



United Nations
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The Progress of Good Governance in Botswana 2008

*Final Report of the UNECA Project
Measuring and Monitoring Progress Towards
Good Governance in Africa:
The African Governance Report II (AGR II)*



Botswana Institute for Development Policy Analysis



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**Final Report of the UNECA Project Measuring and Monitoring
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Table of Contents

List of Tables and List of Figures	6
Acronyms	8
Acknowledgements	11
Executive Summary	13
1 Introduction	19
1.1 Objectives of the Governance Project	19
1.2 Outline of the Report	20
2 Methodology	22
2.1 Establishment of a Steering Committee	22
2.2 The Pre-Launch in Country Conference	23
2.3 The Expert Panel Survey	23
2.4 The Desk-Based Research	25
3 Political Governance	27
3.1 Democratic Regime and Structure of Political Representation	28
3.2 Social Inclusiveness in Political Representation	34
3.3 Public Voices and Legitimacy of Political Framework	37
3.4 The Integrity and Legitimacy of the Electoral Process	41
3.5 Conclusion	47
4 Economic Governance and Public Financial Management	49
4.1 Economic Growth, Development and Structural Transformation	49
4.2 Public Financial Management	63
4.3 Management of the Tax System	72
4.4 Management of Public Enterprises	75
4.5 Integrity in the Monetary and Financial System	79
4.6 Conclusion	82
5 Private Sector Development and Corporate Governance	85
5.1 Development of the Private Sector	85
5.2 Partnership between the Public and Private Sectors	91
5.3 The Protection of Property Rights	93
5.4 Corporate Governance	95
5.5 Conclusion	98

6	Institutional Checks and Balances	99
	6.1 The Constitution	99
	6.2 Effectiveness of the Executive	101
	6.3 Effectiveness of the Legislature	102
	6.4 Effectiveness of the Judiciary	110
	6.5 Effectiveness of Non-State Actors	118
	6.6 Conclusion	122
7	Institutional Effectiveness and Accountability of the Executive	124
	7.1 Quality of the Executive and the Public Service	124
	7.2 Effectiveness of Procedures for Combating Corruption and Integrity of the Executive Branch	129
	7.3 Role and Capacity of Local Governments	131
	7.4 Role of Traditional Structures in Government	136
	7.5 Role and Capacity of Law Enforcement Agencies	137
	7.6 Transparency and Accountability of the Executive	141
	7.7 Policy-Making Process and Coherence	146
	7.8 Service Delivery	147
	7.9 Conclusion	158
8	Human Rights and the Rule of Law	160
	8.1 The Legal and Institutional Regime for Human Rights Norms and Enforcement	163
	8.2 The State of Human Rights and the Rule of Law in Botswana	164
	8.3 Law Enforcement Agencies and Human Rights Violations	166
	8.4 Civil and Political Rights	167
	8.5 Gender Equality and Human Rights	168
	8.6 Socio-Economic and Cultural Rights	169
	8.7 Civil Society and the Human Rights Regime	169
	8.8 Peace and Conflict Management	170
	8.9 Conclusion	170
9	Institutional Capacity Building for Good Governance	172
	9.1 Context and Environment for Capacity Building	172
	9.2 Capacity Gaps in the State Sector	175
	9.3 Capacity Gaps in Non State Actors	180
	9.4 Towards Enhancing Capacity	186
	9.5 Recommendations for Enhancing Capacities	187
10	Progress of Good Governance: Comparison Between the AGR I and AGR II Studies	190
	10.1 Botswana's Governance Agenda	190
	10.2 Botswana's Governance Performance	191
	10.3 Comparison of the 2003 and 2007 Governance Studies	198

11 Conclusion	201
11.1 Sustaining Good Governance and State Capacity	204
Appendices	206
Appendix B.1: Selected Tables from C.1	206
Appendix C.1 Indicators for Monitoring Progress towards Good Governance	233
Appendix C.3 Desk Research Instrument	263
Appendix D-1: Profiles of Respondents who Attended the Seminar on the State of Governance in Botswana	274
Appendix D2.A: Profiles of all Respondents of the Expert Panel C.1 Questionnaire	275
Appendix D2.B: List of all Respondents of the Expert Panel C.1 Questionnaire	277
Appendix E: Timetable for Annual Public Budgeting (2005/06)	280

List of Tables and Figures

List of Tables

Table 1: Elections and parliamentary seat distribution 1965-2004	30
Table 2: Women in parliament and cabinet	36
Table 3: Ratio of women in decision-making positions (per cent) 2002	36
Table 4: Trends in the composition of GDP (per cent of total GDP)	51
Table 5: Per capita GDP growth rates (at constant 1993/94 prices)	51
Table 6: Real exchange rate (RER) indices (USD/Pula, Sept. 2006 = 100)	51
Table 7: Trends in the composition of exports as a percentage of total exports	52
Table 8: Investment in future growth (aggregate investment as a percentage of GDP)	53
Table 9: Social development indicators, 2006	55
Table 10: Selected social indicators in 2002	55
Table 11: Persons living below one US dollar per day	56
Table 12: GINI coefficient	56
Table 13: Unemployment rate, 1993-2006	57
Table 14: Education and health social indicators	58
Table 15: National resources utilised for HIV/AIDS response	63
Table 16: Government revenue as percentage of GDP, 1996-2005	64
Table 17: Trends in the budget	65
Table 18: Pattern of government expenditure as percentage of GDP	66
Table 19: Public budget allocations, 2007-08	67
Table 20: Sources of government financing: percentage of total revenue	73
Table 21: Proportions of tax revenues, 2005/06	73
Table 22: Interest rate, exchange rate and inflation trends	81
Table 23: Banking sector concentration	81
Table 24: Selected indicators related to access to the public services	150
Table 25: Health facilities in Botswana	150
Table 26: Land ownership by gender	151
Table 27: Access to clean water supply	151
Table 28: Primary and secondary school attendance, 2003	152
Table 29: Enrolment at all levels by gender (1992-2001)	155
Table 30: Ibrahim Index of African governance: Botswana 2000, 2002 and 2007	193
Table 31: TI Corruption Perceptions Index (CPI) Botswana 2007	193
Table 32: Botswana WGI percentile rank differentials, 1996-2007	196

List of Figures

Figure 1: Trends in foreign direct investment net inflows, 1980-2005	53
Figure 2: Trends in recurrent and development expenditures	66
Figure 3: Control of corruption in comparison with SSA, 2006	72

Figure 4: WBI Botswana governance indicators, 2007 (compared with SSA regional average)	192
Figure 5: Voice and accountability 1996-2007	193
Figure 6: Political stability, 1996-2007	194
Figure 7: Government effectiveness, 1996-2007	194
Figure 8: Regulatory quality, 1996-2007	195
Figure 9: Rule of law, 1996-2007	195
Figure 10: Control of corruption, 1996-2007	196

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
MFDP	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

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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; an effective system for the 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, and 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 toward 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 adopted the national guiding principles of Self-Reliance, Unity, Development, and Democracy, which have guided its governance and development since independence. Botswana's governance agenda has since 1997 been guided by the Long Term Vision for Botswana (Vision 2016), which serves as the principal reference for the governance of the country. The Vision reaffirms the national principles, which have been the basis of all of Botswana's National Development Plans. These social and political ideals provide the context for national economic development, the objective of which is to attain sustained development, rapid economic growth, economic independence and social justice. The Vision 2016 was a culmination of a process of national consultations and provides a framework for addressing Botswana's challenges in order 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 nation, an informed nation; a prosperous nation, a productive and innovative nation; a compassionate nation, 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. With effect from the National Development Plan 9, these ideals are supposed to guide all political, social and economic activities.
4. Botswana's governance performance has been quite impressive. The country is generally regarded as 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 structure of the economy is characterised by the predominance of the diamond export sector; 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 is now performed by a dedicated agency, the Non-Bank Financial Institutions Regulation Authority.
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 the 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, economic growth of the country has not automatically translated into structural change, or the resolution of persistent development challenges such as poverty, marginalisation and inequality. 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. Recently there have 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, as well as 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), the creation of an appraisal system and dissemination of best practices, etc.
9. 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 uncalled for 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.
10. 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 watchdogs and players in the policy process.
11. 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.
12. On the international arena, Botswana is arguably a good citizen that is a signatory to international agreements, covenants and conventions. However, there is no human rights commission, and there are delays in domesticating international agreements into local

laws. These shortcomings imply that Botswana is not keeping up with internationally expected obligations. For instance, the fact that there is no human rights commission means that Botswana is not fulfilling the Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (Paris Principles). 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.

13. 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 evaluating 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 the 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. Our recommendations:
 - i. The Executive requires policy research units in all ministries or the 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.
- 14 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 capable political and administrative leadership, and democratic accountability, that have 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 the prudent planning and management of financial resources, which have been a hallmark of Botswana's success. The good management of revenues from diamonds and investment 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 the 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 a continuing commitment to strengthening existing public responsibility and accountability systems. There is a 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 local communities, non governmental organisations, trade unions and other civil society organisations, 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 toward set objectives, goals and targets.
- 15 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. 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. The country, therefore, still exhibits signs of good governance, which is overall above the average for Africa. But closer analysis shows that there has been a definite declining trend over a decade or so, especially from 2003. The reality is that even if the country appears to score high in governance indicators, its performance in each indicator has been uneven, and in 2007 was marginally not performing as well as a decade ago. The expert panel opinion survey failed to capture these trends. This may be attributed to the composition of the expert panel, which were people who are relatively well to do and would appear to be complacent about the social, economic and political circumstances. It may also be attributed to the closeness of the timing of the 2003 and 2007 surveys, a period that is too short to register meaningful comparative information and data about changes in the political, economic and social environments. In this case, the expert panel survey was inadequate for meaningful comparison of the progress of governance, and had limited usefulness in determining the governance trends, which are better captured by other more established indices such as the World Bank Institute’s World Wide Governance Indicators.

Chapter 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 to maintain order and stability in their political relations.

1.1. OBJECTIVE 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".¹ There are a number of essential components of good governance, such as political representation, 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; an effective system for the transfer of power and the 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, and 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.”²

The Botswana study’s objectives are, therefore, to monitor the country’s progress toward good governance, through an 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, and 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. 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 systems. 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 in service delivery of the public service, local governments, traditional structures of governance, and law enforcement agencies. 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 non-state actors. Lastly, the chapter provides some recommendations on areas 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.

Notes

1. 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).
2. Ibid.

Chapter 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).

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. As part of a continent-wide project aimed at monitoring progress toward 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 report that was published as the *African Governance Report 2005*.

The study utilized two research instruments, which were 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 members were: Mr Alpheus Matlhaku, formerly the Clerk of Parliament (National Assembly), who was the chairperson; 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; Dr N.H. Fidzani, the Executive Director of BIDPA and an ex-officio member; and the research team leader, Prof. Jonathan Mayuyuka Kaunda, who served as the secretary to the committee.

The Steering Committee held three meetings. The first was 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. The second meeting was held after the production of the draft country report on 20 November 2007, a day before the stakeholders' feedback workshop. The last was held after the stakeholders' workshop, on 29 February 2008. The last meeting was called to discuss and approve the final version of the report, which had been revised to take account of the comments and suggestions from UNECA and the stakeholders' feedback workshop.

2.2. THE PRE-LAUNCH IN COUNTRY CONFERENCE

There was no pre-launch country conference.

2.3. THE EXPERT PANEL SURVEY

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

2.3.1. Study Design

A purposive sample included individuals from 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 criteria developed by UNECA, and had 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 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 come to the seminar, make sure that the questionnaires were filled, and return later to collect the 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, the 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 per cent bachelor's; 46 per cent master's; 13 per cent 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 9 per cent in humanities; 6 per cent in science; 3 per cent in engineering and 2 per cent in computing. Their occupations were overwhelmingly in administration (60 per cent), with others in lecturing (14 per cent), legal practice (8 per cent) and about 4 per cent each in journalism, accountancy and private consultancy. The majority (76 per cent) 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 the production of frequency tables only, as requested by UNECA. All the processing utilised the Statistical Package for the Social Sciences (SPSS version 13.0).

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. The C3 instrument had three major research components; Political Representation, Institutional Effectiveness and Accountability, and Economic Management and Corporate Governance. The overall objectives of the instrument were to augment, corroborate or validate some of the findings made in the C1 instrument. Whereas the C1 instrument had concentrated on getting responses from significant people who however were not the subject of the research, the C3 instrument aimed at obtaining information and data through archival search, search of official publications as well as interviewing some of the government officials who would not have been the subject of the research.

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. The draft Country Report was presented to stakeholders to solicit their feedback. The Stakeholders' Feedback workshop was held on 21 November 2007, and the comments and suggestions from that workshop have assisted in our revision and refinement of this report. (A brief description of the main points of discussion in the stakeholders' feedback workshop is presented in Section 1.3.)

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 their 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.

Chapter 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 per cent) stated Botswana has a multiparty democracy while 30 per cent thought there is a stable multiparty democracy. These responses are largely the same percentages as in the last study of 2003. The comparative figures for 2003 are 68.5 and 28.3 for multiparty democracy and stability. 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 per cent) of the participants in the expert panel survey 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 per cent), and regarded with suspicion by ruling circles but still selectively employed to project a democratic image to the outside world (6 per cent), in a 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.

In comparison between 2003 and 2007, there is a 3.4 per cent difference in opinions obtained in the expert panel survey regarding the acceptability of Botswana's democratic framework to its political actors. Whereas in 2003, 91.2 per cent of the expert panel respondents expressed acceptance of Botswana's democratic framework, only 87.8 per cent have expressed similar sentiments in 2007. This means that there was a perception that there is a lessened acceptance of the democratic framework than four years ago. However, this decline is not very significant.

3.1. DEMOCRATIC REGIME AND STRUCTURE OF POLITICAL REPRESENTATION

Botswana is a multiparty 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 held 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), the 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.

Eight per cent of the expert panel respondents viewed the constitution as promoting political accountability, whereas 51.1 per cent responded that it provides significant accountability and 28.9 per cent felt that it provided full checks. However, 13.3 per cent felt that it provide limited checks; 2.2 per cent felt that the constitution provided no checks, while 3.3 per cent felt that it provided very few checks. As a result, an overwhelming 93.3 per cent felt that the constitution does provide some accountability, but to varying degrees.

3.1.1.1. Inclusiveness and Transparency of the Constitution-Making Process

The constitution-making process in Botswana was transparent although not all-inclusive. The transparency of the process was manifest in the fact that the proceedings and deliberations of the Legislative Council (or LEGCO) were open to the public, a practice akin to modern parliamentary practice. However, the representational aspect of LEGCO was questionable; of the 34 members of the LEGCO, only ten were indigenous Batswana while the rest were of British descent.

3.1.1.2. Constitutional Promotion of Political Accountability

Botswana was a British protectorate and gained independence in 1966. Independence was preceded by constitutional talks. Typical of Westminster-type democracies, Botswana's system provides for three branches of government: the legislature, executive and judiciary. These are functionally separated. In theory, each of the three branches of government is independent of the other two, but complementary to them. The Constitution of Botswana establishes three principal organs of the state, the Executive, Parliament and Judicature, and the mechanisms for checks and balances and political accountability. The constitution also specifies the appointment and powers of principal public service offices that are supposed to

ensure the political accountability of the officers of the state institutions, such as the Auditor General and the Public Service Commission.

3.1.1.3. The Procedures for and Practices of Amending the Constitution

Botswana's executive has a long-standing aversion to amending the constitution, except where there is absolute necessity. There are several mechanisms for constitutional amendment, including parliamentary debate, referendum or court challenge. The court challenges are rare and directed at constitutional provisions that are deemed unconstitutional. For example, Ms Unity Dow (now Justice Dow) in 1994 challenged the legality of aspects of the Citizenship Act on the basis that it discriminated against her children whose father was a foreigner, and thus were not entitled to the benefits of citizenship. She won the case against the State. The referendum route was followed prior to the elections in 1999, when president Mogae instituted a national referendum which culminated in the raising of the compulsory retirement age of judges from 65 to 70 years. Again, before the same elections, parliament voted to change the constitution to allow people of 18 years of age and older to vote, a fundamental change from the previous requirement of attainment of age 21.

There have thus been several amendments to the constitution. 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 constitution tribally-neutral; re-definition of the role of the Attorney General; and the creation of a Directorate of Public Prosecutions.³ Most of these amendments have contributed to the 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 multiparty democracy. There have been regular and freely contested elections that have seen participation by a number of parties. The freedom, fairness and general conduct of the electoral process, as well as the results, have never been in serious question. 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 per cent of elected members in 1994). However, due to internal squabbles and splintering, that number declined to only 6 MPs or 15 per cent in the 1999 general election, only to rise again to 12 out of 57 MPs or 21 per cent in the 2004 general elections. The table below shows the election results from 1965 to 2004.

Table 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, and 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. Only 6.7 per cent felt that the executive is formed through a one-party parliament. 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 National Assembly, and is the leader of the largest party represented. However, should an MP become president, that MP relinquishes his/her parliamentary seat and 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, who may nevertheless be subjected to a vote of no confidence. The appointment of members of the cabinet from the list of members of parliament is at the discretion of the president.

National Assembly (Parliament)

On the formation of the national parliament, 85.6 per cent of the expert panel respondents stated that parliament is formed through a fully-competitive multiparty electoral system; 13.3

per cent thought that parliament is formed through appointment by a small minority; and 1.1 per cent perceived that parliament is formed through appointment by the head of state.

Regular and periodic elections are the basis for the composition of the national Assembly. 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.⁴ Parliament has responsibility for representation of the electorate, making laws, and approving national policy, development plans and strategies. It has an oversight 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.

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. Parliament has to receive, discuss and approve all executive budget proposals or estimates prior to actual expenditure of public monies. 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, 24 out of the total of 61 members of parliament, or about 40 per cent of the 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 or 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; and 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.

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 hereditary chieftainship. The House of Chiefs advises 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. Besides being an integral part of the local government system, the chiefs, or *dikgosi*, are also a part of the judicial system since they preside over legal matters in customary law, and can also act as marital officers. Overall, there is acceptance of the role of the chiefs in Botswana's constitutional set-up Botswana (see the judiciary below).

The Judiciary

In 2007, 90 per cent of the expert panel respondents thought that the judiciary is independent of the executive in its operations. Compared to 2003, this is a difference of 8.9 per cent, as in 2003 98.9 per cent had expressed the belief that the judiciary was independent of the executive. There was, therefore, a lower rating for the operational independence of the judiciary in 2007. Of the 90 per cent who thought the judiciary was independent, 44.4 per cent thought it was largely independent whereas 45.6 per cent thought it was generally independent of the executive. Only 10 per cent thought the judiciary was not independent of the executive, with 1.1 per cent thinking it was fully dependent on the executive, and 8.9 per cent that it was somewhat independent of the executive.

In reality, 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 organisational 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 the power to impose the death penalty.

The appointment of the judges of the High Court and the Court of Appeal, and of registrars and magistrates, is done by the president on the recommendation of an independent Judicial Service Commission (JSC). The JSC is responsible for the 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 the age of 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 members 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 or the JSC.

Leadership, Separation of Powers and Constitutional Rule

On the matter of the independence of the executive on management of policy, 91.1 per cent of the respondents in the expert panel survey thought that the executive is independent in policymaking. Of these, 44.4 per cent thought the executive is independent in some areas of policy, 28.9 per cent that it is independent in most areas of policy, and 16.7 per cent thought that it is independent in some areas of policy. However, 1.1 per cent thought the executive is independent in no major areas of policy and 6.7 per cent thought it was independent in few major areas of policy.

Eighty per cent of the respondents stated that the legislature was able to hold the executive to account. Of that number, 11.1 per cent thought the legislature was always effective in doing so, 36.7 per cent that it was usually effective, and 31.1 per cent that it was sometimes effective in doing so. However, 16.7 per cent thought the legislature was rarely effective whereas 3.3 per cent thought it was never effective in holding the executive to account. A cumulative 20 per cent of the expert panel respondents perceived legislative weakness in holding the executive to account.

The expert panel's responses on powers of the executive, its relative independence, and the legislature's ability to hold the executive to account, point to peculiarities in the operation of the system of government. 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 before independence), 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 or even the Independent Electoral Commission.

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 operation of the parliament thus appears to be routine, and consists mainly of the endorsement and legitimising 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. Government Structure

Botswana's structure of government is unitary. The central government is headquartered at Gaborone. Under District Administration, the territory is sub-divided into 10 administrative districts that are 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. Other decentralised entities are Tribal Administration and the Land Boards. The Tribal Administration incorporates the traditional governance structures (*bogosi*) into the other structures of governance, and is considered a major local government institution. Tribal Administration is made up of both hereditary and elected chiefs, who are assisted by local police and public servants on government payroll. The Land Boards, whose boundaries are largely similar to the district councils' are the administrators of land matters.

In Botswana local government is not independent of central government, and it is basically used as an agency for decentralised service delivery. The overall intention of local government is to make service delivery more efficient. Local government, in other words, is essentially a service delivery extension of central government that does not have significant devolved powers. The local tiers of government fall under the supervision of the Ministry of Local Government (MLG). The ministry is the focal point for planning and coordinating local authorities. The ministry therefore retains the power of final approval over most activities of local authorities. Most financial power rests with the central government, which may delegate functions to local government institutions. As local authorities are statutory organs, central government may withdraw any delegated authority, and may delay any recommended changes in financial administration.

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.

It is unconstitutional under the laws of Botswana to determine tribal or religious affiliation as the basis for political representation and recruitment into both the public service and the private sector. Therefore information about the tribal and religious composition of political representatives and public officers does not exist. However, a cursory glance suggests that

most ethnic groups are relatively well represented in the civil service, except for the *Basarwa* (Bushman), who seemingly prefer to maintain their traditional lifestyles, and do not necessarily seek employment but go back to live in their communities even if they are well educated.

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 per cent of the registered voters cast their ballot in the national elections of 1999, compared to 76.20 per cent 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 won 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 the 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 are 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 (see 3.2.2 below).

The past and current composition of the executive and the judiciary does 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 (see Tables 2 and 3). 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, which has improved marginally to 41 per cent.⁵ Overall, the situation is that despite their slight numerical majority, and the existence of a liberal political system, women are proportionately under-represented in the principal organs of the state.

The picture is less positive in parliament, where out of 57 elected members, only four are women.⁶ Out of the four specially elected MPs, three are women and all of them were selected into cabinet. Within parliament, the promotion of women to cabinet or the position of speaker is the prerogative of the president. The political parties elect the position of chief whip for both the governing and opposition benches. However there are no public pronouncements on the position of the parties with regard to elevating women to the stated positions. Currently the deputy speaker is a woman.

The judiciary does not have adequate representation of women. Of the 15 High Court judges, only one is a woman. However, the Attorney General, who is the chief legal advisor to the government, is a woman. So are the Director of Public Prosecutions, Governor of the Bank of Botswana, Deputy Speaker of Parliament, some Permanent Secretaries, and heads of government departments, parastatals and embassies. The 2007 Experian-Grant Thornton International Business Report ranked Botswana seventh, with a score of 31 per cent, in its Global Survey of Women in Senior Corporate Management. However, in general terms,

Table 2. Women in parliament and cabinet.

	1992	1997	2002	2004
Female Parliamentarians	3 (6.8%)	4 (9.1%)	8 (18.2%)	4 (7%) Elected)
Total Parliamentarians	44	44	44	57
Female Ministers	3	3	6	4
Total Ministers	20	20	22	20

Table 3. Ratio of women in decision-making positions (%) 2002.

Position	Civil Service	Public Enterprises	Private	NGO
Board Members	N/A	33	14.7	48
Head of Company/Org.	33	10	14	52
Deputy Head	25	67	-	-
Head of Department	25	26	36	47
Total Female to Male	28	30	27	48

Source: Millennium Development Goals Status Report, 2004.

Botswana still faces some challenges in matching women's representation to their numerical proportion in the national population.

Discriminatory practices against women with regard to pay in work places are not immediately apparent. In the public sector, female officers have a provision for maternity leave; each new mother is entitled to three months' paid leave. Furthermore, women now enjoy similar salary structures, that men have, provided they have similar qualifications. Employment law in Botswana forbids employers from discriminating potential employees in terms of gender. Since 2003, the major change that has occurred is that the last major employer inside government, the army has begun employing women. The first group of women soldiers joined the Botswana Defence Force (BDF) in 2007.

Botswana's public service has, arguably, been tribally neutral in purposes of employment of people. Recruitment is not based on ethnic, religious or gender considerations, as it is unconstitutional for employers to hire people on any considerations but merit. To date there have not been any legal challenges to government's recruitment procedures on the basis that they were discriminatory.

Despite the weak representation of women in political structures, the system of merit in recruitment ensures their relatively higher representation in decision-making positions in the state and non-state institutions. There is also an active independent women's rights organisation, *Emang Basadi*, whose campaign efforts for the recognition and protection of women's rights are complemented by Ditshwanelo - The Botswana Centre for Human Rights. On the official side, the Department of Women's Affairs supplements the efforts of these non-state actors.

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

3.3.1. Media

Access to media and other resources was regarded equal for all political competitors by 17 per cent 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. Overall, 54.4 per cent stated that the public media was accessible to all political parties. On the other hand, 46.6 per cent thought the media was not accessible.

In terms of functioning, 73.3 per cent of the respondents felt that the mass media was free to operate: 34.4 per cent felt the media operates within a completely free environment, and 38.9 per cent felt that the mass media was infrequently violated by government. On the other hand, 17.8 per cent felt that the media was frequently violated by government, whereas 3.3 per cent felt that government passed oppressive and restrictive press laws, and 5.6 per cent felt that all or most mass media is controlled by the state.

There are two types of media in Botswana: the state media and private media. The state media is owned by government and hence it is not independent from government. Private media is privately owned and is independent from government. There is minimal or insignificant interference from government in the running of the private media. Effectiveness in investigating government by the private media is stifled by the absence of a law that guarantees freedom of access to information held within government. As there is no law that binds public officers to reveal certain information, journalists depend entirely on the willingness, based on the personal dispositions of the public officers, to reveal information. However, the Office of the President has a regular electronic publication, the "Tautona Times", which is a one-way communication from the office to the public. The electronic journal outlines the president's itinerary for the previous week or month, agenda of public events for the next week or so, and presents official copies of formal speeches of the president and sometimes of ministers.

There are over ten (one daily and several weekly) private newspapers in Botswana and only one government owned (daily) newspaper. Of the two local television stations, one is publicly-owned (Botswana Television - BTV) and the other (Gaborone Broadcasting Corporation - GBC) is private. Like the television stations, the private newspapers are mostly urban-based whereas the publicly owned media have country-wide coverage. Ownership of the private newspapers is however highly concentrated, with four of them (*Mmegi*, *Mmegi Monitor*, *Midweek Sun* and the *Guardian*) belonging to the same stable.

There are no restrictions on the freedom of the press in Botswana. Section 12 of Chapter 2 of the Constitution of Botswana protects the right to freedom of expression in Botswana. It states:

Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

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

The expert panel respondents recognised the role of civil society in Botswana. In 2003, 74 per cent of the expert panel respondents believed that civil society organisations did monitor violations by police and prison officials of human rights, compared to 73.4 per cent in 2007; a difference of less than a percentage point in such perceptions. On the other hand, 82.2 per cent believed that CSOs are consulted in conflict management, as opposed to 72.8 per cent in 2003; meaning that there has been an increase of 9.4 per cent in respondents with similar sentiments. Concerning the influence of CSOs on public policy and programmes, 86.7 per cent responded that CSOs did have some influence in 2007, compared to 76.9 per cent that thought so in 2003. In general, there was a perception that there is more engagement of government with CSOs in 2007 than in 2003.

The constitution and legal frameworks permit and encourage the freedom of association; therefore non-state actors, including NGOs, community organisations, employers' organisations, trade unions and public officers' staff associations all operate. Since 2004 there has been a policy framework for non-governmental organisations, which provides a context for government-NGO relations, collaboration, assistance and support to NGOs, and establishes institutional structures and processes for guiding that collaboration.⁷ Additionally, the non-state actors had independently developed a code of conduct to regulate their own operations, and ensure accountability to both donors and society, which was incorporated into the policy document.

Civil society is allowed to operate freely. Organised groups are only required to register with the Registrar of Societies in order to be officially recognised and operate lawfully. 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 organisations. The internal accountability and independence of CSOs is guided by the NGO Code of Conduct, which states that CSOs are committed to being accountable for their action and decisions, not only to donors and governments, but also to project beneficiaries and staff. They are also accountable for the financial resources received from donors, government, members and other partner organisations, and from self-generated activities.⁸

A number of institutions and forums for the involvement of stakeholders in consultative and participatory governance are available. These include the traditional *kgotla* or village assembly, Village and District Development Committees, the National District Development Conference, Local Government Councils, the Rural Development Council, and the High Level Consultative Council (HLCC).

The HLCC, the bi-annual National Business Conference (NBC)⁹, the National Employment, Manpower and Incomes Council (NEMIC, a government-labour-employer forum) ensure

incorporation of the private sector into public decision-making. There are also other private sector entities that seek to influence public policy, such as professional associations (e.g. the Association of Citizen Development Consultants (ACDC), Citizen Owned Businesses in Information Technology (COBIT) and the Botswana Information Technology Society (BITS)).¹⁰

Government consults the public, including civil society organisations, on both policy and legislation. In most cases, CSOs conduct workshops and invite government officials or leaders to come and defend their policy decisions or clarify certain policy stances.

When there is the need, government officials travel around the country informing people about government proposals and decisions at the traditional village assemblies (*kgotla*). The *kgotla*, or village assembly, is thus a forum for consultation with communities.

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 intended to promote 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 the 30 registered political parties have divergent ideologies. These range from the ruling BDP's capitalist tendencies, through the social democratic-orientation of the BNF and BCP, to 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. 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 being followed on internally or 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 it assesses the credibility and transparency of the electoral process.

On the issue of open access by political parties to the mass media, the expert panel respondents believed this to be the case (54.4 per cent of respondents), 36.7 per cent that it was largely accessible and 16.7 per cent that it was equally accessible. On the other hand, 46.6 per cent thought the media was not accessible, with 1.1 per cent saying it was not accessible. Similarly, 76.7 per cent of the respondents felt that the electoral system legally and practically did ensure some effective legal mechanism to challenge results, with 51.1 per cent saying the system fully ensures effective legal action, and 25.6 per cent saying the system ensures a largely effective legal action. On the other hand, only 4.4 per cent said the system rarely ensures effective legal action, and 18.9 per cent felt the system ensures fairly legal action. The perceptions of the expert panel are that access to the media and control of the electoral process are favourable to all competing parties.

3.4.1. Political Parties

Political parties are treated similarly to all other societal organisations. Any new organisation 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.¹¹

Comparison of expert panel responses from 2003 and 2007 on political parties and the electoral authority do not exhibit significant changes. In 2003, 64.1 per cent of the respondents thought that political parties accepted the legitimacy of the electoral authority. However, in 2007, 63 per cent of the respondents thought so, making a 1 per cent difference between the two years. However, in 2003, 85.8 per cent of the respondents felt that the electoral law was credible, whereas in 2007, only 74.5 per cent thought it was, a difference of 11.3 per cent. There is, therefore the perception that somehow the electoral laws may not be as credible and/or up to date to take account of political developments. There is, therefore, a perception in 2007 that the electoral authority's legitimacy is less accepted than in 2003.

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 founders 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 both officially and in practice not constrained. Campaigning for political office is unrestricted, as long as the candidates meet the requirements of the Societies Act and the Electoral Act.¹² 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 with the 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 Societies Act.

Management of Political Parties

The constitutions of political parties determine the manner of their management and regulate 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 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 whether 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 (BNF). 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. 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-opting 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 previous President was 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 current President and Vice President used to be commanders of the armed forces; and the Minister responsible for the Ministry of International Corporation and Foreign Affairs 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, and have been 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.

The expert panel responses of 2003 showed that 79.3 per cent felt that the electoral system was credible. However, in 2007, 78.9 per cent thought the system was credible, meaning that there is a difference of under 1 per cent in respondents who think the electoral system is credible. In 2003, 97.8 per cent thought the system was transparent. This compares somewhat closely with 2007 when 96.7 per cent of the respondents said the system was both credible and transparent (note that in 2007 the tables were combined unlike in 2003, which makes comparison difficult). The overall picture is that there have not been significant changes in the perception of the credibility of the electoral process. This is rather strange, in view of the

finding that there was a perception that the electoral commission's legitimacy and credibility was seen to be less accepted in 2007 than in 2003 (decline of 11 per cent of respondents) as noted in Section 3.4.1. above.

Election Mode

The majority of the expert panel respondents (86 per cent) indicated that the National Assembly is constituted under a fully competitive multiparty electoral system, while 13 per cent 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 re-election is unlimited. Both the president and the specially elected members may 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 per cent) 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 Conference¹³ 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.¹⁴

The *security* of the electoral process was 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; 3 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 per cent 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 cent fairly effective mechanisms to challenge

results. Only 4 per cent had negative observations that the electoral system rarely ensures effective legal actions. Electoral disputes relating to national elections or bye-elections are normally referred to courts of law. While such protests have been rare, one stands out. In 1984, the then leader of the BNF Dr. Kenneth Koma protested his loss of Gaborone South to the then vice president, Peter Mmusi. The court found in favour of Koma, who won the subsequent electoral contest with Mmusi.

Actually, the Botswana elections have been generally free 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, nor 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 have been resolved within the mechanisms and procedures that are provided.

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 staff of the IEC is not overstretched 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 carried out.

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 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 or credibility of the authority of the IEC. The perceptions that the IEC is autonomous, non-partisan and credible are strengthened by 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 specialises 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 per cent 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. Of the respondents, 63.3 per cent felt that political parties accept the legitimacy of the electoral authority as manager of the electoral process. 21.1 per cent felt that the authority is legitimate, whereas 42.2 per cent felt that the political parties accept the electoral authority as legitimate.

The views of the expert panel respondents on the *credibility* of the electoral system were mixed. Whereas 36 per cent said that it is acceptable to all political parties, less than half (43 per cent) 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 per cent) of the respondents saw electoral law ensuring the autonomy and independence of the electoral system from all organs of state and political parties. Only 2 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 9 per cent said it ensures a somewhat credible and transparent registration, voting and results-reporting process. Only 3 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,

and 23 per cent that it is fairly impartial. In their assessment, 92.2 per cent of the respondents felt that the electoral authority is an impartial arbiter of the elections in Botswana. Of this number, 33.3 per cent felt the authority is always impartial, 35.6 per cent that it is largely impartial, and 23.3 per cent that it is fairly impartial. Only 1 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 per cent of the total registered voters. The corresponding numbers were 459,662 and 354,446 in 1999 (77.1 per cent of the total registered voters), and 370,356 and 281,931 (76.1 per cent) 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 multiparty electoral system, with regular five-yearly elections, has prevailed over the years.

3.5. CONCLUSION

Botswana is a constitutional democracy characterised by a long-standing tradition of multiparty 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.

Notes

3. See *The State of Governance in Botswana 2004* (BIDPA/UNECA); African Development Bank/African Development Fund, 2007. *Botswana Country Governance Profile* (Draft), April 2007.
4. *Constitution of Botswana 58(2)*.
5. 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*); State of the Nation Address by His Excellency Mr. Festus Gontebanye Mogae, President of the Republic of Botswana, at the opening of the Fourth Session of the Ninth Parliament – “Achievements, Challenges and Opportunities”, 5 November 2007.
6. 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 aspirants 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.
7. Republic of Botswana, 2004. *National Policy on Non-Governmental Organizations*. (Approved by Cabinet on 3rd March 2004, Presidential Directive Cab. 8(b)/2004).
8. NGO Code of Conduct; p. 3.
9. The HLCC and the National Business Conference were set up following pressure from BOCCIM. The forums have formalized state-private sector consultation. However, these entities are only advisory; the final decisions are made by the state authorities.
10. Through COBIT, citizen entrepreneurs are represented even in the Public Procurement and Asset Disposal (PPADB) Board. COBIT invitation by government to nominate representatives to the board manifests the government’s commitment to engage the private sector.
11. Societies Act (Cap 18:01).
12. Societies Act (Cap 18:01); Electoral Act (Cap. 02:07).
13. The All Party Conference was 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. However, the forum has been dormant over the last four years.
14. Republic of Botswana. *Constitution (Amendment) Act*, 1997.

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; the 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 (74 per cent) 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 were seen to be moderate, although 32 per cent of the respondents said the government takes largely effective measures to generate employment. However, 16 per cent of the respondents said the government rarely takes effective measures to generate employment.

Botswana has little foreign aid dependence. Less than 2 per cent of the government budget is financed from foreign grants.¹⁵ The early years of independence (1966-mid 1970s) were characterised 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, the institutionalisation of a government with clear political commitments, priorities, direction and realistic expectations, and its ability to establish and operate an effective and feasible planning process, all appear to have attracted donors.¹⁶ 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.¹⁷ The Mid-Term Review of NDP9 revealed that these policy intentions have not been fully realised, and there had been mixed results.

Trends in the Composition of GDP and Exports

The main sectors of the economy can be classified into mining, agriculture, manufacturing, general government and services. The mining sector dominates the composition of the gross domestic product (GDP). The percentage of the total GDP for mining has been on the increase since 1996/97. It experienced its highest peak of 46.7 per cent in 2000/01 but declined from 2001/02 to 2004/05. General government, which is the second largest contributor to GDP after mining, recorded a decline in the percentage of total GDP in 2000/01 but started increasing at a constant rate thereafter. 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 per cent).¹⁸ 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 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.

The manufacturing sector contributed an average of 4 per cent to total GDP over the 1996-2006 period, but with a declining trend. Banks, insurance and business services accounts for an average of 10 per cent of total GDP. Trade, hotels and restaurants also contributed 10 per cent, a similar proportion to the banks insurance and business services. Taken together, the services and hospitality sectors are the second largest contributors to GDP.

The agricultural sector contributes the least to total GDP and has been on the decline since 1998/99 (to only 1.8 per cent in 2005/06) despite a number of government programmes aimed at promoting agricultural activities.

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 falling to slightly below 5 per cent since 2004. Per capita GDP grew positively throughout the decade except for 2002 (Table 5). 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 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 slower performance of the non-mining sectors was affected by a loss of competitiveness in the export and import competing sectors, associated with real exchange rate appreciation

Table 4. Trends in the composition of GDP (% of total GDP).

Economic Activity	1996/97	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
Agriculture	3.4	2.8	2.4	2.2	2.2	2.2	2.2	1.8	1.8
Mining	38.9	37.6	41.4	46.7	42.1	37.3	35.4	38.7	38.8
Manufacturing	5.0	4.7	4.4	3.9	3.9	3.9	3.9	3.6	3.3
Water & Electricity	1.8	1.9	2.0	2.0	2.1	2.4	2.5	2.5	2.4
Construction	5.7	5.7	5.0	4.5	4.9	5.0	4.9	4.5	4.2
Trade, hotels & restaurants	10.1	9.8	9.7	9.2	10.2	11.2	11.5	10.2	10.7
Transport, post & telecoms	3.2	3.4	3.3	3.0	3.2	3.3	3.3	3.1	3.6
Banks, insurance & business services	10.0	10.1	9.8	9.2	10.2	10.4	10.6	10.4	10.4
General government	14.0	15.8	14.5	13.1	14.7	16.4	17.0	16.3	16.6
Social & personal services	3.8	3.7	3.5	3.2	3.5	3.5	3.7	3.8	4.0
Non-profit institution serving households	2.0	1.8	1.7	1.6	1.7	1.7	2.1	2.2	2.4

Source: Bank of Botswana Annual Report, 2006.

Table 5. 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 February 2006, Ministry of Finance and Development Planning; Standard Bank Group Economics, June 2006).

Table 6. Real exchange rate (RER) Indices (USD/Pula, September 2006 = 100).

End of	RER
1996	103.5
1997	104.8
1998	93.8
1999	95.3
2000	86.4
2001	69.1
2002	95.1
2003	122.2
2004	132.4
2005	110.7
2006	107.1

Source: Botswana Financial Statistics 2007.

and slow implementation of important policy reforms.¹⁹ The real exchange rate appreciated continuously from 2000 to 2004 (Table 6). Consecutive devaluations of the Pula were carried out in 2004 and 2005 to halt the appreciation of the exchange rate, after which there were dramatic increases in the rate of exports of copper/nickel and textiles (Table 7).

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. The falling investment as a percentage of GDP is also attributed to the fall in performance. Meanwhile, the remaining non-mining sectors grew at an average of 3.0 per cent, and 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, as can be seen in the composition of exports (Table 7). Diamond mining is still the largest single contributor to GDP, and the mining sector as a whole accounts for over one-third of economic output. The second largest economic sector, government, is nevertheless largely dependent upon mineral revenues. The services sector has shown significant growth rates over the years and hence with a potential to further diversify the economy away from mining. The agricultural sector, which is more labour intensive and hence absorbs a lot of labour, has shown poor performance with declining growth rates. This is despite government programmes such as CEDA, which are aimed at promoting agriculture.

Table 7. Trends in the composition of exports as a percentage of total exports.

Period	Diamonds	Copper/Nickel	Beef	Soda Ash	Textiles	Vehicles	Gold
1996	74.89	5.85	3.98	1.07	2.77	11.44	
1997	78.89	3.53	2.55	1.59	2.55	10.88	
1998	74.68	3.79	3.85	2.05	3.73	11.90	
1999	84.59	3.49	2.33	1.70	2.14	5.75	
2000	88.02	4.26	2.15	1.60	1.88	2.09	
2001	87.99	3.20	3.34	1.63	1.51	2.33	
2002	88.50	3.42	1.98	1.90	1.30	2.89	
2003	86.33	5.12	1.92	1.69	1.67	3.27	
2004	84.50	4.87	1.83	1.61	3.61	3.58	
2005	77.92	10.56	1.42	1.52	5.13	2.61	0.84
2006	76.82	14.90	1.42	1.80	3.56	0.70	0.80

Source: Raw Data from Botswana Financial Statistics 2007.

Table 7 shows the value of principal exports as a percentage of the total value of exports. It is evident that exports are still predominantly diamonds, which continue to account for more than 70 per cent of total export earnings from 1996 to 2006. The increase in the proportion of diamonds in total exports after 1998 could be associated with the sharp decline in vehicle exports after that year. After a high of 88.5 per cent in 2002, the proportion of diamonds in the total value of exports has again been declining, though yet to reach its level in 1996. The

contribution of vehicles to the value of exports has considerably declined over the years because of the closure of a locally-based assembly plant.

The table also shows a dramatic increase in the exports of copper/nickel and textiles after the devaluations of the pula in 2004 and 2005. This increase in the share of copper/nickel to the value of exports could also be associated with an increase in the international prices for these commodities. The contribution of beef to total exports has considerably declined from 3.98 per cent in 1996 to 1.42 per cent in 2006.

Trends in Foreign Direct Investment

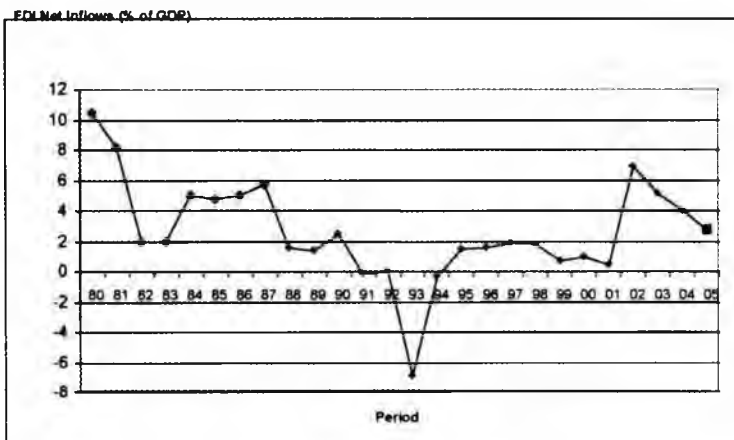
The savings rate had been over 35 per cent of GDP since 1994. However, investment as a percentage of GDP declined from 23 per cent in 2001/2002 to 18.3 per cent in 2004/2005 (Table 8). The low performance of foreign direct investment is attributed to inadequate supply of skilled manpower, high cost of utilities, and the small size of domestic market; all of which make the country an unattractive destination for FDI.

Table 8. Investment in future growth (aggregate investment as a percentage of GDP).

Year	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005
Gross Fixed Capital Formation/GDP	23.0	24.0	22.2	19.8	18.3

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

The poor performance of investment as a per centage of GDP may be explained by FDI inflows. FDI net inflows have been performing poorly since 1980. They declined significantly from 10.5 per cent in 1980 to 2 per cent in 1983. There was also a decline in investment as a percentage of GDP in the same period as shown by Table 8. In 2001, there



Source: World Development Indicators.

Figure 1. Trends in foreign direct investment net inflows, 1980-2005.

was an increase in FDI net inflows followed by a decline from 6.8 per cent in 2002 to 2.7 per cent in 2005 (Figure 1). Botswana has thus been characterised by both falling gross capital formation and declining foreign direct investment.

Inflation

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.

4.1.2. Trends in Social Development

There is a high prevalence of the HIV/AIDS infection, 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 2004.²⁰ 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 9 shows basic social development indicators in 2006 and Table 10 shows the selected social indicators for 2002 (compared with sub-Saharan Africa and the Southern African Customs Union group).

Table 10 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, and 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 at the top of the national health agenda.²² The government thus recognises the need to direct substantial amounts of resources towards fighting this pandemic, as well as to provide other social services to improve the lives of the populace.

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. Table 11 shows the proportions of people living with an income of less than one United States dollar per day.

Table 9. 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.

The US dollar per day is an absolute poverty line in the tradition of the costing of basic needs in poverty line methodology. According to this method, the proportion of persons living on less than one dollar a day increased from 19.9 per cent in 1993/94 to 23.4 per cent in 2002/03. The regional distribution indicates that for both periods, more persons live below one dollar a day in the rural areas rather than the urban areas.

Table 10. 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	5,110.00	1,184.00
Population below US\$1 a day (per cent, 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.²¹

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

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

Table 11. Persons living below one US dollar per day.

Region	Proportion of persons below one UD \$ a day (%)
2002/03 HIES	
Cities/Towns	5.1
Urban villages	19.3
Rural villages	36.1
National	23.4
1993/94 HIES	
Cities/Towns	8.1
Urban villages	17.1
Rural villages	26.4
National	19.9

Source: Household Income and Expenditure Survey, 2002/03.

Table 12 presents the poverty situation in terms of the Gini coefficient. The Gini coefficient indicates that income inequality has increased in rural area households when compared with the 1993/94 income inequality. Urban village households' disposable cash income inequality has not changed over the two survey periods covered by Central Statistics Office. At the national level, disposable income inequality among households has increased between 1993/94 and 2002/03. The 2002/03 national household disposable income inequality coefficient was 0.573, which is slightly higher than the 1993/94 inequality coefficient of 0.537. Among rural households, disposable cash income inequality is greater than among households in cities/towns and urban villages.

Table 12. GINI Coefficient.

Stratum	Disposable Income		Disposable Cash Income	
	1993/94	2002/03	1993/93	2002/03
	GINI		GINI	
Cities/Towns	0.539	0.503	0.548	0.513
Urban Villages	0.451	0.523	0.552	0.552
Rural	0.414	0.515	0.599	0.622
National	0.537	0.573	0.638	0.626

Source: Household Income and Expenditure Survey, 2002/03.

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 less than 2 per cent of GDP.

The rate of unemployment is also significant. Table 13 shows the unemployment rate from 1993 to 2006. Trends in national rates of unemployment of youth and urban-rural populations 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 per cent to 33.9 per cent. Lower age groups exhibit higher unemployment rates. Across strata, the highest unemployment rates are in the age groups 15-19 to 25-29. Unemployment is higher in the urban villages followed by rural areas then cities.²⁴

Table 13. Unemployment rate, 1993-2006.

Year	Unemployment rate %		
	Male	Female	Aggregate
1993/94 Household Income and Expenditure Survey (HIES)	19.8	23.8	21.6
1995/96 Labour Force Survey (LFS)	19.4	23.9	21.5
1998 Demographic Survey (DS)	18.6	23.5	20.8
2000 Multiple Indicator Survey(MIS)	14.7	17.2	15.8
2001 Census	16.2	23.7	19.5
2002/03 HIES	21.4	26.3	23.8
2004 BAIS II	25	24.2	24.6
2005/06 Labour Force Survey (LFS)	15.3	19.9	17.6

Source: Central Statistics Office.

In general, female unemployment has been higher than male unemployment. However, unemployment trends in both groups have been declining. In aggregate, total unemployment has declined from 21.6 per cent in 1993/94 to 17.6 per cent in 2005/06.

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 regard to policies and programmes for sustainable long term economic diversification 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 marginalisation 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 the 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, and the construction of the Botswana International University of Science and Technology and a medical school. Vocational educational developments include the construction of the Oodi College of Applied Arts and Technology, and expansion of the Gaborone Technical College, the Auto Trades Training Centre, and the Selebi Phikwe College of Applied Arts and Technology.

Table 14. Education and Health Social Indicators.

Year	Literacy rate	Gross enrolment rate Primary School	Life expectancy	Infant mortality rate	Mortality rate under 5 years	Death rate	Fertility rate
1982	63.16415	..	..	7.502	5.8
1985	..	105	64.27341	50	65	6.7814	5.26
1987	65.01293	..	..	6.301	4.9
1990	..	103	64.46224	45	58	6.421	4.4074
1991	68.58091	101	..	..	..	..	..
1992	..	114	64.09512	..	..	6.501	4.079
1993	..	112	..	..	..	..	..
1994	..	111	..	..	..	..	..
1995	..	108	56.77776	50	66	10.0998	3.8006
1996	..	108	..	..	..	..	..
1997	..	107	51.89951	..	..	12.499	3.615
1998	..	101	..	..	..	..	..
1999	..	102	..	..	..	..	..
2000	..	102	42.69112	74	101	19.996	3.3684
2001	..	104	..	..	..	..	..
2002	..	105	36.5522	..	..	24.994	3.204
2003	81.18871	105	..	..	..	..	..
2004	..	105	..	..	116	..	..
2005	..	106	34.96585	87	120	27.0586	3.0318

Source: Health and Education Statistics – World Bank.

The above table shows progressive improvements in literacy rates and very high primary school enrolment rates. However, life expectancy has been on the decline since 1990 and is now at about half the level attained at the end of the 1980 decade. There has also been increasing crude death and infant mortality rates. The fertility rate has also declined. All these population measures point toward decreasing population growth. This could be associated with the HIV/AIDS epidemic that is ravaging the country.

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 its 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*.²⁵

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 subsistence livelihood opportunities for those without adequate alternatives; the establishment of a viable rural commercial sector; reducing, where socially acceptable, 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, priority should be 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.²⁶

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 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.²⁷ The review report was accepted by the government in December 2003.

A National Strategy for Poverty Reduction was adopted in 2003.²⁸ 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 as expected because of structural, organisational and capacity limitations. This is because of the “implementation capacity” problems that Botswana is challenged with. The problem is that, even though there appear to be sound policies, strategies, adequate institutional and organisational capacity and machinery, and human resources, as well as financing for planned and budgeted 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.²⁹ 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. This is in addition to other recent measures, including the introduction of the annual retreat for cabinet ministers, permanent secretaries and chief executive officers, and establishment of the Government Implementation Coordination Office (GICO) in the Office of the President (See 7.6.3).

Support for Enterprise Development

The government has other initiatives, such as the Citizen Entrepreneurial Development Agency (CEDA) and Local Enterprise Authority (LEA), to encourage job creation and self employment. These are supposed to implement the policy on small, medium and micro

enterprises, which aims at creating an enabling environment within which there would be SMME establishment, growth and development.

The Citizen Entrepreneurial Development Agency started operations in 2001. It provides a holistic approach to the development and promotion of viable and sustainable citizen-owned enterprises. Its objective is to foster citizen entrepreneurship and empowerment through the encouragement of local entrepreneurial culture and skills development. This is done through the provision of financial assistance in the form of loans at subsidised interest rates, and back-up business training and mentoring services to enhance the sustainability of these enterprises. CEDA lends from P500 to P150,000 at 5 per cent interest per annum payable over a period of five years for the small scale category of enterprises, and from P150,001 to P2 million at 7.5 per cent interest per annum payable over a period of seven years for medium scale enterprises. CEDA will provide funding for a project if all of the following are satisfactorily met: the project is viable, sustainable and adds value to the economy; an individual is not a habitual defaulter; and there is a market for the products or services.

The policy on small, medium and micro enterprises creates an enabling environment through the provision of financial and business advisory services to SMMEs. These are provided at subsidised rates. CEDA's main objective, therefore, is to create sustainable employment opportunities through the development of sustainable citizen 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 their own businesses.

The Local Enterprise Authority was formed in 2006 and it is mandated to play a pivotal role in the transformation of Botswana's economy through the promotion and facilitation of sustainable entrepreneurship and enterprise development. LEA promotes and facilitates entrepreneurship and enterprise through mentoring, training in business skills, and technology support for product development. LEA's goal would be made achievable through a lot of interventions such as the promotion of citizen entrepreneurship and the development of a competitive small, medium and micro enterprise (SMME) community.

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 organisation 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; and 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.³⁰

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 to women, actual accomplishments are not that significant.

For example, gender mainstreaming in the workplace and universities has yet to be attained. The proportion of women in decision-making positions has remained almost stagnant at about 40 per cent since 2000. Even the ideal of having at least 50 per cent women representation in parliament is also distant, as it has actually declined from 18.2 per cent in 2002 to about 7 per cent in 2004 (see 3.2.2).

The problems of gender mainstreaming 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.

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.³¹ These complement the basic education, rural development and remote area dweller programmes, support for small enterprises, and the women's programmes, in addressing poverty, unemployment and general marginalisation.

The HIV/AIDS pandemic has several areas of potential economic impact, including: loss of productivity due to sickness and time off; increased expenditures (e.g. on health care, training); loss of savings (diversion of incomes); reduced investment (uncertainty, profits, savings); reduced population and labour force; changed age structure, which may lead to loss of experienced staff; and loss of skills.

Table 15 shows the total funding (in Botswana Pula) for the fight against HIV/AIDS as well as the proportion of public expenditure devoted to this fight. The table reveals an increasing trend of national expenditures on HIV/AIDS as well as an increasing proportion of HIV expenditure as a percentage of government expenditure. There has also been an increasing proportion of international financing of HIV/AIDS activities, from 10 per cent in 2003, through 19 per cent in 2004 to 20 per cent in 2005.³²

The scourge of the HIV/AIDS pandemic is draining not only financial resources, but also trained human resources in terms of absenteeism, deaths and destabilisation of family life and household income. The challenge for government is to find the resources necessary to implement care and prevention strategies, including prevention of mother-to-child transmission.

Table 15. National resources utilised for HIV/AIDS response (Pula millions).

Financial Year	2002-3	2003-4	2004-5	2005-6	2006-7
Total without ARV	910.9	1,043.1	1,250.0	1,595.0	2,106.0
ARV Drugs	38.4	139.2	251.0	374.0	504.0
Total with ARV	949.3	1,182.3	1,501.0	1,969.0	2,610.0
Total Govt. EXP.	15,710	16,276	17,113	17,632	19,737
HIV exp. % of Govt. Exp.	6.04	7.26	8.77	11.17	13.22

Source: National AIDS Coordinating Agency.

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 declines in GDP growth; investment as a percentage of GDP; low levels of FDI; 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 the inability to diversify the diamond export-dependent economy and effectively respond to changes in 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 per cent in 1996 to almost 23 per cent in 2005 (see Table 16). The main sources of revenue are mineral tax, customs pool, sales tax and non-mineral income tax. The mineral revenue showed a decline during 2001/02 to 2007/08, while on the other hand non-mineral revenue showed an increase over the same period. Botswana is not dependent on foreign aid and has significant foreign exchange reserves of USD 9.1 billion as at June 2007³³, which is enough to cover more than 30 months of import of goods and services. The overall balance of international payments is favourable with a current account surplus of P9.3 billion (USD 1,600 million) in 2006³⁴. This is due mainly to diamond exports, which account for over 70 per cent of export revenue³⁵. 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. Overall, the budget position has been favourable, with both the development and the recurrent components showing surpluses in 2007. However, the country had budget deficits in 2001/02 and 2003/04, and surpluses from 2003/04 to 2006/07. Most financing of deficits have been from domestic sources.

Table 16. Government revenue as 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
TOTAL TAX COLLECTIONS	2197.4	2396.7	3451.8	3644.5	5005.8	6129.5	5953.4	7377.1	8269.6	9702.6
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.

The trends in the public budget reveal that tax revenue has been increasing in nominal pula terms as well as proportionately. This could be an indication of greater efficiency in tax collection.

4.2.2. Recurrent Expenditure as Percentage of Total Budget

There have been upward trends in both recurrent and development expenditures (Figure 2). The increase in recurrent expenditure may point to possible problems with the sustainability of public spending. However, 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 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 the development budget, and ultimately attaining a ratio of 70:30 by the end of NDP 9, in financial year 2008/09. Table 18 shows the overall pattern of government expenditures as a per centage of GDP, and Figure 2 the trends in recurrent and development expenditures.

Figure 2 shows that the development expenditure was constant from 2001/02 until it increased from 2006/07. The increased expenditure was due to the fact that government was attempting to clear some of the project backlogs that were due to the implementation problems alluded to above; and the 2007/2008 recurrent budget, including statutory expenditure estimates, was 16.2 per cent higher than that of 2006/2007.

Table 17. Trends in the budget (Pula, millions).

	2001/02	2002/02	2003/04	2004/05	2005/06	2006/07	2007/08 (Revised)	2008/09 (Estimates)
Revenue and Grants	12,709	14,318	16,197	17,957	22,267	27,398	27,178	29,889
Revenue	12,650	14,234	16,136	17,609	22,154	26,949	26,854	29,484
Tax Revenue	6,043	7,473	8,362	10,072	11,980	15,919	17,170	19,363
Mineral Tax	2,456	2,716	2,378	2,509	2,895	3,803	3,504	3,138
Customs Pool	1,733	1,569	2,246	3,226	3,930	6,610	7,398	8,177
Non-Mineral Income Tax	1,248	1,839	2,079	2,082	3,003	3,072	3,553	4,962
Export Duties	0	0	0	0	0	0	1	0
Taxes on Property	16	18	12	13	13	17	18	18
Taxes on Motor Vehicles	51	55	62	102	123	105	132	176
Business & Prof'l Licenses	16	18	9	17	19	22	24	24
Sales Tax/VAT	520	1,255	1,573	2,116	1,979	2,248	2,519	2,850
Airport Tax	3	2	3	3	18	9	20	18
Non Tax Revenue	6,607	6,761	7,774	7,537	10,174	11,030	9,684	10,120
Mineral Royalties and Dividends	4,540	4,787	5,785	6,173	8,150	9,312	7,386	7,420
Interest of which	189	227	208	-97	97	59	59	50
PDSF	137	179	165	-128	13	11	23	12
RSF	0	0	0	0	0	0	0	0
Other	52	48	43	30	84	48	36	38
Other Property Income, of which	1,170	1,064	969	433	912	617	1,000	1,412
BOB revenue	1,142	1,029	755	388	741	569	907	1,302
Fees, Charges and Sundry	601	605	733	891	958	1,009	1,191	1,197
Sale of Property	107	79	79	137	57	33	49	41
Grants	59	84	61	348	113	448	324	405
Recurrent	0	1	0	0	0	130	101	82
Development	59	84	61	348	113	319	223	323
Expenditures and Net Lending	13,671	15,710	16,276	7,113	17,632	19,737	26,391	30,220
Overall Surplus/Deficit(-)	-962	-1,392	-78	844	4,635	7,660	787	-331*
Financing	962	1,392	78	-574	-4,635	-7,660	-787	331
External loans	60	24	62	23	1	0	279	251
Internal loans	0	461	1,955	0	0	0	900	0

*before any provision for a possible public sector salary increment.

Table 18. 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.

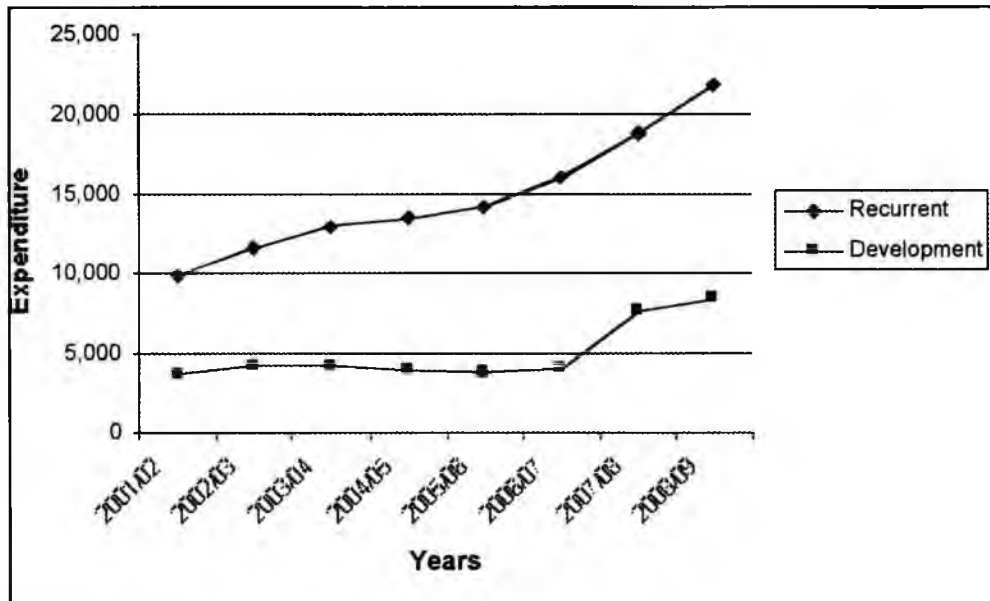


Figure 2. Trends in recurrent and development expenditures.

4.2.3. Public Budget Appropriations

Table 19 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 per cent) of the annual public budget is derived from revenue appropriations. The allocation of public finance favours, in descending order, education (20 per cent), local government (11 per cent), and the State President (10 per cent). The military budget is covered under the Office of the President. Health (6 per cent) and works and transport (5 per cent) are the other sector ministries that also receive more than 5 per cent of budget allocations. Agriculture, with about 3 per cent of the budget allocation, is not highly prioritised.

Table 19. Public budget allocations, 2007-2008.

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

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

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, to which increasingly significant proportions of public expenditure have been allocated (see Table 19). However, the overall budget execution process is characterised by significant under-spending (28 per cent in 2006/07) because of implementation failures (lack of implementation capacity).³⁶

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 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 the use of project memoranda in the project initiation processes, annual project reviews, and mid-term review of the National Development Plans; externally, the control over expenditure by the Accountant General, and the use of checks provided through the Auditor General and the Public Accounts Committee of Parliament.

All government ministries and departments have to use standardised 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)³⁷, 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 the 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 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.³⁸ 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 schemes and localisation policy, is allowed.³⁹

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 is appointed by the president, the incumbent’s tenure is constitutionally protected, similar to that of a High Court judge. The Auditor General cannot be dismissed without due cause and process, but may choose to retire at his/her 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. The office of the Accountant General, which is responsible for the 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 ministries and 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. 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.⁴⁰

These reports are the basis for 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 by the Minister of Finance, other members of the executive, or other political leaders with the Auditor General's reports so far.

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 computerisation and decentralisation 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 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 or 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 Organisations, Media Based "Watchdogs" , and Legislation and Arrangements to Combat Money-Laundering and Drug-Trafficking

Although there are functional systems of accounting, auditing and parliamentary oversight for the proper utilisation 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, and 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 investigates and prosecutes cases of official corruption, money laundering and other economic crimes. It also provides public education on the 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 concern itself with financial corruption, the Office of the Ombudsman, which was created in 1995, 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 received from the public (including bodies corporate) of injustice or maladministration in the public service, 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 per cent) were resolved.⁴¹

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. 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 the control of corruption. Figure 3 below shows that Botswana performs well above the sub-Saharan average for its measures and effectiveness on the control of corruption. The legal and institutional frameworks for combating corruption are available and seem to be functional.

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 per cent) qualified for investigation. The public sector investigations involved the Ministry of

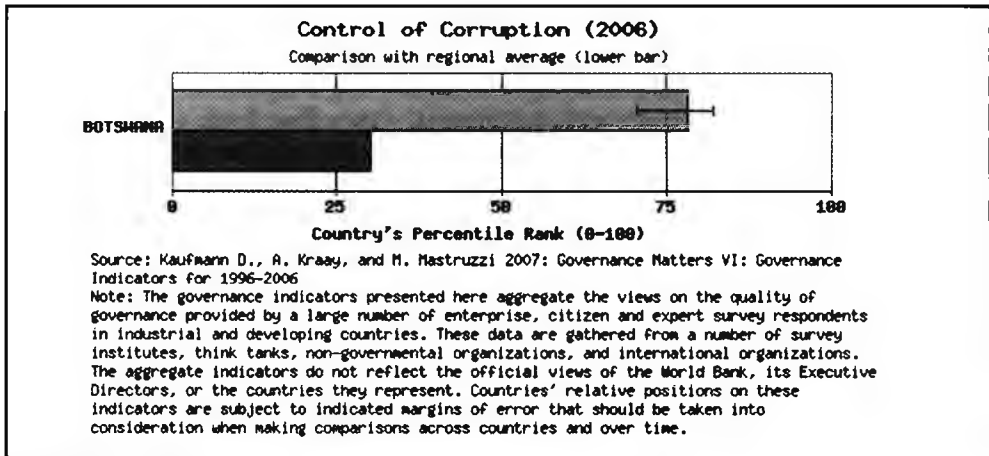


Figure 3. Control of corruption in comparison with SSA, 2006.

Local Government (13.03 per cent), which is the parent ministry for local authorities; Ministry of the State President (8.82 per cent); Works and Transport (7.89 per cent); Education (5.26 per cent); Labour and Home Affairs (4.08 per cent); Finance, Lands and Housing, (3.03 per cent each), etc.⁵⁶ 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 finalised, 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 Corruption Monitoring Activities

The results of corruption monitoring activity, including that against corrupt government officials, corporate corruption, drug trafficking, suspicious bank transactions and money-laundering, undertaken by legislative, executive and judiciary branches on reports submitted by anti-corruption bodies, are difficult to determine because no official records were made available. However, as indicated in section 4.2.11 above, the investigations of corruption are conducted by the DCEC; thereafter the Department of Public Prosecutions takes over, leading to the Administration of Justice for trial.

4.3. MANAGEMENT OF THE TAX SYSTEM

The majority of the expert panel respondents (77 per cent) considered that the tax system was mostly or always equitable. However, less than half (46 per cent) thought tax collection was efficiently managed, and most (57 per cent) 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 per cent), non-tax revenue (40.7 per cent) and grants (1.5 per cent) (see Table 20).

Table 20. 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. Table 21 shows that almost half (47 per cent) 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 21. 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 the 2007/2008 financial year were estimated at P27.18 billion. Mineral revenues were estimated at P10.89 billion (40 per cent); customs revenue at P7.40 billion (27 per cent); non-mineral income tax revenue at P3.55 billion (13 per cent); VAT revenue at P2.52 billion (9 per cent); Bank of Botswana revenue at P907 million (3 per cent); while the balance of P1.91 billion, or 7 per cent, 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 Mobilisation

On the matter of the efficiency of tax collection, 87.9 per cent of the expert panel respondents stated that the tax collection system was efficient, with 16.7 per cent stating that the system was efficiently managed, 45.6 per cent that the system was largely well managed and 25.6 per cent that the system is fairly well managed. However, 12.2 per cent thought that the system was poorly managed.

The tax collection is generally 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 appears to be quite efficient in meeting targets for resource mobilisation.

4.3.3. Tax Evasion, Corruption and Transparency in the Tax System

The majority of the expert panel respondents (88.9 per cent) stated that Botswana's tax collection system was able to avoid tax evasion, 56.7 per cent that the system was sometimes (and not always) affected by tax evasion, 23.3 per cent that it was rarely affected by tax evasion, and 8.9 per cent felt that the system was never affected by tax evasion. On the other hand, 3.3 per cent felt that the system was always affected by tax evasion, whereas 7.8 per cent felt that the system was mostly affected by tax evasion.

The 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 summonses. 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. The introduction of a requirement to provide a tax clearance certificate, when bidding for government tenders, is meant to improve tax compliance rates. We are unable to comment on whether there is an improvement in tax compliance rates because no data are available.

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 P4,000 and up 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 the 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 recently, in 2002. However, the basket of zero rated goods needs to be widened to take care of the poor. The problem with zero rated goods is that they are also consumed by higher income groups. In other words removing VAT from a commodity that is consumed by all income groups does not allow targeting for specific groups of income earners. In this way, all the consumers of that commodity are being subsidised. Alternative strategies for targeting specific income groups involve the use of coupons or grants. Problem is that these could be relatively more expensive to implement due to the associated administrative and logistics costs.

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. Comparatively, the marginal rate for individuals is 25 per cent; corporate tax is at a flat rate of 25 per cent for business in general and 15 per cent for manufacturing, whereas in South Africa the individual rate is 40 per cent and company rate 28 per cent. Botswana's tax system is thus deliberately biased towards the manufacturing sector, which is lagging.

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 per cent of the respondents thought it was either fully dependant or hardly independent. Only 13 per cent 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 per cent) thought the public enterprises were largely free or free from corruption; another 43 per cent stating they were fairly free; and only 9 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 boards 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 of regulatory policies and standards of performance. They do not have the 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

Other negative factors affecting the management performance of public enterprises (and all parastatals for that matter) is their inability to attract the best trained, qualified, experienced and appropriate human resources for their executive direction, and the 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 the attraction and retention of requisite human resources stems from the policy of remuneration that imposes a ceiling on the level of pay for 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. PEMU is a government arm monitoring the performance of the public and private sector in collaboration with the Public Enterprise Evaluation and Privatisation Agency (PEEPA). PEMU's mandate is to analyse and advise on the 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 the 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).

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 privatisation policy of 2000, the government established PEEPA in 2001. PEEPA was set up to manage the privatisation 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.⁴³

PEEPA is responsible for advising government on all aspects of privatisation including commercialisation. In addition, PEEPA assists the government in monitoring the operations of parastatals and public entities. PEEPA also prepares, with the involvement of the line ministries and the public enterprise, the privatisation strategies and plans for implementation.

The introduction of PEEPA was an attempt to institutionalise a more effective regulatory, monitoring and evaluation regime. PEEPA is mandated to oversee the management of public enterprises in pursuance of government privatisation policy. Its effectiveness in regulating the business of the parastatals has yet to be realised.

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."⁴⁴ We have not verified the status of implementation of the recom-

mendations 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 to GDP. There are parastatal organisations in all sectors of the economy, including regulatory bodies, public enterprises, utility providers, etc.⁴⁵ Despite the privatisation policy and setting up of 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 1 per cent from 2001 to 2004.⁴⁶ 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.⁴⁷ 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 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 considerable resistance to the plan, and no privatisation had been accomplished in the seven years 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 authorised 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 or sympathisers of the ruling party.

4.4.3. Profitability, Efficiency and Effectiveness of Public Enterprises

The performance of public enterprises is 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 per cent".⁴⁸ 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 monetary 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, the objectives of which 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 to 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.⁴⁹

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, and Inflation, and Ensuring an Effective Exchange Rate Regime

The Bank of Botswana (BOB) states that monetary policy is aimed at maintaining a stable exchange rate against a basket of currencies of major trading partners, and achieving a low and stable inflation rate. The bank has a long term inflation objective of 3-6 per cent, but because of circumstances beyond the bank’s control the target was revised to 4-7 per cent in 2006. The central bank has not been able to reach the set target. In 2001, the inflation rate was 6.6 per cent but increased to 9.2 per cent in 2003, and even reached 11.6 per cent in 2006, thus exceeding by far the set target range. In general, the inflation rate has been above the target.

The Bank of Botswana uses the interest rate as one of the policy instruments to control inflation. The interest rate remained constant between 2000 and 2004. The exchange rate policy aims at achieving a stable competitive real exchange rate of the Pula against the determined basket of currencies. The Pula was devalued in 2004 by 7.5 per cent and later in 2005 by 12.5 per cent. This was meant to maintain the competitiveness of the Pula. The BOB later adopted a crawling peg system to monitor the value of the Pula and avoid drastic devaluation in the future.

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 significantly influence.

Table 22. Interest rate, exchange rate and inflation trends.

Average	Rate of Inflation	Interest rate(Prime)	Exchange Rate(P/\$)
1998	6.5	14.00	0.2380
1999	7.8	14.81	0.2165
2000	8.5	15.75	0.1965
2001	6.6	15.75	0.1720
2002	8.0	16.75	0.1585
2003	9.2	15.75	0.2028
2004	7	15.75	0.2134
2005	8.6	15.74	0.1976
2006	11.6	16.46	0.1722
2007 (Up to Oct)	7.7	16.26	0.1621

Source: Botswana Financial Statistics 2007.

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; an update on operational activities of the supervised entities, and any other developments in the financial sector.⁵⁰ The report is also made public. Generally, bank supervision is efficient and effective.

The number of commercial banks stands currently at six. As shown below, both indicators of bank concentration show a high level of concentration in the banking sector. Actually, three banks, namely Barclays, Standard Chartered and First National, control most of the banking business. This further implies that there is less competition in the sector and hence the industry may be operating monopolistically with the leaders having an undue advantage over the other operators. It is likely that the concentration will be reduced as the number of commercial banks continues to increase.⁵¹

Table 23. Banking sector concentration.

	2001	2002	2003
Three Bank Concentration Ratio (assets)	0.873	0.832	0.737
Three Bank Concentration Ratio (deposits)	0.890	0.853	0.751

Source: Banking Sector Report, World Bank.

In December 2006, parliament approved the establishment of the Non-Bank Financial Institutions Regulatory Authority, which will start operations in the first quarter of 2008. The new regulatory authority 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.⁵²

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. Growth is concentrated in an economic sector that does not generate much employment, hence unemployment and inequalities are not likely to be resolved by that growth. This implies the continued need for government intervention, in the form of good economic management and deliberate allocation of resources to benefit the poor, unemployed and marginalised. Actually the predominance of diamonds in the national economy reflects the failure to diversify it, despite several policies and schemes that have been undertaken throughout the years.

Nevertheless, overall macroeconomic management has been sound, exemplified in the prudent allocation of national resources in general infrastructure and social development. Despite this, 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 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 commercial /private banks. There is also progress on the establishment of a regulatory authority for the non-banking financial institutions (building societies, insurance companies, etc).

Notes

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44. 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 with BIDPA.
45. 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.

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48. Republic of Botswana, *Budget Speech 2007*.

49. Bank of Botswana Act, 1996 (No. 19 of 1996).

50. Bank of Botswana, *Banking Supervision Annual Report*, 2005, 2004, 2003, 2002, etc.

51. It has just been announced (February 2008) that First Merchant Bank (FMB) of Malawi, in partnership with Botswana investors, will be opening a subsidiary in Botswana, to be named Capital Bank, which is expected to open in March 2008.

52. Non-Bank Financial Institutions Regulatory Authority Bill, 2006.

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

In 2003, 73 per cent of the expert panel respondents thought that government provided an enabling environment for the private sector. However in 2007, 80 per cent of the respondents expressed similar sentiments, meaning that an extra 7 per cent of the respondents think government is supportive of the private sector. There is, therefore, more confidence in the government's cultivation of a more enabling environment for private sector development.

The views of the majority of the expert panel respondents are summarised in the following statements. The government is generally supportive of the informal sector and encourages its development. It was perceived to take effective measures to ensure competition in the economy. The government had 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.

Actually, Botswana has undertaken various initiatives to promote the private sector. However, these policies and institutions are more oriented to organised, 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

Most expert panel respondents (80 per cent) stated that government supports the informal sector, with 27.8 per cent stating that government always encourages the private sector, 31.1 per cent saying government usually encourages the sector, and 21.1 per cent expressing the notion that government sometimes encourages the private sector. However, 3.3 per cent stated that government does not encourage the private sector, while 16.7 per cent said government rarely encourages the private sector. 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.

According to a recent BIDPA study, there is a dearth of information on the informal sector in Botswana. The last estimate of the size of the sector in the economy dates back to 1998, when it was estimated to contribute between 30 per cent and 45 per cent to GDP, while employing about 30 per cent of the labour force. There are no recent estimations on the impact of the lack of convergence between the informal and formal sectors. However, the same study suggested that the prominence of the informal sector in the economy might lead to under-declaration of incomes and therefore the collection of fewer tax revenues, labour movement across the both sectors (especially from the informal to the formal sector), and under-estimation of the employment situation in Botswana since the informal sector by nature does not operate in a formal sense.

To our knowledge, there have not been any discussions or debates on the way forward with regard to the integration of the two sectors. Rather, government has continually championed the idea that there is a need to encourage the growth of the informal sector with its potential to create more employment. Self-employment has thus been encouraged by government, including through supporting the growth of the brigades and other vocational education.

As pointed out above, there are no specific policies or 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.

5.1.2. 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 privatisation, industrial development and agricultural policies. The long-awaited competition policy is expected to improve the environment for private enterprise. The Privatisation 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.

There are other policies and strategies that are meant to promote small and medium scale enterprise development. The 2002 Revised Rural Development Policy aims to reduce poverty, provide opportunities for income generation and involvement in economic activities, create employment, and enhance popular participation in the development planning and implementation processes as a basis for broad-based, balanced and sustainable development. The National Strategy for Poverty Reduction encourages employment. These two also seek to increase agricultural productivity.

The policy on Small Medium and Micro Enterprises in Botswana aims to create an enabling environment within which SMMEs will grow. The Citizen Entrepreneurial Development Agency (CEDA) and the Local Enterprise Authority (LEA) are additional initiatives that encourage the development of small and medium scale enterprises (see 4.1.4). CEDA is responsible for implementing, in a consolidated manner, policies and programmes for promoting local enterprise and entrepreneurship development for the small, medium and micro enterprise sector in Botswana. LEA acts as a one-stop shop for local businesses, encompassing training and mentoring support, facilitating access to finance and offering technology support for product development.

Other institutions that have been established to promote SMMEs are 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 commercialised 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.

There are, therefore, adequate policies, strategies, institutions and resources for promoting small and medium scale enterprises. However, there has neither been sufficient monitoring nor systematic research to determine the effectiveness of these initiatives in promoting SMME development.

5.1.3. 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."⁵⁴ The report identified a number of obstacles to businesses, such as 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' efficiency and effectiveness in serving the public and encouraging the investor. There have, therefore, been changes in tax administration, customs services, business licensing, and the 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 previously spent on tedious procedures to start a business.

5.1.4. Tax Incentives for Local and Foreign Investments

The corporate and personal tax rates are generally quite low, in order to promote investment. The general rate of company taxation is 25 per cent, and 15 per cent for manufacturing and for companies registered through the International Financial Services Company (IFSC) (compared to the general rate of 28 per cent in South Africa). The general tax rate for individuals is 25 per cent (40 per cent in South Africa). The lower 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); and
- Unlimited carry forward of losses for mining companies.

However, as pointed out in Section 4.1.1, Figure 1 (see p 53), Botswana has not been successful in attracting significant amounts of foreign direct investment.

5.1.5. Other Incentives to Facilitate Local and Foreign Investments and their Effectiveness (Access to Infrastructure, Utilities, Capital and Training)

The expert panel responses to questions about business access to land, credit and utilities were as follows: 79.8 per cent of the respondents thought that government did take measures to ensure ready access to land, credit and public utilities by all enterprises; 14.4 per cent of the respondents thought government always takes effective measures; 30 per cent thought government often takes effective measures; and 34.4 per cent that government sometimes takes effective measures. Of those opposed, 15.6 per cent thought the measures taken by

government were rarely effective and 5.6 per cent thought the measures were never effective. Therefore, about 21 per cent of the respondents doubted the effectiveness of official incentives for investment.

Non-tax incentives for local enterprise includes subsidised 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), and the 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 their customers).

5.1.6. Trends in the Volume and Sectoral Distribution of Local and Foreign Investments

Botswana's attraction of foreign direct investment is low (see 4.1.1, Figure 1). This is a result of the country's satellite economic status to South Africa, 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 per cent of total market capitalisation. Companies listed on the stock market include brewing, finance, information technology, oil distribution, property, security, tourism and others. 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 total of 25 bonds in early 2007.

5.1.7. Measures and Institutions to Ensure Competition in the Economy, and their Effectiveness

Of the expert panel respondents, 84.4 per cent thought the government takes measures to encourage competition in the economy; 16.7 per cent said the measures are effective, 27.8 per cent thought the measures are largely effective and 38.9 per cent thought the measures were somewhat effective. Of those opposed, 14.4 per cent thought that government rarely takes measures to encourage competition in the economy, while 2.2 per cent thought that government never takes measures.

Botswana is in the process of finalising a 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 growth, 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; control of acquisition and/or abuse of dominant positions of market power, which limit access to markets or unduly restrain competition; and the regulation or policing of mergers, takeovers, joint ventures and interlocking directorships.⁵⁵

The delays in enacting the Competition Act and establishing a Competition Authority are a cause of concern, because they undermine the development of the private sector. Another concern that requires attention is the delay in formalising the legal and institutional frameworks for independent regulation of economic activities. Although the government commissioned a study to examine existing policy and regulatory frameworks in the utilities sector (transport, energy, water and communications) in 2004⁵⁶, and accepted the report's findings and recommendations, there has not been reform of the predominantly ministerial regulatory frameworks that appear unsuitable for effective regulation. The absence of a competition act and authority, and the prevalence of ministerial policy and regulatory frameworks, are not conducive to the development of the private sector.

5.1.8. 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 or cannot be done. General crime is relatively low.

5.1.9. Government Efforts to Ensure that all Entrepreneurs can Operate Freely throughout the Economy, and their Effectiveness

The restrictions to doing business were considered to be low by the expert panel respondents. Altogether, 93.3 per cent thought that government takes measures to remove restrictions to doing business; 23.3 per cent stated that government always takes effective measures to remove restriction to doing business, 33.3 per cent felt that government often takes effective measures and 36.7 per cent felt that government sometimes takes effective measures to remove restrictions to doing business. Only 1.1 per cent felt that government never takes effective measures and 5.6 per cent felt that government rarely takes effective measures to remove restrictions.

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 (see 4.3 and 5.1.5). 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 high interest rates. Bank supervision by the central bank, the Bank of Botswana, is quite effective, and thus the banking system functions satisfactorily (see 4.5.4). 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 are 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.

5.1.10. 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 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

The majority (69 per cent) of expert panel respondents found 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 per cent) thought the public sector is a partner of the private sector.

Botswana officially recognises 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.⁵⁷ 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 (PPPs) is thus being developed. The institutional framework for implementation of PPPs is provided through the Public Enterprises Evaluation and Privatization Agency (PEEPA), Botswana Confederation of Commerce, Industry and Manpower (BOCCIM) and the High Level Consultative Council (HLCC).

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 on PPPs is done at the highest level.

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 the private sector in the provision of services and raises awareness on the role of the private sector in the provision of infrastructure. PEEPA'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. In 2007, PEEPA was involved in advisory support for several PPP transactions: provision of office accommodation for the Office of the Ombudsman and the Lands Tribunal; the Zambezi Integrated Agro Commercial Development Project; Central Transport Organisation Fleet Management; Social Grants Payments system for old age pensions and destitute allowances; and the Botswana International University of Science and Technology.⁵⁸

5.2.1. Importance given by the Government to the Role of the Private Sector in Promoting Economic Growth, Social and Economic Development and 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 (see 3.3.2).

The NBC is jointly organised by BOCCIM and the government and meets once every two years. It is attended by the business community and 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, 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 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 PPPs, 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

As stated above, almost 70 per cent of the expert panel respondents thought government involves the private sector in decision making. 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. Other private sector entities also seek to influence public policy and engage the government. These include the Association of Citizen Development Consultants (ACDC), Citizen Owned Businesses in Information Technology (COBIT) and the Botswana Information Technology Society (BITS). Additionally, citizen entrepreneurs are represented in the Public Procurement and Asset Disposal Board (PPADB) through COBIT.

BOCCIM, the private sector club of employers, has a significant voice. BOCCIM is an independent representative private sector organisation whose mission is to promote the sustained development of the private sector. The HLCC, National Business Conference and the Business and Economic Advisory Council were all set up following pressure from BOCCIM. These forums have formalised 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 per cent 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, such as the establishment of the Botswana Export Development and Investment Agency (BEDIA), and Citizen Entrepreneurial Development Agency (CEDA), and the Privatisation Policy of 2000.

5.3. THE PROTECTION OF PROPERTY RIGHTS

The general perception of respondents (83 per cent) 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 for regulating 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 (MLH) is responsible for the management of land and related

functions in both urban and rural areas, as well as for 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 may 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.⁵⁹ 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.⁶⁰

5.3.1. Laws and Institutions to Enforce Business Contracts and their Effectiveness

On the enforcement of contracts and property rights, 94.5 per cent of the respondents felt that government action was commendable, with 37.8 per cent saying that government always takes effective measures, 45.6 per cent saying government sometimes takes effective measures and 10 per cent saying government often takes effective measures; 1.1 per cent felt that government never takes effective measures and 4.4 per cent felt that government rarely takes effective measures.

Botswana has an effective legal system that is accessible, and maintains high standards of adherence to the rule of law, and respect for contracts and the 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

Of the expert panel respondents, 95.6 per cent felt that government protection of shareholders rights was effective, with 48.9 per cent saying that the rights were always effectively protected, 38.9 per cent that the rights were often effectively protected and 7.8 per cent that

the rights were sometimes effectively protected. However, 2.2 per cent said the rights were never effectively protected and 2.2 per cent opined that the rights were rarely effectively protected.

With a majority of the 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, USA, 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); and Convention Establishing the World Intellectual Property Organisation (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 per cent) or often or always does so (67 per cent). 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 for public corporations.

5.4.2. Transparency and Accountability of Corporate Governance

With regard to transparency and accountability in corporate governance, 87.7 per cent of the respondents felt that government did ensure some transparency and accountability, 13.3 per cent stated that government always ensures that transparency, 53.3 per cent felt that government often ensures transparency and accountability and 21.1 per cent felt that government sometimes ensures transparency and accountability in corporate governance. However 2.2 per cent felt that government never ensures transparency and accountability and 10 per cent felt that government rarely does so.

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 in 2008. 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 company 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 organisation 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 their 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.

Notes

53. Monnanne, M, Moitlhobogi, P and Fidzani, N.H, 2007, The Role of the Informal Sector in the Diversification of Selebi Phikwe (BIDPA, Gaborone). Pp. 5-6
54. FIAS, 2003. *Botswana: Further Improving the Regulatory and Procedural Framework for Encouraging Private Investment* (Draft).
55. Draft Competition Policy for Botswana, 2000, Para. 2.3
56. *Report on Consultancy Services to Review and Advice on Appropriate Regulatory Reforms for Infrastructure and Utility Sectors in Botswana* (Stone and Webster Consultants and BIDPA).
57. *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.
58. Christmas party Speech of the CEO of PEEPA, 7 December 2007.
59. Whereas the MLH has overall responsibility for land administration, the Land Boards, which generally correspond to district boundaries, are responsible for the tribal or customary land over which traditional chiefs have some influence, especially on allocation.
60. A landmark land case involving a former permanent secretary in the former ministry of Local Government, Lands and Housing concluded towards the end of 2007. The DCEC successfully investigated and prosecuted this case; the culprit was given a seven year prison term for corruption. This shows that the law applies to everyone irrespective of social status.

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, and authorise, adopt and approve the implementation of public decisions. The role of the judiciary is to interpret the law, and 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 the 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 per cent) considered that the Constitution of Botswana provides significant checks and 29 per cent that it provides full checks and balances amongst the different branches of government. Meanwhile, 13 per cent thought it provides limited checks, and 5 per cent that it had very few checks or no checks and balances. Most respondents regarded the Botswana system as a multiparty democracy with full competition for power (67.8 per cent), and another significant number (30 per cent) added to that sentiment, describing the system as a stable democracy. Overall then, 97.8 per cent considered that the system is a stable, multiparty democracy. Only a tiny minority at 1.1 per cent felt that the system was a multiparty democracy with no free elections.

With regard to the mode of appointing the members of the legislature, 85.6 per cent of the respondents regarded the method of appointing a fully competitive electoral system. However, 13.3 per cent considered that the system depended on a small minority to elect representatives, whereas only 1.1 per cent thought that members of parliament were appointed by the head of state.

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.⁶¹ 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. Parliament is also controlled by the requirement that its mandate be renewed in regular elections that are held every five years.⁶² The judiciary, which interprets the law, acts as the watchdog over executive decision-making and action as well as interpreting the legality and constitutionality of laws made by parliament.⁶³

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”.⁶⁴ Specifically, the rights and freedoms relate to life, liberty, security of the person and the protection of the law; freedom of conscience, of expression and of assembly and association; and protection for the privacy of his home and other property and from deprivation of property without compensation.⁶⁵ 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, as 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 Batswana 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.
- 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 *Ntlo ya Dikgosi* (House of Chiefs) 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".⁶⁶ 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 to 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 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 or actions.

Being a Westminster-type democracy, Botswana draws its executive from its legislature, in line with similarly structured democracies like the United Kingdom, Australia, New Zealand and South Africa. Besides isolated suggestions in the media and by parliamentary opposition, no entities have filed complaints in a court of law to change this state of affairs.

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 by the executive in the operations of the legislature, judiciary or 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 functions 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 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 scrutinises 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.

On the question of the freedom of the legislature from corruption, 75.6 per cent of the expert panel respondents felt it was largely free from corruption while, 12.2 per cent felt that it was above corruption. The two indicators make about 87.8 per cent of the respondents who felt that the legislature observed ethical conduct in its operations. However, 2.2 per cent felt the organ was largely corrupt while 10 per cent felt it was somewhat corrupt.

The strength of the opposition was considered by the majority of respondents to be questionable; 64.5 per cent felt that the opposition's influence on government policy was negligible. Of these, 55.6 per cent felt that the opposition had a weak influence on parliament, and 8.9 per cent felt it had no influence. However, 4.4 per cent felt that the opposition had strong influence on government policies and programmes, 15.6 that the opposition had strong influence, 15.6 per cent that it had a moderately strong influence and another 15.6 per cent that it had fairly strong influence on government policies and programmes.

Generally, the perception was that the legislature is relatively weaker than the executive, and that the parliamentary opposition was rather powerless.

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 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.

The powers to initiate legislation are practically in the hands of ministers and assistant ministers, who are members of both the National Assembly and the executive. The ministers and their assistants present bills for debate in the legislature. This dual role of ministers and assistant ministers seems to stifle the capacity of ordinary parliamentarians to initiate bills. It is only recently that a watershed moment in the executive-legislative relations in Botswana occurred when Botswana's first ever private members' bill was presented and was debated in parliament. The Domestic Violence Bill was sponsored by an ordinary member of parliament, Ms Gladys Kokorwe.

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.⁶⁷

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 chairperson 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 for the supervising officer or 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 chairperson, 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 business; 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 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 chairperson of the committee. The chairperson 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 funds; 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 where 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 the progress of implementation of motions. This committee is appointed at the commencement of every session. It examines subsidiary legislation, and considers whether it is in accord with the general objects of the act pursuant to which it is made or 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.

Powers of the Parliamentary Committees

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.

Some parliamentary committees have the power to request the disclosure of information and have access to independent specialists' expertise. One of these is the Committee on Subsidiary Legislation, which can summon any member of government (civil service, special secretaries and even ministers) to parliament for any purpose including for the request of any information. The committee can call on the services of the attorney general for advice on any matter that it sees fit. Other committees with similar power to "send for papers, persons and records and move from place to place" are the Foreign Affairs, Trade and Security Committee, Law Reform Committee and Labour Relations Committee.

The powers vested in the Committee on Subsidiary Legislation to call any person or request for any information were exercised in 2007 when the attorney general, minister for Works and Transport, and a special advisor in the Office of the President were summoned to give explanations on what seemed to be the executive's wilful act of ignoring legislative directions on the negotiations of the privatisation of the national airline, Air Botswana.

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 specialised 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. If the president withholds his assent, the bill is returned to the National Assembly. After the president has

withheld his assent, the National Assembly has to resolve, within six months, whether to withdraw or present the bill again for assent. The president is given 21 days within which to decide, unless he dissolves the National Assembly sooner. When a bill 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*.

Both the executive and legislative adhere to constitutional procedures in reference to the formulation and implementation of bills and policies. There have not been cases of arbitrary practices in the formulation and implementation of laws and acts. The Standing Orders of the National Assembly of the Republic of Botswana are partially responsible for detailing these procedures. The executive and legislature both abide by the Standing Orders when presenting bills in parliament. Where clarity lacks, they openly refer to them for guidance on how to proceed. The executive arm of government does not act arbitrarily but according to enacted legislation and authorisations.

Botswana's parliament appears to be independent of foreign influence. For example, in the recent past the legislature has gone against the executive by questioning a loan deal that the executive had seemingly concluded with the Chinese and the Swedish governments. The Chinese loan deal was for the construction of a road whereas the Swedish one was earmarked for the expansion of electrification to rural areas. Parliament was able to call for clarification on the loans to satisfy itself of probity of the loans, and in the case of the Swedish-assisted electrification project, the manner in which the contractor was chosen became a matter for investigation by the DCEC.

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.

With the exception of the Domestic Violence Bill (discussed elsewhere), it is normally the ministers and assistant ministers who present bills in Botswana's parliament. Usually when laws are changed or new ones introduced, it is the result of the executive (minister, assistant minister or attorney general) presenting the necessary bills in parliament. It remains highly speculative, however, as to whether any changes in legislation are the result of pressure from NGOs or from outside of the legislature. However, Transparency International has directly attributed some gains for the women's movement on pressure brought to bear on the legislature.

Yet it must be pointed out that there are no clearly written public guidelines on lobbying; as a result it is difficult to know the exact original motivation for a bill when it is presented or ultimately becomes law. As a result it is difficult to know about the effectiveness of any pressure brought to bear on public officials. For instance, the agitation for the abolition of the

death penalty, a longstanding objective of the rights organisation, Ditshwanelo - Botswana Centre for Human Rights, has not been successful. On the other hand, the advances made by women in politics, and the public and private sectors might be attributed to the efforts of the women's movement, for example the Emang Basadi organisation, although it is difficult to know if it was exactly due to their efforts or those of others, or the willingness of the executive to act.

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. Until 2005, members of parliament did not have government-backed constituency offices. To this extent, the members had to hold meetings with their electorate in informal settings. The equipping of these offices is still ongoing. More facilities are being provided, such as a parliamentary research unit and a library, which members 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. Members of parliament 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 or her 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 called by the president according to the Constitution), 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 its Functions

The legislature has reasonable capacity to perform its functions, but some members lack expertise and skills, hence they make limited contributions to the functioning of the legislature. This often leads to instances of dominance by the executive branch which is 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 1st April and ends on 31st 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. The 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 protection 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 stipulate 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 to the attention of the minister any apparent lack of economy, efficiency or 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 may be considered 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, just like the PAC, the office does not have sanctioning and enforcement powers. The Office of the Auditor General in Botswana, unlike in other democracies such as South

Africa, is not directly accountable to parliament. Instead it is accountable to the minister, who is a member of the executive. However, as it is also accountable to the Public Accounts Committee, this has a tendency to 'dilute accountability that is expected of the office'.⁶⁸ The Auditor General's reports are the foundation for the PAC's scrutiny of public expenditures. The auditor general as well as the PAC may recommend disciplinary action and/or prosecution. It is the executive in charge, or the supervising authority for the offending officer (the permanent secretary to the president, in the case of permanent secretaries), who has authority to take disciplinary action. Investigations are done by the police and/or the Directorate on Economic Crime and Corruption (DCEC). Prosecutions are carried out by the director of Public Prosecutions.

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.

Access to the judicial system was perceived by expert panel respondents to be quite open. Altogether, 70 per cent of the respondents thought that the judicial system is fairly accessible, to varying degrees. Of these, 18.9 per cent stated the courts are sometimes accessible to people irrespective of their social status, 32.2 per cent felt the courts were usually accessed while 17.8 per cent thought the courts were always accessed. However, 30 per cent doubted the accessibility of the courts to all social classes, 12.2 per cent that the courts were never accessed by all socio economic groups, while 17.8 per cent said the courts were rarely accessed.

The respondents had a better opinion of access to justice as compared to the courts (83.3 per cent). Of those who felt that justice was accessible, 53.3 per cent thought that full justice was generally obtainable by all, while 30 per cent stated that it was always possible to obtain full justice. However, 11.1 per cent stated that obtaining full justice was seldom possible, while another 11.1 per cent thought that it was sometimes possible to obtain full justice.

In summary, the majority of respondents (90 per cent) perceived the judiciary to be largely or fully independent. However, only half (50 per cent) thought the lower or first access courts were accessible and a similar proportion (53 per cent) 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 to 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 per cent 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

Concerning the independence of the judiciary, 100 per cent of the expert panel respondents stated that the judiciary was independent of other branches of government. Of this, 44.4 per cent thought it was largely independent and 45.6 per cent that it was independent; only 1.1 per cent felt that it was fully independent and 8.9 per cent that it was somewhat independent.

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.⁶⁹ 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.⁷⁰ 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 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.⁷¹ The above shows that the judiciary is not wholly independent from the executive, even though the judiciary enjoys non-interference in its day-to-day activities. The executive branch, through the president and the minister of Local Government, respectively, exercises constitutional and statutory controls over judicial appointments and the 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 those courts. Cases in point include *Unity Dow vs. the 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. the Attorney General*. They alleged that the 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).

However, there have of late been some instances that have raised questions on the independence of judges. A high court judge, Moathodi Marumo, resigned in 2006, alleging an executive order used to effect the deportation of an alien had overridden his judgment, thereby nullifying judicial independence. Another judge, Peter Collins, also resigned, ostensibly due to executive pressure. Then there was a donation of P100,000 from the Debswana mining company to the judiciary for training and for purposes of purchasing books for government's law library. Since the company was being taken to court by some employees who had been dismissed, the donation was viewed as suspicious and an attempt to influence the judiciary. However, these allegations did not negate the general respect for the law and the integrity of the legal system.

Therefore, the judiciary is generally independent and discharges its responsibilities without fear or favour. Government accepts and respects the decisions of the courts. This shows that there is respect for 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.⁷²

The drift of professionals to the private sector is the major challenge to its delivery capacity. The loss of qualified and experienced human resources is mainly due to the attraction of private practice, where remuneration is higher than in the judiciary. The salaries of judicial

officers are lower than what is normally earned in the private sector and the conditions of service for judicial officials are based on the general public service, which is not lucrative. Acquiring trained, skilled and experienced human capacity and its retention are thus the major problems for the efficient and effective administration of justice.

6.4.2. Appointments, Tenure and Dismissal of Judges and Magistrates

With regard to the appointment of judges, 13.3 per cent of the expert panel respondents thought that the judges were sometimes appointed and promoted on merit, while 46.7 per cent stated they are usually appointed and promoted on merit; 34.4 per cent expressed the conviction that judges are always appointed and promoted on merit.

As with the appointment of the chief justice and the judges of the High Court, the Court of Appeal's president and 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.⁷³ 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 advice 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 appointed by the president. The tribunal is supposed to be constituted by a chairperson 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 of the tribunal, by either removing or not removing that judge from office.⁷⁴ Judges' tenure is thus constitutionally guaranteed and there are no arbitrary dismissals.

6.4.3. Judicial Corruption

The expert panel was asked about the issue of corruption in the judiciary. An overwhelming 98.9 per cent of the respondents stated that members of the judiciary had ethical conduct. Of these, 16.7 per cent felt the judiciary was fairly free from corruption whereas 56.7 per cent stated the judiciary was largely free from corruption and 25.6 per cent that the judiciary was above corrupt practices. Only 1.1 per cent stated that the judiciary was fairly corrupt.

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 so 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.⁷⁵ Perceptions of judicial corruption in the judiciary are not widespread. However,

one instance that raised the suspicion of judicial independence was the donation by Debswana, joint venture between the multinational De Beers and the Government of Botswana, of P100,000 mentioned above. This donation came at a time when the judiciary was assessing a case in which Debswana had fired 461 of its employees and the employees sued for unfair dismissal. Critics suggested that this donation had the potential to unduly influence the outcome of the matter. Overall, however, 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 of local government and ensure that their tribes are informed of any development projects in the area that affect them. They also convene *Kgotla* meetings to obtain advice from their subjects as to the exercise of their functions.⁷⁶ 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 to 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.⁷⁷

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. The customary courts handle around 80 per cent of all court cases in the country.⁷⁸ 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 defines the jurisdiction as to causes of action and the limits of jurisdiction to be enjoyed by the courts.⁷⁹ Nevertheless, the customary 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 organisational capacities and the adequacy of financial resources for carrying out their functions. Trained, skilled and expe-

rienced 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 a shortage of administrative staff to assist the functioning of the customary courts.

There are currently a number of performance enhancements that are planned or being implemented in the administration of justice. These include addition to the number of courts through the establishment of a High Court Division in Gaborone, and the construction of a new magistrate's court in Gaborone and Lobatse. Additional reforms to court processes include the computerisation of the court records management system, introductions of a new Judicial Case Management System that will make judges take control of the pace of litigation (currently determined by lawyers), and a Court Annexed Mediation system in which judges may refer a case to a mediator. These are supplementary to the introduction of a Small Claims Courts (involving up to Pula 7,000), and the establishment of traffic and family courts in Gaborone and Francistown.⁸⁰

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 the 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 well. The employees are expected to augment their salaries through commission. This means the more cases one handles, the more money one will make. On the other hand, public legal practitioners have job security, and receive various allowances for housing, car, robes, 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 the public does face 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 time 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 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 only for 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 present cases of such seriousness. There seems, therefore, to be inadequate legal assistance for the poor who are in need of defence. The legal aid system is under review.

6.4.12. Alternative Justice Systems and Access to the Justice System

There is a review of the legal system to ensure that everyone has access to the justice system, through the introduction of alternative justice systems including small claims courts, commercial courts and marital courts, and the use of alternative dispute resolution mechanisms through arbitration. There is an expectation that access to justice will be improved through the establishment of small claims courts since the proceedings of such courts are usually less formal, less intimidating and less costly than the formal court system.

In addition, specialised domestic violence or family courts may assist in better resolution of cases where the aggrieved (mostly women) may be uncomfortable to expose their humiliations in the more formal courts, which may also not necessarily understand their plight. These alternative justice systems will follow on the earlier establishment of the Industrial Court in the 1990s. Additional justice provisions are provided through circuit courts which help reduce the backlog of murder and traffic cases. There are also specialised traffic courts in Gaborone and Francistown.

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 the 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.⁸¹ In fact, there is general respect for the law, human rights are not systematically violated; there are no arbitrary 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. 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. However, as discussed in Section 8.1 below, this position is inconsistent with developments in modern constitutionalism where the presence of a human rights commission is considered central to the promotion and sustenance of a culture of human rights.

Nevertheless, the functional legal and justice system appears to be adequate and effective in

protecting the civil liberties and political rights of citizens. There is an independent non-governmental organisation, Ditshwanelo - Botswana Centre for Human Rights, which champions human rights causes. It functions unhindered and is sometimes quite critical of government, especially regarding 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 per cent) were resolved.⁸² 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, and marginalised and vulnerable groups. Participation facilitates the operation of checks and controls on the decisions and actions of government, and 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.

There are no formalised structures or standards for lobbying in Botswana; no codes of conduct or guidelines which CSOs need to abide by in lobbying politicians. However there are laws that provide for the existence of civil society organizations (CSOs) (see 6.5.2). As there are no guidelines for lobbying and no requirements for it to occur in public, it is difficult to speculate on the import of outside influence on legislation. However, in Botswana, trade unions are expressly forbidden by the law to partake of active party political activities, a regulation that is observed by and large as known political operatives do not hold office in the trade unions.

6.5.2. Constitutional and Legal Framework for Participation

Botswana provides a constitutional and legal framework for CSO participation in the political system, which allows and encourages the freedom of association. As a result, all forms of civil society organisations, including NGOs, community organisations, employers' organisations, trade unions and public officers' staff associations, operate in Botswana. The primary legislation is Article 13 (1) of the Constitution of the Republic of Botswana, which guarantees freedom of association and freedom of assembly. Other legislation, such as the Societies Act, and the Trade Unions and Employers Act, facilitate the formation and operations of non-state organisations.

A policy framework for non-governmental organisations, to provide a framework for government-NGO relations and collaboration, assistance and support to NGOs, and to establish institutional structures and processes to operationalise and guide the collaboration was adopted in 2004.⁸³ 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 (see 3.3.2).

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 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, the bi-annual National Business Conference (NBC), and 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 (see 5.2).

Most NGOs are not as effective as they 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 institutionalisation; 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 the 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 organisational capacity constraints. An example is the failure of the Botswana Federation of Trade Unions (BFTU) to participate in the HLCC, despite its being invited each 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 organisational deficiencies. There have been a few notable incidences of protest, such as opposition to privatisation in 2004. The Botswana Council of Non-Governmental Organisations (BOCONGO) organised an anti-privatisation workshop where CSOs questioned the implementation of the privatisation policy, and raised concerns about a lack of accountability and transparency and the negative effects that the process would have on the poor. A minority group representative organisation, 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 generally accepted and respected the judiciary's decision (see 6.4.1 and 6.4.13).

The perception of citizens' confidence in law enforcement organs is important to understand why a minority section of society would go the legal route in protest against the government. The majority of the expert panel respondents (75.5 per cent) indicated that there is confidence in law enforcement organs. Of that number, 31.1 per cent had some confidence in the law enforcement organs, 32.2 per cent had moderately high confidence while 12.2 per cent had high confidence in the law enforcement organs. On the other hand, 22.2 per cent had little confidence in the law enforcement organs while 2.2 per cent had no confidence in law enforcement organs. There is, therefore, general confidence that the legal system and law enforcement agencies will address grievances.

6.5.5. Independence and Effectiveness of the Media

The expert panel respondents' perceptions were that the mass media operates freely (73.3 per cent). Of these, 34.4 per cent thought it operates within a completely free environment, while 39 per cent 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 thought 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 operation. 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 a lack of pluralism in their ownership. There is one government-owned newspaper, *The Daily News*, and several privately-owned newspapers including the *Sunday Standard*, *The Voice*, *Echo*, *Mmegi*, *Mmegi-Monitor*, *Mid-Week Sun* and *The Guardian* (ownership of the latter four is in the hands of one group of companies). There are two government-owned radio stations (*RBI* and *RB2*), and two private-owned radio stations (*Gabz fm*, which is more for elderly listeners and 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* or *BTV*), and a private television station (*Gaborone Broadcasting Company* or *GBC*) which broadcasts only to Gaborone and does not have original content (see 3.3.1). However, the Media Practitioners Bill, 2008 (No. 15 of 2008) has been criticized for seeking to limit the freedom of the media and place its control under the state's authority.

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, which constrains investigative journalism.

6.5.6. Legislation on Press and Media Ownership

There are no restrictive laws governing the ownership of press and the 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 the media. The National Broadcasting Board of Botswana regulates and promotes growth of the broadcasting industry. There is also an industry organisation, 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 consultation 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, organisational 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. Decisions of the judiciary are always respected, even if they go against the executive. Customary structures of governance are officially recognised but are not independent, as the executive utilises them for confirming its policies and actions, and to complement the justice and social stabilisation systems. Non-state actors, who are freely able to organise and operate, are visible but have a minor role to play in the policy process and acting as watchdogs.

Notes

61. See Sections 47(3), 48(4) of the Constitution.

62. 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), 12/10/06.

63. Republic of Botswana, *Constitution of Botswana*, CHAPTER VI: The Judicature.

64. Republic of Botswana, *Constitution of Botswana*, Chapter I: The Republic; Chapter II: Protection of Fundamental Rights and Freedoms of the Individual, Article 3.

65. Constitution of Botswana, Chapter II: Protection of Fundamental Rights and Freedoms of the Individual, Article 3 (a); (b); (c).

66. *Constitution of Botswana*, Sec 47 (2).

67. Standing Orders of the National Assembly of Botswana, pp. 81, 83 and 84.

68. Transparency International Zimbabwe (TIZ 2007), A Comparative Study of National Integrity Systems in 5 Southern African Countries, Transparency International, Harare.

69. Constitution of Botswana, Section 96 (1) and (2); High Court Act, Section 3; Magistrates' Act, Section 8 (2).

70. Customary Courts Act, Sections 4 (1) and 5 (1).

71. Customary Court Act, Sections 7 (1) and (2), 8 (2), 9 and 10.

72. 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, 2nd June and 27th July 2006).
73. Constitution of Botswana, Sections 100 and 96.
74. Ibid. Section 97.
75. *Mmegi Newspaper*, Tuesday 13 March 2007; www.mmegi.bw.
76. Chieftainship Act, Section 15.
77. Customary Courts Act, Sections 13 to 15.
78. K.C. Sharma, 2005. "Role of Traditional Structures in Local Governance for Local Development; the Case of Botswana".
79. Customary Courts Act, Sections 7, 8 and 9.
80. Republic of Botswana, *Budget Speech, 2008*. Delivered to the National Assembly on 4th February, 2008 By Honourable Baledzi Gaolathe, Minister of Finance and Development Planning
81. Constitution of Botswana, Sections 3 to 16.
82. Republic of Botswana, Office of the Ombudsman, *Annual Report 2003/2004*.
83. Republic of Botswana, 2004. *National Policy on Non-Governmental Organizations*. (Approved by Cabinet on 3rd March 2004, Presidential Directive Cab. 8(b)/2004).

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. Attainment of economic growth with social development, especially poverty-reduction through effective service delivery, requires that there be capable public sector institutions that are accountable to stakeholders for the results that they achieve. The characteristics of the public service, particularly the executive, determine the extent of public sector institutions' efficiency and effectiveness, and the trust and confidence that society places in government institutions.

7.1. QUALITY OF THE EXECUTIVE AND THE PUBLIC SERVICE

The composition of the executive is crucial for its efficient and effective functioning. With regard to the constitution of the senior civil service, 85.6 per cent of the expert panel respondents thought that it was reflective of the cross section of society, 17.8 per cent thought it fully reflects society, 41.1 per cent that it largely reflects a cross section of society, while 26.7 per cent found that it only reflects to some limited extent the characteristic composition of society. However, almost 15 per cent had doubts about the representativeness of the executive (6.7 per cent that it hardly reflects and 7.8 per cent that it does not at all reflect a cross section of society).

On the management of appointments in the civil service, 87.7 per cent of the respondents thought that the management of appointments in the civil service was governed on merit-based principles; 45.6 per cent that the service was governed to some extent on merit-based principles, 31.1 per cent felt that it was governed to a great extent on those principles, while 10 per cent considered the service to be governed on merit-based principles. However 3.3 per cent felt the service was not at all governed according to merit-based principles, while 10 per cent felt it was rarely governed by those principles. About 13 per cent of the respondents thus questioned the meritoriousness of the civil service.

The expert panel was virtually unanimous (74.5 per cent) that the executive was corruption free, with 67.8 per cent finding the executive largely free from corruption whereas 6.7 per cent felt it was above corruption. However, 1.1 per cent felt the executive was completely corrupt, 6.7 per cent stated that it was fairly corrupt and 17.8 per cent that the executive was somewhat corrupt. A total of about 26 per cent of respondents considered that the executive was corrupt.

As pointed out earlier, the independence of the executive branch of government was highly rated; about three-quarters (73 per cent) of the expert panel respondents regarded the executive to be independent in most or all major areas of policy. Less than half (41 per cent) of the respondents regarded the composition of senior public servants largely reflected the

cross section of society, while only 18 per cent saying it fully reflects the cross section of society and 15 per cent stating 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 7 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 last president, Mr Festus Mogae, was well educated, with a master's degree, and had 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 current 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 has the necessary education, training and skills required.

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. 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.⁸⁴ 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 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 to actively participate in politics. The Constitution of Botswana states that "it is a 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 and 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 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), the 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. Institutionally, 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 organisation 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, and 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".⁸⁵ The reasons for failing to have adequate women's representation seem to be other than the 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 hold 41 per cent of top civil service positions; there are only four directly elected women out of the 57 elected MPs, and 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 organisations 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 organise and collectively bargain. The Botswana Public Employees Union (BOPEU) 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 subsidised medical insurance, access to subsidised 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 achieve.

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.

We are unable to state the qualification of civil servants, including the number and percentage of the higher civil service with university degrees and appropriate qualifications. Although this data ought to exist at the Directorate of Public Service Management (DPSM), they were unable to provide it. Their excuse was that the data is not centrally collated; the decentralisation of some of the DPSM's recruitment functions meant that such detailed information was in the various ministries and these do not report regularly to the DPSM.

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 the introduction of some civil service reforms. The administration of the state through district commissioners and tribal administration was carried over from the colonial government. The reforms were largely structural and involved the creation of institutions for social service delivery and the promotion of development. They involved expansion of the institutions of the state through the 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 12 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 in 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 the formulation and implementation of organisational plans for effective public service delivery. Introduced in 1999, it involved the 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 an 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.⁸⁶

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.

It is rather difficult to assess the degree of success and effectiveness of O&M, WITS, and PMS, because of the absence of any audits or reviews. However, with the exceptions of the Botswana Police Services (BPS), which is said to be performing well since the advent of both PMS and WITS, there are some claims that the public sector reforms have borne little fruit in so far as improving productivity is concerned. The complementary nature of these programmes is such that even when there are changes in approach to work, it is difficult to attribute those changes to any single one of them, as they all emphasise changes in work processes.

There have been other public administrative reforms involving financial management, decentralisation and privatisation. These have largely been evolutionary, incremental and uncoordinated, and have not been accompanied by sufficient accountability for attaining results. Privatisation has basically stalled for a myriad of reasons, including a lack of clear policy guidelines, and 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, AND THE 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. On civil service corruption, 90 per cent of the respondents thought that the civil service observes good ethics; 50 per cent that the service is fairly free from corruption; 37.8 per cent that it is largely free from corruption and 2.2 per cent that it is free from corruption.

On the other hand, 10 per cent stated that the civil service is largely corrupt. Almost 68 per cent stated that the executive was largely free from corruption while 7 per cent thought it was completely free from it. Comparatively, 90 per cent of the respondents stated that public enterprises observe good ethical practices; 43.3 per cent that the public enterprises were fairly free from corruption; 38.9 per cent felt that public enterprises are largely free from corruption; and 8.9 per cent felt that the enterprises were free from corruption. However, 8.9 per cent stated that public enterprises were largely corrupt. The picture that emerges is that there is a perception that, whereas the top echelons of the state 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 is provided by 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 the 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, the ministries of Works and Transport, Local Government, Labour and Home Affairs, etc.⁸⁷ 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.

It is difficult to measure the effectiveness of DCEC. We are unable to determine the number of corrupt personnel subject to disciplinary procedures or brought before courts and convicted in any given year. The only statistics available show that the DCEC had a total of 2,045 cases referred in 2004. Of these, 605 or 29.5 per cent were investigated; 837 or 40.93 per cent were referred to other bodies for action; and in 414 cases or 20.24 per cent advice was given to the person or persons reporting; 126 were stored in the intelligence database; and 63 or 3.08 per cent turned out to be matters that have been reported before. In 2005, a slightly smaller number of cases - 1,951 - was reported. Of these, 642 were investigated, 841 were referred, 315 were rendered advice, 99 were stored in the database and 54 turned out to be matters reported previously. In 2006, even fewer cases were reported as only 1,778 were brought to the attention of the directorate. Of these, 617 or 34 per cent were investigated, 746 or 41.96 per cent were referred to other agencies for action, 280 or 15.75 per cent were rendered

advice, 77 or 4.33 per cent were stored in database and 58 or 3.26 per cent were matters that had been reported previously.

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 within, 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.

There are no formal media organisations to combat corruption, although the private press plays some role in exposing it. Transparency International (TI), which campaigns world-wide against corruption, has a chapter in Botswana. Whereas the annual reports from TI show that Botswana is Africa’s least corrupt country in the last half-decade or so, the country has continually slid down in comparison to the rest of the world. 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.

7.3. ROLE AND CAPACITY OF LOCAL GOVERNMENTS

Decentralisation is the de-concentration and dispersal of responsibilities within 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 de-concentrated administration.

At independence, Botswana initiated the process of decentralisation that involved the 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). There are 28 local authorities, including six town councils, 10 district councils and 12 land boards. The local authorities are essentially agencies for the 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 decentralisation is to promote grass roots development through popular participation, the 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. Their plans are submitted to the responsible district council for vetting, appraisal and funding. However, due to 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 per cent). The resource allocation for service provision for local authorities was deemed inequitable or rarely equitable by 13 per cent of the respondents, while only 11 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 per cent), fairly effective (42 per cent) and moderately effective (28 per cent), while only 6 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 local authorities. It retains the power of final approval over most activities of local authorities.⁸⁸

The proportion of public servants employed by local authorities is quite significant. The Ministry of Local Government staffing bill is 14 per cent 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 admini-

stration 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 the 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 budgets, and significantly dependent on the centre for their recurrent budget. The land boards and district councils receive up to 95 per cent of their recurrent requirements from central government, while the urban councils rely on central government for up to 70 per cent of their recurrent income.⁸⁹ The independence exercised by local government in raising and 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 have. 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.

The criteria that govern the distribution of national revenues among local authorities are set out in a formula based on population size, capacity to raise own-revenue sources and the physical expanse of the district or urban territory. Population size however is the predominant determinant. For instance Gaborone City Council has a bigger budget than much larger geographical entities such as the district councils because of the larger population density. The other determining factor is the ability to raise own revenue. Urban areas with capacity to raise more have about 65 per cent dependence on government whereas rural districts depend more (up to 99 per cent) on central government.

7.3.3. Local Government Capacity/Accountability

On the matter of the capacity of local government bodies to manage their decentralised responsibilities, 86.6 per cent of the expert panellists stated that indeed local government bodies had the capacity to manage their decentralised responsibilities to varying degrees; 41.1 per cent thought there was limited capacity, and the same number thought there was some capacity; whereas only 4.4 per cent thought the capacity was adequate.

On local government accountability mechanisms and methods of ensuring accountability and transparency, 85 per cent of the respondents thought these methods were effective. Of these, 5.6 per cent thought the methods were effective, 27.8 per cent viewed them as moderately

effective and 42.2 per cent thought of these as fairly effective. On the opposing side, 7.8 per cent thought the methods were not effective whereas 16.7 per cent thought the methods were rarely effective. About 25 per cent of the respondents thus regarded local government to be generally ineffective.

Likewise, as regards the equitability of resource allocation by local authorities, 86.6 per cent thought that indeed local governments were equitable distributors of resources; 42.2 per cent stated that local agencies were fairly equitable in their distribution of resources, 33.3 per cent thought local government distributed resources in a moderate manner, and 11.1 per cent thought local governments were fully equitable in their distributive functions. However, 12.2 per cent thought that local government was rarely equitable, while 1.1 per cent thought local agencies were not equitable distributors of resources.

The national government controls, directs, supervises and provides guidance on 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.⁹⁰

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 the accounts of every district council, city council, town council, township authority and land board, and to report on 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 computerisation 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 five to two 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 simultaneously cover the National Assembly and the councils. The percentage turnout during the 2004 general elections was 76.2 per cent (421,272 out of 552,849) of total registered voters.⁹¹ 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 legitimise 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.

Our perception is that community participation in setting policy priorities is minimal, if not non-existent. Therefore, the government's responsiveness to local priorities is also questionable. Contrary to claims that the development planning process is 'bottom-up', through the Village and District Development Committees, it is in practice 'top-down'. The central government (Ministry of Local Government), with guidelines on expenditure ceilings from the Ministry of Finance and Development Planning, has to plan and budget within the approved National Development Plan and the centrally-determined manpower and budgetary limits. Thereafter the Ministry of Local Government informs the district and urban councils, land boards and customary courts of these limits. In other words, MLG informs them that they can only plan within the context of available resources agreed upon centrally in the financial year. The councils then have to set their priorities based on the pre-determined figures. This process further stipulates the finances available for each sector, whether in social policy (education, housing or health), infrastructure development or economic development. Thereafter council planners, in a process that mostly excludes councillors, develop proposals based on these projects, programmes or policies and send them back to the Ministry of Local Government, which directs these to the Ministry of Finance after some cuts or additions (but mostly cuts). There is therefore little or no room for the consideration of requests and demands that fall outside of the formal government programmes.

However, communities participate in council programmes mostly by virtue of consumption of the services produced by the councils for the communities, such as primary health, primary education, sanitation and primary roads, which are all responsibilities of local government agencies.

The procedures for setting targets or standards in service provision at regional and local levels, and for monitoring their attainment, are not known to the public. The performance

indicators for service provision by district and city councils are set by the central government as the financier of most local government projects. The performance targets are linked to funding, almost all of which comes from central government. So far, the annual performance plans of central government ministries and departments and local authorities are produced for internal purposes, but are not made available to the public. With the completion of the Performance Management Systems at local government, this state of affairs might change because that could imply that the councils would be involved in setting the performance targets.

7.4. ROLE OF TRADITIONAL STRUCTURES IN GOVERNMENT

Traditional governance institutions are officially recognised. Their legitimacy and authority is confirmed through the Constitution of Botswana, the 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*. This 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, members of parliament and councillors use the *kgotla* for nation-building and to popularise and explain 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 per cent 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 legitimacy, especially of public policies and 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 recognised 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.

As discussed in Section 3.1.3, the traditional structures of governance are fully incorporated into the system of leadership, although there is a strict division of jurisdictions between the traditional and the magisterial/high court systems. The traditional structures of governance are engaged in conflict resolution and management, but are confined to customary and civil matters (and minor criminal cases). They do not affect in any way the outcome of judicial (magisterial, High Court, labour court, etc.) rulings.

The chiefs preside over customary courts, which account for 80 per cent of the total number of legal disputes in the country. Litigants, by submitting to the authority of the customary court system, implicitly bind themselves to the outcomes emanating out of such courts. In this manner, the courts are de facto facilitators in conflict resolution. The higher court in the customary system (the Customary Court of Appeal) is also staffed by traditional leaders, either elected or hereditary leaders who are responsible for the administration of justice at that level; here appellants from the lower courts take their cases for ultimate arbitration.

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 utilised for public mobilisation 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

On the matter of the composition of the police force, 85.6 per cent of the respondents considered that the force largely reflects the composition of society. Of these, 48.9 per cent thought that the composition of the force substantially reflects the composition of society, 36.7 per cent that the composition strongly reflects the cross-section of Botswana society, 4.4 per cent that the composition of the police force did not reflect the cross section of society, and 10 per cent felt that it hardly reflects or weakly reflects the cross section of the society in which it operates. Thus, the expert panel respondents perceived that the composition of the Botswana Police Services (BPS) largely reflects a cross section of society.

The adequacy of police equipment for the effective performance of police functions was

considered to be satisfactory by 74.5 per cent of the expert panel respondents. Meanwhile 31.1 per cent thought the police were fairly equipped, 37.8 per cent that they were reasonably well equipped and 5.6 per cent that they were adequately equipped. On the other hand, 25.5 per cent thought that the police were under-equipped for their functions.

As for the respect for human rights, 93 per cent perceived that the police usually or always respect human rights. On the issue of government's mechanisms for reporting human rights violations, 77.8 per cent of the respondents felt that government's mechanisms for reporting violations were indeed effective, although to varying degrees: 27.8 per cent thought that the methods were sometimes effective, 38.9 per cent thought it was usually effective, while 11.1 per cent thought that the mechanisms are always effective. On the other hand, 3.3 per cent thought that the methods are ineffective, with 18.9 per cent thinking the methods were rarely effective. Altogether, 22 per cent of the respondents perceived inadequacy in the effectiveness of mechanisms for addressing reported human rights violations.

On the perceptions of citizens toward the ability of law enforcement agencies to protect them from theft and crime, 75.5 per cent of the respondents expressed support for the notion that the agencies were able to protect citizens, 31.1 per cent expressed some confidence, 32.2 per cent expressed some moderately high confidence, whereas 12.2 per cent of respondents expressed high confidence in law enforcement agencies. Of those who doubted the capacity of law enforcement agencies, 22.2 per cent expressed low confidence whereas 2.2 per cent expressed no confidence in law enforcement agencies.

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 generally 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 utilising "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), 2,321 (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 2006.⁹² The ratio of police officer to population is 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, which is why special constables are employed.

In 2003, out of a total of 35,825 offences against the penal code, 4 per cent were discharged, 38 per cent of the charges were withdrawn, 56 per cent were convicted and less than 1 per

cent (.06) were juveniles. In 2004, 35,225 were arrested, of which 5 per cent were discharged, 38 per cent had their charges withdrawn, 56 per cent were convicted and 1 per cent were juveniles. In 2006 on the other hand, of the 39,115 people arrested, 5 per cent were discharged, 35 per cent had charges withdrawn, 58 per cent led to convictions and 1 per cent were juveniles (Botswana Police, 2003/4/5).

Police pay is in line with the rest of civil service pay. The salaries paid to police are determined according to the general public service pay scales. There is a common payment scale that is applicable to the whole civil service. However, the police receive certain allowances, especially when engaged in special operations. Nevertheless, there has been a lot of concern of late about the poor conditions of service of 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

On perceptions of corruption in law enforcement agencies, some 53.4 per cent of respondents stated the law enforcement services were not corrupt. Of this number, 45.6 per cent that the services were largely free from corruption, whereas 7.8 per cent thought that the services were free from corruption. However, 4.4 per cent felt the services were largely corrupt and 42.2 per cent felt the services were fairly corrupt. Notable was the perception held by only 8 per cent of respondents that 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 ensured 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 - the police, armed forces, paramilitary forces, etc. - are all under democratic control and are overseen 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). The minister is answerable to parliament, which is democratically elected and represents the will of the people of Botswana.

The accountability structure of the Botswana Police Service includes an internal mechanism called the Police Council, a police complaint body, which has prosecuted nine officers since 2001.⁹³ Other mechanisms include the Botswana Police Act, 1987, the Criminal Procedure and Evidence Act and the Constitution of Botswana, all of which prescribe appropriate conduct by police in various situations. The police also have internal disciplinary measures

to deter and punish police brutality, misconduct and corruption, such as fines, reprimands and demotion to lower ranks, and even 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 or 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.⁹⁴ 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 case. There is a prison visiting committee assigned at each prison, which is appointed by the minister to inspect, 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 per cent) of the expert group responses felt 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 per cent) and moderately high confidence (32 per cent). The picture is that there is general 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 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 achievements 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 the utilisation of public resources. Transparency also means providing an enabling environment for

consultation and participation of stakeholders in public policy processes. The extent to which a government is transparent shows in its information disclosure and dissemination, 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. Thus, we may talk of political accountability, which focuses on accountability for political decisions and actions; administrative accountability, regarding the 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 and Accountability of the Executive

Altogether, 91.1 per cent of the respondents thought that government acts accountably, 28.9 per cent that government acts in a publicly accountably manner, 47.8 per cent that government mostly acts in a publicly accountable manner and 14.4 per cent that government always acts in a publicly accountable manner. However, about 9 per cent stated that government never acts or rarely acts in a publicly accountable manner.

Watchdog organisations such as the ombudsman are supposed to ensure the transparency and accountability of the executive; hence they ought to be operationally independent from the executive branch. Concerning the operations of the Office of the Ombudsman, 75.5 per cent of the expert panellists thought that the office was independent from the executive. Of these however, 23.3 per cent thought the office was fairly independent, 27.8 per cent that it was substantially independent and 24.4 per cent that it was fully independent. Those with the perception of lack of independence of the ombudsman from the executive formed 24.5 per cent of the respondents, and of these 11.1 per cent thought the office was completely controlled whereas 13.3 per cent thought it was fairly substantially controlled. The general perception is that the ombudsman is quite autonomous in operations.

With regards the transparency, about 17 per cent of the expert panel questionnaire respondents felt that current information on government performance was not readily available or accessible; almost half (48 per cent) that government information is available but not readily accessible to the public; 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. 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, the public and private media co-exist; no official registration of journalists or reporters is required; there is freedom of information and access to foreign and local newspapers, film, television and the Internet; there is no censorship of entertainment or news; and people critical of government policies or activities are not imprisoned. However, the National Security Act⁹⁵ 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; these 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, and 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 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.⁹⁶ 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 Vision 2016, which guides the performance of the executive. The vision adds the notion of *botho* (humanity) to the national guiding principles of Democracy, Development, Self-Reliance and Unity that underpin 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 and 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 the monitoring of government (development) activities.⁹⁷ 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.⁹⁸ These processes of administrative accountability actually work, despite the "implementation capacity" constraints that are faced in the execution of policies, plans, projects and programmes.

The government recognises that programme implementation must be improved. Hence the introduction of the annual retreat for cabinet ministers, permanent secretaries and chief executive officers, which aims at "giving final strategic direction on the approaches and initiatives the public service needs to undertake." This year's (2007) retreat was the third, and its objectives were "To critique, align and validate the new approaches to strategic planning; map out the future of Botswana given the NDP 10, Vision 2016 and other development frameworks; reflect on Minister/Permanent Secretary relationship for effective strategy execution and leadership models; and propose the way forward".⁹⁹ In the light of the same quest for improvement of implementation, the government has recently established the

Government Implementation Coordination Office (GICO), which is a division within the Office of the President. The GICO is mandated "to ensure approved Government plans and projects are implemented within the parameters of time, cost and quality".¹⁰⁰ The minister responsible justified its establishment in the following terms: "In the past Government has done well in formulating policies but was not always effective in executing the said plans. The consequence of this is that most of the projects which are meant to benefit the nation are delayed. Therefore GICO will work with implementing agencies to ensure that planned projects are delivered on time. We should not go into NDP10 carrying half of NDP9!" Yet another initiative is the proposed establishment of Ministerial Technical Units to improve the management of project implementation. The government is, therefore, engaged in deliberate attempts to improve its implementation performance, and hence enhance administrative accountability of the executive agencies.

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,¹⁰¹ who are the accounting officers. The accounting officer must ensure that established procedures for accounting and auditing are adhered to.

There was a high level of confidence in the management of public finances: 88.8 per cent of the respondents expressed confidence in the management of public finances, 14.4 per cent thought government enjoys the full confidence of the public, 43.3 per cent that the government enjoys large degrees of public confidence and 31.1 per cent that government enjoys some degrees of public confidence. However, 7.8 per cent stated that government rarely enjoys the confidence of the public while 3.3 per cent felt that government does not enjoy the public's confidence in the management of public finances.

There was also positive ranking in terms of transparency in government procurement. Eight-two per cent of the respondents stated that there was transparency in government procurement, 15.6 per cent that government procurement was fully transparent, 37.8 per cent that it was usually transparent and 28.9 per cent said government procurement was sometimes transparent. On the other hand, 1.1 per cent said government procurement was never transparent and 16.7 per cent that government procurement was rarely transparent.

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 rarely occurs; the normal practice is to prepare supplementary budgets and have them approved by parliament prior to the expenditure of funds.

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 the collection of revenues, recording the receipt and expenditure of government funds, and the 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 the 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) and 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 thus provides the framework for government's policy decision-making and implementation.

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, the utilisation 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. There are annual statements of accounts that are accurate and trusted. 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 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 all government institutions' planning and budgeting systems. The NDP and budget reviews are utilised 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 organised 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 the 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, also 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

Access to government services was perceived by 76.7 per cent of respondents as satisfactory, with 61.1 per cent stating that there was mostly ready access to government services and 15.6 per cent stating there was ready access to government services. However 4.4 per cent considered that there was difficulty in access to the services, 2.2 per cent that there was very little access and 16.7 per cent that there was limited access to government services.

Government services to the poor were considered relevant by 82.2 per cent, 38.9 per cent stated that the services fairly address the needs of the poor, 34.4 per cent that the services moderately address the needs of the poor and 8.9 per cent that the services fully address the

needs of the poor. On the other hand, 17.8 per cent considered that the services do not or only poorly address the needs of the poor.

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 toward service provision. The aim is to reduce poverty, provide opportunities for income generation, engage people in economic activities, 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; the 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; Ministries of Education, Trade and Industry, and Lands and Housing; and the Ministry of Local Government, whose portfolio covers tribal administration, district Administration and social services.

As noted above, the expert panel was quite unanimous (61 per cent) that there was generally ready access to government services or ready access (16 per cent). Altogether, 77 per cent thought government services were mostly readily accessible or fully accessible to people. Three quarters (75 per cent) 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, but only 4 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 per cent, and fully effective by only 6 per cent of the respondents. However, only 37 per cent of the respondents perceived the service delivery institutions of local governments to be 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 per cent) of the respondents perceived that local government service provision was adequate.¹⁰² A similar,

but more comprehensive study commissioned by the Government of Botswana in 2005 found that about half (54 per cent) 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.¹⁰³ 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 were going at the rate of P2.00 per person per visit to a clinic since 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, Batswana pay P300.00 per year (for junior schools) and expatriates pay P3,000.00 per year. For senior secondary schools, locals pay P450.00 while expatriates pay P6,000.00 per year. Revenue collected from these charges is however insufficient to finance government expenditures. As many of these services are free, there tends to be a 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, advertised for quotations in September 2007 for conducting its own “Customer Satisfaction Survey and Internal Climate Survey”, which would ostensibly serve to replicate and institutionalise 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; and 328 telephone lines per 1,000 people (see Table 24 below, and for comparison with Southern African Customs Union and upper and lower middle income countries, Table 10). Whereas these figures indicate that generally Botswana has commendable statistics on access to public services, which 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 24. Selected indicators related to access to the 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.

Due to an unavailability of information and data, which is partly a consequence of the absence of formal audits, we are unable to incorporate data on the quality of services such as health services, building adequacy, teacher adequacy, educational material adequacy, or public education quality. In addition, there is no readily available data on the proportion of the population with access to agricultural extension services, access to affordable housing, access to employment opportunities, credit access or access to transportation services.

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 25 shows that there are altogether 1,504 such facilities with a total of 3,911 beds for the population of about 1.7 million. Overall, 95 per cent of the population lives within 15 kilometres of a public health facility.¹⁰⁴ The biggest problem facing the health sector is retention of staff, due to unfavourable remuneration and poor conditions of service. The

Table 25. Health facilities in Botswana.

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

Source: Central Statistics Office.

minister of health told parliament in December 2007 that 114 nurses had resigned from the public service in the preceding two years; most had joined the private sector, such as medical aid schemes and private practice.

Land Ownership

The land boards allocated over 168,000 plots of land for all uses (including 7,000 new plots in urban areas) from 2001 to the present. The government is in the process of acquiring more tribal and freehold land for purposes of village and urban expansion, which includes land that would be allocated to individuals. 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. Customarily, inheritance of land is through the males in the family. In line with these customs, females only own land as appendages of their husbands or family. However, there is no law that expressly forbids females from owning land.

Table 26. 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 27. 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
Total	354,925	100

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 28 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.

Table 28. Primary and secondary school attendance, 2003.

Primary Schooling			Secondary Schooling		
Standard	Male	Female	Form	Male	Female
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.

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. A national ring road has been completed, and upgrading and expansion of the roads network are being undertaken. Road transportation is therefore not a problem.

Electrification

Botswana has a rural electrification programme that benefits villages. Whereas there was only 12 per cent direct connection to electricity in 1998, 46 per cent of people now have a direct connection. There is also solar electrification that is being developed to augment the extension of the national electrical grid.

Public Service Complaints

There are set procedures for lodging complaints about public services offered by the civil service, police, local government councils, land boards, parastatal and other public organisations. The ombudsman advises that complaints should be initially handled by organisations' own customer relations departments before presenting them to the Office of the Ombudsman. 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 per cent) and to women (72 per cent). The distribution of charges paid by service users and the proportion of total budget financed by user charges are not known. The information is not

available, possibly because most public services are free; however, user charges and cost sharing are being introduced in various degrees.

7.8.2.1. The Youth

The government has created opportunities for youth involvement in economic activities. There are services that are 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.

The extent to which the educational material is of sufficient quality and relevance to ensure that individuals can enter the labour market with significant skills that will guarantee employment at entry-level is difficult to determine. Botswana has a free, universal twelve year education programme (standard one to form five), and the tertiary education sector is relatively accessible (due to government sponsorship of scholarships). However, there is quite a high level of unemployment (see Chapter 4). The causes of such high unemployment are numerous, including the structural dependence on the mining industry, which is predominant but does not create mass employment. The diversification of the economy is problematic, due to several structural constraints. It is, therefore, inaccurate to attribute the employment problems to the quality and relevance of educational materials alone.

Botswana possesses laws and regulations to protect the youth from discriminatory practices, as well as sexual harassment in general but more specifically in the work place. Most youth are protected from discrimination by the same rules that protect the rest of the population from discrimination. The constitution expressly forbids discrimination in terms of age, gender, tribe, religion or race.

As pointed out above, the government does not expressly set targets for services; rather the government only expresses, in financial terms, the resources available to target perceived policy problems, without specifying the extent of coverage of the target group. The youth are, therefore, not subject to specific percentage targets of services. Likewise, there are no procedures in which performance targets and standards for service delivery are established specifically for the youth.

With regards to the proportion of the youth (18-35-age bracket) that obtains successful access to clean water, sanitation and primary health care, access to services is not based on age-

targeting. The youth benefit from public programmes just as anyone else as part of the locality in which they find themselves. For instance, 100 per cent of residents in urban areas of Botswana have access to water. Access to water in rural areas on the other hand is only 90 per cent. The two figures include all age groups. Such access to services does not discriminate in terms of age.

Although enrolment in all types of schools is provided, the full comparative data are only available up to 2001 (see Table 29). However, the data are not disaggregated by age bracket. In general, primary schooling goes up to age 12, and most secondary schooling ends at age 20 at the latest. In 2004/05, 51 per cent of primary school going age pupils were enrolled whereas 59 per cent were enrolled in secondary schools.

The youths' reporting of complaints about service delivery is within the context of the procedures that are available for all inhabitants. It is likely that if the youth do make complaints they make such complaints as general service users, and not as youth. As such, complaints from youth will be aggregated with complaints from other age groups.

7.8.3. Responses to the HIV/AIDS Pandemic in Botswana

Botswana's health coverage is nation-wide and heavily subsidised. Actually the allocation of public finance favours, in descending order, education (20 per cent), local government (11 per cent), the State President (10 per cent) and health (6 per cent) (see Table 19). 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.¹⁰⁶ 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 policy framework for combating HIV/AIDS has developed over time from 1987. 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 diverse set of government, development, and civil society partners."¹⁰⁷ NACA is the secretariat to the National AIDS Council, which is chaired by the president of the Republic of Botswana.

The coordinating role of NACA involves the identification of key strategic priorities in the war on HIV/AIDS; the development and support of programmes and policies that can deliver on these priorities; and the development of tools and mechanisms to monitor and evaluate progress in the response to HIV/AIDS. The institutional frameworks to support the functions of NACA are the District Multi-Sectoral AIDS Committees (DMSACs), of which NACA is the national coordinator. These are at the forefront of implementation of all AIDS programmes, which are guided by the *National Strategic Framework 2003-09* that aims at prevention, treatment and care, mitigating the psychological and social impacts, management of the national response, and strengthening the legal and ethical environment.

CHAPTER 7. INSTITUTIONAL EFFECTIVENESS AND ACCOUNTABILITY OF THE EXECUTIVE

Table 29. Enrolment at all levels by gender (1992-2001).

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
First Level - Primary Schools										
Male	147,414	150,751	153,789	156,560	159,502	161,497	162,565	162,124	163,192	165,932
Female	154,068	154,728	156,339	157,133	159,127	160,771	160,125	160,351	161,091	163,519
Total	301,482	305,479	310,128	313,693	318,629	322,268	322,690	322,475	324,283	329,451
% Female	51.1	50.7	50.4	50.1	49.9	49.9	49.6	49.7	49.7	49.6
Second Level - Secondary Schools										
Male	35,146	39,880	40,989	48,212	50,686	54,525	67,641	70,446	73,044	72,981
Female	40,727	45,807	45,695	54,947	57,687	61,551	75,862	77,749	79,202	78,866
Total	75,873	85,687	86,684	103,159	108,373	116,076	143,503	148,195	152,246	151,847
% Female	53.7	53.5	52.7	53.3	53.2	53.0	52.9	52.5	52.0	51.9
Second Level - Teacher Training Colleges										
Male	185	195	269	315	320	343	439	482	523	601
Female	1,087	1,066	816	855	843	656	617	655	721	803
Total	1,272	1,261	1,085	1,170	1,163	999	1,056	1,137	1,244	1404
% Female	85.5	84.5	75.2	73.1	72.5	65.7	58.4	57.6	58.0	57.2
Second Level - Vocational and Technical Training										
Male	2,730	3,263	3,814	5,563	4,351	5,598	6,226	6,178	6,775	7,090
Female	1,368	1,412	1,667	2,532	1,857	3,232	3,713	3,431	4,121	4,417
Total	4,098	4,675	5,481	8,095	6,208	8,830	9,939	9,609	10,896	11,507
% Female	33.4	30.2	30.4	31.3	29.9	36.6	37.4	35.7	37.8	38.4
Third Level - Colleges of Education										
Male	551	769	615	552	568	548	557	543	596	690
Female	624	630	663	719	686	713	700	716	667	805
Total	1,175	1,399	1,278	1,271	1,254	1,261	1,257	1,259	1,263	1,495
% Female	53.1	45.0	51.9	56.6	54.7	56.5	55.7	56.9	52.8	53.8
Third Level - College of Agriculture										
Male	210	248	257	308	259	269	269	269	448	592
Female	88	83	75	68	62	123	123	123	156	209
Total	298	331	332	376	321	392	392	392	604	801
% Female	29.5	25.1	22.6	18.1	19.3	31.4	31.4	31.4	25.8	26.1
Third Level - University of Botswana										
Male	2,030	2,238	2,828	2,609	3,812	4,128	4,525	5,011	5,989	6,318
Female	1,946	2,228	2,228	2,892	3,485	3,879	4,073	4,584	5,733	5,968
Total	3,976	4,466	5,056	5,501	7,297	8,007	8,598	9,595	11,722	12,286
% Female	48.9	49.9	44.1	52.6	47.8	48.4	47.4	47.8	48.9	48.6
All Levels										
Male	188,056	197,096	202,304	213,811	219,239	226,639	241,953	244,784	243,792	253,423
Female	199,820	205,871	207,408	219,078	223,685	230,802	245,090	247,486	247,320	253,932
Total	387,876	402,967	409,712	432,889	442,924	457,441	487,043	492,270	490,861	507,355
% Female	51.5	51.1	50.6	50.6	50.5	50.5	50.3	50.3	50.4	50.1

Source: CSO.

Programmes and policies formulated and implemented to provide support for HIV/AIDS orphans and children-headed households are implemented under the umbrella of the *National Strategic Framework*, which 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 of 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; and
- 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, and the provision of highly active anti-retroviral therapy.

Supporting non-governmental organisations, such as Botswana Network of People Living with HIV/AIDS (BONEPWA), Youth Health Organisation (YOHO) and Botswana Christian AIDS Intervention Programme (BOCAIP), assist NACA and the district-based public institutions by advising NACA and implementing some components of the national strategy.

The strategy is implemented through various initiatives, such as “know your status” programmes for orphans and vulnerable children, Prevention of Mother to Child Transmission (PMTCT), home-based care for the infected, the Anti Retroviral Therapy (ART) programme and the National Orphan Care Programme. The latter includes food baskets, free schooling, support with educational necessities and psychosocial counselling for orphans. As of June 2007, there were close to 54,000 registered orphans.¹⁰⁸

A total of 89,504 patients were receiving ART in Botswana at end of June 2007. The direct public sector roll-out of ART was to 73,732 patients who were being treated in the public sector hospitals and clinics. Of this total, 61 per cent were females, 9 per cent children and 13 per cent above 50 years of age. In addition to the total number of patients, the treatment of an additional 6,258 had been outsourced to the private sector, which already had 9,514 patients being treated. The youth have access to anti-retroviral drugs, as access to and supply of ARVs is not based on age or other such considerations, but rather need. Youth, just like the rest of the population, have access to ARVs which are supplied on a free, universal basis. There exists neither youth- specific testing centres nor counselling facilities.

There are ongoing efforts to explore and implement further initiatives to enhance the national HIV/AIDS response. One such example is a capacity-building initiative introduced for national HIV and AIDS response where a number of implementing partners are trained in monitoring and evaluation, data analysis and basic computing skills.¹⁰⁹

Botswana has made progress in reducing mother-to-child transmission of HIV/AIDS from 40 per cent to 6 per cent, while the number of home-based care patients has declined from 12,000 to 4,000 over the last decade. Over 98 per cent of pregnant women are tested for HIV/AIDS, and over 90 per cent of the estimated 100,000-plus people needing treatment are actually treated.¹¹⁰

The various programmes are complemented by support for the dissemination of essential information on protection against HIV/AIDS. Government, together with nongovernmental for-profit and not-for-profit actors, such as Population Services International, has youth-friendly programmes on HIV/AIDS. The strategies of implementing these services differ and include information dissemination, condom distribution and education. Information is disseminated through radio jingles, flyers and posters, and road shows and music festivals. Condoms are given free in hospitals and clinics.

The policies that have been formulated are youth-friendly and aimed at enhancing access, affordability and quality healthcare. For example, the Adolescent Reproductive Health Programme (ARH), which is co-sponsored by UNICEF and the government of Botswana, aims at providing youth friendly health services, especially in the field of youth reproductive health. There is a very supportive environment created to encourage young people's ability to make empowering choices. The supportive environment is extended to other initiatives such as for HIV/AIDS orphans, child-headed households and people living with HIV/AIDS. The government supplies food and other material support such as clothing for HIV/AIDS orphans and vulnerable children (OVC). Concerning the rights of people living with HIV/AIDS, there is currently an attempt to come up with a policy on HIV/AIDS in the workplace. This policy seems to be a direct result of sporadically reported violations of the rights of people living with HIV in the workplace, who, newspapers often report, are fired when their status is discovered.

Access to the HIV/AIDS services is universal. All the HIV/AIDS-related services are publicly announced to all, through the media and in posters at hospitals, clinics and public places. The fight against HIV/AIDS is a national one, and therefore not only the youth are targeted but every inhabitant of the country. The monitoring of implementation of the various initiatives is the responsibility of NACA (see above).

The infection of people attending primary and secondary schooling is difficult to determine. NACA conducts regular HIV/AIDS prevalence surveys, but these are mostly done on pregnant mothers that attend pre-natal clinics. The latest *NACA Botswana AIDS Impact Survey* did not give a breakdown of the age cohorts with HIV by gender. However, they presented the breakdown by age, in which the survey found that 16.5 per cent of people in the

age group 5-19 were HIV positive. Of this number, 6 per cent were in the 5-9 age bracket, 3.9 per cent were in the 10-14 age bracket and 6.6 per cent were in the 15-19 age bracket.

There are no disaggregated national statistics on child morality, life expectancy and literacy pertaining to the infected and at risk groups. The social workers, aid care deliverers, clinics and non-governmental organisations are the avenues through which HIV/AIDS-related complaints are handled.

7.9. CONCLUSION

The effectiveness of the executive in policy determination is unquestionable. Policy-making, the 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 in 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 implemented half-heartedly. 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 a lack of implementation capacity, as indicated by the perpetual failure to accomplish targets in the National Development Plans.

Notes

84. Public Service Act, Sections 7 and 8.

85. http://www.gov.bw/index.php?option=com_content&task=view&id=30&Itemid=40

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

87. DCEC, *Annual Report 2005*.

88. 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.

89. NDP9, p.392.

90. 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)

91. IEC, 2004. *Report to the Minister of Presidential affairs and Public Administration on the 2004 General Elections*, p.12.

92. Annual Report of the Commissioner of the Botswana Police Service for the Year 2006.

93. Transparency International Zimbabwe. 2007, p. 40)

94. Botswana Prison Service, *Annual Report 2003*.
95. Republic of Botswana, *National Security Act*, (Cap. 23:01).
96. See Sections 47(3), 48(4) of the Constitution.
97. See Appendix H for details of the process of annual public budgeting, which illustrates the centrality of the role of the MFDP.
98. 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.
99. Welcome remarks by the Minister of Justice, Defence And Security, Hon. P.T.C. Skelemani, at the Retreat for Cabinet Ministers, Permanent Secretaries and Chief Executive Officers, 26/10/07.
100. Minister of Presidential Affairs and Public Administration, the Honourable Daniel K. Kwelagobe, speaking at the 2007 Public Service Convention. Quoted in Republic of Botswana (19/10/07): TAUTONA TIMES no 36 of 2007, The Weekly Electronic Press Circular of the Office of the President.
101. Finance and Audit Act, Section 5.
102. 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.
103. Republic of Botswana, Government of Botswana Customer Satisfaction Survey for the Public Service, Final Report, 10th November 2005. (Prepared by DCDM Consultants)
104. State of the Nation Address by His Excellency Mr. Festus Gontebanye Mogae, President of the Republic of Botswana, at the opening of the Fourth Session of the Ninth Parliament – “Achievements, Challenges and Opportunities”, 5 November 2007.
105. *Daily News*, Monday 10 December 2007.
106. 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?”
107. <http://www.naca.gov.bw/about.htm>
108. Source of information is the National Aids Coordinating Agency (2007)
109. Botswana Country Report to the Seventh African Governance Forum on the theme “Building the Capable State in Africa” Version 3, October 2007.
110. State of the Nation Address by His Excellency Mr. Festus Gontebanye Mogae, President of the Republic of Botswana, at the opening of the Fourth Session of the Ninth Parliament – “Achievements, Challenges and Opportunities”, 5 November 2007.

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 the implementation of the African Charter on Human and Peoples' Rights to the African Commission on Human and Peoples' Rights. The official reason given for non-implementation 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:¹¹¹

- 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 Transnational 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.

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; and the induction of recruits is done 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 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); and 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".¹¹²

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".¹¹³ 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, but an independent civil society organisation, Ditshwanelo - The Botswana Centre for Human Rights, was founded in 1993 to advocate for human rights. The guarantees for non-discrimination and the 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). Enforcement of human rights is primarily done formally through the courts. Citizens have over the years freely resorted to the courts whenever they felt that their human rights had been violated or threatened.

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. However, this position is not consistent with developments in modern constitutionalism, where the presence of a human rights commission is considered central to the promotion and sustenance of a culture of human rights. Such commissions are critical to the promotion and protection of human rights, as they ensure that human rights violations are addressed and that there is effective redress for such violations. Furthermore, they monitor and assess the observance of human rights, and raise awareness on human rights issues. The absence of such a commission in Botswana is therefore unfortunate, as its presence could enhance the promotion and protection of human rights in the country.

Botswana has an Office of the Ombudsman, which is a public watchdog institution that deals with cases of malpractice, injustice and unfairness in public service delivery, which has a bearing on human rights. The Office of the Ombudsman has its head office in Gaborone and a branch in Francistown. It also holds circuit investigations around the country on a quarterly basis in order to promote its accessibility by under-privileged communities throughout the country. Complaints to the ombudsman can be lodged in person by visiting the offices, or by writing or by e-mail. The office is in the process of setting up a toll-free number that will be used to register complaints.

The effectiveness of the ombudsman is limited by poor public knowledge of its existence, the functions it is supposed to perform and the 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. Furthermore,

the office has manpower constraints which negatively impact on its service delivery. Currently, there are only ten officers that are performing the office's co-function of investigations.

8.2. THE STATE OF HUMAN RIGHTS AND RULE OF LAW IN BOTSWANA

The respondents to the expert panel questionnaire were almost unanimous (84 per cent) that there is usually (58 per cent) or always (26 per cent) respect for human rights. Only 15 per cent perceived that human rights were either rarely or only sometimes respected. This is a slight improvement on the statistics of the 2004 report, where 54 per cent and 24 per cent of the respondents were of the opinion that human rights were usually or always respected, respectively. The percentage of those that thought that human rights were rarely or sometimes respected went down from 20 per cent.

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. This shows a decline in the effectiveness of the reporting of human rights abuses compared to the previous (2003) survey, where 7 per cent and 49 per cent were of the opinion that human rights violations reporting was ineffective or always effective, respectively.

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. These figures show an improvement on women's rights violations reporting, which stood at 40 per cent and 26 per cent in the 2003 survey.

Less than half (45 per cent) 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. In the previous report, 36 per cent of the respondents stated that there was action against human rights violations while 22 per cent felt 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. This shows an increase from the 2004 report from 48 per cent. 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 or 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.

8.2.1. Human Rights and the Minorities

Despite Botswana's generally good human rights record, the country 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 insistence 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.

The assumption that Botswana society is homogenous does not truly reflect the ethnic composition of the country. According to estimates made in July 2006, the ethnic composition of the country is 79 per cent Tswana (Bamangwato, Bakgatla, Bakwena, Bangwaketse, Bamalete, Barolong, Batawana and Batlokwa); 11 per cent Kalanga; 3 per cent Basarwa and 7 per cent other ethnic groups.¹¹⁴

It was however because of the official assumptions on the ethnic composition of the country 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 *Basarwa* lived 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.

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 2006. The government accepted and respected the decision of the court, albeit in a somewhat pedantic manner.¹¹⁵ 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.

The assumption that all *Batswana* are indigenous is flawed. While there is no universal consensus on the definition of indigenous people, under international law the term is used to describe people who have the following features: their cultures and ways of life differ considerably from the dominant society, and their cultures are under threat, in some cases to the extent of extinction; the survival of their particular way of life depends on access and rights to their traditional land and natural resources thereon; they suffer from discrimination as they are being regarded as less developed and less advanced than other more dominant sectors of the society; and they are subject to domination and exploitation within national political and economic structures that are commonly designed to reflect the interests and activities of the national majority.¹¹⁶

In its 2006 decision, the High Court of Botswana recognised that *Basarwa* belong to a class of peoples that have now come to be recognised as indigenous peoples.¹¹⁷ Although the government has not yet reviewed its policy on indigenous people, it is hoped that the adoption of the UN's Declaration on the Rights of Indigenous Peoples and the sentiments expressed by the High Court would act as a catalyst toward a review of the policy.

The state of Botswana has taken some steps toward the elimination of racial discrimination in line with the recommendations of the UN Human Rights Committee on Elimination of Racial Discrimination.¹¹⁸ In 2005, parliament amended the provisions of the Constitution that dealt with the composition of the then House of Chiefs, now known as *Ntlo ya Dikgosi*.¹¹⁹ Under the old provisions, chiefs of some tribes in the country could not be members of the House of Chiefs, neither *ex officio* nor through election. This was clearly discriminatory.¹²⁰ While the 2005 constitutional amendments make it possible for a chief of any tribe to be a member of *Ntlo ya Dikgosi* through election, they do not go far enough in eliminating discrimination, as chiefs of other tribes, notably Bamangwato, Bakgatla, Bakwena, Bangwaketse, Bamalete, Barolong, Batawana and Batlokwa, are *ex officio* members of *Ntlo ya Dikgosi*, a privilege that is not accorded chiefs of other tribes in the country.

Further to the constitutional amendments, the government in mid-2007 published a bill – the *Bogosi* Bill - which is intended to repeal the Chieftainship Act and amend the Tribal Territories Act, which were found by the High Court in the case of *Kamanakao I and Others v The Attorney General and Another* to be discriminatory on the basis of tribe. The former Act defines a tribe as referring only to the eight tribes mentioned above, while the latter Act delineates tribal territories only to these eight tribes. The proposed law seeks to extend the definition of a tribe to all ethnic or community groups in the country. It also extends the definition of a tribal area to mean an area inhabited by a tribe as defined in the proposed law.

8.3. LAW ENFORCEMENT AGENCIES AND HUMAN RIGHTS VIOLATIONS

The expert panel perceived a high degree of police respect for human rights. Only 7 per cent, compared to the 2004 report's statistics of 5 per cent that considered that there was rarely or sometimes respect for human rights; 93 per cent considered there was usually or always respect for human rights. In the previous report 76 per cent were of the opinion that law enforcement agencies usually or always respected human rights. Police officers that are

suspected of human rights violations or heavy-handedness are investigated, and prosecuted where appropriate. The law applies to each and everyone, including members of the law enforcement agencies.

8.4. CIVIL AND POLITICAL RIGHTS

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 constitutional or legal provisions by the state and its agents. Restrictions on people's enjoyment or rights are not common. There is freedom of movement, freedom of association, and 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 and civil society organisations, 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 or actions.

Although Botswana acceded to the Convention of the Rights of the Child in 1995, the government has not yet comprehensively amended child protection laws and policies to ensure that children enjoy all the rights set out in the Convention. The government has been consulting the public over the past years on amendments to child protection laws, particularly the Children's Act and the Adoption Act. It would appear that the delays in finalising the consultation process are partly due to controversy surrounding certain proposed amendments, like the abolition of corporal punishment, where the public is sharply divided. Expectations are that the consultation process will soon be finalised, which would culminate in major amendments to child protection laws that will align them to the Convention.

Presently, there are no effective measures in place to prevent violence against children. The Children's Act only spells out the role of the state and of social workers in the prevention of violence against children. The Act is silent on the role of the community, an omission, which in the view of the child welfare division in the Department of Social Services in the Ministry of Local Government, seriously impedes the reporting of incidents of violence against children. This is because potential informers - members of the public - are not protected and therefore are not forthcoming in reporting such incidents. Consequently, the child welfare division is in the process of drafting a protocol on reporting incidents of violence against children, which will be aimed at enhancing the system for reporting and investigating incidents of violence against children by affording protection to informers.

A study commissioned by the child welfare division in 2005 revealed that the problem of commercial sex exploitation of children is prevalent in the country. Unfortunately, there is currently no national plan of action to address the problem. The child welfare division is however working on a plan that will define the role of the various players in order to address the problem.

Although the above discussion demonstrates that the Government of Botswana has done very little to amend its laws to ensure that children enjoy rights guaranteed under the Convention, there have actually been a few positive developments. The Department of Registration of Births and Deaths, in conjunction with UNICEF, have since 2006 been running a project that is raising awareness on the necessity to register children at birth. The government has also put in place programmes that assist vulnerable groups of children, such as orphans and children of destitute parents, with basic necessities like food and school uniforms.

8.5. GENDER EQUALITY AND HUMAN RIGHTS

The expert panel respondents had positive ratings of Botswana's respect for gender equality and human rights. This was especially so with regard to service provision and actions against violence directed at women. When comparing the relevance of services to women between the two surveys of 2003 and 2007, it emerges that in 2003, 81.2 per cent of expert panel respondents thought that government services were relevant to women. In 2007, the number had increased somewhat, as 87.8 per cent of the respondents opined that government services were relevant to women.

In another comparator - actions against violations of women's' rights - the expert panel's perception was that there is a lot of government attention in terms of acting against violation of women's rights. In 2003, 81.5 per cent of the respondents stated that government acted against violations of women's rights, whereas 91.3 per cent had that perception in 2007, a difference of 9.8 per cent. The effectiveness of reporting of women's human rights was acknowledged by about 73.9 per cent of the respondents in 2003. However, in 2007, 85.5 per cent of the respondents believed that the reporting of women's human rights is effective. In all, it appears that the expert panel perceived progress in the relevance of public services to women, and in the addressing of human rights violations against them. This might indicate better articulation of and realisation of policy goals concerning women in Botswana.

The Constitution of Botswana prohibits discrimination based on sex. However, despite the constitutional provision, women in the country face a number of constraints with respect to certain rights and freedoms. These constraints derive from the law as well as from cultural practices. Certain provisions of both the common and customary law do not treat men and women equally.

In an effort to promote gender equality, the government adopted a policy on women to specifically address the continuing disadvantages and discrimination faced by women in the country.¹²¹ The government also established a Department of Women's Affairs, whose primary role is to promote the enhancement of the status of women within Botswana society.

There are a number of actions that have recently been taken by government to promote gender equality, including enactment of the Abolition of Marital Power Act, which recognises the equality of spouses. Following this enactment, the government tabled the Statute Law (Miscellaneous Amendments) Bill 2008 (Bill No. 3 of 2008) in February 2008. This bill is

intended to make the provision of certain Acts gender-neutral and thus remove discriminatory provisions relating to women and children. The proposed amendments will affect the Pensions Act; Married Persons Property Act, Matrimonial Causes Act, Administration of Estates Act, Deeds Registry Act and the Companies Act.

The enactment of the Domestic Violence Act in February 2008 has also contributed to efforts to eliminate gender-based violence that mostly affects women. International funding from the United Nations Population Fund for Women (UNIFEM) for the Department of Women's Affairs in the Ministry of Labour and Home Affairs and its partners (UNDP, NGOs and other government departments) is also being utilised to combat gender-based violence and the spread of HIV/AIDS.

Civil society has played, and continues to play an important role in promoting gender equality in the country. The adoption of the policy on women referred to above was partly due to pressure from women's rights groups. These groups have also lobbied the government to review and amend laws that discriminate against women. The pressure applied by these groups has paid dividends as the government has amended a number of laws that were discriminating against women. Examples of such laws include the Citizenship (Amendment) Act, 1995, Deeds Registry (Amendment) Act and Abolition of Marital Power Act, 2004.

8.6. SOCIO-ECONOMIC AND CULTURAL RIGHTS

The Constitution of Botswana does not guarantee economic, social or cultural rights (third generation rights). Neither has the State of Botswana ratified any international instrument that guarantees these rights. However, even in the absence of guarantees for these rights, Botswana has done reasonably well in ensuring their enjoyment. 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 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".¹²² 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 organisations, Ditshwanelo operates and thrives unhindered by official constraints.

Botswana does not have a Human Rights Commission. Although the NGO Ditshwanelo operates unhindered, and there is a functioning office of the ombudsman, these are neither sufficient nor adequate to fill the gap that exists in the absence of an official human rights commission.¹²³ The Office of the Ombudsman's effective functioning is limited by poor public knowledge of its existence and of its functions and responsibilities, and the human resource capacity constraints that inhibit service delivery. The absence of a human rights commission is thus a cause of concern because it implies that Botswana is not keeping up with internationally expected obligations to fulfil the UN General Assembly Resolution on National Institutions for the Promotion and Protection of Human Rights of December 1993, or with the Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (Paris Principles).¹²⁴

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 per cent) 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 organisations 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 arguably an international good citizen. It is a signatory to several 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, or 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-governmental human rights body operates free from official interference, and is fairly effective in agitating for the right to life (there still is a death penalty) and an advocacy of the rights of women, children, domestic workers, prisoners and refugees. The report, however, shows that the reporting of human rights abuses is ineffective and that there is little action taken against such abuses. The establishment of a human rights commission is therefore critical as it would significantly facilitate the reporting of human rights abuses and ensure that action is taken against such abuses.

The civil and political rights of individuals and groups are generally respected and there are no political prisoners in Botswana. The good governance of the country is thus enhanced by respect for the law and respect for civil, political, cultural, social, economic and generally human rights. But the government should repeal or amend any remaining laws and policies that are perceived to be discriminatory. Although the government has taken measures to

repeal and amend discriminatory laws, there still remain some discriminatory laws, such as the constitutional provisions dealing with the composition of *Ntlo ya Dikgosi*. Furthermore, there is an urgent need for the government to amend its policy on indigenous people to align it to international law standards. Even though Botswana acceded to the Convention on the Rights of the Child over a decade ago, very little has been done in terms of amending child protection laws and policies to ensure that children enjoy rights guaranteed under the convention. However, there have recently been commendable developments in enactment of laws that promote the rights and empowerment of women.

Notes

111. The Government of the Republic of Botswana Treaty Register-Multilateral Treaties and Agreements to which Botswana is a Party, As at September 2005.
112. *Ibid*.
113. 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 per cent20Statement per cent20on per cent20Declaration per cent20of per cent20Indigenous per cent20Rights per cent20-17 per cent20September per cent202007.htm](http://www.ditshwanelo.org/bw/index/Other/Other/Press%20Statement%20on%20Declaration%20of%20Indigenous%20Rights%20-17%20September%202007.htm)
114. These findings are generally consistent with the findings of the 2001 census, whereby people were asked: "which Botswana language is your home language?" The official results from that census stated that "79 per cent of the respondents identified Setswana, 7 per cent other Sotho-Tswana languages, 9 per cent Ikalanga, 3 per cent Seherero or Sembukushu, 2 per cent Sesarwa (Khoisan), 1 per cent Sesobebe (Chikuhane) and 1 per cent Seyei.
115. Attorney General's statement on the outcome of the case of Roy Sesana and Others VS the Attorney General Republic of Botswana (18/12/06): TAUTONA TIMES no 43 of 2006. The Weekly Electronic Press Circular of the Office of the President: "As a constitutional democracy that respects the rule of law, the Government wishes in this statement to indicate the immediate steps it intends to take to implement the decision of the Court. This will also guide the Government in its operations and management of the Central Kalahari Game Reserve (CKGR)".
116. *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities*, adopted by the African Commission on Human and Peoples' Rights at its 28th Ordinary Session, 2005.
117. Per Justice Dow in *Roy Sesana and Others v The Attorney General*, Misca. No. 52 of 2002 (Unreported).
118. Consideration of Reports Submitted by States Parties under Article 9 of the Convention – Concluding Observations of the Committee on the Elimination of Racial Discrimination – Botswana, CERD/C/BWA/CO/16, 21 March 2006.
119. Constitution (Amendment) Act, 2005, Act No. 9 of 2005, Laws of Botswana.
120. See *Kamanakao I and Others v The Attorney General and Another* [2001] 2 BLR 654 at 671.
121. Women's Affairs Division, Department of Culture and Social Welfare, Policy on Women in Development (Gaborone, Government Printer, 1995).
122. <http://www.ditshwanelo.org/bw/>
123. The official position remains 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. This position is inconsistent with the form of constitutionalism whereby there is promotion of and adherence to protection of human rights; where the presence of a human rights commission is considered central to sustaining that commitment. The advantage of having a human rights commission is that it is utilized as a critical institution for the promotion and protection of human rights by addressing human rights violations and ensuring effective redress for such violations. Furthermore, human rights commissions monitor and assess the observance of human rights and raise awareness on human rights issues. The absence of such a commission is unfortunate as its presence could enhance the promotion and protection of human rights in the country.
124. UN General Assembly Resolution 48/134 of 20 December 1993 (A/RES/48/134, 4 March 1994). The resolution contains a comprehensive set of recommendations on the role, composition, status and functions of national human rights instruments.

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".¹²⁵

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.

The above implies that the institutional capacity of both central and local governments is essential in the building of good governance. The assurance of good governance depends on the capabilities of institutions to effectively implement policies and projects, to effectively plan government expenditure, efficiently and effectively deliver public services, and establish, operate and sustain prudential developmental frameworks.

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.¹²⁶ 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 Government of Botswana has since independence formulated and advocated various policies that facilitate individuals and organisations to perform. 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 organisations 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 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 include the District Councils and District Development Committees created 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.

9.1.1. Utilisation of Existing Capacity

The utilisation of existing capacity involves a localisation 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 localisation policy the government encourages the development of locals' skills. The training and localisation policies require companies that employ non-citizens to take measures which will lead to the localisation 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. All are supposed to elaborate organisation structures and operational strategies. Generally, the infrastructures are adequate for different organisations 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 the 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 has also drafted a human resource development strategy to address issues of human capital development.

The government is utilising existing capacity and makes better use of local talent for supporting growth and development. The localisation programme suggests that a corporate entity (including government) may only recruit expatriates if it is proven that there is no qualified citizen to occupy that post. Under the localisation policy, qualified expatriates are encouraged to train or mentor locals and state how those locals can ascend to the post occupied by the expatriates in question.

In addition, citizens are provided government scholarships for education and training in various fields. Continuous capacity development is undertaken through the education and vocational training institutions. These are complemented by the Botswana National Productivity Centre (BNPC), Botswana Institute for Administration and Commerce (BIAC), Institute for Development Management (IDM), Botswana Accountancy College, etc. There are also ongoing policies and programmes of improvement such as WITS, PMS, PBRS, parallel progression and localisation.

As noted above, due to the fact that Botswana does not suffer from serious financial resource deficits, public organisations have sufficient infrastructure support to carry out their responsibilities. Government ministries, departments and parastatal organisations are well equipped, with computing and other necessities. Most physical and other infrastructure such as information technology, vehicles and buildings are in place in both local and central government. Services such as electricity, telephones and water are also commonplace in most governmental entities.

The government is aiming to promote and preserve of the country's intellectual resources. For example, the government instituted two salary review commissions in 2007. One was for the public service and another for political leaders and members of the *Ntlo ya Dikgosi* (House of Chiefs). The Public Service Salaries Review Commission, coming toward the National Development Plan 9 (2003-09) period, had several objectives. These included consideration of the conditions of service, including salaries, allowances and fringe benefits, in order to "facilitate attraction, motivation and retention of manpower with critical skills needed for an effective and efficient Public Service, including Judicial Service, the Botswana Police Service, the Botswana Defence Force, the Local Government Service, the Teaching Service, the Land Board Service, Botswana Prison Service, Botswana Local Police, the Industrial Employees, Tribal Administration, *Dikgosi* and *Dikgosana*".¹²⁷ This amounted to a comprehensive review of the entire public service conditions of service and remuneration, which is aimed at addressing poor employment conditions, preserving skills and experience, and reversing the brain drain syndrome.

Apart from the conditions already alluded to, such as the problem of "implementation capacity", there are other internal and environmental constraints that hamper institutional capacity. Externally, the lack of maturity of the private sector has become a cause of lack of implementing capacity, as most government projects are increasingly being implemented with elements of private and nongovernmental sector participation. The private sector carries out the bulk of the implementation for most infrastructure projects (schools, roads and clinics). In pursuance of government's policy to 'grow' the private sector, school uniforms, books, internet connection, litter collection and other 'non-essential' aspects of implementation of various policies are also outsourced to the private sector. However the private sector has often, for lack of finance and other capacities, such as the lack of contract management skills, let the public sector down.

9.2. CAPACITY GAPS IN THE STATE SECTOR

Whereas it is desirable to assess the capacity of all three branches of government, that is executive, legislature, and judiciary, in reference to educational achievements and requirements, recruitment and appointing procedures, the availability of training programmes, and the adequacy of office materials, this is not possible. As stated in Section 7.13, the Directorate of Public Service management was unable to provide the information and data that is required for such an assessment. However, we have in various preceding sections focused on the issues of policies, human resources and facilities, even though we failed to obtain all necessary information from DPSM.

Our statement of capacity gaps and recommendations is thus based on what might be considered anecdotal information obtained through interviews and other studies that were not designed to answer the specific questions related to UNECA's governance study. Therefore, apart from the responses from the expert panel, this section relies considerably on information gathered in the consultations that BIDPA conducted with various stakeholders in preparation for the African Governance Forum VII that was held in 2007, and separate studies done for the African Development Bank and the World Bank Institute.¹²⁸

There are capacity gaps that require addressing in the public sector, in the executive, legislature, and judiciary.

9.2.1. The Executive

The expert panel group considered that the composition of senior civil servants (85.6 per cent) was largely reflective of the cross-section of society. Executive branch corruption was perceived to be relatively low, with 74.5 per cent stating that the executive was corruption free. The management of appointments in the civil service was regarded by most respondents (87.7 per cent) as being governed by observance of the principles of merit.

Actually, the educational requirements and development skills of civil servants depend on the type of cadre, with most middle managers now having at least a first degree or a master's. The wages, incentives and working conditions within the executive branch are being reviewed, including the various benefits as explained above with regard to the public service salaries commission. Existing benefits for public servants include medical aid, government-assisted pension schemes (government contributes 15 per cent and civil servants 5 per cent), and housing for teachers, nurses, police, jail guards, and for other civil servants, especially in the villages and rural areas. Government also has a scheme where its employees are given low interest loans for building their own houses, and another scheme that guarantees the civil servants' loans for buying cars. Government also provides free transport when a civil servant is being transferred.

Resources such as financing, and facilities like computers, internet access, telephone lines, stationery, fax and other basic operational materials, are generally available. Botswana's executive is well resourced for key material, physical and other infrastructure. The Central Transport Organisation supplies cars for civil servants on their official duties. Most of the civil service is now computerised and equipped with internet access for the majority of the civil servants. However, local government is yet to be fully computerised. All government offices now have telephonic and facsimile access.

The problems of capacity in the executive branch are therefore not due to the lack of financial, physical or educational attainment. They are operational, such as the nature of policy making and implementation. Two main capacity constraints may thus be identified:

- a. The lack of evidence-based decision making because most ministries do not have policy research units, nor do they utilise the services of those outside government.
- b. The lack of a comprehensive system of monitoring and evaluation of the impact of policy and programme implementation. This is in spite of the existence of a stringent system of financial accounting, auditing and reporting,

9.2.2. The Legislature

There is no accurate record of the educational levels attained by members of parliament. The Clerk of the National Assembly could not provide us with such information. There are no educational requirements for either members of parliament or their local government counterparts, the councillors. But we know from our own observations that most members of parliament hold at least a diploma. However, a doctor (former professor at the university) and several holders of master's and bachelor's degrees have recently been found amongst the MPs.

The parliamentary working procedures, rules, regulations, norms and conventions of the legislative branch are detailed in the Standing Orders. The standing orders detail the issues that are necessary for the smooth running of the legislature, such as the election of the speaker and deputy, endorsement of the vice president, procedures of conducting committee meetings, hours of sitting and the days of sitting. The *Standing Orders* are therefore the reference document for parliamentarians when the legislature is in session; they also prescribe how voting is carried out by members, the composition of the committees, financial procedures and procedures on bills.

The parliamentary budget draws from the general public service allocations. As Botswana does not suffer serious financial constraints, the legislature is generally well funded. Parliament's budget is disbursed as part of the budget of the Office of the President (OP). Staffs of the legislature are recruited through the Directorate of Public Service Management, as are all other public servants.

The facilities for parliamentary staff are generally adequate. That is, there are materials such as computers, internet access, telephone lines, fax, etc. Members of parliament now also have parliamentary offices in Gaborone, and constituency offices are being developed. However, there is a shortage of parliamentary research staff, and the four research officers currently employed are neither adequate nor appropriately trained. Members of parliament do not have their own research staff at both the constituency and the parliamentary offices. Nevertheless, both the constituency and parliamentary offices are equipped with all the above-mentioned support infrastructure items, such as telephone and fax lines.

Parliamentarians have access to training workshops. An example is the recent Botswana College of Distance Learning (BOCODOL) lead training workshop, which mentored MPs on the use of information and communication technologies, including using electronic mail (or email), internet and computing in general. However, access to consultants, assistants, working commissions and legislative agents is not yet common and is not funded. The latter limitation may contribute to their generally low level of effectiveness in the performance of investigative and oversight functions (see 3.1.3).

As noted in the sections dealing with the separation of powers and the effectiveness of 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 following, are the capacity constraints of the legislature:

- a. The administrative and technical support for Parliament is weak because members of parliament do not have adequate research support.
- b. Constituency offices are not sufficiently staffed with appropriate research and administrative staff.
- c. 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 operates independently of both the executive and the legislative branches. Judges have security of tenure and they may only retire at the age of 70, unless if they have been proven to be incompetent. Another practice that ensures the independence and credibility of the judiciary is the requirement that judges recuse themselves in cases where there is conflict of interest in a matter in which they are presiding, a condition that has been observed in Botswana. Furthermore, court cases in Botswana are reported in a transparent manner except where such matters are sub-judice. Court cases are also held in public.

Career mobility for judges is determined through the Judicial Services Commission (JSC), which administers their conditions of service. The judges are appointed by the JSC, which selects its candidates from among senior local lawyers. A similar thing applies to the magistrates, who however are not appointed by the JSC, but hired by the Attorney Generals Chambers. The Court of Appeal does not yet have a citizen judge on its bench.

The procedures for recruitment and appointment of both the Chief Justice and the President of the Court of Appeal are strictly followed. The president appoints on advice from the Judicial Services Commission (JSC). The JSC consists of the Chief Justice as chairman, an appointee of the Law Society of Botswana, the Attorney General, the president of the Court of Appeal, the chairman of the Public Service Commission as well as a prominent but independent member of civil society appointed by the president.

The judiciary's budget is disbursed from the public sector allocations. It is part of the budget of the Office of the President (ministry of Justice, Security and Defence). Its financial provisions are generally adequate. There are adequate facilities, such as computers, internet access, telephone lines, stationery, fax, etc. The judiciary is well equipped with cars, information technology and other communications infrastructure.

The enduring problem in the judiciary is retention of qualified and experienced staff. This has

had the effect of delaying the disposal of cases, which is indicated by the long backlog that exists. In recent years, government has been aggressively expanding the magistrate courts in major towns and villages, building bigger courts and residences for personnel in Administration of Justice. A similar expansion of residences was undertaken for high court judges. There are also initiatives to introduce alternative dispute resolution mechanisms and specialised courts that could lessen the burden of the court system. These specialised courts would be for small claims, commercial matters, and family matters, etc.

The main capacity constraint of the judiciary is:

- a. The shortage of qualified and experienced staff.

9.2.3. Local Government

The mechanisms for community participation and the responsiveness of local government are crucial to efficient and effective service delivery. When asked about the effectiveness of mechanisms of local governments for community participation, 73.4 per cent of the expert panel respondents stated that local government structures were effective mechanisms for community participation. However, a considerable 20 per cent thought the mechanisms were inadequate. On the responsiveness of local government administrations, 84.4 per cent thought of the administrations as responsive to community needs. Similarly with participation, a significant proportion (about 17 per cent) thought the local government institutions rarely responded to community needs.

The general adequacy of the financial, infrastructure, transport and other operational resources has been established. All district and city councils are now fully computerised, with full internet access, telephone and fax lines, and other key material and physical resources. However, land boards are yet to be fully computerised.

The local governments' management of their responsibilities is, however, not as effective as would be expected, given the availability of resources. Local government councils have varied performance in fulfilling different aspects of their mandate. For instance, when it comes to financial management, some of the councils lag as far as three years behind in presenting consolidated accounts, while others are up to date in their financial reporting. Similarly, contract management seems to be a challenge, as most councils incur cost overruns and are often behind schedule in the implementation of construction projects, such as schools and clinics.

In relation to central government, there is an over-centralisation of policy decision-making and development planning that 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), whereas "bottom-up" planning merely involves the councils in filling in project requests that must comply with the national development guidelines and priorities.

The capacity constraints of local government councils are therefore quite numerous, and are summarised below:

- a. Inadequate human resources in local government councils due to:¹²⁹
 - i. Under-staffing compared to central government, because of lower levels of education, skills and experience.
 - ii. Inadequacy of qualified and experienced personnel for financial management.
 - iii. Inadequacy of policy and planning, implementation monitoring, and review staff.
- b. Lack of a comprehensive and integrated decentralisation policy and strategy that could guide the decentralisation process.
- c. Inadequate engagement with communities in the determination of development priorities.
- d. Inability to attract appropriate staff due to low pay and unfavourable conditions of service.

9.3. CAPACITY GAPS IN NON-STATE ACTORS

As pointed out in Chapter 7, the expert panel considered that there was considerable operational independence of the public accountability watchdog, the ombudsman, from the executive branch. Altogether, 75.5 per cent thought that the office was independent from the executive. On the other hand, non-state actors also have a role to ensure the accountability of public institutions. As regards the nature of the space allowed civil society by government for the former to function well, 88.9 per cent of the respondents thought that government allowed the voluntary sector to function. Of that proportion, 40 per cent stated that civil society functions independently of all state organs whereas 48.9 per cent stated that the sector was encouraged by government to function efficiently. However, a section of the respondents thought differently, with 2.2 per cent thinking that civil society functions under strict guidance by the state and a further 2.2 per cent thinking that it functioned under fairly strict guidance. And 6.7 per cent thought that civil society functioned independent of government with some restrictions. In general terms, civil society organisations were perceived to have adequate space and independence for the performance of their functions because an enabling environment existed.

The role of civil society in promoting government transparency and accountability was considered positive by 89.9 per cent of the respondents; 22.2 per cent stated CSOs contribute effectively, 27.8 per cent said they contribute moderately and 38.9 per cent that the CSOs contribute somewhat. However, 8.9 per cent stated that civil society rarely contributes and 2.2 per cent that it does not contribute to promoting transparency and accountability. That means 11 per cent of the respondents saw no active role of the CSOs in ensuring government accountability and transparency.

On the role of civil society in conflict management, 82.2 per cent of the expert panel respondents stated that government consulted to varying degrees with civil society organisations. A significant 40 per cent of respondents thought that government sometimes consulted civil society, 31.1 per cent that government often consulted civil society and 11.1 per cent that government always consulted civil society. However, 17.8 per cent stated that government did not consult, with 2.2 per cent stating that they were never consulted and 15.6 per cent that government rarely consulted civil society. Thus, almost 36 per cent of the expert panel respondents regarded government's consultations with civil society as inadequate.

Expert panellists were also asked about their perceptions of the influence of CSOs on government policing and programmes. An overwhelming 86.7 per cent considered that civil society organisations had influence of some sort on public policy (even though almost 36 per cent had stated that government's consultation with CSOs was inadequate!). Of those, 44.4 per cent stated that the influence of CSOs was limited, 36.7 per cent that it had fairly strong influence and 5.6 per cent felt it was strong influence. On the opposite side, 10 per cent thought that CSOs rarely had any influence and 3.3 per cent felt the sector had no influence at all, making a total of 13 per cent of respondents that stated the absence of CSO influence on public policies and programmes.

The role of the CSOs in programme management was another question. Most respondents stated that CSOs played a role in that regard (88.9 per cent), of which 38.9 per cent thought civil society organisations fairly contribute, 27.8 per cent that they moderately contribute, and 22.2 per cent that the voluntary sector contributes effectively. Of the 11.1 per cent opposed, 8.9 per cent stated that civil society organisations rarely, and 2.2 per cent never, contribute to programme management.

There are a number of factors that affect the performance of CSOs. One of these is access to information (see Section 6.5.7), which means that the functionality of civil society organisations is limited. The other factor revolves around the issue of the availability of organisational and managerial skills training for the CSOs. Unlike public organisations, most of Botswana's NGOs lack the requisite organisational, managerial and training resources. Upon Botswana's attainment of middle income status, most foreign donors left the country and the ones that remained appear to have decided that sponsoring the country's non-governmental sector was less of a priority. The same donors had contributed greatly to capacity building measures in the NGO sector. The gap created by the exodus of donors was not filled by government, except perhaps in the HIV/Aids sector, where government contracts most NGOs in home-based care, orphan care, public awareness campaigns and other sectors of the policy.

There are also other major internal and external constraints, including human, financial and facility capacity. Finance is the biggest capacity challenge in view of the withdrawal of most donor support. A number of NGOs, especially in the HIV/AIDS sector, depend on government for funding. This sector is wide ranging, covering hospices, home-based care organisations and networks of people living with HIV/AIDS. Prior to the departure of most

donors upon attainment of middle income status by Botswana, NGOs recruited arguably some of the best brains in the country. They were better organised than they are now. With the departure of donors the picture has changed drastically, and NGOs cannot afford to pay better qualified people.

The operational independence of government-dependent NGOs has come under the spotlight. There have also been allegations that the government prefers some trade unions over others. However, government has not actively interfered in the operations of the NGOs, for example through stacking up their boards of directors with government appointees. Nevertheless, there is evidence that some NGOs are too timid to challenge government or 'step too far out of line' because of fear of the financial repercussions for doing so (withdrawal of public financial support).¹³⁰ The reality is that most NGOs conduct their own business independent of government. For instance the human rights group Ditshwanelo-Botswana Centre for Human Rights routinely criticises government when it deems it fit to do so, on matters relating to the death penalty and other human rights.

The CSOs' capacities in research, knowledge-sharing and information technology are major shortcomings. The NGOs have an umbrella body, Botswana Council of Non-Governmental Organisations (BOCONGO), which often conducts requisite research on behalf of its members and also facilitates information-sharing where it is beneficial to members. Otherwise the capacity to conduct research depends on the availability of individual NGO finance and researchers. Both the funding and access to researchers are inadequate.

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 Organisations

The capacity constraints of civil society organisations are:

- a. Non-state actors lack adequate skills and experience, organisational capabilities, creativity, and funding to advocate and promote their interests and objectives.
- b. Due to being not so well organised, civil society organisations are ineffective partners with central government and local government in development activities.
- c. Access to information is inadequate for the performance of civil society functions.

9.3.2. Political Parties

Previous sections have revealed that there was a general perception amongst the expert panellists that the electoral system was credible. Almost 80 per cent stated that the electoral system was anchored in the electoral law and thereby acceptable to political parties. The

electoral law was also regarded credible by 74.5 per cent of the respondents; they thought that Botswana's electoral law ensured the credibility of the electoral system. Likewise, 63.3 per cent of the respondents considered that political parties accept the legitimacy of the electoral authority as manager of the electoral process. Notable, however, was the perception by 33.3 per cent of the respondents that the electoral authority was under the influence of the incumbent government, which indicates some considerable doubt about its independence. However, with regard to the electoral authority's fairness, 92.2 per cent of the respondents regarded it as an impartial arbiter of the elections in Botswana. In general terms, the expert panel respondents regarded the electoral system to be credible, acceptable to all parties, fair and impartial, thereby not posing a threat to the operations of the political parties.

The extent of operational independence of the political parties is not a problem. There are no administrative restrictions or legal limitations imposed by the state. Botswana's opposition does not face a lot of administrative restrictions or legal limitations. However, there have been notable limiting factors with the effecting of ruling mandates in opposition-held areas. For instance, the power of the minister to appoint additional councillors, usually from the pool of members of the ruling party, into councils dominated by non-ruling (opposition) parties means that the opposition majority is often reduced. This practice further weakens already feeble non-ruling parties in the councils.

The funding of political parties is the major capacity constraint. There is no public financing of political parties, so small parties tend to suffer from inadequate sponsorship as they depend on membership fund-raising. This problem, they allege, hampers the smaller parties from effectively selling their programmes to the electorate. The funding of the smaller parties (including the opposition) depends on several mechanisms, including musical concerts and member subscription fees, with representatives like councillors and MPs donating more than other members. There are no campaign finance regulations to compel parties to reveal their sources of funds; therefore we cannot comment on the extent of parties receiving donations.

The internal democratic accountability processes of the parties are governed by their own constitutions, and that they must act within the Societies Act and the Constitution of the Republic of Botswana. Botswana has many political parties. However, the main ones, such as the ruling Botswana Democratic Party and the opposition Botswana National Front, have separate electoral bodies for primary elections. There are also internal disciplinary committees.

The resources available for political party operations depend on their size and extent of support. In this regard, the 30 or so political parties have different levels of access to material and facility resources like computers, internet access, telephone lines, stationery, telefax and other basic operational requirements. The ruling BDP seems to be the best equipped in this regard. The party has in the last couple of general elections been able to buy at least one vehicle for each constituency, and supported candidates by buying them posters. Furthermore, the BDP has a fully functional headquarters in Gaborone, unlike the other parties. Tsholetsa House, the BDP headquarters building, is owned by the party, whereas the other parties do

not own their headquarters. Telephone lines, telefax and other basic operational materials, however, seem available to virtually all parties.

There are no known cases of systematic intimidation, interference with registration or the deliberate limitation of political parties' operational processes. There were allegations in the past that some members of the opposition were shadowed by what were alleged to be state intelligence operatives. During the height of the BDP factional conflicts during the last decade, similar allegations were made by members of one of the factions - basically that their counterparts were using security operatives to follow them around. Government however strongly asserted that they had not sanctioned any such moves, if at all they were true. Besides those rumours, which have since disappeared, there are no signs of intimidation.

Opposition political parties have severe organisational problems, as evident in their perpetual splitting and failure to agree upon 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 organisational capabilities.

The major capacity constraints facing political parties are:

- a. General organisational weaknesses.
- b. Inadequate financial resources.

9.3.3. Private Sector

The environment for private sector operations is very favourable. However, the regulatory policy and institutional frameworks, currently dominated by the ministries and departments, are undeveloped for the growth and expansion of the private sector. There is no competition policy or authority. There have also been inordinate delays in the official adoption of a competition policy and in establishing a competition authority.

However, there are a number of initiatives to enhance opportunities to create conducive environments for both local and foreign investments. Whereas Botswana has no competition policy, there are efforts at present to develop one. The draft Competition Act envisages setting up of a competition authority that will have the duty of protecting customer interests as well as the right to begin investigations into matters concerning mergers and acquisitions. At present some of the rules on mergers, entry and exit are enforced by sector regulators, such as in transport (both road and air), small industries, such as hairdressing, and others. These sector regulators however are mostly government departments.

Contract enforcement in Botswana is by and large observed. The court system acts to enforce contracts if parties to the contract have unsolvable disagreements. Whereas contracts are initially drawn between private parties or between them and governments, intractable disagreements are referred to the judiciary for solution. In a recent publicised matter of this type, the court of appeal entered judgment against the Gaborone City Council which had balked at

paying a private contractor, Daisy Loo, what appeared to be the company's due for services rendered. In addition, bankruptcy laws are coherent.

Government is improving the regulatory policy and institutional frameworks. Currently Botswana does not have a law on corporate governance. The law governing the conduct of companies is the Companies Act. The Directors' Institute of Botswana has developed a number of guidelines on corporate governance, based on South African initiatives (King I and King II), Organisation of Economic Cooperation and Development (OECD) principles and the Combined Code in the United Kingdom, all of which Botswana recognises. The Government of Botswana has mandated the Directors' Institute to formulate a Corporate Governance Code, which it will be responsible for enforcing.

The Directors' Institute, in conjunction with the Public Enterprises Evaluation and Privatisation Agency (PEEPA), is assisting parastatals in the recruitment of boards of directors. The Institute also provides this service to the private sector, with assistance given in the regulation of public enterprises and private companies through performance contracts and board charters. The Institute is also working on the issue of lifting indemnity on board of directors in public enterprises, a move which would make them liable and more responsible for their actions, thus promoting accountability.

Other regulatory developments involve the Botswana Telecommunications Authority (BTA), which focuses exclusively on promoting corporate governance in the telecommunications sub-sector. Major liberalisation to promote competition started in 2006, with mobile operators being allowed to provide own transmission links rather than depending on the Botswana Telecommunications Corporation (BTC). This virtually removed the transmission monopoly of the state-owned entity. In 2007 the BTA started to issue 15-year service neutral licences to existing telecommunications operators, which are the Botswana Telecommunications Corporation, and Orange and Mascom mobile telephone operators. The service neutral licences allow the afore-mentioned entities to provide fixed line and mobile telecommunications as well as data and internet services. There are also plans in place to allow new entrants into the telecommunications sector in 2009, when further service neutral licences will be offered for tender.¹³¹

The privatisation agency, PEEPA, is engaged in promoting further economic liberalisation. In 2004 the Government of Botswana commissioned a study to review the existing policy and regulatory frameworks in the country's infrastructure (transport) and energy, water and communications utilities. This study was commissioned through PEEPA, and was part of the government's strategy to improve the quality of essential utility service provision and to attract private sector investment. The aims of the study were to assess the markets and operating environments of these industries, identify required regulatory reforms, and to advise on an appropriate organisational framework for regulatory policy delivery.¹³² The report was accepted and some of its recommendations are being implemented.

PEEPA is also involved in an initiative that involves four methods of privatisation, which are commercialisation and divestiture of public entities, contracting out of public services and

public-private partnerships. In 2007, PEEPA was involved in a number of activities including advising government on the divestiture of the Botswana Telecommunications Corporation (BTC), Botswana Vaccine Institute (BVI), Air Botswana, Government Employees Motor Vehicle and Residential Property Scheme (GEMVAS) and Guaranteed Loans Insurance Fund (GLIF). At the moment PEEPA is assisting public institutions, such as the Botswana Police Service, Botswana College of Agriculture, Botswana National Productivity Centre and Botswana Meat Commission, to implement a number of outsourcing initiatives. PEEPA was also engaged in advising on several PPP transactions, including provision of office accommodation for the Office of the Ombudsman and the Lands Tribunal; the Zambezi Integrated Agro Commercial Development Project; Central Transport Organisation Fleet Management; Social Grants Payments system for old age pensions and destitute allowances; and the Botswana International University of Science and Technology.¹³³

There are, therefore, emerging partnerships with private sector companies and other sectors. Partnerships exist between the government and private sector at all levels of the government - that is national, local and even community level. Further partnerships exist between government and the private not-for-profit sector. The partnerships between government and the private sector are often based on contractual business arrangements with government being the main consumer of private sector-rendered services, such as in the construction of major roads, schools or other infrastructure. At community and local level, government sometimes engages local entrepreneurs to supply food and other needs to local poor. NGOs are engaged in partnerships with government in such endeavours as home-based care for HIV/AIDS patients and the provision of education and condoms for local communities. In other instances, the partnerships occur between local communities and government departments in the management of natural resources.

The principal capacity constraints of the private sector are:

- a. The absence of a competition policy and regulatory authority.
- b. The lack of a comprehensive policy and regulatory framework for private sector development.

9.4. TOWARDS ENHANCING CAPACITY

So far, Botswana's capacity development has been founded 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.¹³⁴ 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 capable political and administrative leadership, and democratic accountability, that has ensured the responsiveness of the state to the public demands and aspirations of its citizens. These attributes need to be sustained and improved upon.

Despite the 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 the 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 National Development Plans and ministerial budget speeches, as well as other public pronouncements.¹³⁵

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 of state institutions, to make sure policy formulation is based on actual needs, requirements and the 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 the retention of qualified and experienced staff.

Expediently introduce alternative dispute resolution mechanisms, such as arbitration, and introduce 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 decentralisation to local government councils so that they have authority and flexibility in budgeting and manpower planning.

Develop a comprehensive and integrated decentralisation policy and strategy to guide the decentralisation process.

Improve the remuneration and conditions of service of local authority staff.

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.

Notes

125. 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.

126. 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.

127. Republic of Botswana. Budget Speech 2008, Delivered to the National Assembly on 4th February 2008 by Honourable Baledzi Gaolathe, Minister of Finance and development Planning.

128. The national consultative process for the AGF VII was facilitated by BIDPA, on behalf of the Office of the President, Governance Programme, and UNDP-Botswana, on the theme "Building the Capable State in Africa". The report was presented by the government's representative at Ouagadougou, Burkina Faso, in October 2007. (Available at: http://www.undp.org/africa/agf/documents/English/country_reports/Botswana-AGF7percent20CountryReport-English.PDF). The other studies are: African Development Bank/African Development Fund, 2007. Botswana Country Governance Profile (Draft), April 2007; Kaunda, JM, 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).

129. The capacity problems of local government councils are by and large also replicated in the Land Boards.

130. Transparency International Zimbabwe, 2007.

131. Botswana Review of Commerce and Industry, 27th Edition (Ministry of Trade and Industry).

132. Report on Consultancy Services to Review and Advice on Appropriate Regulatory Reforms for Infrastructure and Utility Sectors in Botswana (Stone and Webster Consultants and BIDPA).

133. Welcome remarks by J B Galeforolwe, CEO, Public Enterprises Evaluation and Privatisation Agency, at the PEEPA Christmas party, Grand Palm Hotel, December 7, 2007
134. 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)
135. 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.

10. Progress of Good Governance: Comparison Between the AGR I and AGR II Studies

This chapter seeks to assess the progress of good governance in Botswana by comparing the 2003 and 2007 (AGRI and AGR II) survey results. It starts with a background on Botswana's governance agenda and then discusses the trends in governance indicators. It concludes with observations on the results of the two studies.

10.1. BOTSWANA'S GOVERNANCE AGENDA

Botswana has since independence been guided by the national principles of Self-Reliance, Unity, Development and Democracy, which have been reflected in all its National Development Plans. The national development plans aim at attaining sustained development, rapid economic growth, economic independence and social justice. In 1997 the country adopted the Long Term Vision for Botswana (Vision 2016),¹³⁶ which re-affirmed the national principles and serves as the principal guide for the governance of the country. The Vision 2016 was the 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 in order to develop a better society by 2016, the 50th anniversary of independence.

Vision 2016 identifies seven "pillars" or ideals, which are to build a nation that is educated and informed; prosperous, productive and innovative; compassionate, just and caring; safe and secure; open, democratic and accountable; moral and tolerant; and united and proud. 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 these principles is that of *Botho*, or humanity. These social and political ideals provide the context for national economic development, the objective of which is to attain sustained development, rapid economic growth, economic independence and social justice.¹³⁷

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 to 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; the creation of an appraisal system; and dissemination of best practices.¹³⁸

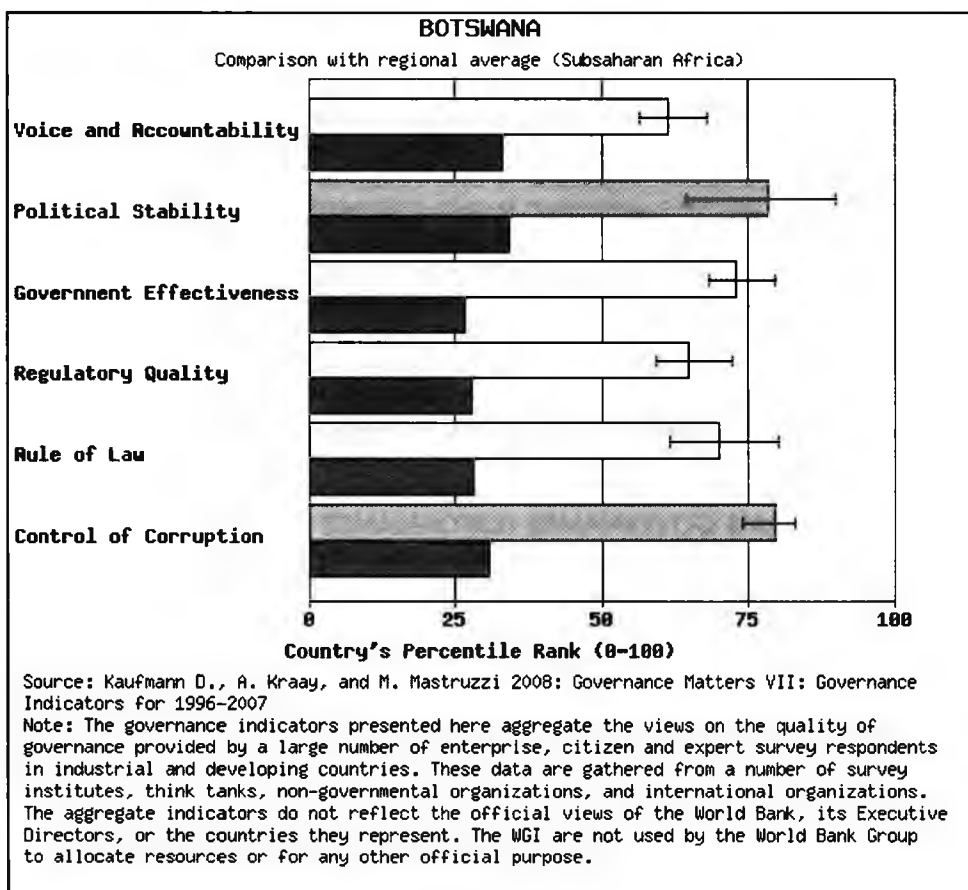
Botswana also recently concluded consultations for the European Community-Botswana 2008-2013 Country Strategy Paper (10th EDF), in which funding is expected to be allocated for sectoral budget support in human resource development, civil society development and technical assistance. Due to the importance given to governance within the framework of the EC-Botswana cooperation under the 10th EDF, Botswana underwent a country governance assessment by the European Commission in 2006 (which has just been updated in early 2008).¹³⁹ Based on the 2006 assessment, Botswana submitted 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; and quality of partnership. The achievement of these governance commitments led to the release of an “Incentive Tranche” that was up to a quarter of the 10th EDF allocation. Similarly, the African Development Bank in 2006 also conducted a governance assessment to “promote dialogue on governance-based reforms and capacity building programmes”.¹⁴⁰

10.2. 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.

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-Saharan 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 ranked 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. Comparison of the principal indices used in the international rankings of Botswana in areas of political and economic governance all show that Botswana is a “shining example”.

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



Key: Country's Percentile Rank (0-100)

Explanatory note: This chart shows the percentile rank of the country on each governance indicator. Percentile rank indicates the percentage of countries worldwide that rate below the selected country. Higher values indicate better governance ratings. Percentile ranks have been adjusted to account for changes over time in the set of countries covered by the governance indicators. The statistically likely range of the governance indicator is shown as a thin black line. For instance, a bar of length 75% with the thin black lines extending from 60% to 85% has the following interpretation: an estimated 75% of the countries rate worse and an estimated 25% of the countries rate better than the country of choice. However, at the 90% confidence level, only 60% of the countries rate worse, while only 15% of the countries rate better. [Source: Kaufman, Daniel, Aart Kraay, and M. Mastruzzi, 2008].

Figure 4. WBI Botswana governance indicators, 2007 (Compared with SSA regional average).

Table 30. 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.

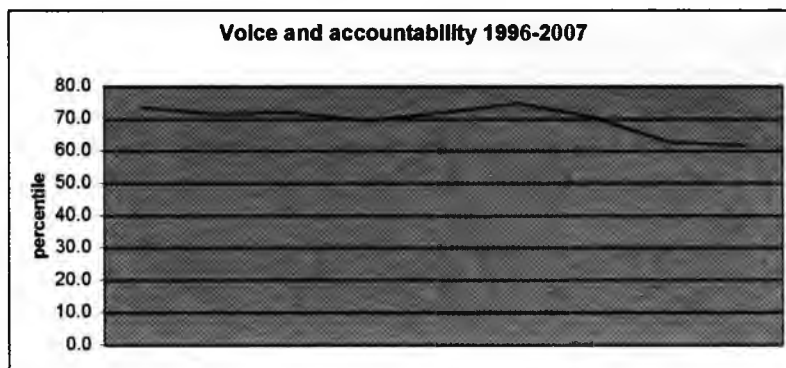
Table 31. TI Corruption Perceptions Index (CPI) Botswana 2007

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).

10.2.1. Trends in Botswana's governance indicators 1996-2007

Voice and accountability: The indicator declined from 1996 to 1998; remained constant from 1998 to 2000; then declined marginally from 2000 to 2002; thereafter it showed a steady improvement to 2004, before sliding from then up to 2006; then declined more gradually up to 2007, which was a level below that of 1996.

**Figure 5. Voice and accountability 1996-2007.**

Political stability and absence of violence consistently improved from 1996 to 2000, before registering a slight decline from then to 2002. This indicator improved from 2002 to 2003 before declining slightly in 2004 and picking up again up to 2005. However, it has been steadily declining from 2005 to 2007 although it remains at a higher rate than in 1996. Overall, the indicator for political stability and absence of violence is the only one that showed a generally improving trend throughout from 1996 to 2007.

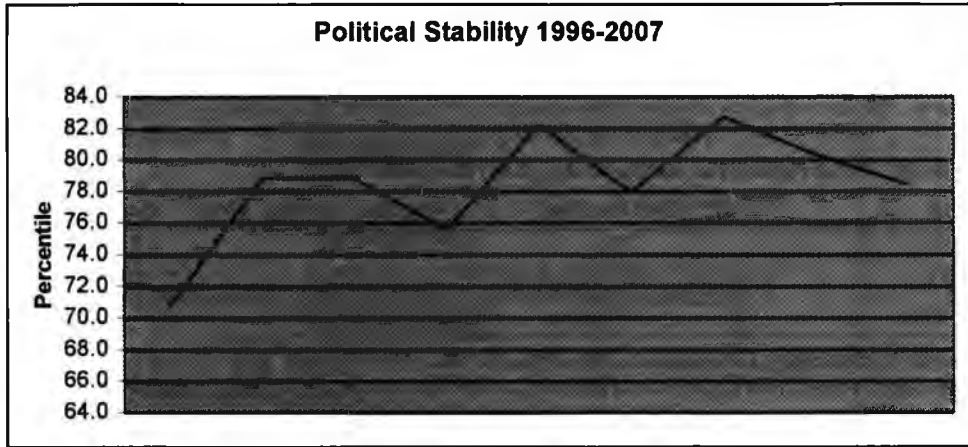


Figure 6. Political stability 1996-2007.

Government effectiveness improved faster between 1996 and 1998; thereafter it had been improving at an incremental rate until 2004, when it started to decline up to 2006 and then remained almost constant up to 2007.

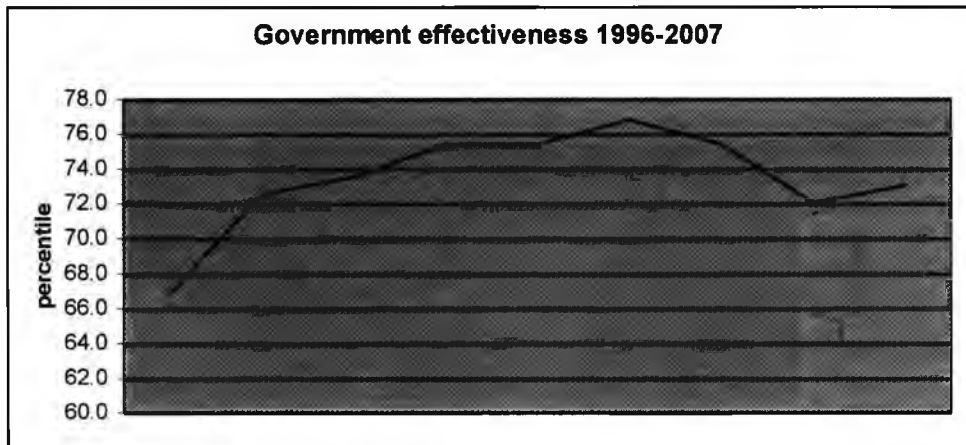


Figure 7. Government effectiveness 1996-2007.

The **regulatory quality** indicator was quite high in 1996, but declined to below that level in 2000 before picking up slightly in 2002 and remaining almost constant up to 2003. However, the indicator has been in decline from 2002, to register a decline of about 10 per cent below the 1996 level in 2007. Indeed it was the lowest performance indicator in 2007.

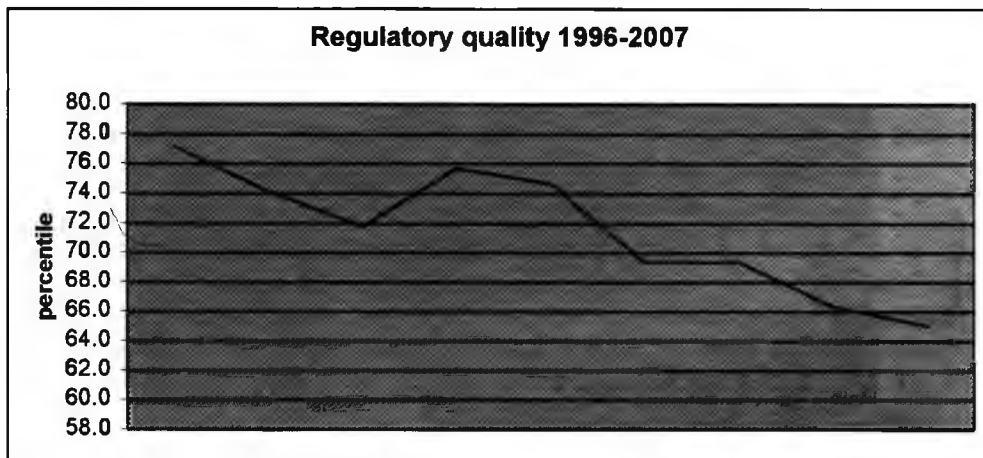


Figure 8. Regulatory quality 1996-2007.

The indicator for the **rule of law** declined marginally from 1996 to 2002, improved marginally up to 2004, then set on a declining course up to 2006, after which it rose slightly to the same level as in 1996 in the year 2007.

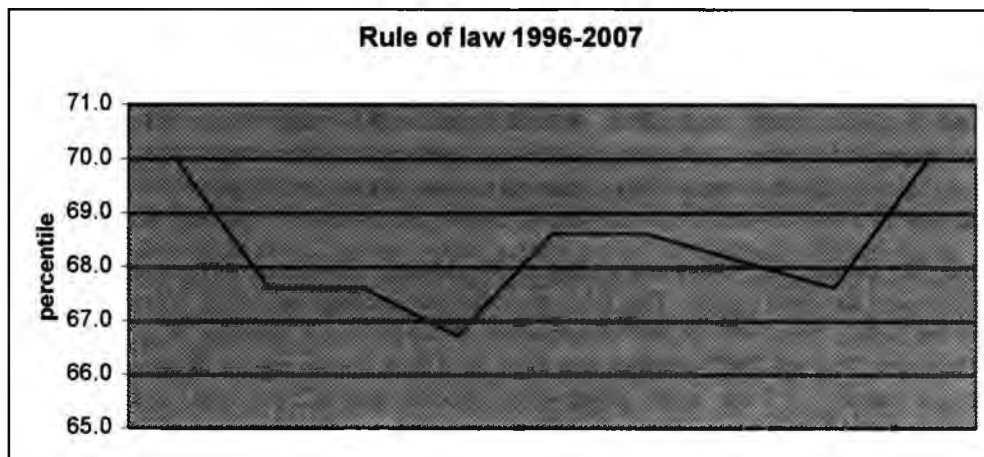


Figure 9. Rule of law 1996-2007.

The country's **control of corruption** improved rather well from 1996 to 1998, slightly declined from 1998 to 2002, then improved in 2003, after which it remained generally constant between 2003 and 2005, before it resumed a steady decline between 2005 and 2006 and remained constant from 2006 and 2007.

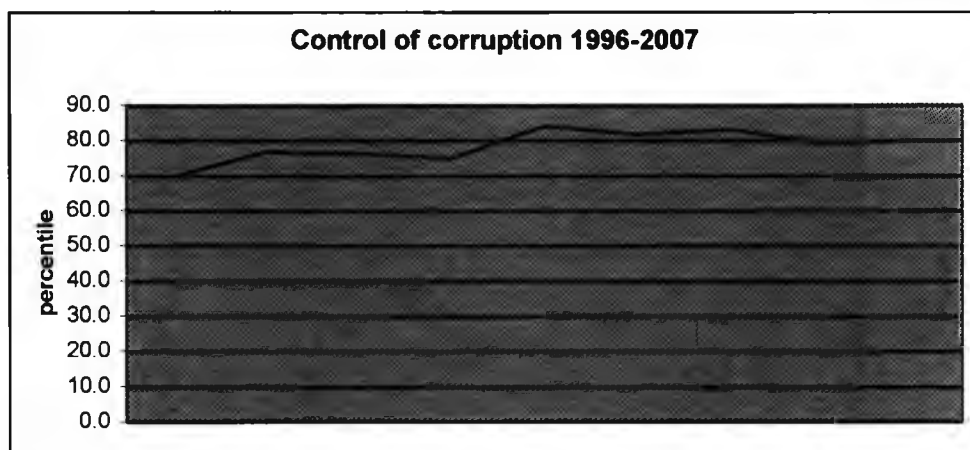


Figure 10. Control of corruption, 1996-2007.

Table 32. Botswana WGI Percentile rank differentials, 1996-2007.

Governance indicator	1996	1998	2000	2002	2003	2004	2005	2006	2007	Ave	1996-2007
Voice and Accountability	73.2	71.2	71.6	69.2	71.6	74.5	70.2	62.5	61.5	69.5	-11.7
Political Stability	70.7	78.8	78.8	75.5	82.2	77.9	82.7	80.3	78.4	78.4	7.7
Government Effectiveness	66.8	72.5	73.5	75.4	75.4	76.8	75.4	72.0	73.0	73.4	6.2
Regulatory Quality	77.1	74.1	71.7	75.6	74.6	69.3	69.3	66.3	65.0	71.4	-12.1
Rule of Law	70.0	67.6	67.6	66.7	68.6	68.6	68.1	67.6	70.0	68.3	0.0
Control of Corruption	69.4	76.7	76.2	74.8	84.0	81.6	83.0	79.1	79.7	78.3	10.3
Average	71.2	73.5	73.2	72.9	76.1	74.8	74.8	71.3	71.3		0.1

Table 32 shows that Botswana's annual Worldwide Government Indicators (WGI) performance has been uneven. The table provides the percentile scores of Botswana's WGI over the decade from 1996 to 2007. Comparison of the percentile rankings of each indicator in the years 1996 and 2007 indicates that there have been improvements in three indicators: political stability (7.7 per cent), government effectiveness (6.2 per cent) and control of corruption (10.3 per cent). The rule of law was and remains constant at 70 per cent. Meanwhile, the indicator for voice and accountability declined by 11.7 per cent, as did that of regulatory quality (by 12.1 per cent). The average of the governance indicators was 71.2 per cent in 1996 and 71.3 per cent in 2007, indicating an insignificant average improvement of 0.1 per cent over the period 1996 to 2007. The implication is that, on average, Botswana's

governance rankings are not really changing; there is relative stability in governance performance.

However, the year on year scrutiny of each governance indicator reveals that the uneven pattern of performance has been accompanied by a general decline in the scores, which is especially evident from 2003 onwards. This performance decline is disturbing and worrying; it implies that Botswana may not retain its status as the shining example of good governance in Africa. One interpretation of this outcome could be that Botswana is becoming more similar to other low performing countries in sub-Saharan Africa!

Therefore, the status of Botswana as a “shining example” when compared to other African countries in terms of various measures of political, social and economic governance is becoming questionable. As President Khama rightfully observed in his inauguration speech on 1 April 2008: “The external perceptions about Botswana have also changed: Botswana is no longer seen as the only beacon of success in Africa. A growing number of countries on our continent have become stable, democratic...”¹⁴³

The fact that some governance indicators were in decline was also regarded as a major cause for concern by participants at the AGR II stakeholders’ feedback workshop. Another critical issue that arose at the workshop related to the nature of the “capable” state in Botswana, its perpetual failure to fully implement the National Development Plans, and measures that are required to enhance implementation capacity. Additionally, the issue was raised that even though there is much praise for Botswana’s prudent economic management, projects that are implemented often reveal significant cost overruns, which makes such praises questionable. The nature of the political system was also questioned at the feedback workshop. It was stated that even though Vision 2016 is supposed to guide political practice, reality does not confirm this. Social inclusion was questionable, as were the transparency and accountability of public institutions. With regards to the latter, it was pointed out that even though there are institutions for ensuring transparency and accountability, the country did not have any measures for determining the effectiveness of these institutions. In addition, the government’s establishment of a communication and information system only allowed government to disseminate what information it chose to, and this did not amount to an increase in the freedom of access to information that may be sought by people. There was also a call from one of the participants that Botswana should move beyond merely protecting civil and political rights; the country should also guarantee economic and cultural rights. The participants at the feedback workshop concurred that Botswana faces considerable economic, social and political challenges that must be resolved.¹⁴⁴

Despite its often-praised favourable macroeconomic performance and political achievements, Botswana faces some critical economic and social challenges that are common to many African countries. These include the inability to address the diversification of the economy, inflation, serious income inequalities, high levels of unemployment and considerable poverty, vulnerability to weather changes, 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 public institutions' efficiency and effectiveness in service delivery.¹⁴⁵ There have also recently been expressed 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. This calls for close national introspection to review policies, legal frameworks, institutions and their functioning, and to devise and adopt measures that may be implemented in order to keep the country at the top of the league in terms of political, social and economic governance performance.

10.3. COMPARISON OF THE 2003 AND 2007 GOVERNANCE STUDIES

Comparison of the expert panel responses from the first Botswana governance assessment to the current one does not reveal any significant changes in the nature of the state and governance. This outcome may be attributed to two main factors: the nature of the respondents and the timing of the survey for AGR II.

Virtually all the respondents are amongst the elite of Botswana society. They do not reflect or even represent a cross-section of Botswana society. Their social economic status means they are part of the privileged class. They benefit significantly from the economy, which, as pointed out earlier, is disjointed, structurally unbalanced and concentrated on the mining industry. The structural anomalies of the economy lead to a failure to generate mass employment and eradicate widespread poverty. However, as beneficiaries of the economy, the respondents are quite comfortable in their livelihoods. Their perceptions of reality are influenced by their material conditions, which have been comfortable throughout the years. This expert panel are beneficiaries of Botswana's attainments and are not critical of the nature of the political and economic set-up. Thus, the respondents appear to be quite complacent of the political, economic and social status-quo from which they benefit. They, therefore, have a positive rating of most aspects of the political, economic and social governance of the country.

The timing of the AGR II study was only about four years from the 2003 baseline study. This period is too short to register significant changes in governance indicators. However, the country has shown notable marginal declines in some indices, such as Transparency International's Corruption Perceptions Index, the World Bank Institute's World Wide Governance Indicators, the Global Competitiveness Index and Doing Business Report 2007. Specifically, the longer term comparisons of *trends* in the principal indices of international rankings of Botswana in the areas of political and economic governance show some significant differences, as stated in 10.2.1 above. Just to reiterate, the World Bank Institute's World Wide Governance rankings for Voice and Accountability, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption have all shown a decline for the period 1996 to 2006. Therefore, even though generally stable, there have been some declining trends in all but one index (Political Stability) (Figure 6). Transparency International's Corruption Perceptions Index also shows a decline from 5.9 points out of 10 in 2005 to 5.4 in 2007, and a fall in the world ranking from number 32 to 38 in the same period,

despite the country being ranked the least corrupt in Africa (Table 31). In terms of economic governance, Botswana's ranking in both the Global Competitiveness Index and World Bank Doing Business Report of 2007 slipped, in the former from 72 in 2006 to 76 in 2007/08 and in the latter from 48 in 2006 to 51 in 2007.

Therefore, even though Botswana is still ranked above the average African norm, and remains a "shining example" in terms of various measures of governance when compared to other countries, the longer term trends actually reveal that most of the political and economic governance indicators are not improving. These trends cannot be explained by the AGR II expert panel responses because of the reasons provided above. According to the findings of the AGR II study, the nature of political and economic governance appears to be unchanged between 2003 and 2007. The method of the 2007 (AGR II) study, especially the selection of the expert panel (and elimination of the household survey from the instruments), could not possibly give significantly different findings from the 2003 study.

It is only when we examine other political and economic governance indices (specifically World Bank Institute, Transparency International, Global Competitiveness and Doing Business) that we were able to identify significant trends in the evolution of governance. By examining these alternative indices we are able to conclude that whereas Botswana appears to be doing very well and performs above the average for Africa in terms of political and economic governance, the non-AGR indices reveal declining trends in some years over a decade. The implications are either Botswana's performance is slipping, or other countries are significantly improving their performance to challenge Botswana's renowned capabilities.

In summary, the AGR II study for Botswana is unable to fully explain the trends in governance indices because the selection of the respondents and the timing of the second survey were inappropriate for obtaining information and data that would be very useful for comparison of the progress of governance. The conclusion is that the 2007 AGR II study does not help in assessing the progress of good governance in Botswana. However, this study and other indicators all reveal that there has not been significant change in the nature of Botswana's governance.

Notes

136. Government of Botswana, 1997. Long Term Vision for Botswana: Towards Prosperity for All (Vision 2016).

137. 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.

138. Ibid.

139. 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)

140. African Development Bank/African Development Fund, 2007. Botswana Country Governance Profile (Draft), April 2007.

141. 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.

142. Note on the charts generated from the WBI data sets: Charts show the percentile rank of the country on each governance indicator. Percentile rank indicates the percentage of countries worldwide that rate below the selected country. Higher values indicate better governance ratings. Percentile ranks have been adjusted to account for changes over time in the set of countries covered by the governance indicators. The statistically likely range of the governance indicator is shown as a thin black line. For instance, a bar of length 75 per cent with the thin black lines extending from 60 per cent to 85 per cent has the following interpretation: an estimated 75 per cent of the countries rate worse and an estimated 25 per cent of the countries rate better than the country of choice. However, at the 90 per cent confidence level, only 60 per cent of the countries rate worse, while only 15 per cent of the countries rate better. Source: Kaufman, D., A. Kraay, and M. Mastruzzi, 2007. Governance Matters VI: Governance Indicators for 1996-2006 (World Bank Institute).

143. Republic of Botswana - Office of the President, Inauguration Address by H.E. Lieutenant General S.K.I. Khama President of the Republic Of Botswana, Tuesday 1st April 2008.

144. The AGRII Stakeholders Feedback Workshop was held on 21 November 2007. Some of the comments and suggestions made at that workshop are incorporated in this report.

145. African Development Bank/African Development Fund, 2007. Botswana Country Governance Profile (Draft), April 2007.

11. 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 or 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 favoured the maintenance of a democratic, pluralist and liberal system of government.

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 been realised. 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 institutionalised 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. The regulation of the non-bank financial sector will soon be performed by a dedicated agency.

The environment for private sector development is favourable, due to open-market policies and the availability of promotional and support policies and 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 characterised 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 the creation of a competition commission. Also required are policies and institutions for the independent regulation of public 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, due to the principle of collective responsibility, the legislature is rendered ineffective in checking the executive. Nevertheless, the executive recognises 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 recognised, but are utilised for the endorsement of official policies and the mobilisation for national development. They are also utilised to complement the legal and judicial systems; thus they act as a stabilisation and cohesion enhancing element in society. Although free to organise and operate, the non-state actors have minor roles as watch dogs, and they are not significant 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 a comprehensive and integrated approach to such reforms is lacking. 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 the institutional effectiveness of 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. However, considerable resources are being utilised to fight the pandemic, and this may not be sustainable.

On the international arena, Botswana is a signatory to numerous international agreements, covenants and conventions. However, there is a gap between signature and the actual domestication of these international agreements into local laws. The country’s record of reporting on the 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 law enforcement agencies. The 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 is still 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 respect for the law and respect for civil, political, cultural, social and economic, and generally human rights. However, the absence of a human rights commission casts doubt on commitments to upholding internationally respected human rights standards.

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 has attained some impressive results. The National Development Plans (the objectives of which are to attain sustained development, rapid economic growth, economic independence, and social justice) have guided Botswana's development, emphasising the national principles of Self-Reliance, Unity, Development and Democracy. Adopted in 1997, *The Long Term Vision for Botswana* (Vision 2016) re-affirms these principles, establishes guidelines for 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, Vision 2016 plays a crucial role in focusing the nation towards a (better) common future. These national principles and 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 internationally acclaimed 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 its 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 evaluating the impacts of implementation of policies and programmes, although 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 the effective performance of government functions.

There are several capacity gaps that are identified in Botswana's political and administrative systems that lead to the recommendations for enhancing capacities listed below.

The Executive: there is a need to develop policy research units in all ministries, or utilise the services of those outside the state institutions, to ensure that policy formulation is based on actual needs, requirements and the 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 and their real impact on society.

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 a 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 the retention of qualified and experienced staff. The government should also expedite the introduction of small claims, commercial and other specialised courts, and 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. A comprehensive and integrated decentralisation policy and strategy to guide the decentralisation process should be developed. To attract and retain requisite staff, the government should improve the remuneration and conditions of service of local authority staff.

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 under very favourable conditions, requires the finalisation of the competition policy and the establishment of a competition authority. Although these are in process, progress is too slow. 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.

11.1. 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 and multi-party 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 infrastructure 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 a 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 arise from 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 the 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 a strong engagement of communities, non-governmental organisations, trade unions and other civil society organisations in governance processes. There is need to strengthen engagement and consultation processes so that all stakeholders are incorporated 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.

Appendices

Appendix B.1: Selected Tables from C.1

POLITICAL REPRESENTATION

The Political System and Distribution of Power

Democratic pluralism

Democratic pluralism	Frequency	Percent
multiparty democracy with no free competition for power	1	1.1
multiparty democracy	61	67.8
Stable multiparty democracy	27	30.0
Total	89	98.9
Missing	1	1.1
Total	90	100.0

The Executive formation mode

The Executive formation mode	Frequency	Percent
one party parliament	6	6.7
competitive electoral process	84	93.3
Total	90	100.0

Parliamentary election mode

Parliamentary election mode	Frequency	Percent
appointed by head of state	1	1.1
appointment of a small minority	12	13.3
fully competitive multiparty electoral system	77	85.6
Total	90	100.0

Local assemblies membership

Local assemblies	Frequency	Percent
one-party electoral system	1	1.1
appointment of a small minority	16	17.8
fully competitive multiparty electoral system	73	81.1
Total	90	100.0

Democratic framework acceptance

Democratic framework	Frequency	Percent
regarded with suspicion by ruling circles	5	5.6
not appreciated at all levels	6	6.7
accepted by all groups but not entrenched	33	36.7
accepted by all social and political groups	46	51.1
Total	90	100.0

THE ELECTORAL PROCESS AND POLITICAL PARTIES**Electoral system credibility**

Electoral system credibility	Frequency	Percent
largely unacceptable to all political parties	1	1.1
marginally acceptable to all political parties	18	20.0
largely acceptable to all political parties	39	43.3
acceptable to all political parties	32	35.6
Total	90	100.0

Electoral law credibility

Electoral law credibility	Frequency	Percent
sustain incumbent government	2	2.2
does not ensure autonomy and independence of electors system	21	23.3
ensures autonomy and independence of electoral system	24	26.7
ensures autonomy and independence of electoral system of all	43	47.8
Total	90	100.0

Electoral Authority legitimacy

Electoral Authority legitimacy	Frequency	Percent
not legitimate	1	1.1
openly biased	2	2.2
under the influence of the incumbent of government	30	33.3
legitimate	19	21.1
accept electoral authority legitimacy	38	42.2
Total	90	100.0

Electoral authority's fairness

Electoral authority's fairness	Frequency	Percent
controlled by the incumbent government	6	6.7
rarely impartial	1	1.1
fairly impartial	21	23.3
largely impartial	32	35.6
always impartial	30	33.3
Total	90	100.0

Public media access

Public media access	Frequency	Percent
not accessible	1	1.1
largely in accessible	8	8.9
somewhat inaccessible	33	36.7
Largely accessible	33	36.7
equally accessible	15	16.7
Total	90	100.0

Election credibility and transparency

Election credibility and transparency	Frequency	Percent
No free and fair competition	2	2.2
Less than credible	1	1.1
Somewhat credible	8	8.9
largely credible	32	35.6
fully credible	47	52.2
Total	90	100.0

Election control

Election control	Frequency	Percent
rarely ensures effective legal actions	4	4.4
ensures a fairly effective legal action	17	18.9
ensures a largely a largely effective legal action	23	25.6
ensures fully effective legal action	46	51.1
Total	90	100.0

INSTITUTIONAL EFFECTIVENESS AND ACCOUNTABILITY**THE CONSTITUTION****Constitutional checks and balances**

Constitutional checks and balances	Frequency	Percent
no checks	2	2.2
very few checks	3	3.3
limited checks	12	13.3
significant checks	46	51.1
full checks	26	28.9
Total	89	98.9
Missing	1	1.1
Total	90	100.0

The Legislature

Legislative independence:

Legislative independence	Frequency	Percent
not free from subordination	5	5.6
rarely free from subordination	10	11.1
free from subordination in some areas	11	12.2
free from subordination in most of the areas	33	36.7
free from subordination in all the areas	30	33.3
Total	89	98.6
Missing	1	1.1
Total	90	100.0

Legislative effectiveness

Legislative effectiveness	Frequency	Percent
never effective	1	1.1
rarely effective	6	6.7
sometimes effective	28	31.1
usually effective	33	36.7
always effective	22	24.4
Total	90	100.0

Legislative control

Legislative control	Frequency	Percent
never effective	3	3.3
rarely effective	15	16.7
sometimes effective	24	26.7
usually effective	38	42.2
always effective	10	11.1
Total	90	100.0

Parliamentary opposition strength

	Frequency	Percent
no influence	8	8.9
weak influence	50	55.6
fairly influence	14	15.6
moderately	14	15.6
strong influence	4	4.4
Total	90	100.0

Legislative corruption

Legislative corruption	Frequency	Percent
largely corrupt	2	2.2
somewhat corrupt	9	10.0
largely free from corruption	68	75.6
above corruption	11	12.2
Total	90	100.0

THE JUDICIARY**Judiciary's Independence**

Judiciary's Independence	Frequency	Percent
fully dependent	1	1.1
somewhat independent	8	8.9
largely independent	40	44.4
independent	41	45.6
Total	90	100.0

Judge's appointment mode and promotion mode

Judge's appointment mode and promotion	Frequency	Percent
appointed and promoted	3	3.3
rarely appointed and promoted	2	2.2
sometimes appointed and promoted	12	13.3
usually appointed and	42	46.7
always appointed and promoted	31	34.4
Total	90	100.0

Court access:

Court access	Frequency	Percent
never accessed	11	12.2
rarely accessed	16	17.8
sometimes accessed	17	18.9
usually accessed	29	32.2
always accessed	16	17.8
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Access to Justice

Access to Justice	Frequency	Percent
seldom obtain full justice	5	5.6
sometimes obtain full justice	10	11.1
generally obtain full justice	48	53.3
always obtain full justice	27	30.0
Total	90	100.0

Judiciary's corruption

Judiciary's corruption	Frequency	Percent
fairly corrupt	1	1.1
fairly free from corruption	15	16.7
largely free from corruption	51	56.7
above corruption	23	25.6
Total	90	100.0

THE EXECUTIVE BRANCH

Management of State Structures

Executive Branch's Independence

Executive Branch's independence	Frequency	Percent
no major areas of	1	1.1
few major areas of policy	6	6.7
some major areas of	16	17.8
most major areas of policy	40	44.4
all major areas of policy	26	28.9
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Senior appointees' composition

Senior appointees' composition	Frequency	Percent
does not reflect	7	7.8
hardly reflect	6	6.7
reflects with some limited extent	24	26.7
largely reflects	37	41.1
fully reflects	16	17.8
Total	90	100.0

Executive's corruption

Executive's corruption	Frequency	Percent
completely corrupt	1	1.1
fairly corrupt	6	6.7
somewhat corrupt	16	17.8
largely free from corruption	61	67.8
above corruption	6	6.7
Total	90	100.0

The Civil Service

Civil service management criteria

Civil service management	Frequency	Percent
not at all governed	3	3.3
rarely governed	9	10.0
governed to some extent	41	45.6
governed to a great extent	28	31.1
governed	9	10.0
Total	90	100.0

Civil service corruption

Civil service corruption	Frequency	Percent
Largely corrupt	9	10.0
Fairly free from corruption	45	50.0
Largely free from corruption	34	37.8
Free from corruption	2	2.2
Total	90	100.0

Transparency and Accountability

Government accountability

Government accountability	Frequency	Percent
never acts	1	1.1
rarely acts	7	7.8
sometimes acts	26	28.9
mostly acts	43	47.8
always acts	13	14.4
Total	90	100.0

Government transparency

Government transparency	Frequency	Percent
not available	8	8.7
available but inaccessible	9	10.0
available but not readily accessible	43	47.8
available and accessible	15	16.7
freely available and accessible	16	17.8
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Access to government services

Access to government services	Frequency	Percent
difficulty in accessing government services	4	4.4
very little access to government services	2	2.2
limited access to government services	15	16.7
mostly ready access to government services	55	61.1
ready access to government services	14	15.6
Total	90	100.0

Services' relevance to poor

Services' relevance to poor	Frequency	Percent
do not address the needs of the poor	1	1.1
poorly address the needs of the poor	15	16.7
fairly address the needs of the poor	35	38.9
moderately address the needs of the poor	31	34.4
fully address the needs of the poor	8	8.9
Total	90	100.0

Services' relevance to women

Services' relevance to women	Frequency	Percent
do not address the needs of the women	1	1.1
poorly address the needs of the women	10	11.1
fairly address the needs of the women	36	40.0
moderately address the needs of the women	29	32.2
adequately address the needs of the women	14	15.6
Total	90	100.0

Decentralization of structures

Local government accountability mechanisms

Local government accountability	Frequency	Percent
not effective	7	7.8
rarely effective	15	16.7
fairly effective	38	42.2
moderately effective	25	27.8
effective	5	5.6
Total	90	100.0

Equitability of resource allocation

Equitability of resource allocation	Frequency	Percent
no equitable distribution	1	1.1
rarely equitable distribution	11	12.2
fairly equitable distribution	38	42.2
moderately equitable distribution	30	33.3
fully equitable distribution	10	11.1
Total	90	100.0

Local government capacity

Local government capacity	Frequency	Percent
no capacity	5	5.6
poor capacity	7	7.8
limited capacity	37	41.1
some capacity	37	41.1
adequate capacity	4	4.4
Total	90	100.0

Mechanisms for community participation

Mechanisms for community participation	Frequency	Percent
no mechanism	5	5.6
inadequate mechanism	18	20.0
fairly effective	33	36.7
moderately effective mechanism	27	30.0
effective mechanism	6	6.7
Total	89	98.0
Missing	1	1.1
Total	90	100.0

Government responsiveness

Government	Frequency	Percent
does not respond	3	3.3
rarely responds	10	11.1
fairly responds	49	54.4
moderately	23	25.6
fully responds	4	4.4
Total	89	98.0
Missing	1	1.1
Total	90	100.0

HUMAN RIGHTS AND RULE OF LAW

Respect for Human Rights

Respect for human rights

Respect for human rights	Frequency	Percent
rarely respected	2	2.2
sometimes respected	12	13.3
usually respected	52	57.8
always respected	24	26.7
Total	90	100.0

Human rights reporting effectiveness

Human rights reporting effectiveness	Frequency	Per cent
ineffective	3	3.3
rarely effective	17	18.9
sometimes effective	25	27.8
usually effective	35	38.9
always effective	10	11.1
Total	90	100.0

Women's human rights reporting effectiveness

Women's human rights reporting effectiveness	Frequency	Percent
ineffective	4	4.4
rarely effective	8	8.9
sometimes effective	31	34.4
usually effective	35	38.9
always effective	11	12.2
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Actions against human rights violations

Actions against human rights violations	Frequency	Percent
never acted upon	1	1.1
rarely acted upon	14	15.6
sometimes acted upon	33	36.7
usually acted upon	29	32.2
always acted upon	12	13.3
Total	89	98.9
System	1	1.1
Total	90	100.0

Actions against women's rights violations

Actions against women's rights violations	Frequency	Percent
never acted upon	2	2.2
acted upon promptly only in high profile cases	6	6.7
sometimes acted upon promptly	27	30.0
usually acted upon promptly	33	36.7
always acted upon promptly	21	23.3
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Law enforcement**Government's respect for rule of law**

Government's respect for rule of law	Frequency	Percent
rarely respects	2	2.2
sometimes respects	6	6.7
mostly respects	39	43.3
fully respects	43	47.8
Total	90	100.0

Police force composition

Police force composition	Frequency	Percent
does not reflect a cross-section of society	4	4.4
hardly reflects a cross-section of society	1	1.1
weakly reflects a cross-section of society	8	8.9
substantially reflects a cross-section of society	44	48.9
strongly reflects a cross-section of society	33	36.7
Total	90	100.0

Police respect for human rights

Police respect for human rights	Frequency	Percent
rarely respects	2	2.2
sometimes respects	4	4.4
usually respects	56	62.2
always respects	28	31.1
Total	90	100.0

Police equipment

Police equipment	Frequency	Percent
not equipped	2	2.2
poorly equipped	21	23.3
fairly equipped	28	31.1
reasonably equipped	34	37.8
adequately equipped	5	5.6
Total	90	100.0

Citizen's confidence in law enforcement organs

Citizen's confidence in law	Frequency	Percent
no confidence	2	2.2
little confidence	20	22.2
some confidence	28	31.1
moderately high confidence	29	32.2
high confidence	11	12.2
Total	90	100.0

CSOs monitoring of violations by police and prisons

CSOs monitoring of violations by police and prisons	Frequency	Percent
never monitored	8	8.9
rarely monitored	16	17.8
sometimes monitored	28	31.1
usually monitored	24	26.7
regularly monitored	14	15.6
Total	90	100.0

Corruption in law enforcement

Corruption in law enforcement	Frequency	Percent
Largely corrupt	4	4.4
Fairly corrupt	38	42.2
Largely free from corruption	41	45.6
Free from corruption	7	7.8
Total	90	100.0

Peace and Conflict Management**Participation in conflict resolution**

Participation in conflict resolution	Frequency	Percent
rarely include affected people	10	11.1
include some affected people	21	23.3
include most affected people	28	31.1
include all affected people	31	34.4
Total	90	100.0

Effectiveness of government programs against intra-state conflict

Effectiveness of government programs against intra-state conflict	Frequency	Percent
Completely ineffective	1	1.1
rarely effective	4	4.4
occasionally effective	18	20.0
usually effective	49	54.4
always effective	18	20.0
Total	90	100.0

Ombudsman/Public Protector

Watch-dog organisations independence from executive Branch

Watch-dog organisations independence from executive Branch	Frequency	Percent
totally controlled	10	11.1
fairly substantially controlled	12	13.3
fairly independent	21	23.3
substantially independent	25	27.8
fully independent	22	24.4
Total	90	100.0

NON-STATE ACTORS

Civil Society Organisations (CSOs)

CSO's independence

CSO's independence	Frequency	Percent
function under strict guidance	2	2.2
function under fairly strict guidance	2	2.2
function independently with some restrictions	6	6.7
function independently of all organs of state	36	40.0
encouraged by government to function independently	44	48.9
Total	90	100.0

CSO's role in conflict management

CSO's role in conflict management	Frequency	Percent
never consulted	2	2.2
rarely consulted	14	15.6
sometimes consulted	36	40.0
often consulted	28	31.1
always consulted	10	11.1
Total	90	100.0

CSO's influence on policy and programs

CSO's influence on policy and programs	Frequency	Percent
no influence	3	3.3
rarely any influence	9	10.0
limited influence	40	44.4
fairly strong influence	33	36.7
strong influence	5	5.6
Total	90	100.0

CSO's role in promoting accountability and transparency

CSO's role in promoting accountability and transparency	Frequency	Percent
does not contribute	2	2.2
rarely contributes	8	8.9
fairly contributes	35	38.9
moderately contributes	25	27.8
contributes effectively	20	22.2
Total	90	100.0

Independent Mass Media**Mass media freedom**

Mass media freedom	Frequency	Percent
all or most mass media are controlled by the state	5	5.6
government oppressive and restrictive press laws	3	3.3
frequently violated by the government	16	17.8
infrequently violated by the government	35	38.9
within a completely free environment	31	34.4
Total	90	100.0

ECONOMIC MANAGEMENT AND CORPORATE GOVERNANCE

ECONOMIC GOVERNANCE AND PUBLIC FINANCIAL MANAGEMENT

Economic Development

Pursuit of sustainable development

Pursuit of sustainable development	Frequency	Percent
never pursued	1	1.1
rarely pursued	4	4.4
somewhat actively pursued	15	16.7
Largely actively pursued	33	36.7
Actively pursued	37	41.1
Total	90	100.0

Government's drive for rural development

Government's drive for rural development	Frequency	Percent
rarely strives for rural development	3	3.3
sometimes actively strives for rural development	17	18.9
Often actively strives for rural development	30	33.3
Always actively strives for rural development	40	44.4
Total	90	100.0

Effectiveness of employment generation measures

Effectiveness of employment generation measures	Frequency	Percent
never takes measures	2	2.2
rarely takes effective measures	14	15.6
Takes somewhat effective measures	30	33.3
Takes largely effective measures	29	32.2
Takes effective measures	15	16.7
Total	90	100.0

Public Financial Management and Accountability

Independence of management of Public enterprises

Independence of management of Public enterprises	Frequency	Percent
Fully dependant	6	6.7
Hardly independent	17	18.9
Somewhat independent	29	32.2
Largely independent	26	28.9
Independent	12	13.3
Total	90	100.0

Corruption in public enterprises

Corruption in public enterprises	Frequency	Percent
Largely corrupt	8	8.9
Fairly free from corruption	39	43.3
Largely free from corruption	35	38.9
Free from corruption	8	8.9
Total	90	100.0

Tax system equitability

Tax system equitability	Frequency	Percent
never equitable	1	1.1
rarely equitable	4	4.4
sometimes equitable	16	17.8
mostly equitable	48	53.3
always equitable	21	23.3
Total	90	100.0

Tax collection efficiency

Tax collection efficiency	Frequency	Percent
poorly managed	11	12.2
fairly well managed	23	25.6
largely well-managed	41	45.6
efficiently managed	15	16.7
Total	90	100.0

Tax evasion

Tax evasion	Frequency	Percent
Always affected	3	3.3
Mostly affected	7	7.8
Sometimes affected	51	56.7
Rarely affected	21	23.3
Never affected	8	8.9
Total	90	100.0

Confidence in management of public finances

Confidence in management of public finances	Frequency	Percent
Does not enjoy the confidence of the public	3	3.3
Rarely enjoys the confidence of the public	7	7.8
Enjoys some degrees of public confidence	28	31.1
Enjoys a large degrees of public confidence	39	43.3
Enjoys the full confidence of the public	13	14.4
Total	90	100.0

Transparency in Government Procurement

Transparency in Government Procurement	Frequency	Percent
never transparent	1	1.1
rarely transparent	15	16.7
sometimes transparent	26	28.9
usually transparent	34	37.8
fully transparent	14	15.6
Total	90	100.0

Integrity in Monetary and Financial Systems

Independence of Central Bank

Independence of Central	Frequency	Percent
Under government control	14	15.6
Largely dependent on government control	8	8.9
Somewhat independent of government control	20	22.2
Largely independent of government control	35	38.9
Independent of government	13	14.4
Total	90	100.0

Soundness of Central Bank's fiscal policies

Soundness of Central Bank's fiscal policies	Frequency	Percent
Never pursued sound fiscal policies	2	2.2
Pursues weak fiscal policies	4	4.4
Pursues sound fiscal policies	20	22.2
Pursues largely sound fiscal policies	38	42.2
Pursues sound fiscal policies	26	28.9
Total	90	100.0

Effectiveness of Central Bank

Effectiveness of Central Bank	Frequency	Percent
rarely effective	2	2.2
somewhat effective	15	16.7
largely effective	43	47.8
effective	30	33.3
Total	90	100.0

PRIVATE SECTOR DEVELOPMENT AND CORPORATE GOVERNANCE

Development of Private Sector

Government support for informal sector

Government support for informal sector	Frequency	Percent
Does not encourage	3	3.3
Rarely encourages	15	16.7
Sometimes encourages	19	21.1
Usually encourages	28	31.1
Always actively encourages	25	27.8
Total	90	100.0

Competition in the Economy

Competition in the Economy	Frequency	Percent
Never takes measures	2	2.2
Rarely takes measures	13	14.4
Takes somewhat effective measures	35	38.9
Takes largely effective measures	25	27.8
Takes effective measures	15	16.7
Total	90	100.0

Business access to land, credit and utilities

Business access to land, credit and utilities	Frequency	Percent
Never takes effective measures	5	5.6
Rarely takes effective measures	14	15.6
sometimes takes effective measures	31	34.4
often takes effective measures	27	30.0
always takes effective measures	13	14.4
Total	90	100.0

Entrepreneurs' freedom of operation

Entrepreneurs' freedom of operation	Frequency	Percent
Never makes sure that entrepreneurs are free	1	1.1
Rarely makes sure that entrepreneurs are free	8	8.9
Sometimes makes sure that entrepreneurs are free	16	17.8
Often makes sure that entrepreneurs are free	33	36.7
Always makes sure that entrepreneurs are free	32	35.6
Total	90	100.0

Restrictions to doing business

Restrictions to doing business	Frequency	Percent
Never takes effective measures	1	1.1
Rarely takes effective measures	5	5.6
Sometimes takes effective measures	33	36.7
Often takes effective measures	30	33.3
Always takes effective measures	21	23.3
Total	90	100.0

Tax system influence on local investment

Tax system influence on local investment	Frequency	Percent
Discourages local investment	2	2.2
Rarely encourages local investment	7	7.8
Encourages local investment in a few sectors	18	20.0
Encourages local investment in most sectors	44	48.9
Encourages local investment in all sectors	19	21.1
Total	90	100.0

Tax system influence on foreign investment

Tax system influence on foreign investment	Frequency	Percent
Discourages foreign direct investment	1	1.1
Rarely encourages foreign direct investment	1	1.1
Encourages foreign direct investment in a few sectors	14	15.6
Encourages foreign direct investment in most sectors	47	52.2
Encourages foreign direct investment in all sectors	27	30.0
Total	90	100.0

Public and Private Partnership

Private sector participation in policy making

Private sector participation in policy making	Frequency	Percent
Rarely involves the private sector	8	8.9
Sometimes involves the private sector	19	21.1
Usually involves the private sector	37	41.1
Always involves the private sector	25	27.8
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Partnership of private and public sectors

Partnership of private and public sectors	Frequency	Percent
Are not partners	1	1.1
Consider themselves as partners but rarely collaborate	7	7.8
Are partners but without structured collaborative mechanisms	11	12.2
Are partners but collaborative mechanisms are somewhat ineffect	49	54.4
Are effective partners with effective collaborative mechanisms	21	23.3
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Property rights and Corporate Governance

Enforcement of contracts and property rights

Enforcement of contracts and property rights	Frequency	Percent
Never takes effective measures	1	1.1
Rarely takes effective measures	4	4.4
Sometimes takes effective measures	9	10.0
Often takes effective measures	41	45.6
Always takes effective measures	34	37.8
Total	89	98.9
Missing	1	1.1
Total	90	100.0

Transparency and accountability in corporate governance

Transparency and accountability in corporate governance	Frequency	Percent
Never ensures transparency and accountability	2	2.2
Rarely ensures transparency and accountability	9	10.0
Sometimes ensures transparency and accountability	19	21.1
Often ensures transparency and accountability	48	53.3
Always ensures transparency and accountability	12	13.3
Total	90	100.0

Protection of shareholders' rights

Protection of shareholders' rights	Frequency	Percent
Never effectively protected	2	2.2
Rarely effectively protected	2	2.2
Sometimes effectively protected	7	7.8
Often effectively protected	35	38.9
Always effectively protected	44	48.9
Total	90	100.0

Appendix C.1.

INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

The confidentiality of your responses is guaranteed. The biographical data is needed for statistical purposes, and for follow-up should the need arise.

BIOGRAPHICAL DATA

1. Name of Respondent
2. Sex: Male Female (Please tick in the appropriate box)
3. Age
4. Educational Level e.g. Diploma, BA, MA, PhD)
5. Field of Training (e.g. Accountancy, Engineering, etc.)
6. Occupation
7. Organization.....
 Address
- Telephone Fax
- Email
8. Ethnic Origin
9. Religion

Appendix C.1.

INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

The series of statements below is designed to obtain your opinion about the nature of governance in your country as reflected in its political, economic and social life and institutions. You are requested to indicate your opinion with an " X " in one of the five boxes aligned, immediately to the right, with the option of your choice. If your opinion does not match exactly with any one of the five options, please mark one of the five options that is **closest** to your considered judgement, and best fits or describes the **actual situation** that prevails **in your country**, and not what you may feel or what you may think on the basis of personal relationships and /or other considerations.

[A short variable name that is to be used for tabulations is given in square brackets at the end of the options of each indicator].

I. POLITICAL REPRESENTATION

THE POLITICAL SYSTEM AND DISTRIBUTION OF POWER

1. The political system:

SCORE

- *consists of a stable multiparty democracy with two or more strong political parties each with an independent nation-wide political program.* 5
- *consists of a multiparty democracy with two or more independent political parties where the ruling party is dominant and dictates all national policies and programs.* 4
- *consists of a multiparty system whereby the ruling party allows other parties to register but it does not allow them to compete freely for political power.* 3
- *consists of a single party system whereby candidates can effectively compete for offices within the system.* 2
- *allows for no independent political parties and no competition for political power.* 1

[X1 = Democratic Pluralism]

2. The formation of the Executive is effected through:

- *a fully competitive electoral process or by assuming power as the winning party in a fully competitive democratic election.* 5

- election in a one-party parliament. 4
- appointment by a monarch in consultation with traditional authorities. 3
- appointment by a monarch. 2
- a revolution or military coup or other coup *d'etat*. 1

[X2 = Executive formation mode]

3. The national parliament is constituted:

- under a fully competitive multiparty electoral system. 5
- through the appointment of a small minority, and the competitive election of the rest in a free and fair multiparty election. 4
- under a one-party electoral system. 3
- under a one-party system where voters are assisted by a party/ government-managed electoral authority to rubber stamp the election of nominees of the ruling party. 2
- by appointment by Head of State/Government. 1

[X3 = Parliamentary election mode]

4. The local/district assemblies are constituted:

- under a fully competitive multiparty electoral system. 5
- through the appointment of a small minority, and the competitive election of the rest in a free and fair multiparty election. 4
- under a one-party electoral system. 3
- under a one-party system where voters are assisted by a party/ government-managed electoral authority to rubber stamp the election of nominees of the ruling party. 2
- by appointment by Head of State/Government. 1

[X5 = Local assemblies Election Modemembership]

5. The democratic framework for conducting politics:

- is accepted by, and entrenched in, all social and political groups. 5
- is accepted by all groups but not firmly entrenched. 4

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- is not appreciated by all, but it is still partly adopted by the state. 3
- is regarded with suspicion by ruling circles, but still selectively employed to project a democratic image to the outside world. 2
- is completely unacceptable to the government. 1

[X7 = Democratic framework acceptance]

THE ELECTORAL PROCESS AND POLITICAL PARTIES

6. The electoral system is:

- fully anchored in an electoral law, independent electoral commission and electoral district demarcation acceptable to all political parties. 5
- anchored in an electoral law, electoral commission and electoral district demarcation that are largely acceptable to all political parties. 4
- anchored in an electoral law, electoral commission and electoral district demarcation that are marginally acceptable to all political parties. 3
- anchored in an electoral law, electoral commission and electoral district demarcation that are largely unacceptable to all political parties. 2
- anchored in an electoral law, electoral commission and electoral district demarcation that are totally unacceptable to all political parties. 1

[X8 = Electoral system credibility]

7. The current electoral law:

- ensures the autonomy and independence of the electoral system from all organs of state and political parties. 5
- ensures the autonomy and independence of the electoral system from all organs of state and political parties, but fails to provide for a neutral and efficient conflict prevention/resolution system. 4
- does not ensure the autonomy and independence of the electoral system by failing to provide for neutral conflict resolution and equal participation for all independent political parties in the electoral process. 3
- does not ensure autonomy and independence by failing to guarantee freedom of movement and assembly, equal participation for all candidates and political parties in the electoral process and an effective mechanism for conflict resolution and to challenge election results. 2

- is designed to sustain the incumbent government/ruling party. 1

[X9 = Electoral law credibility]

8. Political parties and candidates:

- accept the legitimacy of the electoral authority as manager of the electoral process. 5
- regard the electoral authority to be legitimate, but powerless and helpless with regard to conflict prevention/resolution. 4
- regard the electoral authority to be under the influence of the incumbent government/ruling party. 3
- regard the electoral authority to be openly biased towards the ruling party. 2
- do not regard the electoral authority as legitimate since it is created, controlled and managed by the ruling party. 1

[X10 = Electoral Authority legitimacy]

9. The electoral authority:

- is always impartial in all its activities. 5
- is largely impartial in its activities. 4
- is fairly impartial in its activities. 3
- is rarely impartial in its activities. 2
- is controlled by the incumbent government/ruling party. 1

[X11 = Electoral authority's fairness]

10. The government provides:

- full security to all legally-registered opposition political parties to ensure independence of movement and operation throughout the country. 5
- reasonably good security to all legally-registered opposition political parties to ensure independence of movement and operation throughout the country. 4
- limited security to all legally-registered opposition political parties to ensure independence of movement and operation throughout the country. 3
- very little security to all legally-registered opposition political parties to ensure independence of movement and operation throughout the country. 2

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- no security to any legally-registered political parties to ensure independence of movement and operation throughout the country. 1

[X12 = Election security]

11. Public mass media and other public resources are:

- equally accessible to all legally registered political parties during elections. 5
- largely as accessible to the opposition as they are to the ruling party during elections. 4
- somewhat inaccessible to the political opposition during elections. 3
- largely inaccessible to the political opposition during elections. 2
- not accessible to the political opposition during elections. 1

[X13 = Public mass media access]

12. The electoral system legally and practically ensures:

- a fully credible and transparent registration, voting and results' reporting process. 5
- a largely credible and transparent registration, voting and results' reporting process. 4
- a somewhat credible and transparent registration, voting and results' reporting process. 3
- a less than credible and transparent registration, voting and results' reporting process. 2
- no free and fair competition for political power. 1

[X141 = Election credibility and transparency]

13. The electoral system legally and practically:

- ensures fully effective legal action against violations and an effective mechanism to challenge election results. 5
- ensures a largely effective legal action against violations and a largely effective mechanism to challenge election results. 4
- ensures a fairly effective legal action against violations and a fairly effective mechanism to challenge election results. 3

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

- rarely ensures effective legal action against violations, and rarely has an effective mechanism to challenge election results. 2
- ensures no free and fair competition for political power. 1

[X142 = Election Control]

II. INSTITUTIONAL EFFECTIVENESS AND ACCOUNTABILITY

THE CONSTITUTION

14. The Constitution provides for :

- full checks and balances between the different branches of government. 5
- significant checks and balances between the different branches of government. 4
- limited checks and balances between the different branches of government. 3
- very few checks and balances between some branches of government. 2
- no checks and balances between the different branches of government. 1

[X15 = Constitutional checks and balances]

LEGISLATIVE BRANCH

15. The Legislature:

- is free from subordination to external agencies in all major areas of legislation. 5
- is free from subordination to external agencies in most major areas of legislation. 4
- is free from subordination to external agencies in some major areas of legislation. 3
- is rarely free from subordination to external agencies in major areas of legislation. 2
- is not free from subordination to external agencies in major areas of legislation. 1

[X16 = Legislative independence]

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

16. The legislature is:

- always an effective institution for debating and legislating on issues of national importance. 5
- usually an effective institution for debating and legislating on issues of national importance. 4
- sometimes an effective institution for debating and legislating on issues of national importance. 3
- rarely an effective institution for debating and legislating on issues of national importance. 2
- never an effective institution for debating and legislating on issues of national importance. 1

[X17 = Legislative effectiveness]

17. The legislature is:

- always effective in holding the Executive accountable. 5
- usually effective in holding the Executive accountable. 4
- occasionally effective in holding the Executive accountable. 3
- rarely effective in holding the Executive accountable. 2
- never effective in holding the Executive accountable. 1

[X18 = Legislative control of Executive Branch]

18. The opposition in parliament has:

- strong influence on government policy, programs and /or legislation. 5
- moderately strong influence on government policy, programs and/or legislation. 4
- fairly strong influence on government policy, programs and /or legislation. 3
- weak influence on government policy, programs and /or legislation. 2
- no influence on government policy, programs and/or legislation. 1

[X20 = Parliamentary opposition strength]

19. The Legislature:

- is above corruption. 5
- is largely free from corruption. 4
- is somewhat corrupt. 3
- is largely corrupt. 2
- is completely corrupt. 1

[X21 = Legislative corruption]

THE JUDICIARY

20. The judiciary is:

- independent of other branches of government in its operations. 5
- largely independent of other branches of government in its operations. 4
- somewhat independent of other branches of government in its operations. 3
- hardly independent of other branches of government in its operations. 2
- fully dependent on other branches of government in its operations. 1

[X22 = Judiciary's independence]

21. Judges are:

- always appointed and promoted on their own merits and qualifications. 5
- usually appointed and promoted on their own merits and qualifications. 4
- sometimes appointed and promoted on their own merits and qualifications. 3
- rarely appointed and promoted on their own merits and qualifications. 2
- appointed and promoted without merit principles. 1

[X23 = Judges' appointment and promotion mode]

22. First instance/lower courts can:

- always be accessed by citizens within 3 days. 5

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- usually be accessed by citizens within 3 days. 4
- sometimes be accessed by citizens within 3 days. 3
- rarely be accessed by citizens within 3 days. 2
- never be accessed by citizens within 3 days. 1

[X24 = Court access]

23. Citizens can:

- always obtain full justice in court irrespective of their economic or social status. 5
- generally obtain full justice in court irrespective of their economic or social status. 4
- sometimes obtain full justice in court irrespective of their economic or social status. 3
- seldom obtain full justice in court irrespective of their economic or social status. 2
- obtain no justice in court. 1

[X25 = Access to Justice]

24. The judiciary is:

- above corruption. 5
- largely free from corruption. 4
- fairly free from corruption. 3
- fairly corrupt. 2
- completely corrupt. 1

[X26 = Judiciary's corruption]

THE EXECUTIVE BRANCH

Management of State Structures

25. The Executive branch:

- is free from subordination to external agencies in all major areas of policy. 5
- is free from subordination to external agencies in most major areas of policy. 4
- is free from subordination to external agencies in some major areas of policy. 3
- is free from subordination to external agencies in a few major areas of policy. 2
- is free from subordination to external agencies in no major areas of policy. 1

[X27 = Executive Branch's independence]

26. The composition of senior public servants:

- fully reflects the cross-section of society. 5
- largely reflects the cross-section of society. 4
- reflects the cross-section of society to some limited extent. 3
- hardly reflects the cross-section of society. 2
- does not reflect the full cross-section of society. 1

[X28 = Senior appointees' composition]

27. The Executive is:

- above corruption. 5
- largely free from corruption. 4
- somewhat corrupt. 3
- fairly corrupt. 2
- completely corrupt. 1

[X29 = Executive's corruption]

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

The Civil Service

28. Appointments, promotions and career development of civil/public servants:

- are governed strictly by merit-based principles. 5
- are governed by merit-based principles to a great extent. 4
- are governed by merit-based principles to some extent. 3
- are rarely governed by merit-based principles. 2
- are not at all governed by merit-based principles. 1

[X30 = Civil service management criteria]

29. The civil service is:

- free from corruption. 5
- largely free from corruption. 4
- fairly free from corruption. 3
- largely corrupt. 2
- completely corrupt. 1

[X321 = Civil Service Corruption]

Transparency and Accountability

30. The government:

- always acts in a publicly accountable manner. 5
- mostly acts in a publicly accountable manner. 4
- sometimes acts in a publicly accountable manner. 3
- rarely acts in a publicly accountable manner. 2
- never acts in a publicly accountable manner. 1

[X33 = Government accountability]

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

31. Current information on government performance is:

- freely available and accessible to the public. 5
- available and accessible to the public at some officially determined cost. 4
- available but not readily accessible to the public. 3
- available but inaccessible to the public. 2
- not available to the public. 1

[X34 = Government Transparency]

Efficiency of Government Services

32. Citizens have:

- ready access to government services. 5
- mostly ready access to government services. 4
- limited access to government services. 3
- very little access to government services. 2
- difficulty in accessing government services. 1

[X36 = Access to government services]

33. Government services:

- fully address the needs of the poor. 5
- moderately address the needs of the poor. 4
- fairly address the needs of the poor. 3
- poorly address the needs of the poor. 2
- do not address the needs of the poor. 1

[X37 = Government Services' relevance to poor]

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

34. Government services:

- adequately address the needs of women. 5
- moderately address the needs of women. 4
- fairly address the needs of women. 3
- poorly address the needs of women. 2
- do not address the needs of women. 1

[X38 = Government Services' relevance to women]

Decentralisation of structures

35. Mechanisms to ensure accountability and transparency in local government/administration:

- are effective and efficient. 5
- are only moderately effective and efficient. 4
- are fairly effective and efficient. 3
- are rarely effective and efficient. 2
- are not effective or efficient. 1

[X39 = Local government accountability mechanisms]

36. Local government procedures for resource allocation with respect to service delivery provide for:

- a fully equitable distribution. 5
- a moderately equitable distribution. 4
- a fairly equitable distribution. 3
- a rarely equitable distribution. 2
- no equitable distribution. 1

[X40 = Equitability of resource allocation]

37. Local governments/administrations have:

- adequate capacity to manage decentralised responsibilities effectively. 5
- some capacity to manage decentralised responsibilities. 4
- limited capacity to manage decentralised responsibilities. 3
- poor capacity to manage decentralised responsibilities. 2
- no capacity to manage decentralised responsibilities. 1

[X41 = Local government capacity]

38. Service delivery institutions of local governments/administrations have:

- effective mechanisms for involving community participation. 5
- moderately effective mechanisms that enable community participation. 4
- fairly effective mechanisms for involving community participation. 3
- inadequate mechanisms for involving community participation. 2
- no mechanisms for involving community participation. 1

[X42 = Mechanisms for community participation]

39. Local government/administration:

- fully responds to the basic needs of the community in an efficient manner. 5
- moderately responds to basic needs of the community in an efficient manner. 4
- fairly responds to basic needs of the community in an efficient manner. 3
- rarely responds to the basic needs of the community in an efficient manner. 2
- does not respond to the basic needs of the community. 1

[X43 = Government responsiveness]

HUMAN RIGHTS AND RULE OF LAW

Respect for Human Rights

40. Civil and political rights provided for in the constitution are :

- always respected. 5
- usually respected. 4
- sometimes respected. 3
- rarely respected. 2
- never respected. 1

[X44 = Respect for human rights]

41. The government's institutional mechanisms for reporting human rights violations are:

- always effective. 5
- usually effective. 4
- sometimes effective. 3
- rarely effective. 2
- ineffective. 1

[X45 = Human rights reporting effectiveness]

42. The government's institutional mechanisms for reporting women's human rights violations are:

- always effective. 5
- usually effective. 4
- sometimes effective. 3
- rarely effective. 2
- ineffective. 1

[X451 = Women's Human rights reporting effectiveness]

43. Reported human rights violations are:

- always acted upon promptly. 5
- usually acted upon promptly. 4
- sometimes acted upon promptly. 3
- rarely acted upon promptly. 2
- never acted upon. 1

[X48 = Actions against human rights violations]

44. Reported violence against women is:

- always acted upon promptly. 5
- usually acted upon promptly. 4
- sometimes acted upon promptly. 3
- acted upon promptly only in high profile cases. 2
- never acted upon. 1

[X49 = Actions against women's rights violations]

Law Enforcement

45. The government:

- fully respects due process and the rule of law. 5
- mostly respects due process and the rule of law. 4
- sometimes respects due process and the rule of law. 3
- rarely respects due process and the rule of law. 2
- never respects due process and the rule of law. 1

[X50 = Government's respect for rule of law]

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

46. The composition of the police force:

- strongly reflects a cross-section of society 5
- substantially reflects a cross-section of society 4
- weakly reflects a cross-section of society 3
- hardly reflects a cross-section of society. 2
- does not reflect a cross-section of society. 1

[X52 = Police force composition]

47. Civil and Political rights are:

- always respected by police 5
- usually respected by police. 4
- sometimes respected by police. 3
- rarely respected by police. 2
- never respected by police. 1

[X53 = Police respect for human rights]

48. The police force is:

- adequately equipped to discharge its duties efficiently. 5
- reasonably equipped to discharge its duties efficiently 4
- fairly equipped to discharge its duties efficiently 3
- poorly equipped to discharge its duties efficiently 2
- not equipped to discharge its duties efficiently. 1

[X542 = Police equipment]

49. Citizens have:

- high confidence in the ability of law enforcement organs to protect them from theft and crime. 5
- moderately high confidence in the ability of law enforcement organs to protect them from theft and crime 4

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

- some confidence in the ability of law enforcement organs to protect them from theft and crime. 3
- little confidence in the ability of law enforcement organs to protect them from theft and crime. 2
- no confidence in the ability of law enforcement organs to protect them from theft and crime. 1

[X55 = Citizen's confidence in law enforcement organs]

50. Violations of human rights by the police and prisons are:

- regularly monitored by independent civil society organisations to the public. 5
- usually monitored by independent civil society organisations to the public. 4
- sometimes monitored by independent civil society organisations to the public. 3
- rarely monitored by independent civil society organisations to the public. 2
- never monitored by independent civil society organisations to the public. 1

[X57 = CSOs' monitoring of violations by police and prisons]

51. Law enforcement is:

- free from corruption. 5
- largely free from corruption. 4
- fairly free from corruption. 3
- largely corrupt. 2
- completely corrupt. 1

[X571 = Corruption in law enforcement]

Peace and Conflict Management

52. Conflict resolution processes:

- include all affected people and their representatives. 5
- include most affected people and their representatives. 4

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- include some affected people and their representatives. 3
- rarely include affected people and their representatives. 2
- include no affected people or their representatives. 1

[X59 = Participation in conflict resolution]

53. Government policies, programs and practices to prevent and reduce state conflict are:

- always effective. 5
- usually effective. 4
- occasionally effective. 3
- rarely effective. 2
- completely ineffective. 1

[X591 = Effectiveness of government programs against intra-state conflict]

Ombudsman / Public protector

54. The operations of public complaints' and/or watch-dog organisations are:

- fully independent of the Executive branch in the discharge of their operations. 5
- substantially independent of the Executive branch in the discharge of their operations. 4
- fairly independent of the Executive branch in the discharge of their operations. 3
- fairly substantially controlled by the Executive branch. 2
- totally controlled by the Executive branch. 1

[X60 = Watch-dog organisations independence from Executive Branch]

55. Public complaints' and/or watch-dog organisations are:

- fully effective in promoting the protection of citizens' rights. 5
- largely effective in promoting the protection of citizens' rights. 4
- sometimes effective in promoting the protection of citizens' rights. 3

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

- rarely effective in promoting the protection of citizens' rights. 2
 - ineffective in promoting the protection of citizens' rights. 1
- [X61 = Effectiveness of public watch-dog organisations]

NON-STATE ACTORS

Civil Society Organisations (CSOs)

56. Civil society is:

- allowed by the government to function independently of all organs of state and/or the ruling party. 5
- largely allowed by the government to function independently of all organs of state and/ or the ruling party. 4
- sometimes allowed by the government to function independently of all organs of state and/or ruling party. 3
- allowed to function under fairly strict guidance or control of the government. 2
- allowed to function only under the strict guidance and control of the government. 1

[X62 = CSOs' independence]

57. Independent CSOs:

- are always consulted by the government on matters of conflict prevention and/or conflict resolution management. 5
- are often consulted on conflict prevention and/or conflict resolution management. 4
- are sometimes consulted on conflict prevention and/or conflict resolution management. 3
- are rarely consulted on conflict prevention and/or conflict resolution management. 2
- are never consulted on matters relating to conflict prevention and/or conflict resolution management. 1

[X63 = CSOs' role in conflict management]

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

58. Independent CSOs have:

- a strong influence on government policies and programs. 5
- fairly strong influence on government policies and programs. 4
- limited influence on government policies and programs. 3
- rarely any influence on government policies and programs. 2
- no influence on government policies and programs. 1

[X64 = CSOs' influence on policy and programs]

59. Civil society:

- contributes effectively to the promotion of accountability and transparency in government. 5
- moderately contributes to the promotion of accountability and transparency in government. 4
- fairly contributes to the promotion of accountability and transparency in government. 3
- rarely contributes to the promotion of accountability and transparency in government. 2
- does not contribute to the promotion of accountability and transparency in government. 1

[X65 = CSOs' role in promoting accountability and transparency]

Independent Mass Media

60. The mass media operate:

- within a completely free environment. 5
- within an environment where mass media rights are only infrequently violated by the government and/or ruling party. 4
- within an environment where mass media rights are frequently violated by the government and/or ruling party, but with some protection from the courts. 3
- in an environment where freedom of expression is under constant threat by the government's oppressive and restrictive press laws. 2

- in an environment where all or most important mass media are under the state and/or ruling party control.

1

[X66 = Mass media freedom]

III. ECONOMIC MANAGEMENT AND CORPORATE GOVERNANCE

ECONOMIC GOVERNANCE AND PUBLIC FINANCIAL MANAGEMENT

Economic Development

61. Sustainable economic development is:

- actively pursued by the government.
- largely actively pursued by the government.
- somewhat actively pursued by the government.
- rarely pursued by the government.
- never pursued by the government.

5
 4
 3
 2
 1

[X671 = Pursuit of sustainable development]

62. The Government:

- always actively strives for rural development.
- often actively strives for rural development.
- sometimes actively strives for rural development.
- rarely strives for rural development.
- never strives for rural development.

5
 4
 3
 2
 1

[X672 = Government's drive for rural development]

63. The Government:

- takes effective measures to generate employment.
- takes largely effective measures to generate employment.
- takes somewhat effective measures to generate employment.
- rarely takes effective measures to generate employment.

5
 4
 3
 2

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- never takes measures to generate employment. 1
- [X673 = Effectiveness of employment generation measures]

Public Financial Management and Accountability

64. Management of public enterprises is:

- independent of the government and/or ruling party. 5
- largely independent of the government and/or ruling party. 4
- somewhat independent of the government and/or ruling party. 3
- hardly independent of the government and/or ruling party. 2
- fully dependent on the government and/or ruling party. 1

[X681 = Independence of management of Public enterprises]

65. Management of public enterprises is:

- free from corruption. 5
- largely free from corruption. 4
- fairly free from corruption. 3
- largely corrupt. 2
- completely corrupt. 1

[X682 = Corruption in public enterprises]

66. The tax system is:

- always equitable. 5
- mostly equitable. 4
- sometimes equitable. 3
- rarely equitable. 2
- never equitable. 1

[X74 = Tax system equitability]

67. The tax collection system is:

- efficiently managed. 5
- largely well-managed. 4
- fairly well managed. 3
- poorly managed. 2
- absolutely inefficient. 1

[X78 = Tax collection efficiency]

68. The tax collection system is:

- never affected by tax evasion/corruption. 5
- rarely affected by tax evasion/corruption. 4
- sometimes affected by tax evasion/corruption. 3
- mostly affected by tax evasion/corruption. 2
- always affected by tax evasion/corruption. 1

[X79 = Tax evasion]

69. The management of public finances:

- enjoys the full confidence of the public. 5
- enjoys a large degree of public confidence. 4
- enjoys some degree of public confidence. 3
- rarely enjoys the confidence of the public. 2
- does not enjoy the confidence of the public. 1

[X701 = Confidence in management of public finances]

70. Government procurement is:

- fully transparent. 5
- usually transparent. 4
- sometimes transparent. 3

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- rarely transparent. 2
- never transparent. 1

[X711 = Transparency in Government Procurement]

Integrity in Monetary and Financial Systems

71. The central bank/monetary authority is:

- independent of government control. 5
- largely independent of government control. 4
- somewhat independent of government control. 3
- largely dependent on government control. 2
- under government control. 1

[X721 = Independence of Central Bank]

72. The central bank/monetary authority:

- pursues sound fiscal policies to control inflation and maintain a realistic exchange rate. 5
- pursues largely sound fiscal policies to control inflation and maintain a realistic exchange rate. 4
- pursues somewhat sound fiscal policies to control inflation and maintain a realistic exchange rate. 3
- pursues weak fiscal policies to control inflation and maintain a realistic exchange rate. 2
- never pursues sound fiscal policies to control inflation and maintain a realistic exchange rate. 1

[X722 = Soundness of Central Bank's fiscal policies]

73. The regulatory functions of the central bank/monetary authority are:

- effective. 5
- largely effective. 4
- somewhat effective. 3

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

- rarely effective. 2
- never effective. 1

[X723 = Effectiveness of Central Bank]

PRIVATE SECTOR DEVELOPMENT AND CORPORATE GOVERNANCE

Development of the Private Sector

74. The government:

- always actively encourages the development of the informal sector towards the formal sector. 5
- usually encourages the development of the informal sector towards the formal sector. 4
- sometimes encourages the development of the informal sector towards the formal sector. 3
- rarely encourages the development of the informal sector towards the formal sector. 2
- does not encourage the development of the informal sector at all. 1

[X741 = Government support for informal sector]

75. The Government:

- takes effective measures to ensure competition in the economy. 5
- takes largely effective measures to ensure competition in the economy. 4
- takes somewhat effective measures to ensure competition in the economy. 3
- rarely takes effective measures to ensure competition in the economy. 2
- never takes measures to ensure competition in the economy. 1

[X742 = Competition in the Economy]

76. The Government:

- always takes effective measures to ensure ready access to all enterprises to land, credit, and public utilities. 5
- often takes effective measures to ensure ready access to all enterprises to land, credit, and public utilities. 4

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

- sometimes takes effective measures to ensure ready access to all enterprises to land, credit, and public utilities. 3
- rarely takes effective measures to ensure ready access to all enterprises to land, credit, and public utilities. 2
- never takes effective measures to ensure ready access to all enterprises to land, credit, and public utilities. 1

[X743 = Business access to land, credit and utilities]

77. The government:

- always makes sure that entrepreneurs are free to operate throughout the country. 5
- often makes sure that entrepreneurs are free to operate throughout the country. 4
- sometimes makes sure that entrepreneurs are free to operate throughout the country. 3
- rarely makes sure that entrepreneurs are free to operate throughout the country. 2
- never makes sure that entrepreneurs are free to operate throughout the country. 1

[X744 = Entrepreneurs' freedom of operation]

78. The Government:

- always takes effective measures to remove restrictions to doing business, such as licensing requirements, restrictions on private ownership and the repatriation of profits. 5
- often takes effective measures to remove restrictions to doing business, such as licensing requirements, restrictions on private ownership and the repatriation of profits. 4
- sometimes takes effective measures to remove restrictions to doing business, such as licensing requirements, restrictions on private ownership and the repatriation of profits. 3
- rarely takes effective measures to remove restrictions to doing business, such as licensing requirements, restrictions on private ownership and the repatriation of profits. 2

- never takes effective measures to remove restrictions to doing business, such as licensing requirements, restrictions on private ownership and the repatriation of profits. 1

[X745 = Restrictions to doing Business]

79. The tax system:

- encourages local investment in all sectors. 5
- encourages local investment in most sectors. 4
- encourages local investment in a few sectors. 3
- rarely encourages local investment. 2
- discourages local investment. 1

[X75 = Tax system influence on local investment]

80. The tax system:

- encourages foreign direct investment in all sectors. 5
- encourages foreign direct investment in most sectors, 4
- encourages foreign direct investment in a few sectors. 3
- rarely encourages foreign direct investment. 2
- discourages foreign direct investment. 1

[X76 = Tax system influence on foreign investment]

Public and Private Partnership

81. The government:

- always involves the private sector in policy making that affects its development. 5
- usually involves the private sector in policy making that affects its development. 4
- sometimes involves the private sector in policy making that affects its development. 3
- rarely involves the private sector in policy making that affects its development. 2
- never involves the private sector in policy making that affects its development. 1

[X70 = Private sector participation in policy making]

APPENDIX C.1. INDICATORS FOR MONITORING PROGRESS TOWARDS GOOD GOVERNANCE

82. Private and public sectors:

- are effective partners in development with effective collaborative mechanisms. 5
- are partners in development but collaborative mechanisms are somewhat ineffective. 4
- are partners in development, but without any structured collaborative mechanisms. 3
- consider themselves as partners in development, but rarely collaborate. 2
- are not partners in development. 1

[X73 = Partnership of private and public sectors]

Property rights and Corporate Governance

83. The Government:

- always takes effective measures to enforce contracts and protect property rights. 5
- often takes effective measures to enforce contracts and protect property rights. 4
- sometimes takes effective measures to enforce contracts and protect property rights. 3
- rarely takes effective measures to enforce contracts and protect property rights. 2
- never takes effective measures to enforce contracts and protect property rights. 1

[X84 = Enforcement of contracts and property rights]

84. Government:

- always ensures transparency and accountability in corporate governance. 5
- often ensures transparency and accountability in corporate governance. 4
- sometimes ensures transparency and accountability in corporate governance. 3
- rarely ensures transparency and accountability in corporate governance. 2
- never ensures transparency and accountability in corporate governance. 1

[X85 = Transparency and accountability in corporate governance]

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

85. The rights of shareholders are:

- always effectively protected. 5
- often effectively protected. 4
- sometimes effectively protected. 3
- rarely effectively protected. 2
- never effectively protected. 1

[X86 = Protection of Shareholders' rights]

Appendix C.3

DESK RESEARCH INSTRUMENT

The data and information indicated for collection hereunder will be the responsibility of collaborating research institutions.

I. Political Representation

1. How far is appointment to executive and legislative office determined by popular competitive election?

- 1.1. The proportion of non-elected members in a) lower or main chamber of legislature, b) upper chamber or senate (where applicable), and their mode of appointment.
- 1.2. The mode of appointment, and the body from which selection is made, for a) Head of State, b) Head of Executive (where different), c) members of the Cabinet.
- 1.3. The duration of terms of office for all elected officials, and any limitations on re-election.

2. How freely are political parties able to form, recruit members and campaign for office, and how fair is the electoral process to all parties?

- 2.1. Laws and practices governing a) the formation and registration of political parties, b) their permitted scope of activity, c) the transparency of their sources of income.
- 2.2. Party rules regulating a) governance within the party, b) procedures for selecting candidates for public office.
- 2.3. The extent the electoral law recognises and sanctions the formation and growth of independent political parties.
- 2.4. a) The number of political parties campaigning for election at national, regional and local level, b) the number and geographical distribution of their members and voters.
- 2.5. Laws and practice governing a) parties' relative access to public-owned media and other means of communication with voters at election time, b) their freedom of movement during election campaigns, c) their relative access to resources, monetary and in kind, d) limits on election expenditure and disclosure of election accounts.
- 2.6. The results from past elections for any significant disproportionality, national or regional, between the popular vote for the parties and their proportion of seats in the legislature.
- 2.7. The extent of the political neutrality of the public/civil service.

3. How inclusive and accessible for all the adult population are the registration and voting procedures, how independent are they of ruling party control, and how free from intimidation and abuse?

- 3.1. The composition and powers of the electoral oversight body and election officials, and their degree of independence from the ruling party or parties.
- 3.2. The transparency and fairness of procedures for demarcating electoral districts.
- 3.3. Any a) legal exclusions, and b) practical obstacles, preventing or discouraging resident adults from registration, voting or standing for office, and the proportion so excluded.
- 3.4. The incidence of electoral malpractice, intimidation or violence at any stage in past elections, from registration of voters to declaration of the results.
- 3.5. The proportion of registered voters actually voting at past elections.

- 3.6. Any refusal of candidates or parties to accept the election result at past elections. If there were, what were the reasons?
- 3.7. Capacity of the electoral authority to perform electoral functions.

4. How far does the Executive, the judiciary and legislature reflect the social composition of the electorate?

- 4.1. The proportion of a) members of the Executive, b) the judiciary, c) national assembly members, d) major legislative committee members, e) the executive committees of the main political parties, who are women.
- 4.2. Please do the same for significant minorities, compared with their proportion in the population.

5. How inclusive are conflict resolution processes of all affected peoples and their representatives?

- 5.1. Data on incidence of violent conflict within the country's borders over the past five years, its type, intensity, duration and geographical extent.
- 5.2. a) Mechanisms for conflict resolution in each case, b) who they have included and excluded c) whether conflict is resolved or on-going.

II. Institutional Effectiveness and Accountability

The Constitution

6. What protection does the Constitution give to civil and political rights? If it does provide for such protection, how far is government committed to its implementation?

7. How impartial and inclusive are the procedures for amending the constitution?

- 7.1. The procedures for, and practices of, amending the constitution, including initiation, debate and amendment, approval.
- 7.2. The number and subject of such amendments over a significant past period.

The Legislature

8. How extensive and effective are the powers of the legislature to initiate, scrutinise and amend legislation?

- 8.1. The procedures for legislation, including the role and composition of specialised legislative committees, and the scope for delegated and secondary legislation.
- 8.2. The percentage of bills initiated from outside the government in past legislative sessions, and the proportion of these passed into legislation compared with government sponsored bills.
- 8.3. The adequacy of facilities and services available to members of the legislature to perform their legislative and scrutiny functions, including those available to opposition parties, and to women members.
- 8.4. The number of days the legislature sits each year, and who determines the number and length of sittings.

- 8.5. The capacity of the legislature to effectively perform their functions.
- 8.6. Independence of legislative powers from foreign/external influence.

9. How extensive and effective are the powers of the legislature to scrutinise the executive and hold it to account?

- 9.1. The procedures for the scrutiny of government activity, including the role and composition of specialist oversight committees.
- 9.2. The powers of such committees, and of the legislature as a whole, to question ministers, to require the disclosure of information and to access independent specialist expertise.
- 9.3. The percentage of recommendations made by such committees which are acted on by government in any given year.

10. How rigorous are the legislative procedures for approval and supervision of taxation and public expenditure?

- 10.1. The procedures for financial auditing of government revenue and expenditure, including public sector bodies, and the role and powers of the Auditor-General and public accounts committee.
- 10.2. The percentage of auditing tasks not undertaken or completed in any given year.
- 10.3. The percentage of recommendations made by the Auditor-General and public accounts committee which are not acted upon by the executive in any given year.

The Judiciary and Rule of law

11. How independent are the courts and the judiciary from the executive, and how free are they from all kinds of interference?

- 11.1. The procedures governing the appointment, tenure and dismissal of judges and magistrates, to identify their degree of independence from the executive.
- 11.2. The incidence of significant executive interference with, or disregard of, the judicial process.
- 11.3. Reports of judicial corruption, and the purchase of favourable judgements by litigants.
- 11.4. a) The role and scope of customary systems of law, where operative, b) the degree of public confidence in them, c) their independence from executive interference.

12. How far does the judiciary have the resources to carry out their functions effectively?

- 12.1. Evidence of any inadequacies of funding and resources for the justice system, including customary law where applicable.
- 12.2. The procedures for reviewing and updating the different bodies of law (criminal, civil and commercial), and their effectiveness in practice.
- 12.3. The control exercised by the judiciary over its own budget and staff.
- 12.4. Data on comparative earning between public and private legal practice.

13. How far is the rule of law operative throughout the country's territory?

- 13.1. The incidence of areas, groups or individuals above or beyond the reach of the law (e.g. territorial enclaves, mafia, drugs cartels).

- 13.2. The incidence of vulnerable sections of the population systematically excluded from the law's protection, especially in respect of their physical security.

14. How equal and effective is the access of citizens to justice, including traditional legal systems where appropriate?

- 14.1. The average waiting time for cases to be brought to trial in the different levels of court, including appeals against wrongful conviction or sentence.
- 14.2. The percentage of cases, a) criminal, b) civil, c) commercial, disposed of in any given year.
- 14.3. The percentage of the prison population that comprises those awaiting trial.
- 14.4. The rules governing the legal aid system, who it applies to, and how adequately it is resourced.
- 14.5. The operation of any alternative justice system(s) for resolving disputes.
- 14.6. Any systematic discriminations or inequalities in the operation of the justice system, including their effect on a) women, b) minorities.

15. How equally and effectively does the legal system protect the basic civil and political rights of all citizens?

- 15.1. The constitutional provisions for the protection of basic civil liberties, political rights, cultural rights and economic rights, including limitations imposed by the government on their exercise and how these are adjudicated.
- 15.1. The role, membership and powers of the Human Rights Commission and the legislative Human Rights Committee, if any, and their degree of independence from the executive.
- 15.3. The proportion of recommendations made by the above bodies which are acted on by the executive in each of the last 5 years.
- 15.4. The incidence of significant infringements of basic freedoms both by government officials and by non-governmental actors in each of the last 5 years.
- 15.5. The effectiveness of institutions and procedures in protecting civil liberties and political rights of citizens when infringed by non-government organizations.
- 15.6. The role, powers and effectiveness of the Ombudsman, public defender, etc., in securing redress for complainants.

16. How effective is the system of policing, and how sensitive is it to the needs of local communities?

- 16.1. The number of police per head of population.
- 16.2. The percentage of criminal cases solved in each of the last 5 years.
- 16.3. The incidence of a) murder, b) robbery, c) burglary, per head of population in each of the last 5 years.
- 16.4. The effectiveness of procedures for ensuring (a) police accountability to local communities, (b) addressing complaints (like police corruption, police brutality, etc.) against police officers.
- 16.5. The ratio of salaries and other remunerations to those paid to other comparable groups.

17. How far do the police and other law enforcement agencies respect the basic human rights of the population, and how effective are the procedures for complaint and redress in the event of infringement?

- 17.1. The incidence of a) detention without charge, b) torture or other abuse in detention, c) overcrowding in prisons, d) deaths in custody, including suicide, in each of the last 5 years, disaggregated by gender.
- 17.2. The procedures for a) access to lawyers by those held in prison or custody, b) the operation of an independent prisons inspectorate.
- 17.3. The scope of any training programmes in human rights awareness for a) police, b) prison officers, c) prosecutors.
- 17.4. The integrity, competence and effectiveness of prosecutors.

The Executive

18. How well is government informed and organised to decide and implement policy priorities?

- 18.1. The reliability and comprehensiveness of government statistical outputs.
- 18.2. Which ministries have policy and research units, and whether their proposals are used in policy formulation.
- 18.3. Procedures within ministries for monitoring and improving performance, including annual reports on performance, and their availability to the public.
- 18.4. The use of medium term expenditure frameworks to integrate departmental planning and budgeting.
- 18.5. The use of budget review to assess the impact and effectiveness of policies.
- 18.6. The existence of internal audit systems and effective use of audit reports in government agencies.
- 18.7. Institutions and resources for coordination and policy guidance in the office of the Chief Executive.

19. How adequate is the staffing of the civil or public service for the performance of its duties?

- 19.1. The quality of political leadership and the independence of the Civil Service.
- 19.2. Has Civil Service reform ever been undertaken? If it has, with what success?
- 19.3. The selection, promotion and evaluation procedures for the civil service, and whether they are based on meritocratic criteria.
- 19.4. The number and percentage of the higher civil service with university degrees, and appropriate professional qualifications.
- 19.5. Whether civil servants have a) a stable career path, b) regular training programmes, c) written job descriptions, d) salaries or increments based on performance, and e) adequate support infrastructure and equipment, f) a working environment that helps to retain staff.
- 19.6. a) Whether salaries in the public sector provide a living wage, b) whether salaries are paid on time, c) whether public sector workers have effective rights to collective bargaining.

20. How representative are public sector employees of the social composition of society?

- 20.1. The proportion of a) the higher civil service, b) the judiciary, c) the police, who are women, and specify any procedures for improving their proportion over time.

- 20.2. Please do the same for significant minorities, compared with their proportion in the population.
- 20.3. a) Whether the Convention on the Elimination of All Forms of Discrimination against Women has been ratified, b) any reservations thereto, c) the effectiveness of mechanisms for implementing it in practice.
- 20.4. Support given to women and other underrepresented groups to perform effectively.

21. How effective is public enterprises' management?

- 21.1. The existence of an active mechanism for monitoring and evaluating public enterprises.
- 21.2. The existence of effective regulatory bodies for public enterprises.
- 21.3. Independence of public enterprises' management from government and party control.

22. How accessible and reliable are public services for all those who need them, and how systematic is consultation with users over service delivery?

- 22.1. Has the government created opportunities for promoting youth participation in the economy; provided employment or the environment for job creation, ensured quality and relevance of education to the labor market requirements for graduates to find meaningful employment's, embolden stringent laws that protect youth from discriminatory practices, including laws to protect from sexual harassment especially in the work place?
- 22.2. To what extent has the government provided support for the dissemination of essential information on protection against HIV/AIDS, developed youth-friendly policies that will enhance access to affordable and quality healthcare, including access to anti-retroviral drugs, created youth-friendly health services and a supportive environment which can encourage the ability of making empowered choices, especially for girls, increased support for HIV/AIDS orphans and children-headed households as a result of HIV/AIDS and protected the rights of people living with HIV/AIDS?
- 22.3. The availability of publicly announced service targets each year, and the procedures for setting performance targets or standards for service delivery and for monitoring their attainment, including private sector providers.
- 22.4. The proportions of the population with access to a) clean water, b) sanitation, c) primary health care.
- 22.5. The proportions of the relevant age cohorts attending a) primary, b) secondary schooling, by gender.
- 22.6. a) The incidence and distribution of charges paid by service users, b) the proportion of total budgets financed by user charges in health and education.
- 22.7. National statistics on a) child mortality, b) life expectancy, c) literacy, by gender and over time.
- 22.8. The reliability, and speed of connection of, telephone, transportation, and electricity supply services, where data is available.
- 22.9. a) Whether procedures exist to deal with complaints from the public about public services and/or to make suggestions for improvement, b) the average response times under such procedures.

23. How open and systematic are the procedures for public consultation on government policy and legislation, and do the laws on CSOs ensure accountability and independence?

- 23.1. Government procedures for consultation with relevant interests in policy and legislation, and their inclusiveness and effectiveness in practice.
- 23.2. Laws and procedures governing the registration, internal accountability and independence from government of CSOs.
- 23.3. The incidence of organised protest against government policy or legislation over the past five years, and the government's response to it.

24. How independent are the media from government, how pluralistic is their ownership, and how effective are they in investigating government?

- 24.1. Constitutional and other legislation governing a) press and media ownership and operation, b) journalistic freedom and independence.
- 24.2. Data on ownership and diversity of a) the press, b) the broadcasting media.
- 24.3. The incidence of harassment, intimidation or obstruction of journalists, including death and injury, over the past ten years.
- 24.4. a) Whether codes of conduct exist for the media, b) the extent to which they are implemented in practice, c) procedures for public complaints against the press.

Regional and local government

25. How independent are the regional and local tiers of government from the centre, and how far do they have the powers and the resources to carry out their responsibilities?

- 25.1. Percentage of national government expenditure allocated to local government.
- 25.2. a) The responsibilities of local, regional (where applicable) and national government respectively, b) the amount of discretion available to sub-central governments to determine their own policy priorities.
- 25.3. a) Local government expenditure as a percentage of total public expenditure, b) the proportion of all public servants employed by local government, and c) comparison of salary scales with those of the central government.
- 25.4. The percentage of local government expenditure that is raised locally.
- 25.5. The independence exercised by local government in a) raising, b) spending revenue.
- 25.6. The criteria that govern the distribution of national revenue among local authorities.
- 25.7. The mechanisms of national government for a) monitoring local government, b) disseminating and encouraging best practice by providing technical assistance, etc.

26. How far are these levels of government subject to free and fair electoral authorisation, and to the criteria of openness and accountability in their operation?

- 26.1. The percentage of regional and local government members who are appointed, and by whom.
- 26.2. The percentage of a) regional and local assemblies, b) their executives, who are women, and specify any procedures for improving the proportion over time.
- 26.3. Please do the same for minorities, compared to their proportion in the regional or local population.
- 26.4. The percentage turnout of registered voters at regional and local elections.

26.5. The procedures for ensuring the legal and financial accountability of regional and local government, and on their effectiveness.

27. How extensive is the cooperation of government at regional and local levels with relevant partners, associations and communities, in the formation and implementation of policy, and in service provision?

27.1. The legal requirements on regional and local government to consult relevant partners, communities, electorates, client groups, etc., in policy and service provision, and their implementation in practice.

27.2. The procedures for setting targets or standards in service provision at regional and local levels, and for monitoring their attainment.

28. What is the role of traditional structures in government?

28.1. Is there legal recognition for traditional structures?

28.2. Are traditional structures independent of the government?

28.3. The role of traditional structures in the provision of public and judicial services.

28.4. Role of traditional structures in conflict resolution and management.

III. Economic Management and Corporate Governance

29. How effective are government policies for providing an enabling environment for the private sector?

29.1. Growth, development and structural transformation: a) Strategies and policies for growth, development and structural transformation, b) Trends in GDP, GDP per capita, exports, flow of investments, both local and foreign, c) Changes in the structure of production: composition and growth in agriculture and manufacturing, d) Social development: literacy, mortality rates and life expectancy, e) Public investments in education, health, agriculture, infrastructure (transport, communications, energy and utilities).

29.2. Policies to promote food security.

29.3. Trends in national rates of unemployment of youth and urban-rural population by gender and the policies of the government to generate employment.

29.4. Policies and institutions to encourage the development of the informal sector.

29.5. Tax incentives to encourage the development of the private sector.

29.6. Non-tax incentives to encourage the development of the private sector.

29.7. Fiscal and exchange rate policies of the central bank/monetary authority and their impact on interest rate, inflation and foreign trade.

29.8. The impact of government macroeconomic and fiscal policies on the business environment.

29.9. The legislation and practice governing a) security of private property, including land and other assets, b) freedom to trade anywhere in the country, c) enforcement of contracts, d) regulation of monopolies.

29.10. The success of the policies and institutions in reducing the cost, duration and number of procedures to start business.

29.11. Mechanisms and procedures for consulting the private sector.

29.12. Any systematic inequalities in access to a) land, b) credit, c) public utilities, and the existence and effectiveness of any government policies for their reduction.

29.13. (a) Recurrent expenditure as per cent of total budget, (b) military expenditure as per cent of total budget, and (c) debt servicing ratio to revenue, share of domestic debt to total debt, total debt to exports, total debt to GDP. Is government expenditure within the normally accepted range? What percentage of the fiscal deficit is financed by the Central Bank and other sources?

30. To what extent is poverty reduction an explicit policy priority, and how effectively is the policy implemented in practice?

- 30.1. Government policy and expenditure to a) encourage employment, including self-employment, b) increase productivity of small farmers, c) encourage the development of small and medium scale enterprises, and d) provide gainful employment for the youth and women.
- 30.2. Arrangements for social safety nets and the percentage of the relevant population covered.
- 30.3. Trends in the percentage of a) the population, b) children, women and rural dwellers living below the national and international poverty thresholds.

31. How effective and equitable is the system of taxation?

- 31.1. Role of the taxation system in providing incentives for lagging economic and social development.
- 31.2. Total government revenue as a percentage of GDP.
- 31.3. The proportions of a) government revenue by source (direct taxes, indirect taxes, license and fees, royalties, revenue from public enterprises, etc.), b) extent of the transparency of the rules and procedures governing their imposition and collection.
- 31.4. The percentage of potential tax revenue actually collected from different sources in any given year.
- 31.5. Government procedures and resources devoted to combating tax evasion.
- 31.6. Penalties against tax evasion.
- 31.7. The totals and percentages of government revenue allocated to a) health, b) education, c) water, d) agriculture, e) the military, f) debt repayment, g) contingencies, h) capital expenditure.

32. How rigorous are the procedures for government budgeting and procurement?

- 32.1. Any significant discrepancies between (a) departmental budget allowances and actual expenditure (b) local government budget implementation as per cent of total budget. (c) national capital budget implementation as per cent national capital budget.
- 32.2. Procedures for budgetary review, and whether they are (a) effectively carried out in the time required by law (b) Identification and assessment of the impact of policy on target areas and groups, including the poor and the disadvantaged (c) Mechanisms for the follow-up of issues raised during budget reviews.
- 32.3. The amount of extra-budgetary and discretionary spending that does not fall within the procedures for budget review.
- 32.4. The rules and procedures for government procurement, and whether they (a) are transparent and effectively implemented and monitored in practice (b) provide for a non-restrictive bid system.
- 32.5. The mechanisms for post evaluation of contract performance, including percentage of contracts over budget in any year/department.

- 32.6. The effectiveness of procedures for monitoring the accounts of non-governmental public bodies, including public enterprises.
- 32.7. Government accounting/auditing and control systems and their effectiveness.
- 32.8. Procedures for designating auditors/controller generals, and the extent of their autonomy and resources.

33. How effective are the procedures for tackling corruption at all levels of the public sector?

- 33.1. The capacity and effectiveness of bodies and procedures for combating corruption in all branches of government, including a) any anti-corruption commission or similar body; b) any civil society organisations monitoring corruption; c) any media based 'watch-dogs'; d) any legislation protecting 'whistle-blowers'; (e) any legislation against money-laundering or drug trafficking.
- 33.2. The number of corrupt personnel a) subject to disciplinary procedures, b) brought before the courts, c) convicted, in any given year.
- 33.3. The results of any corruption monitoring activity, including those against corrupt government officials, corporate corruption, drug trafficking, suspicious bank transactions, and money-laundering, undertaken in any given year.
- 33.4. Action taken by legislative, executive and judiciary branches on reports submitted by anti-corruption bodies.

34. How effective are regulations, policies and practices in promoting corporate governance and healthy capital markets?

- 34.1. Recent legal developments affecting (a) governance and performance of corporations, (b) financial structure, ownership and control of corporations, and (c) accountability of corporate management, and (d) capital markets.
- 34.2. The existence and effectiveness of legislation designed to ensure transparency and accountability in corporate governance.
- 34.3. Legal and constitutional provisions to safeguard the autonomy of central banks from the Executive branch and the resources available to them.
- 34.4. Effectiveness of mechanisms used by central banks in regulating and supervising financial institutions.
- 34.5. Policies, legislation and institutions to protect the rights of small shareholders.
- 34.6. Adherence to international standards for banking supervision, and international accounting standards for both the public and private sectors.

35. Capacity development

- 35.1. Does the government have policies that facilitate or hinder the ability of individuals and organizations to perform?
- 35.2. How does the government unleash existing capacity and make better use of local talent (both local and Diaspora skills) for supporting growth and development?
- 35.3. What measures are in place to enhance human capacity in the different government organizations? In particular, what has been done to enhance capacity of individuals with skills to analyze development needs; design and implement strategies, policies and programs; deliver services; and monitor results?

- 35.4. What organizational capacity exists (groups of individuals bound by a common purpose, with clear objectives and the internal structures, processes, systems, staffing, and other resources) to achieve the above?
- 35.5. Do organizations have sufficient infrastructure support to carry out their responsibilities?
- 35.6. What policies and measures are underway to ensure continuous capacity development (attraction, development, utilization and retention)?

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	Onneetse 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 1421Gaborone
20	Mr. E. Dewah	Consultant	72302594	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	P/Bag BR374 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	P/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 Thalefang	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 Bokhutlo	Female	35	BA	Humanities	Administrator
8	Segobye 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 Tshekiso	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 Makgekgenene	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

THE PROGRESS OF GOOD GOVERNANCE IN BOTSWANA 2008

Names	Sex	Age	Educational Level	Field Of Training	Occupation
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

APPENDIX D2.b: LIST OF ALL RESPONDENTS OF THE EXPERT PANEL C.1 QUESTIONNAIRE

Names	Sex	Age	Educational Level	Field Of Training	Occupation
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 E: Timetable for Annual Public Budgeting (2005/06)

Note: Financial year is 01 April – 31 March

Deadline	Subject	Action by
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 Economic Affairs	Budget Administration
4 – 11 August 2004	Ministries' review of Financial and Manpower Ceilings	Ministries
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 DPSM, Economic Affairs, TERC	Budget Administration
22-26 November 2004	Estimates Committee Meetings	MFDP, DPSM, Ministries
19 November 2004	Submission of New Ministries/Economic and Revised Thumbnail Sketches to Division of Budget Administration	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

APPENDIX H: TIMETABLE FOR ANNUAL PUBLIC BUDGETING (2005/06)

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 Printer.	Budget Administration
24 January 2005	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 Revenues, 2005/2006 and (iii) New and Revised Projects to Parliament	Budget Administration
7 February 2005	Delivery of Appropriation Bill/Budget Hon. Minister, Speech by Hon. Minister, MFDP and MFDP Tabling of Financial Statements, Tables, and Estimates of the Consolidated and Development Fund Revenues	
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

About the author

Jonathan Mayuyuka Kaunda has a Ph.D. from the University of East Anglia in the United Kingdom. He is a Senior Research Fellow and Coordinator of the Formative Process Research on Integration in Southern Africa (FOPRISA) programme at the Botswana Institute for Development Policy Analysis (BIDPA). His research interests are political governance, public policy and institutional reform, and state-private sector relations. Kaunda edited the *Proceedings of the 2006 FOPRISA Annual Conference*. Other notable publications are: *The State of Governance in Botswana 2004* (joint author); *The Developmental Role of the Bureaucracy in a Centralised State: Policy and Administration During the One-party Era in Malawi*; *Malawi: Development Policy and The Centralised State: A Study of the Liwonde Agricultural Development Division*. Kaunda has also authored several journal articles on the state and society, democratic transition and consolidation, and local government in Malawi; privatization, state divestiture, citizen participation and entrepreneurship in Botswana.

About the contributors

Gape Kaboyakgosi has a Ph.D. from the Australian National University. He is a Research Fellow at BIDPA. Kaboyakgosi was one of the joint authors of *The State of Governance in Botswana 2004* and has published 'Botswana - The Hopes and Fears of Consolidation', in *Through Fire with Water; The Roots of Division and the Potential for Reconciliation in Africa*, edited by E. Doxtader and Charles Villa-Vicencio; 'Beyond Public Administration? HIV/AIDS Networks and the Transformation of Public Administration in Botswana' in the journal *Public Administration and Development*, and other policy related consultancy reports in the areas of public policy, regulation, governance and public administration and infrastructure issues in Botswana.

Ibrahim Bun Kamara has a Ph.D. in Economics from the University of Cape Town. He is currently a Research Fellow at BIDPA. His research interests are on infrastructure development and market analysis, economic development planning and policy analysis, international trade and finance, monetary theory and policy. He has a wealth of experience in project planning, monitoring and evaluation, as well as development programme planning and implementation facilitation.

Keneilwe P. Mpule has a Bachelor's Degree from the University of Botswana, where she majored in Public Administration and Political Science. She is a Research Assistant at BIDPA. She is the co-author of the journal article titled, "Beyond Public Administration? HIV/AIDS Policy Networks and the Transformation of Public Administration in Botswana."

Keneilwe Mapena holds a Bachelor of Arts in Social Sciences (Public Administration and Political Science) degree from the University of Botswana. She is a Research Assistant at BIDPA.