination of national development planning and implementation is also closely involved in making policy coherent and well coordinated.

In discussing partnership between public and private sectors (See 5.2), we pointed out that government consults with the private sector. Government also consults local communities through the *kgotla*, or village assemblies for purposes of national development planning and implementation through the VDCs and DDCs (See 6.5); the traditional chiefs through the *Ntlo ya Dikgosi* (See 6.3) and other non-state actors through the NBC and HLCC (See 6.5.2-6.5.3). There is, therefore, openness of consultative processes. There is however, a tendency that consultation actually is done in a manner of informing the various non-state actors about government policies, legislation, development plans, etc., rather than seeking bottom-up inputs into the system of decision making.

### 7.8 Service delivery

Chapter 4 (4.1.2-4.1.4) introduced some of the services that are provided by government in order to resolve some of the persistent development challenges that Botswana faces. The Revised Rural Development Policy, Remote Area Development Programme, National Strategy for Poverty Reduction, social safety nets, education, citizen empowerment, women's mainstreaming into the development process, etc. are all oriented towards service provision. The aim is to reduce poverty, provide opportunities for income generation, engage people in economic activities, and create employment and enhance popular participation for balanced and sustainable development.

Most of the government ministries and departments are service providers. The most visible are: the Ministry of Labour and Home Affairs, with responsibility for Labour and Social Security, Industrial Court, Immigration and Citizenship, National Registration, Civil Registration and Vital Events, Botswana Prisons Service, and Department of Women's Affairs; Ministry of Agriculture, which is responsible for Animal Health and Production, Cooperative Development; Crop Production and Forestry, etc; Ministries of Education; Trade and Industry; Lands and Housing; and Ministry of Local Government, whose portfolio covers Tribal Administration, District Administration, and Social Services.

The expert panel was quite unanimous (61%) that there was mostly ready access to government services or ready access (16%). Altogether, 77 per cent thought government services were mostly readily accessible or fully accessible to people. Three quarters (75%) thought there was fairly and moderately equitable resource allocation, while only 11 per cent thought it was fully equitable. The relevance of the services to the poor was fair and moderate according to 73 per cent of the respondents, and to women 72 per cent. Eighty per cent thought government fairly or moderately responds, and only four per cent thought it fully responds to peoples' needs and requirements.

Meanwhile, 45 per cent of the respondents also thought local government, which has a major role in service delivery, has some or adequate capacity to deliver services. Local government accountability mechanisms were deemed fairly effective by 42 per cent, moderately effective by 27, and fully effective by only six per cent of the respondents. However, only 37 percent of the respondents perceived service delivery institutions of local governments to have fairly effective, and 30 per cent moderately effective mechanisms for engaging in community participation. A whole 27 per cent of the respondents thought there were no, or inadequate mechanisms for community participation. This confirms the top-down nature of decision making about development and service provision. In summary, the accessibility, fairness of resource allocation, relevance and capacity to deliver services are therefore all perceived to be adequate although participatory processes need improvement.

BIDPA conducted a pilot study of local government councils' service provision in 2003. The study covered eight of the major urban areas and found that only about half (56%) of the respondents perceived that local government service provision was adequate.<sup>93</sup> A similar, but more comprehensive study commissioned by the Government of Botswana in 2005 found that about half (54%) the respondents countrywide perceived that government public service provision in 25 ministries and departments was good, while 21 per cent thought it was either very poor or poor, 21 per cent very good, and only five per cent excellent.<sup>94</sup> The ratings were not particularly outstanding, and indicate some difficulties associated with the "lack of implementation capacity" of the public service to deliver services, despite the availability of finances and institutional frameworks. Coincidentally, the results from the national customer satisfaction survey are reflected in the perceptions of the expert panel respondents.

#### *7.8.1 Access, affordability and quality of public services*

Public services are accessible and reliable and several are free or offered at minimal charge. For example, health care charges have been going at the rate of P2.00 per person per visit to a clinic; a rate applied from 1997 and only increased to P5.00 in September 2007. This is cheap compared to government expenditure on health care. Primary and secondary school education had been free until 2006 when a cost recovery scheme was introduced. The new system is such that Botswana citizens get free primary school education whereas expatriate students pay P600.00 per year. At secondary school level, Botswana pay P300.00 per year (for junior schools) and expatriates pay P3000.00 per year. For senior secondary schools, locals pay P450.00 while expatriates pay P6000.00 per year. Revenue collected from these charges is however insufficient to finance

<sup>93</sup> BIDPA, 2003. Review of Decentralization Initiatives in Botswana: Assessment of the Impact of Decentralization Initiatives on the Intended Beneficiaries. (Prepared for the Government of Botswana and UNDP). The council areas covered were Maun, Francistown, Selebi-Phikwe, Serowe, Gaborone, Kanye, Ghanzi, and Mahalapye.

<sup>94</sup> Republic of Botswana, Government of Botswana Customer Satisfaction Survey for the Public Service, Final Report, 10<sup>th</sup> November 2005. (Prepared by DCDM Consultants)



government expenditures. As many of these services are free, there tends to be high demand for the services, which often leads to delays and long waiting periods for recipients.

However, Botswana does not set or publicly announce service delivery targets for each year. There is no overall, coordinated procedure for setting national performance targets or standards for service delivery. There does not exist a systematic monitoring and evaluation of service delivery. The customer satisfaction survey conducted in 2005 is the closest that Botswana has come to establishing systematic monitoring of public service provision. The Ministry of Local Government, which is a major service provider, in September 2007 advertised for quotations for conducting its own "Customer Satisfaction Survey and Internal Climate Survey", which would ostensibly serve to replicate and institutionalize the process started with the broader survey of 2005.

A July 2007 International monetary Fund report provides the following picture of Botswana's standings that are directly related to public service provision: a Human Development Index ranking of 128 out of 175 countries; adult literacy rate of about 80 per cent, net primary enrolment ratio of 81 per cent; 41 years life expectancy at birth; 328 telephone lines per 1,000 people. (See Table 7.1, below, and for comparison with Southern African Customs Union and upper and lower middle income countries, Table 4.4). Whereas these figures indicate that generally Botswana has commendable statistics on access to public services that are important in assessing social development, the indicators of mortality and life expectancy reveal a frightening reality; that the effects of the HIV/AIDS pandemic may be taking a heavy toll on human capacity. Persistent poverty and the dependence of marginal groups on state handouts may also have an effect on human capacity.

**Table 7.1: Selected indicators related to access to public services**

Rank in UNDP Human Development Index out of 175 countries	128
GDP per capita (US\$, 2003 for Botswana)	4,660.00
Population below US\$1 a day (percent, 2003 for Botswana)	30
Adult literacy rate (percent)	78.9
Net primary enrolment ratio (percent of relevant age group)	81
Infant mortality rate (per 1,000)	80
Fixed line and mobile telephones (per 1,000 people)	328
Life expectancy at birth (years)	41.4

Source: Jung Yeon Kim, "A Narrow Economy and High Unemployment, Twin Problems for Botswana", International Monetary Fund, Botswana: Selected Issues and Statistical Appendix, IMF Country Report No. 07/228, July 2007. Calculated from United Nations, Human Development Report 2004; WDI Database; and IMF staff estimates.

### **Infant mortality and life expectancy**

National statistics on infant mortality and life expectancy indicate that both have declined over the last two decades, probably due to the effects of the HIV/AIDS pandemic. For instance, life expectancy at birth was 56 years in 2001 and is now 41 years.

### **Health**

There are a number of health facilities, ranging from mobile clinics to full hospitals. Table 7.3 shows that there are altogether 1,504 such facilities with a total of 3,911 beds for the population of about 1.7 million.

**Table 7.2: Health facilities in Botswana**

Hospitals	17
Primary Hospitals	17
Clinics	266
Health Posts	343
Mobile clinics	861
<b>Total</b>	<b>1,504</b>
Beds (all facilities)	3,911

Source: Central Statistics Office

### **Land ownership**

Registered land ownership shows that a greater proportion of males own land compared to females. This may be a reflection of the patriarchal customs that are prevalent in the country.

**Table 7.3: Land (Ownership by gender)**

	Number	%
Males	218,007	53.87
Females	186,699	46.13
Total	404,706	100

Source: Central Statistics Office

### **Water and sanitation**

Most of the population has access to clean tapped water, and 70 per cent of the population has access to sanitation. However, urban areas are better served than the rural.

**Table 7.4 Access to Clean Water Supply**

	Number	%
Rural Piped Indoors	12,088	3.41
Rural Piped Outdoors	27,313	7.70
Rural Communal Tap	85,251	24.02
Urban Piped Indoors	74,159	20.89
Urban Piped Outdoors	88,666	24.98
Urban Communal Tap	67,448	19.00
<b>Total</b>	<b>354,925</b>	<b>100</b>

Source: Department of Water Affairs

### **Education**

The proportions of the relevant age cohorts attending primary and secondary schooling, sorted by gender, are indicated in Table 7.4 below. Whereas there are more males than females in primary schools, the situation is reversed at secondary school level. We cannot speculate on the reasons for this.

### **Telecommunications and transportation**

The speed of connection of telephone lines depends on the number of applicants awaiting connection, but generally a connection is made within three weeks from the date of application. The average waiting period for a new electricity connection is one month, for both residential and business applications. There are 6,367 kilometres of tarred road covering all the major locations of Botswana. Road transportation is therefore not a problem.

Table 7.4 Primary and secondary school attendance, 2003

Primary Schooling			Secondary Schooling		
	Standard	Male		Female	Form
1	27,203	25,386	1		
2	25,028	23,532	2		
3	24,921	23,873	3		
4	25,123	24,076	4	7,064	8,117
5	22,438	22,956	5	6,969	7,831
6	21,843	22,337			
7	20,417	21,243			
Total	166,973	163,403	Total	14,033	15,948

Source: Central Statistics Office, *Education statistics 2003*.

### Public service complaints

There are set procedures for lodging complaints about public services. The complaints are initially handled by organisations' own customer relations departments. The office of the Ombudsman was specifically established to handle complaints about mismanagement, poor service provision, injustice, etc. in the public sector institutions. The office offers suggestions and recommendations for improvement of public service provision.

#### 7.8.2 Policy-orientation of service delivery

A number of the service delivery policies are pro-poor, pro-women and pro-youth. As stated above, the expert panel perceived that public services were generally relevant to the poor (73%) and to women (72%). There are also services directly aimed at the youth, to give them opportunities for participation in the economy. The National Youth Policy is the main framework for youth development in Botswana. It endeavours to ensure that young people are given opportunities to reach their full potential. The youth policy seeks to provide appropriate education and training, promotion of health, employment, and active participation of the youth in recreation, sports and leisure. The National Action Plan for Youth provides the guidelines for implementation of the youth policy. Another example is the Citizen Entrepreneurial Development Agency (CEDA) Young Farmers' Fund, which is meant to foster youth enterprises in agriculture. This fund focuses specifically on the age group 18-35, and aims at the development of viable, sustainable agricultural projects. Services provided through this scheme include access to funding, entrepreneurial and management skills training, and monitoring and mentoring services.

#### 7.8.3 Responses to HIV/AIDS pandemic in Botswana

The government declared HIV/AIDS a national emergency and formulated a policy and institutional response that is comprehensive, allowing for widespread access, and public education about all aspects of the pandemic.<sup>95</sup> The policy and institutional response includes support for the dissemination of essential information on protection against HIV/AIDS, enhanced access to free anti-retroviral drugs, etc.

The institutional framework for government response to HIV/AIDS is provided by the National Aids Coordinating Agency (NACA), formed in 1999, and responsible for "coordinating and facilitating the nation's response to the HIV/AIDS epidemic. With guidance from the people of Botswana, the National AIDS Council, Vision 2016, and a

<sup>95</sup> Republic of Botswana, National Aids Coordinating Agency (NACA), 2003. *Botswana National Strategic Framework for HIV/AIDS, 2003-09*; Steglic, C, 2004, "Botswana's HIV/AIDS Programme: A Model for SADC?"

diverse set of government, development, and civil society partners.”<sup>96</sup> The coordinating role of NACA involves the identification of key strategic priorities in the war on HIV / AIDS; development and support of programs and policies that can deliver on these priorities; and development of tools and mechanisms to monitor and evaluate progress in the response to HIV/AIDS.

The National Strategic Framework was developed to “guide and facilitate the national response for the term of the National Development Plan 9, 2003-2009 and involves collaboration with stakeholders assembled by NACA, at the national, district and village levels. The National Strategic Framework seeks to “articulate and disseminate agreed national priorities and strategies within the scope Vision 2016, and provide clear guidance for Ministries, districts, NGOs, and the private sector to enable them to work in a collaborative manner in achieving the national goal: to lower the incidence of HIV and reduce the impact of AIDS in Botswana”. The framework outlines strategies that are meant to combat the HIV/AIDS challenge, including:

- Strategic approaches to the management of HIV and AIDS
- Prevention of HIV infection
- Provision of care, treatment and support
- Impact mitigation
- The legal and ethical environment

Other components of the response are: community home based care; prevention of mother to child transmission (PMTCT); support of orphans and vulnerable children; provision of highly active anti-retroviral therapy.

#### **7.10 Conclusion**

The effectiveness of the executive in policy determination is unquestionable. The policy making, development planning process, budgeting, and direction of implementation are all quite efficiently done by the executive branch through the Office of the President, the Cabinet, and the Ministry of Finance and Development Planning. The quality of the executive is high; both the President and members of Cabinet are well educated, skilled, and experienced. Most of them have a background in the public service, where merit is the basis for recruitment, and progression; others are from a private sector background, where they rose to prominence too. There is a high level of integrity of the executive, with a significant level of transparency and accountability in the operations of the government. However, the apparently efficient and effective functioning of the government appears to have bred some complacency, as reform measures are not as pronounced. There is no comprehensive and integrated strategy to engage in significant structural reform measures and the administrative process and human capacity development reforms are only half heartedly implemented. The delivery of public services is quite accessible and aims to cover all social and economic groups. Services are generally relevant and appropriate for the various social and economic groups. There is also a concerted effort to combat new development challenges, notably, the HIV/AIDS pandemic. However, the actual implementation of policies, plans, and programmes is constrained by the lack of implementation capacity, as indicated by the perpetual failure to accomplish targets in the National Development Plans.

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<sup>96</sup> <http://www.naca.gov.bw/about.htm>

## 8 HUMAN RIGHTS AND THE RULE OF LAW

The Government of Botswana is a signatory to all the major international declarations, conventions and covenants. Most of these have been ratified, but not necessarily domesticated into local laws. This may be due to capacity constraints. Botswana's record of reporting on the implementation of international conventions is poor. A case in point is on implementation of the African Charter on Human and Peoples' Rights to the African Commission on Human and Peoples' Rights. The official reason given is, again, capacity constraints. It has also been suggested that capacity is devoted to addressing the major national development challenges, including the response to the HIV/AIDS pandemic. However, these factors have not dented the historically good record of good governance and respect for human rights.

Botswana is a signatory to the following international instruments regarding human rights:

- Declaration of Acceptance of the obligations contained in the Charter of the United Nations; Admission of States to membership in the United Nations in accordance with Article 4 of the Charter. Resolution 2136 (XXI) Adopted 17 October 1966.
- African Charter on Human and Peoples Rights; Adopted by the 18th Session of the Assembly of Heads of State and Government in June 1981. Ratification 17 July 1986.
- Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples' Rights; Adopted at Ouagadougou by the 34th Ordinary Session of the Assembly of Heads of State and Government in June 1998. Signed 9 June 1998.
- Convention on the Rights of the Child; Adopted by the General Assembly of the United Nations on 20 November 1989. Accession 14 March 1995. E.I.F -13 April 1995. (Reservation)
- Amendment to the Convention on the Rights of the Child (Article 43 paragraph 2); Adopted by a Conference of States Parties on 12 December 1995. Acceptance (26 September 1997).
- African Charter on the Rights and Welfare of the Child; Adopted at the 26th Ordinary Session of the Assembly of Heads of State and Government of the Organisation of African Unity at Addis Ababa in July 1990. Ratification 10 July 2001. (Reservation).
- International Covenant on Civil and Political Rights; Adopted by the General Assembly of the United Nations on 16 December 1966. Ratification 8 September 2000. (Reservation).
- International Convention on the Elimination of all Forms of Racial Discrimination; Opened for signature at New York on 7 March 1966. Accession 20 February 1974.
- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Adopted by the General Assembly of the United Nations on 10 December 1984. Ratification, 8 September 2000. (Reservation).
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Trans-national organised Crime; Done at New York on 15 November 2000. Signed 10 April 2002.
- Convention on the Elimination of All Forms of Discrimination against Women; Adopted by the General Assembly of the United Nations on 18 December 1979.

Accession 13 August 1996. E.I.F 2 September 1996.<sup>97</sup>

The government of Botswana has made a declaration on the Optional Protocol on the Convention on the Rights of the Child on the Involvement of children in Armed Conflict (Adopted UN General Assembly 25 May 2000). The declaration is that there is no compulsory conscription into the Botswana Defence Force; recruitment is of people of minimum age of 18, through advertisement in the national press; all recruits are required to have proof of age and national identity; all recruits undergo medical examinations to, amongst other things, prove their maturity; induction of recruits is in public.

Reservations have also been made on the following international instruments:

- a. Convention on the Rights of the Child (Adopted UN General Assembly 20 November 1989): That Article 1 of the Convention may conflict with the Laws of and Statutes of Botswana; therefore the Government of the Republic of Botswana does not consider itself bound by that article.
- b. African Charter on the Rights and Welfare of the Child (Adopted at the 26th Ordinary Session of the Assembly of Heads of State and Government of the OAU, Addis Ababa, July 1990): That the Government of Botswana does not consider itself bound by Article II of the Charter.
- c. International Covenant on Civil and Political Rights (Adopted by UN General Assembly 16 December 1966): That the Government of the Republic of Botswana considers itself bound by Article 7 of the Covenant that "torture, cruel, inhuman or degrading treatment" means the same as prohibited by Section 7 of the Constitution of the Republic of Botswana, which states in Sub-section 7 (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment; 7 (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in the country immediately before the coming into operation of this Constitution. In addition, that the Government of the Republic of Botswana considers itself bound by Article 12 paragraph 3 of the Covenant to the extent that that the provisions are compatible with Section 14 of the Constitution of the Republic of Botswana relating to the imposition of restrictions reasonably required in certain exceptional instances. Section 14 of the Constitution states that no person shall be deprived of freedom of movement, residence in any part of Botswana, right to enter the country, and immunity from expulsion from it. However, in case of lawful detention, any restriction on a person's freedom of movement shall not be inconsistent or in contravention of this section. Further, that reasonably required restrictions would be imposed in the interests of "defence, public safety, public order, public morality or public health" in accordance with normal democratic practice. A person whose freedom of movement has been restricted may request a review by an independent and impartial tribunal headed by an advocate of Botswana, appointed by the Chief Justice. Such tribunal may make recommendation regarding the necessity or expediency of continuing the restriction, but such recommendation shall not oblige the authority that imposed the restriction to act in accordance with the recommendation.
- d. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Adopted by UN General Assembly 10 December 1984): That the

<sup>97</sup> The Government of the Republic of Botswana Treaty Register-Multilateral Treaties and Agreements to which Botswana is a Party, As at September 2005.

Government of the Republic of Botswana considers itself bound by Article 1 of the Convention to the extent that “torture” means the same as in Section 7 of the Constitution of the Republic of Botswana (See above).

- e. Convention relating to the Status of Refugees (Adopted by UN General Assembly 28 July 1951); Protocol relating to the Status of Refugees (Adopted by UN General Assembly 31 January 1967): The Government of the Republic of Botswana makes clear these are subject to the reservations of Articles 7, 17, 26, 31, 32, 32 and paragraph 1 of Article 12 of the Convention.
- f. Convention relating to the Status of Stateless Persons (Adopted by UN General Assembly 28 September 1954): That the Government of the Republic of Botswana does not consider that Article 31 of the “Convention shall not oblige Botswana to grant a stateless person a status more favourable than that accorded to aliens in general; Articles 12 (1) and 7 (2) of the Convention shall be recognised as recommendations only”.<sup>98</sup>

On 13 September 2007, Botswana voted to support the recently adopted United Nations Declaration on the Rights of Indigenous Peoples. The significance of this declaration is that “It provides a commonly agreed upon set of principles which can be used as the basis for improving the lives of indigenous peoples around the world, including in Botswana [it] is a clear expression of its recognition of the right of the Basarwa/San to maintain their cultural traditions and identity. It also presents an ideal opportunity for the resumption of negotiations concerning the issues relating to the effective forced relocation of the Basarwa/San from the Central Kalahari Game Reserve (CKGR) and various options for development”.<sup>99</sup> This may be an indication that the Botswana government may have revised its stand on indigenous people, which could lead to policy changes. (See 8.2 below).

**8.1 The legal and institutional regime for human rights norms and enforcement**  
There is no human rights commission in Botswana. The official position is that the constitutional guarantees and the operations of the justice system are adequate in dealing with human rights issues, and therefore there is no justification for a separate human rights commission. An independent civil society organization, Ditshwanelo-The Botswana Centre for Human Rights was founded in 1993 to advocate for human rights.

The guarantees for non-discrimination and protection of peoples’ rights are entrenched in the Constitution of the Republic of Botswana (Chapter II: Protection of Fundamental Rights and Freedoms of the Individual). Botswana has the Office of the Ombudsman, which is a public watchdog institution that deals with cases of malpractice, injustice, and unfairness in public service delivery, which have a bearing on human rights. The effectiveness of the Ombudsman is limited by poor public knowledge of its existence,

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<sup>98</sup> The Government of the Republic of Botswana Treaty Register-Multilateral Treaties and Agreements to which Botswana is a Party, As at September 2005.

<sup>99</sup> Ditshwanelo-Botswana Centre for Human Rights Press Statement on Declaration of Indigenous Rights, “UN Declaration on Rights of Indigenous Peoples supported by Botswana”, <http://www.ditshwanelo.org/bw/index/Other/Other/Press%20Statement%20on%20Declaration%20of%20Indigenous%20Rights%20-17%20September%202007.htm>

the functions it is supposed to perform, and responsibilities that it has. It is often confused with the Directorate on Corruption and Economic Crime (DCEC), and a large number of criminal cases are reported to it, rather than issues of abuse and misuse of public office.

## 8.2 The state of human rights and rule of law in Botswana

The respondents to the expert panel questionnaire were unanimous (84%) that there is usually (58%) or always (26%) respect for human rights. Only 15 per cent perceived that human rights were either rarely or only sometimes respected. The reporting of human rights abuses was, however, thought to be ineffective by 22 per cent; with 50 per cent stating that it was usually or always effective. The reporting of human rights abuses against women was considered usually or always effective by 51 per cent, while 13 per cent thought it was either ineffective or rarely so. Less than half (45%) of the respondents thought that there was action against human rights violations, and 16 per cent thought that there was never or rarely any action against human rights abuses. Significantly, 60 per cent thought that there was usually or always action against women's rights violations. Comparatively, there was a perception that women's abuses get better attention than the average reported case of abuse. The government was regarded to mostly and fully respect the law by 91 per cent of respondents.

From the foregoing, we can deduce that human rights are generally well protected throughout the country. However, Botswana has over the last decade or so been in the spotlight with regard to its relations with the *Basarwa*, otherwise known as *Bushmen*. The issue centres around two official assumptions: that all the people of Botswana are indigenous, and that society is homogeneous.

The first assumption has led government to avoid ethnic targeting, identification and isolation of "indigenous" peoples, and *their* political, cultural and economic rights. The official approach is to treat everyone equally; hence government's insurances that all the people of Botswana are *Batswana*, and are all indigenous to Botswana. It is stated that the government works for all the people of Botswana, and seeks to provide public services and development to all the people, irrespective of their real or perceived ethnicity. Similarly, all inhabitants of Botswana should be equally subject to all the laws of the country. The second assumption is that Botswana society is homogeneous, and consists of the predominant Tswana-Sotho ethnic, linguistic and cultural entities. According to this perspective, some other different entities are not accorded the particular recognition that they may wish.

It was due to these assumptions that the government decided (in 1986) to relocate all people still resident within the Central Kalahari Game Reserve (CKGR) into settlements outside the reserve. A significant number, but not all of *Basarwa* inhabited within the CKGR. There were two official reasons for the relocation. The first reason was that the provision of services such as water, health and education within the reserve was very expensive, because of the enormity of the area to be covered, and the nomadic nature of the communities. Secondly, that this was actually a game reserve and the rapid growth of the serviced communities was leading to the depletion of natural resources around these communities. The late 1990s saw increased international interest in the relocations because the government in 1997 intensified the implementation of its relocation plan.

It is a well known fact that the relocations had been preceded by government-community-NGO consultations, and that management plans for the utilisation of the resources of the CKGR had been part of the discussions. Nevertheless, the manner of



implementation of the relocation exercise was perceived, especially by international pressure groups that claimed to represent the Basarwa, to have involved some degree of coercion. Survival International, which purported to represent the *Basarwa*, initiated a campaign based on its insistence that the land, livelihoods, cultural and political rights of the *Basarwa* were being trampled upon. The international campaign was accompanied by a domestic challenge to the constitutionality of the relocation. The *Basarwa* successfully challenged the relocations in the High Court, which ruled against the relocations in late 2005. The government accepted and respected the decision of the court. This showed government commitment to the rule of law, upholding of human rights, and respect for the separation of powers and the integrity of the judiciary.

### **8.3 Law enforcement agencies and human rights violations**

The expert panel perceived a high degree of police respect for human rights. Only seven per cent considered that there was rarely or sometimes respect for human rights; 93 per cent considered there was usually or always respect for human rights. Police officers that are suspected of human rights violations or heavy-handedness are investigated, and where appropriate, prosecuted. The law applies to each and everyone, including members of the law enforcement agencies.

### **8.4 Civil and Political Rights**

The constitutional and legal frameworks are the guarantors of civil and political rights. In practice, fundamental civil and political rights are freely enjoyed. There are no major contraventions of the constitutional and legal provisions by the state and its agents. Restrictions on people's enjoyment of rights are not common. There is freedom of movement; freedom of association; freedom of thought and conscience. Movement into and out of the country is permitted and not subject to undue restrictions. The freedom of association is guaranteed, as evidenced by the formation of political parties, civil society organizations, and the fact that they operate unhindered by official limitations. There is no official censorship in the press and media in general. Journalists and reporters do not have to officially register, and they are not arrested for what they write, even if critical of the government, its policies and actions.

### **8.5 Gender Equality and Human Rights**

The constitutional and legal framework and actual practices do not promote discrimination based on sex, race, colour, language, religion, political or other opinion, national or social origin.

### **8.6 Socio-economic and cultural rights**

Every law abiding inhabitant of Botswana is free to enjoy social and cultural rights.

### **8.7 Civil Society and the Human Rights Regime**

There was not much confidence amongst expert panel respondents in civil society monitoring of human rights violations. Only 42 per cent of the expert panel respondents thought there was usual or regular monitoring while 31 per cent stated it sometimes happens and 27 per cent that human rights violations were never or rarely monitored. This might be a reflection of the fact that there is actually only one human rights civil society organisation (Ditshwanelo) and that its functioning and coverage may be inadequate. Nevertheless, Ditshwanelo-Botswana Centre for Human Rights plays "a key role key role in the protection and promotion of human rights in Botswana society. The organisation seeks to educate, research, counsel and mediate on human rights issues,

with particular reference to people who are marginalised and disempowered”.<sup>100</sup> Ditshwanelo campaigns on a number of issues, including the rights of “indigenous” peoples; victims of torture; the death penalty; refugees; violence against women and children, etc. Similarly to other civil society organizations, Ditshwanelo operates and thrives unhindered by official constraints.

#### **8.8 Peace and conflict management**

Botswana is not engaged in any internal or intra-state conflict. Respondents of the expert panel questionnaire were confident that conflict resolution processes are inclusive, with only 11 per cent stating that they rarely include all affected people. Three quarters (74%) considered that government programmes against intra-state conflict were usually or always effective. On top of that, watch-dog institutions for the protection of human rights were considered largely free from interference by the executive and that they were actually effective. However, civil society organizations were perceived to be never or rarely consulted by 18 per cent of respondents. They were also considered to have weak influence on policies and programmes and in contributing to the promotion of accountability and transparency.

#### **8.9 Conclusion**

Botswana is an international good citizen. It is signatory to all important international agreements, covenants, and conventions. However, perhaps due to capacity constraints, the country has not been very efficient in domesticating a number of these into local laws, and to report to international bodies on their implementation. Despite the absence of a human rights commission, there is respect for human rights. In general, the laws are respected and upheld by law enforcement agencies. A non-government human rights body operates free from official interference, and is fairly effective in agitating for the rights to life (there still is a death penalty), and advocacy of the rights of women, children, domestic workers, prisoners, and refugees. Civil and political rights of individuals and groups are respected and there are no political prisoners in Botswana. The good governance of the country is thus enhanced by the respect for the law and respect for civil, political, cultural, social and economic, and generally human rights.

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<sup>100</sup> <http://www.ditshwanelo.org.bw/>

## 9 INSTITUTIONAL CAPACITY BUILDING FOR GOOD GOVERNANCE

Governance is the manner in which a country exercises power in the management of its internal and external affairs. This refers firstly, to the way people are ruled and how state affairs are managed and regulated. Secondly, it refers to the country's interactions with others at the regional and international levels. Capacity may be defined as "the ability of people, institutions and societies to set and achieve objectives, perform functions and solve problems. It involves skills, incentives, organizational structures, resources, and an enabling environment. The ultimate goal of capacity development is to support the development of better skilled and oriented individuals, more responsive and effective institutions, and a better policy environment for pursuing development objectives".<sup>101</sup>

Good governance implies the presence of a state that effectively provides goods and services to the population, ensures peace and security for its inhabitants, and provides an enabling environment for individual pursuit of economic well being. This implies state provision of an environment in which people are free to participate in processes of public decision making, private economic activity, selecting or approving their leaders and holding them accountable for their public decisions and actions. A country's ability to formulate and implement policies; manage the performance of its functions of providing safety, security, social and economic goods and services; and regulate society, is premised on the capacity of its human resources, institutions, and the presence of an enabling environment.

Botswana is generally regarded a capable developmental state. It has been able to maintain a functional multiparty democratic system, and delivered economic growth, with serious attempts at tackling poverty, and other development challenges. Several international assessments of Botswana's political and economic governance have hailed the country as outstanding within sub-Saharan Africa. The World Bank, African Development Bank, World Economic Forum, Transparency International, the Commonwealth Business Council, Mo Ibrahim Foundation etc., have all recently ranked Botswana highly.<sup>102</sup> These assessments suggest that there is a linkage between Botswana's good governance and its social and economic development.

### 9.1 Context and Environment for Capacity Building

The details of Botswana's policies, plans and priorities are contained in the National Development Plans. The policy, institutional, and implementation frameworks for capacity development are provided by the same NDPs. The country is currently implementing *National Development Plan 9, 2003/04-2008/09*. The democratic framework allows for individual and group freedom to pursue their interest, however defined. There are, therefore, no restrictions on the self-development of people. The government has several policies that facilitate the ability of both individuals and organizations to perform. For example, there is state provision of basic education; poverty reduction policies and strategies; support for enterprise development; mainstreaming of women in national development (See 4.1); engagement with the

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<sup>101</sup> Effective States and Engaged Societies: Capacity Development for Growth, Service Delivery, Empowerment, and Security in Africa: Terms of Reference for Country Studies, 2nd Draft, April 1st, 2005.

<sup>102</sup> See, World Bank, 2006. *Africa Development Indicators 2006*. (September 2006); World Economic Forum, 2006. *Global Competitiveness Report 2005-2006*; Bertelsmann Stiftung, 2006. *Bertelsmann Transformation Index 2006*; Commonwealth Business Council, 2005. *Business Environment Survey 2005. Private sector Views*. Transparency International, Various years, *Global Corruption Index; Ibrahim Index of African Governance, 2007*.

private sector (See Chapter 5); provision of health facilities (See Chapter 7) and encouragement of non-state actors (See 6.5).

Development policies and strategies initiated by government are meant to address capacity constraints and include several initiatives, such as training, localisation, decentralisation, privatisation programmes, the creation of parastatals and oversight bodies, and other civil service reforms. Macro-level institutional and structural reforms to strengthen state institutional capacity were the creation of District Councils and District Development Committees in the period following independence, and more recently, the Office of the Ombudsman, Directorate on Corruption and Economic Crime (DCEC), Public Procurement and Asset Disposal Board (PPADB) and the Public Enterprises Evaluation and Privatisation Agency (PEEPA). At the micro-level, there have been other process and human capacity building reform initiatives such as Organisation and Methods (O&M) reviews, Job Evaluation, Work Improvement Teams (WITS) and the newly-introduced Performance Management Systems (PMS), Performance Based Reward System (PBRs) and the Computerised Personnel Management System (CPMS).

Training is a major component of state capacity building; it is used for strengthening the abilities of individuals that government needs in order to realise its development goals and objectives. The Botswana Institute for Administration and Commerce (BIAC), the University of Botswana (UB), the Institute for Development Management (IDM) and the Botswana National Productivity Centre (BNPC) are some of the training institutions that were established after independence. Training for the civil service is coordinated by the Directorate of Public Service Management (DPSM) for civil servants, the Department of Local Government Service Management (DLGSM) for local authorities, and the Teaching Service Management (TSM) for teachers.

The utilization of existing capacity involves a localization policy, which gives preference in employment to Botswana citizens. In terms of government procurement, there is the local preference scheme, whose intentions are also to favour local capacity. Through the localization policy, the government encourages development of locals' skills. The training and localization policy requires companies that employ non-citizens to take measures which will lead to the localization of posts held by non citizens. The different governments departments also produce training plans to enhance capacity and also ensure that employees acquire the relevant training for their jobs.

The government has urged the development of clear vision, mission statements and objectives for each and every ministry and department in the different ministries and departments. All are supposed to elaborate organization structures and operational strategies. Generally, the infrastructures are adequate for different organizations to carry out their functions. This is because Botswana has not been subjected to severe economic difficulties, and the public budgeting process ensures adequate allocations to all ministries and departments.

Continuous capacity development is ensured through the policies and measures detailed in each NDP. Botswana has adequate institutions for building capacity, such as universities and technical colleges, as well as secondary and primary schools and privately owned tertiary colleges that are accredited by the University of Botswana, and certified by the Botswana Training Authority (BOTA). The standards of capacity building are being maintained through regulatory bodies such as BOTA and the Tertiary Education Council (TEC), which monitors the standards of tertiary education.

Additionally, the government through Ministry of Finance and development Planning has resumed National Manpower Plans to guide education and training in order to meet the needs of the economy. The Tertiary Education Council (TEC) has also drafted a human resource development strategy to address issues of human capital development.

## **9.2 Capacity gaps in the state sector**

There are capacity gaps that require addressing in the public sector, in the executive, legislature, and judiciary.

### ***9.2.1 The Executive***

There is lack of evidence-based decision making because most ministries do not have policy research units, or do not utilise the services of those outside government.

Although there is a stringent system of financial accounting, auditing and reporting, there lacks a comprehensive system of monitoring and evaluation of the impact of policy and programme implementation.

### ***9.2.2 The Legislature***

The composition of the National Assembly contains a high proportion of members of the Executive. Even though this is a structural rather than a capacity problem, it affects the capacity of legislators to effectively monitor and check the performance of the executive branch of government, especially since the opposition is also feeble.

The administrative and technical support for Parliament is weak because members of parliament do not have adequate research support.

Constituency offices are not sufficiently staffed with appropriate research and administrative staff.

The opposition is weak due to financial difficulties and organisational deficiencies; therefore they are unable to effectively perform in Parliament.

### ***9.2.2 The Judiciary***

The judiciary is not adequately staffed because it fails to retain qualified and experienced staff. This leads to delays in the disposal of cases.

### ***9.2.3 Local Government***

Over-centralisation of policy decision making and development planning stifles local authority performance because of the lack of autonomy of the local government councils. Central government determines local authority manpower plans and budgets through the Ministry of Local Government (MLG).

There is no comprehensive and integrated decentralization policy and strategy that could guide the decentralization process.

Local authorities are under-staffed and have less capacity than central government due to lower levels of education, skills and experiences.

The local authorities also fail to attract appropriate staff due to low pay and unfavourable conditions of service.

### **9.3 Capacity gaps in non state actors**

The whole lot of non-state actors, ranging from community organisations, political parties, media and press, and private business have similar capacity constraints, relating to education, skills, experience, organisational ability, inadequacy of funding, etc.

#### ***9.3.1 Civil Society Organizations***

Non-state actors lack adequate skills and experience, organisational capabilities, creativity, and funding to advocate and promote their interests and objectives.

Due to being not so well organised, the civil society organisations are ineffective partners with central government and local government in development activities.

Access to information is inadequate for the performance of civil society functions.

#### ***9.3.2 Political Parties***

Opposition political parties have severe organizational problems, as evident in their perpetual splitting and failure to agree a common stand against the dominant ruling party. Although this might be due to personality clashes, the problems are exacerbated by the inadequacy of financial resources that could enhance their organizational capabilities.

#### ***9.3.3 Private Sector***

There is no competition policy or authority.

The regulatory policy and institutional frameworks, currently dominated by the ministries and departments, are undeveloped for the growth and expansion of the private sector.

### **9.4 Towards enhancing capacity**

So far, Botswana's capacity development has been realised on the basis of two attributes: presence of economic wealth, and prudent, democratically elected, responsible, accountable, and legitimate leadership. The political system has been stable, backed by strong and capable state machinery for the implementation of its policies and national development plans. There is a functional national development planning process that guides the utilisation of national resources in a manner that (although bureaucratically determined and rather "elitist") ensures considerable national consensus on the developmental direction.<sup>103</sup> The Long Term Vision for Botswana (Vision 2016), which was adopted in 1997, is the principal guide for the governance of the country and provides the framework to address the challenges that face Botswana. It guides all political, social and economic activities, including the National Development Plans, which incorporate capacity development initiatives.

The absence of structural adjustment constraints has enhanced the state's capacity to map out a relatively autonomous development path. Botswana's exceptional political, social and economic developments have largely been due to the capable political and administrative leadership, and democratic accountability that has ensured the responsiveness of the state to public demands and aspirations of the citizens. These attributes need to be sustained and improved upon.

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<sup>103</sup> J Mayuyuka Kaunda, 2005. *Effective States and Engaged Societies: Capacity Development for Growth, Service Delivery, Empowerment and Security in Africa - The Case of Botswana*. (Prepared for the World Bank Institute). Available at: [www.siteresources.worldbank.org/AFRICAEXT/Resources/CD\\_Botswana.pdf](http://www.siteresources.worldbank.org/AFRICAEXT/Resources/CD_Botswana.pdf)

Despite adequacy of institutional structures, financing and capacity building institutions, Botswana suffers from less than optimal performance in programme implementation. The country has a problem with the “lack of implementation capacity” in that most policies and programmes are not effectively carried out in the desired manner, and there are inadequate systems for monitoring and evaluation of progress. The public sector is perceived to perform below expectations; a point that has been acknowledged in several official statements, including the National Development Plans and the Budget Speeches, as well as other public pronouncements.<sup>104</sup>

### **9.5 Recommendations for enhancing capacities**

There are a number of recommendations that Botswana could consider to sustain and enhance national capacities, as presented below.

#### **The Executive**

Develop policy research units in all ministries or utilise the services of those outside the state institutions, to make sure policy formulation is based on actual needs, requirements and demands of people and their localities.

Establish a comprehensive system of monitoring and evaluation of impacts of ministerial and departmental policy and programme implementation.

#### **The Legislature**

Improve the administrative and technical support for Parliament, by providing parliamentary assistants for constituency work and for research.

Consider providing state financial support to political parties that have attained a certain threshold of electoral votes.

#### **The Judiciary**

Ensure full employment in the judiciary by improving remuneration and conditions of service and instituting other incentives that would encourage retention of qualified and experienced staff.

Expediently introduce alternative dispute resolution mechanisms, such as arbitration, small claims courts, commercial courts, etc., to de-congest the formal court system.

#### **Local Government**

Give local government councils more autonomy over revenue generation, local development policy making, planning and implementation.

Expedite the decentralisation to local government councils so that they have authority and flexibility in budgeting and manpower planning.

Develop a comprehensive and integrated decentralization policy and strategy to guide the decentralization process.

Improve the remuneration and conditions of service of local authority staff.

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<sup>104</sup> Government of Botswana, Ministry of Finance and Development Planning, *National Development Plan 8, 1997/98-2002/03; National Development Plan 9, 2003/04-2008/09; Budget Speeches 2004-2007.*

**Non-state actors**

In consultation with non-state actors, especially civil society organisations, political parties and community based organisations, devise policies and strategies to address their capacity limitations, in terms of education, skills, experience, organisational ability, financing, and operational efficiency and effectiveness.

**Private Sector**

Expedite the competition policy and establish a competition authority.

Implement the recommendations of the Regulation Study so that there are clear regulatory policies, institutional frameworks and operational procedures.



## 10 CONCLUSION

Botswana's constitutional democracy sees the practice of a multi-party political system, which is dominated by the ruling Botswana Democratic Party. It is a unitary constitutional state with a functional separation of powers. Even though the executive branch is structurally predominant over the legislature; there is no undue interference of the executive in the operations of the legislature and the judiciary. The electoral process is characterised by regular and credible five-yearly elections, which have so far been legitimate and credible. The political system, which is inclusive and liberal, allows for a free media and participation of civil society. Non-state actors are not officially restricted. There is, therefore, adherence to constitutionalism and the maintenance of a democratic regime. The trend in political governance has, therefore, favoured the maintenance of a democratic, pluralist and liberal system of government.

The economic growth of the country has not automatically translated to structural change, or resolution of persistent development challenges such as poverty, marginalisation and inequality. The diamond export sector predominates, and economic diversification has not materialised. However, the country practices sound macroeconomic management, and exercises prudence in the allocation of national resources for social and economic development. The government's budgeting, planning, and procurement systems are based on sound policy and institutional foundations; and are accompanied by institutionalized accounting and auditing systems. These are backed by effective anti-corruption efforts. The public sector is, therefore, quite well managed; systems are available for the management and accountability of state entities. The central bank is not independent of the Ministry of Finance and Development Planning, but effectively performs its monetary functions, and the supervision of the banks. There regulation of non-bank financial is soon to be performed by a dedicated agency.

The environment for private sector development is favourable, due to open-market policies and availability of promotional and support institutions for free enterprise. There is respect for private property, contracts, and international agreements. The government has set up consultative institutions and processes through which it engages with the private sector. The governance of the corporate sector is characterized by adherence to international accounting and audit principles. There are also applied international anti-corruption agreements, which accompanied by the domestic legal framework and institutions, ensure good corporate governance practices. A functional taxation system, and company registration and reporting are the principal means for ensuring the accountability of private businesses. However, there needs to be rapid approval of the competition policy and creation of a competition commission. Also required are policies and institutions for independent regulation of the enterprises.

The Constitution of Botswana provides for internal checks and balances amongst the three principal institutions of the state, that is, the Executive, Legislature, and Judiciary. However, the Executive President cannot be impeached by the legislature. Additionally, there is numerical dominance of ministers and assistant ministers (members of the Cabinet) in the National Assembly. This means that the legislature is rendered ineffective in checking the executive. Nevertheless, the executive recognizes and respects the functions, responsibilities and roles of the other branches of government, and does not interfere with the operations of the legislature and the judiciary. The decisions of the judiciary, even those that are against the executive, are always respected. The traditional institutions of governance are officially recognized, but are utilized for endorsement of official policies and mobilization for national development.

They are also utilized to complement the legal and judicial systems; thus they act as a stabilisation and cohesion enhancing element in society. Although free to organize and operate, the non-state actors have minor roles as watch dogs and players in the policy process.

The executive branch is effective in policy determination and the development planning and budgeting processes. The quality and integrity of the executive are high. The President and Cabinet possess good education, skills and experience. There is little corruption, and the levels of transparency and accountability are adequate. Public sector reforms are not pronounced, and there lacks a comprehensive and integrated approach to such reforms. Public service delivery, which is accessible, widespread and relevant; is constrained by the lingering problem of "lack of implementation capacity", which undermines the otherwise capable state institutions. The most challenging contemporary problem is the HIV/AIDS pandemic, which threatens both the social fabric and institutional effectiveness of the state institutions in delivering social goods and services. There are concerted efforts to respond to the challenges of the HIV/AIDS pandemic, which shows the seriousness of the government in addressing development problems.

On the international arena, Botswana is a good citizen that is signatory to all important international agreements, covenants, and conventions. However, there is a gap between signature and actual domestication of the international agreements into local laws. The country's record of reporting on implementation of international instruments is also rather unimpressive. Despite the absence of a human rights commission, there is respect for human rights and the rule of law by the law enforcement agencies. Civil and political rights of individuals and groups are respected, there is no censorship and there are no political prisoners in the country. A non-government human rights body operates free from official interference, and is fairly effective in agitating for the rights to life (there still is a death penalty), and advocacy of the rights of women, children, domestic workers, prisoners, and refugees. The good governance of the country is thus enhanced by the respect for the law and respect for civil, political, cultural, social and economic, and generally human rights.

Botswana's good governance has been underpinned by the presence of economic wealth, and prudent, democratically elected, responsible, accountable, and legitimate leadership. A stable political system was established and backed by strong and capable state machinery for the implementation of policies and national development plans. The functional national development planning process guides the utilisation of national resources in a manner that ensures considerable national consensus on the developmental direction, and attainment of some impressive results. These national attributes need to be sustained and improved upon. *The Long Term Vision for Botswana* (Vision 2016) guides the governance of the country and provides the framework to address the challenges that the country faces. As a guide for political, social and economic activities, including the National Development Plans (whose objective is to attain sustained development; rapid economic growth; economic independence; and social justice), the Vision 2016 plays a crucial role in focusing the nation towards a (better) common future. These national attributes need to be sustained and improved upon.

The absence of strong international financial institution influence, which often accompanies structural adjustment programmes, has meant that Botswana had comparatively enhanced state capacity to map out a relatively autonomous development

path. Botswana's exceptional political, social and economic developments have largely been due to the capable political and administrative leadership, and democratic accountability that has ensured the responsiveness of the state to public demands and aspirations of the citizens.

Despite Botswana's demonstrated capabilities, the adequacy of institutional structures, and availability of adequate financial resources, the country suffers from less than optimal performance in policy and programme implementation. There are problems with capacity to fully implement, in time, the National Development Plans. There are inadequate systems for monitoring and evaluation of the impacts of implementation of policies and programmes, but bureaucratic procedures for financial accountability are in place. The public sector performs below expectations, and this is a cause of serious concern, especially since there are sound policies, institutions and financial resources that could facilitate effective performance of government functions.

There are several capacity gaps that are identified in the Botswana political and administrative systems, which lead to the recommendations for enhancing capacities, listed below.<sup>105</sup>

**The Executive:** there is need to develop policy research units in all ministries or utilise the services of those outside the state institutions, to make sure policy formulation is based on actual needs, requirements and demands of people and their localities. This should be accompanied by the establishment of a comprehensive system of monitoring and evaluation of ministerial and departmental policy and programme implementation.

**The Legislature:** The legislature needs improvement of the administrative and technical support for Parliament, by providing parliamentary assistants for constituency work and for research. Consideration should also be given to providing state financial support for political parties that have attained a certain threshold of electoral votes, in order to strengthen the opposition and their role in enhancing democracy.

**The Judiciary:** There is need to enhance the capabilities of the judiciary. It is important, therefore, to ensure that all vacant posts in the judiciary are filled, by attracting people to work there, through improving remuneration and conditions of service and instituting other incentives that would encourage retention of qualified and experienced staff. The government should also expedite the introduction of alternative dispute resolution mechanisms, such as arbitration, to de-congest the formal court system.

**Local Government:** The local government councils could be boosted by giving them more autonomy over revenue generation, local development policy making, planning and implementation. This calls for expeditious decentralisation so that they have authority and flexibility in budgeting and manpower planning. There should be developed a comprehensive and integrated decentralization policy and strategy to guide the decentralization process. To attract and retain requisite staff, the government should improve the remuneration and conditions of service of local authority staff.

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<sup>105</sup> This sub-section on capacity gaps and recommendations has benefited from the report of national consultations conducted by BIDPA on behalf of the Office of the President, Governance Programme, and UNDP-Botswana, for the Seventh Africa Governance Forum (AGF VII), on the theme "Building the Capable State in Africa", prepared for the AGF VII to be held at Ouagadougou, Burkina Faso, in October 2007.

**Non-state actors:** In consultation with non-state actors, especially civil society organisations, political parties and community based organisations, the government should endeavour to devise policies and strategies that would address their capacity limitations, in terms of education, skills, experience, organisational ability, financing, and operational efficiency and effectiveness.

**Private Sector:** The private sector, which already operates in very favourable conditions, requires the competition of the competition policy and establishment of a competition authority. It is also advisable that the government should implement the recommendations of the Regulation Study, which advocated the formulation of clear regulatory policies, independent institutional frameworks and operational procedures.

### **10.1 Progress of good governance: a comparison between the AGR I and AGR II studies for Botswana**

Comparison of the expert panel responses from the first Botswana governance assessment to this one does not reveal any significant changes in the nature of the state and governance. Likewise, comparison of the principal indices of international rankings of Botswana in areas of political and economic governance do not show significant differences. Actually, Botswana remains a “shining example” in terms of various measures of governance, when compared to other countries in Africa. However, the country has shown some marginal declines in some indices, such as Transparency International’s Corruption Perceptions Index, and the World Bank Institute’s World Wide Governance Indicators.

Transparency International’s score declined from 5.9 to 5.4 from 2005 to 2007 (Table 2.2). The World Bank Institute’s rankings for voice and accountability, government effectiveness, regulatory quality, rule of law, and control of corruption have all declined for the same period. (See Appendix I). Botswana needs to avoid complacency and strive to attain better rankings at all times.

### **10.2 Sustaining good governance and state capacity**

The capable and effective state may be sustained on condition that Botswana continues to apply or improve upon several principles and practices, including the ones outlined below.

**Maintenance of the democratic tradition:** It is crucial to sustain the democratic traditions that have developed over the years. The conduct of regular, free, fair, multiparty elections is crucial for maintaining the legitimacy and trust that the government enjoys.

**Commitment to strengthening existing public responsibility and accountability systems:** The agenda for enhancing the capable state should include a commitment to strengthening political, administrative and financial accountability of state institutions.

**Prudence in the management of the economy:** Prudent planning and management of financial resources is a hallmark of Botswana’s success and should continue. The good management of revenues from diamonds, and investments in social and economic infrastructures are the basis upon which Botswana’s state capabilities may be enhanced for the good of all.

**Commitment to capacity building and the effective and conscientious management of the response to HIV/AIDS:** There is need to continue to focus on human capacity

development for all stakeholders, in governing institutions, civil society and community based organisations. Additional challenges in capacity development are due to the relatively high rates of HIV/AIDS prevalence and the persistent and considerably high occurrence of poverty across the country. Although the provision of social services and inclusiveness of benefits appear to be quite widespread, the delivery of public goods and services is undermined by these capacity constraints. The high prevalence of HIV/AIDS poses a strong challenge that requires continuous vigilance and innovation in addressing emerging and perpetual development problems.

**Commitment to engage in state-civil society interaction and consultations:** Although policy level engagement and participation of civil society and non-governmental actors is rather low, it is not discouraged or threatened, and the private sector thrives. Although the political system is democratic and accountable, there does not seem to be strong engagement of communities, non governmental organisations, trade unions and other civil society organizations in governance processes. There is need to strengthen engagement and consultation processes so that all stakeholders are incorporates in development and governing processes.

**Commitment to the implementation of development policies and programmes:** The problem with inadequate or delayed development programme implementation requires immediate remedies, including a clear definition and understanding of the functions, responsibilities and roles of the various actors (state, civil society, private sector, traditional leadership, women, youth, etc) in the policy formulation and implementation processes. Crucial too would be the establishment and operation of an effective system of evidence-based policy making, accompanied by a functional system of monitoring, assessment and evaluation of the impacts of policies and programmes, and of progress towards set objectives, goals and targets.

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**APPENDICES**

**Appendix B: Selected Tables from C.1**

**Appendix C.1 Expert Panel Study Instrument**

**Appendix C.3 Desk research Instrument**

**Appendix D-1: Profiles of Respondents who attended the Seminar on the State of Governance in Botswana**

	Names	Organisation	Tel	Address
1	Brian Mosenene	Botswana Export development + Investment Authority (BEDIA)	3181931	P O BOX 3122 Gaborone
2	Ester Kanaimba	BEDIA	3181931	P O BOX 3122 Gaborone
3	T Lebang	Botswana National Productivity Centre (BNPC)	3626300	P/Bag 00392 Gaborone
4	Sendelina K Kandjii	Bank of Botswana (BOB)	3606000	P O BOX 40430
5	Kebagaise Segakise	Botswana Insurance Fund Management (BIFM)	3951564	P/Bag BR 185 Gaborone
6	Gaofetoge Ganamotse	Rural Industries promotions Company (RIPCO)	3914431	P O Box 2088 Gaborone
7	M H Maphanyane	Media Institute of Southern Africa (MISA)	3971972	P/Bag BO 86 Gaborone
8	Baboloki Tlale	Botswana Council for Non-Governmental Organisations (BOCONGO)	3911319	P/Bag 00418Gaborone
9	Samuel Mooketsi	Botswana Community Based Organisations Network (BOCOBONET)	3185081	P/Bag BO 166 Bontleng
10	Abel Mabei	Botswana Community Based Organisations Network (BOCOBONET)	3185081	P/Bag BO 166 Bontleng
11	Sechele T Sechele	BOTUSA Project	3901696	P O Box 90 Gaborone
12	Onnetse Makhumalo	Women and Law	3923346	P/Bag BO 293 Gaborone
13	Mrs S Seboni	YWCA	3953681	P O BOX 359 Gaborone
14	Ms. A Mogwe	Ditshwanelo	3906998	P/Bag 00416 Gaborone
15	Mr Moses M Bogatsu	Botswana Council of Churches	3951981	P O Box 318 Gaborone
16	Batshani Ndaba	Re Teng Multicultural Coalition of Botswana	3555118	P O Box 5346 Gaborone
17	Christine Stegling	Botswana Network on Ethics Law and HIV AIDS	3932516	P O Box 402958 Gaborone
18	Dr Howard K Sigwele	Small Business council/ Agric + trade economic consultant	3927324	P O Box 297 Oodi
19	Joyce G Anderson	Emang Basadi	3972904	P O Box 1421 Gaborone
20	Mr. E. Dewah	Consultant	7230259 4	P O Box 40828 Gaborone
21	Lesego Osman	African Banking Corporation.	3901568	P/Bag 00303 Gaborone
22	E M Maphanyane	Maphanyane and Associates	3919543	P O BOX 2968 Gaborone
23	Ajay Bhatnagar	Derek Brink Holdings	3925066	P O Box 2 Gaborone
24	Kagiso Mmusi	Pula Holdings	3186389	P O Box 2331 Gaborone
25	Mr D. Saleshando	Botswana Congress Party (BCP)	3180573	P O Box 602009 Gaborone
26	Ms M. Madisa Rapelana	BCP	3552017	P O Box 70491 Gaborone
27	Otsweletse Moupo	BNF	3181027	P O Box 40665 Gaborone
28	Mr Mohwasa	BNF	3907416	P O Box 40065 Gaborone
29	Dr. C.B. Monkge	VISION 2016 COUNCIL secretariat	3617756	P/Bag BR 29 Gaborone
30	Mr O. M Lepodise	Office of the Ombudsman	3953322	Private Bag BR 374 Gaborone
31	Mr P Monyatsi	Directorate on Corruption and Economic Crimes (DCEC)	3914002	P/Bag 00344 Gaborone.
32	Duma Boko	Law Society of Botswana	3900777	Private Bag BR 320 Gaborone
33	Dr Onalenna Selolwane	Sociology - UB	3552678	Private Bag UB 00705
34	Dr Z Maundeni	UB- Democracy Research Project	3552740	Private Bag 0022 Gaborone
35	Jonah Tlhalefang	University of Botswana	3550000	P/bag 0022 Gaborone

**Appendix D2.a: Profiles of all respondents of the Expert Panel C.1 Questionnaire**

**Sex**

Sex	Frequency	Percent
Male	65	72.2
Female	25	27.8
Total	90	100.0

**Age grouped**

Age grouped	Frequency	Percent
20 - 39	24	26.7
40 - 59	59	65.6
60 - 79	7	7.8
Total	90	100.0

**Educational level**

Educational level	Frequency	Percent
Diploma	7	7.8
BA	25	27.8
BSC	2	2.2
Masters	41	45.6
PHD	12	13.3
O'level	3	3.3
Total	90	100.0

**Field of training**

Field of training	Frequency	Percent
Social science	40	44.4
Science	5	5.6
Engineering	3	3.3
Humanities	8	8.9
Accounting and business	16	17.8
Education	16	17.8
Computing	2	2.2
Total	90	100.0

**Occupation**

Occupation	Frequency	Percent
Researcher	1	1.1
Lawyer	7	7.8
Pastor	3	3.3
Administrator	54	60.0
Accountant	4	4.4
Consultant	4	4.4
Lecturer	13	14.4
Journalist	4	4.4
Total	90	100.0

Religion

Religion	Frequency	Percent
Christian	68	75.6
Muslim	1	1.1
Bahai	1	1.1
Hinduism	1	1.1
None	9	10.0
Total	80	88.9
Missing	10	11.1
Total	90	100.0

## Appendix D2.b: List of all respondents of the Expert Panel C.1 Questionnaire

	Names	Sex	Age	Educational Level	Field Of Training	Occupation
1	Tapologo Maundeni	Female	39	PHD	Social science	Lecturer
2	L. N Ramahobo	Female	49	PHD	Education	Lecturer
3	Elsie Alexander	Female	53	Masters	Social science	Lecturer
4	Faith Tombale	Female	53	Masters	Education	Administrator
5	Kemmony Monaka	Female	39	PHD	Humanities	Lecturer
6	T Tlhong	Female	46	BA	Accounting and business	Administrator
7	Emang Bokhu'lo	Female	35	BA	Humanities	Administrator
8	Sego'bye A Kelo	Female	41	PHD	Humanities	Lecturer
9	Ida Mokereitane	Female	46	Diploma	Social science	Administrator
10	Myra T. Sekgororoane	Female	49	Diploma	Humanities	Administrator
11	Victoria Masenya	Female	56	Diploma	Accounting and business	Consultant
12	Morongoe N. Disele	Female	53	Masters	Education	Administrator
13	Sendelina K. Kandjii	Female	49	Masters	Education	Administrator
14	Onalenna Selolwane	Female	51	PHD	Social science	Lecturer
15	Loatile Seboni	Female	37	BA	Education	Administrator
16	Esther V. Kanaimba	Female	50	Masters	Social science	Administrator
17	Motsei Rapelana	Female	50	Masters	Education	Administrator
18	Onneetse K. Makhumalo	Female	27	BA	Social science	Researcher
19	Alice Mogwe	Female	46	BA	Social science	Administrator
20	Joyce G. Andersen	Female	64	Masters	Education	Administrator
21	Gaofetoge N. Ganamotse	Female	44	Masters	Accounting and business	Administrator
22	Christine Stegling	Female	35	Masters	Social science	Administrator
23	Poppy Monyatsi	Female	45	Masters	Social science	Administrator
24	Kebagaise K. Segakise	Female	42	Masters	Accounting and business	Accountant
25	M.P Welch	Female	64	O'level	Science	Administrator
26	T. G Pheko	Male	49	Masters	Accounting and business	Administrator
27	Mompati Solomon	Male	31	Masters	Social science	Administrator
28	Mike Mothibi	Male	41	BA	Humanities	Journalist
29	Gagoitsiwe Moremedi	Male	52	Masters	Science	Administrator
30	D. A Nganunu	Male	36	Masters	Accounting and business	Administrator
31	R. Tabulawa	Male	45	PHD	Education	Lecturer
32	D. Sebudubudu	Male	37	PHD	Social science	Lecturer
33	Tally Tshkiso	Male	41	Masters	Social science	Accountant
34	Gideon Nkala	Male	38	Masters	Computing	Journalist
35	Batlang Serema	Male	42	Masters	Social science	Administrator
36	Ezekiel Thekiso	Male	49	Masters	Engineering	Administrator
37	Thuso Makgekgene	Male	71	Masters	Engineering	Administrator
38	Loago Raditedu	Male	36	Diploma	Computing	Administrator
39	Tiroyamodimo Kayawe	Male	33	Masters	Social science	Administrator
40	Mookodi M. Seisa	Male	40	Masters	Accounting and business	Administrator
41	Dick Bayford	Male	41	Masters	Social science	Lawyer
42	Taolo Lucas	Male	40	Masters	Social science	Lecturer
43	Botsalo Ntuane	Male	36	Masters	Accounting and business	Accountant
44	Akanyang Magama	Male	47	BA	Social science	Lawyer
45	Themba Joina	Male	46	BA	Social science	Lawyer
46	Percy Raditladi	Male	32	BA	Social science	Administrator
47	O. E Mere	Male	40	BA	Social science	Pastor

48	Duni Lopang	Male	31	BA	Accounting and business	Administrator
49	H. C L Hermans	Male	70	Masters	Social science	Administrator
50	Barulaganye Mogotsi	Male	40	Masters	Education	Administrator
51	Isaac Seloko	Male	39	BA	Social science	Lawyer
52	K. K Kemoeng	Male	44	Masters	Science	Administrator
53	Daniel Motsatsing	Male	41	Masters	Social science	Administrator
54	Masego Mphati	Male	53	Masters	Engineering	Administrator
55	Blackie Marole	Male	53	Masters	Social science	Administrator
56	R. I Hambira	Male	42	BA	Education	Pastor
57	Derek James	Male	66	BA	Education	Administrator
58	Outsa Mokone	Male	39	BA	Humanities	Journalist
59	Daniel Tau.	Male	49	PHD	Education	Administrator
60	David Modiega	Male	47	Diploma	Accounting and business	Administrator
61	Kgosi Lotlamoreng II	Male	30	BA	Social science	Lawyer
62	Spencer G. Mogapi	Male	37	BA	Humanities	Journalist
63	Kennedy Otsheleng	Male	35	BA	Accounting and business	Administrator
64	Twoba B Koontse	Male	47	Masters	Social science	Administrator
65	Ronald Phole	Male	41	BA	Social science	Administrator
66	Jonah Tlhalefang	Male	42	PHD	Social science	Lecturer
67	Zibani Maundeni	Male	44	PHD	Social science	Lecturer
68	Ofentse Lepodise	Male	49	BA	Social science	Lawyer
69	Batshani Ndaba	Male	57	Masters	Social science	Administrator
70	E. M Maphanyane	Male	59	Masters	Social science	Consultant
71	Kagiso Mmusi	Male	41	Masters	Social science	Administrator
72	Otsweletse Moupo	Male	46	BA	Social science	Administrator
73	Dumelang Saleshando	Male	35	BA	Social science	Administrator
74	Moeti Mohwasa	Male	38	Diploma	Social science	Administrator
75	C. B Monkge	Male	52	PHD	Education	Administrator
76	Duma Boko	Male	38	Masters	Social science	Lawyer
77	Thembo Lebang	Male	55	Masters	Social science	Administrator
78	Brian Mosenene	Male	41	BA	Social science	Administrator
79	Baboloki Tlale	Male	48	BA	Education	Administrator
80	Modise H.D Maphanyane	Male	54	Masters	Education	Administrator
81	Sechele Teleka Sechele	Male	49	Masters	Social science	Administrator
82	E. M Dewah	Male	65	Masters	Accounting and business	Consultant
83	Abel Jomo D Mabei	Male	44	BSC	Science	Administrator
84	Howard K. Sigwele	Male	54	PHD	Science	Consultant
85	Samuel S. Mooketsi	Male	43	Diploma	Education	Administrator
86	Moses Mogatusi Bogatsu	Male	40	BA	Humanities	Pastor
87	Ajay Bhatnagar	Male	50	Masters	Accounting and business	Accountant
88	Andrew Motsamai	Male	40	BSC	Accounting and business	Lecturer
89	A. S Dada	Male	67	O'level	Accounting and business	Lecturer
90	Stevie T. Mandlevu	Male	37	O'level	Accounting and business	Administrator



## Appendix H: Timetable for annual public budgeting (2005/06)

Note: Financial year is 01 April – 31 March

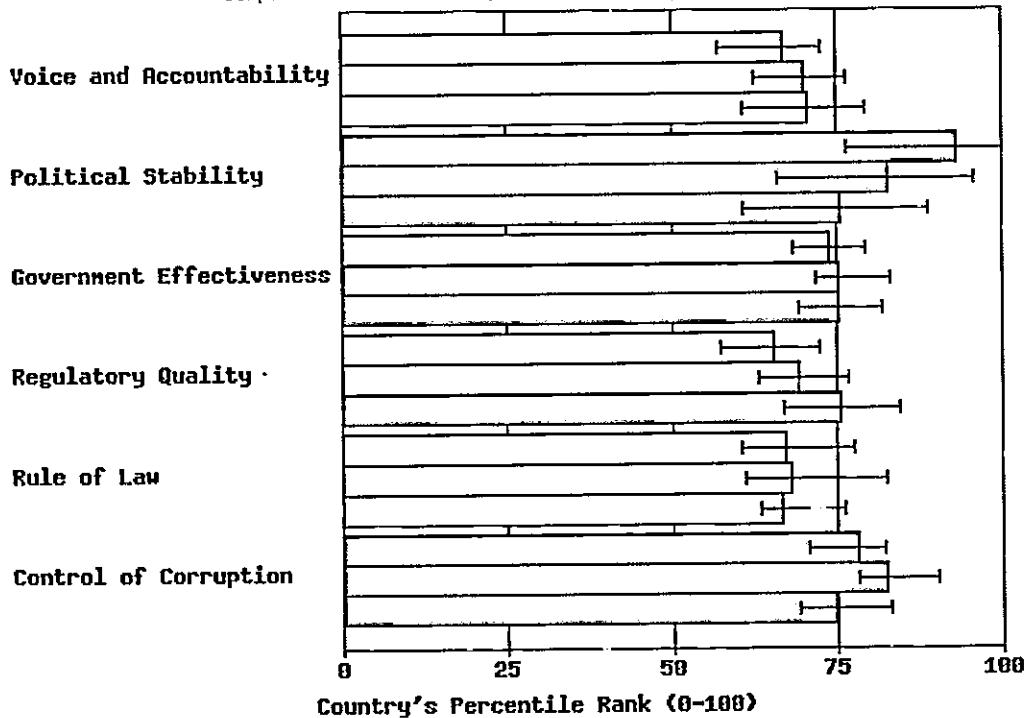
<b>Deadline</b>	<b>Subject</b>	<b>Action by</b>
4 June 2004	Submission of Add Back Items to Division of Budget Administration	Ministries/Departments
25 June 2004	Submission of Manpower Ceiling to Division of Budget Administration	DPSM
28 June – 3rd Aug 2004	Review and Setting of Financial Ceilings	Budget Administration Economic Affairs Ministries
4 – 11 August 2004	Ministries' review of Financial and Manpower Ceilings	
6 August 2004	Submission of Industrial Class Estimates to Budget Administration	Ministries/Departments
11 – 20 August 2004	Drafting of Cab. Memo on Financial and Manpower Ceilings	Budget Administration Economic Affairs
23 August 2004	Cab. Memo on Ceilings sent to Cabinet	Budget Administration
1 September 2004	Cabinet approves Ceilings	Cabinet
2 September 2004	Ceilings sent to Ministries	Budget Administration
10 September 2004	Submission of Recurrent Expenditure and Revenue Estimates to Budget Admin.	Ministries/Departments
14 September 2004	Submission of Project Review Forms to Division of Budget Administration	Ministries/Departments
17 September 2004	Project Review Committee meeting to decide on project review strategy	Economic Affairs/ Budget           Admin/ Ministries
20 Sept.–22 Oct. 2004	Project Review meetings with Ministries	MFDP/Ministries
27 Sept.–29 Oct 2004	Submission of revised Status Reports of development projects	Ministries/Departments
15 October 2004	Submission of Manpower Estimates to Budget Administration	DPSM
11 November 2004	Briefing of Estimates Committee	Budget Administration DPSM,           Economic Affairs, TERC
22-26 November 2004 Ministries	Estimates Committee Meetings	MFDP,           DPSM,
19 November 2004	Submission of New and Revised Thumbnail Sketches to Division of Budget Administration	Ministries/Economic Affairs (MFDP)
3 December 2004	Submission of Estimates Committee Manpower and Transport Est. Draft Reports and Cab. Memo to Division of Budget Administration	DPSM/MWT
Dec 2004	Preparation of Cab. Memo on Financial & Manpower Estimates.	Budget Administration
22 December 2004	Submission of Draft Cab. Memo to Hon. Minister and Assistant Minister, MFDP	Budget Administration
30 December 2004	Briefing of Hon Minister and Assistant Minister of Finance and Development Planning on Cab. Memo	MFDP/DPSM
10 January 2005	Cab. Memo on Final Budget proposals Submitted to Cabinet	Budget Administration
19 January 2005	Cabinet approves Draft Budget Estimates	Cabinet
19 January 2005	Submission of Appropriation Bills to Attorney General	Budget Administration
20 January 2005	Submission of 2005/2006 Draft Estimates of Expenditure from the Consolidated and Development Funds to Government	Budget Administration

24 January 2005	Printer. Draft Appropriation and Supplementary Appropriation Bills submitted to Cabinet	Budget Administration
24 January 2005	Submission of 2005/2006 Draft Estimates of Expenditure from Consolidated and Development Funds to Parliament.	Budget Administration
2 February 2005	Cabinet approves Appropriation Bills	Cabinet
2 – 3 February 2005	Printing of Appropriation Bills	AG's Chambers
4 February 2005	Submission of Notices of (i) Presentation of Appropriation. Bill, 2005, (ii) Financial Statements, Tables and Estimates of the Consolidated and Development Funds	Budget Administration
7 February 2005	Revenues, 2005/2006 and (iii) New and Revised Projects to Parliament Delivery of Appropriation Bill/Budget Speech by Hon. Minister, MFDP and MFDP Tabling of Financial Statements, Tables, And Estimates of the Consolidated and Development Fund Revenues	Hon. Minister, MFDP
8 February 2005	Speech on New and Revised Projects	Hon. Minister, MFDP
9 February 2005	Tabling and Presentation of Supplementary Appropriation Bill	Hon. Assistant Minister, MFDP
9 - 22 February 2005	Debate on Budget Speech (8 days, excluding clear days)	Parliament
24 Feb-23 March 2005	Committee of Supply (16 days, excluding clear days)	Parliament - Committee of Supply
23 March 2005	Day of Assent – Third Reading of Appropriation Bill	Parliament

Appendix I: WBI Governance Indicators, 2002-2006

**BOTSWANA**

Comparison between 2006, 2005, 2002 (top-bottom order)



Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2007: Governance Matters VI: Governance Indicators for 1996-2006

Note: The governance indicators presented here aggregate the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, and international organizations. The aggregate indicators do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. Countries' relative positions on these indicators are subject to indicated margins of error that should be taken into consideration when making comparisons across countries and over time.

