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# **Ghana: The Big Issues**

A desk study of significant governance questions raised by the APRM

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## INTRODUCTION

**A Guide to Big Issues, Not an Assessment of Positive Progress:** This document was prepared to help the APRM Secretariat prepare for the Ghana country visit by prioritising the most important issues. It is not meant as an indicator of whether Ghana is, on balance, doing a good or bad job with governance. It is clear that Ghana has made great strides in improving political, democratic and economic governance. However, this document is meant as quick index to help the APRM Secretariat plan for the in-country visit by identifying the most significant gaps in governance that are frequently mentioned in the expert studies and analyses available to The South African Institute of International Affairs (SAIIA).

Because the positive reforms of the Kufuor administration are now being implemented, it is difficult to do justice to the positive side of governance in Ghana when working purely from desk research. Where such reforms are underway, they are noted in the text to assist the APRM in making an assessment of these positive developments.

This paper is a summary created during an intensive three-week period, building on several SAIIA research studies and a large volume of reference documents and studies that SAIIA has accumulated on Ghana.

**Structure to Assist Interview Planning:** The structure was designed to assist with interview planning. During the country study, the APRM team will have to decide who to talk to and what to ask. The APRM Questionnaire creates a challenge for planning because many related topics involving the same arms of government appear in different parts of the questionnaire. If the secretariat were to use the questionnaire as an interview planning tool with different people writing the different sections of the report, it seems likely that they would end up requesting multiple interviews with the same people or come with only a partial list of issues pertinent to each government agency.

To get around this problem, this document groups together all of the issues pertaining to the major arms of government – executive, parliament, judiciary. Other issues that affect many aspects of governance are treated as cross-cutting issues. These include corporate governance, corruption, human rights (including special discussion of women, children, refugees and vulnerable groups), conflict, electoral practice and socio-economic development.

**APRM Issues Matrix:** Interviews with non-government organisations will likely take on a different dynamic. Think-tanks, rights groups and other interested parties will likely have valuable things to say about many aspects of governance. To assist in planning for these organisations, the conclusions of the main section of this report have been put into a cross-reference matrix, which provides a short description of the issue and the page number in this report. This matrix is organised according to the APRM Questionnaire's main objectives. *See Appendix A.*

**Selected APRM Codes Matrix:** To make the operative elements of the APRM codes easier to find, SAIIA has compiled some of the main clauses into another matrix. This is designed to help when a problem area is identified and the corresponding standards and codes need to be cited. *See Appendix B.*

**Referencing Style:** To make the report easier to follow, two types of notes are used. Notes that explain or amplify the text appear at the bottom of the page as footnotes, and use continuous cardinal numbers. Notes that cite the source or reference for a particular point use Roman numerals, and appear as endnotes at the end of the report. They start from (i) for each chapter.

## CHAPTER 1: THE EXECUTIVE BRANCH<sup>1</sup>

Ghana's present government has shown greater commitment to openness, freedom of speech and consultation with society than past administrations. However, the country's constitutional arrangements, which permitted abuse in the past, remain unchanged in important ways. The presidency has overwhelming, largely unchecked powers, compared to other branches of government.

The incumbent president has chosen to respect the spirit of democracy but a variety of studies note that the constitution and present laws would not be sufficient to restrain a president inclined to use the full measure of his powers inappropriately, as happened frequently in the past. As the Centre for Public Integrity expressed it, Ghana's president has powers "quite clearly beyond those of any Prime Minister, including Tony Blair, whose presidential style of leadership has been widely commented on."<sup>2</sup> *See also discussion of executive domination in Chapter 2: Parliament and Chapter 3: The Judiciary.*

### ***Weak Budgeting Systems Encourage Excess***

**Persistent Problems with Public Expenditure Management:** Ghana has experienced chronic problems with management and control of public expenditure over many years. It has conducted several internal assessments and launched reform programmes, including the Public Financial Management Reform Programme (PUFMARP), the medium-term expenditure frameworks (MTEF)<sup>3</sup> and the 2001 Financial Management Reform Action Plan.<sup>4</sup> But implementation remains a problem.

- **Actual Spending Unrelated/Uncontrolled by Declared Budget Plans:** "For many years, Ghana was plagued by a seriously deficient budget system. This manifested itself in preoccupation with short-term fire-fighting; the absence of a hard budgetary constraint, so actual expenditures bore only a loose relation to initial budgetary allocations; the routing of many donor funds outside the budgetary system; little or no consideration of the efficiency of recurrent expenditures, in relation to policy objectives and priorities; lack of transparency and predictability of resource allocations and releases; and limited monitoring and evaluation of performance," according to African development

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1 **Background on Democracy and the Presidency:** Ghana has made significant improvements to its political governance structures in a long process of re-democratisation following Jerry Rawlings' almost twenty years in power. President Rawlings, having taken power in a 1981 coup, presided over a one-party state until internal and donor pressure led to a new constitution being developed in 1992 to restore multiparty democracy. The constitution establishing the "Fourth Republic" was approved by referendum on 28 April 1992, and came into force on 7 January 1993. Ghana learned hard lessons from the instability of alternating civilian and military regimes. Ghana has had variety of constitutional arrangements since 1957, from the predominantly Westminster parliamentary style, to American presidential style, as well as combinations of the two. Ghana's current political arrangements have been described as a "partial hybrid" between the US and British systems. It has a popularly elected president and vice president, with ministers appointed predominantly but not exclusively from among MPs.

2 *Global Integrity Report: Ghana*, 2004, Washington DC: The Centre for Public Integrity, p.4.

3 Under IMF insistence, in the mid-1990s Ghana started assessing the impact of its expenditures and identified fundamental central problems. These included an incremental budgetary system where departments just added a set amount to last year's figures; expenditure was controlled through drawing limits on amounts that ministries and departments could withdraw at a time; frequent budgetary cut-back and expenditure freezes; a cumbersome bureaucratic certification and payment procedure designed to keep expenditures down; and unbudgeted expenditures in the system exacerbated the problems of a lack of accurate and timely expenditure data. (See Kojo Oduro, Overseas Development Institute).

4 Prepared by the ministry of finance, the Action Plan identified some critical shortcomings of the public expenditure management system: weak budget formulation and implementation; weak monitoring and evaluation of the administration's financial resources; poor data generation and dissemination; poor flow of information between the Bank of Ghana, the ministry of finance, and the Controller and Accountant General's Department; deficiencies in accounting and auditing practices and standards; weak regulatory structures insufficient to enforce sanctions against financial malpractice; obsolete public financial management laws and regulations; too many government accounts; and lack of awareness on the part of government employees of their need to be accountable for their financial responsibilities. The ministry's proposed solutions included: (i) streamlining the ministry, (ii) harmonising accounting standards and classifications between different structures; (iii) completing the Integrated Personnel/Payroll Database; (iv) developing and implementing control systems to minimise payroll fraud; and (v) completing the HIPC Funds Tracking System. (See Kojo Oduro, Overseas Development Institute).

experts Tony Killick and Charles Abugre in their analysis of the Ghana Poverty Reduction Strategy (GPRS) process.

- “The whole Budget and Public Expenditure Management system requires revising, coordinating and revitalising as a matter of urgency. The annual budget as a public expenditure management and planning tool must be considerably strengthened at all levels,” according to the Ghana Poverty Reduction Strategy paper of 2002. “The classification, recording and analysis of government transactions suffer from excessive and unacceptable delays resulting in weak and inadequate financial management.”<sup>5</sup>
- **Budget Categories Not Useful for Poverty Management:** The current financial management system still does not relate actual spending to the socio-economic objectives of the Ghana Poverty Reduction Strategy (GPRS). Analysts Foster and Zormelo concluded in 2002 that “We can identify how much a district hospital spent on stationery, but not how it allocated resources in relation to the objectives or activities specified in the budget, for example the malaria control programme. The Controller and Accountant General commented that the budget structure at present ‘does not address poverty in any way.’”<sup>6</sup>
- **Agreed Budget Reforms Not Implemented:** In assessing Ghana’s expenditure management reforms in 2003, Kojo Oduro from the Overseas Development Institute noted that the “MTEF/PUFMARP faces the same implementation problems as all the previous reform efforts: lack of political commitment, uncertain leadership, and a pervasive non-performance culture.”<sup>7</sup> He also said that while the Action Plan was pragmatic “the signs are not good for effective implementation.”<sup>8</sup>

**Debt Management Systems Need Fundamental Change:** Based on the 2002 GPRS evaluation, debt management was identified as a major problem in fiscal governance. Contributing problems include a lack of information about debt and inability to control debt by parastatals, central bank financing of deficits/printing money, and accumulated unauthorised arrears by ministries. The accounting for spending on a cash basis significantly underestimates spending, which led to a recommendation in the GPRS to shift to an accrual-based accounting system.

- “The Bank of Ghana has traditionally accommodated government fiscal overruns by printing money to finance the deficit. The inflationary impact of debt monetisation has contributed, not only to the depreciation of the nominal exchange rate, but also to its volatility. Suggested measures to reduce inflation include a moratorium by the Bank of Ghana, on debt monetization.”<sup>9</sup>
- As the Ghana Poverty Reduction Strategy noted: “Improving the nation’s debt management capacity requires more effective mechanisms to monitor the debt stock, restructure the domestic debt to ensure a greater balance between short and long-term debt instruments. It also focuses on measures to re-direct more resources to reducing the size of the domestic debt. Currently the precise value of the stock of domestic debt including government guaranteed debt to State Owned Enterprises remains a mystery. However, such debts may be eligible for relief under the HIPC initiative if appropriately documented.”<sup>10</sup>

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5 *Ghana Poverty Reduction Strategy (GPRS) Fourth Draft Version*, 22 January 2002, Government of Ghana, Accra, 2002, p.125

6 Foster M and D Zormelo, *How, When and Why does Poverty get Budget Priority?* London: Overseas Development Institute, ODI Working Paper 164, April 2002, p.12.

7 Oduro KN, *Results-Oriented Public Expenditure Management: Case Study of Ghana*, London: Overseas Development Institute, June 2003, p.xiv.

8 **Evaluation of cash management needed:** Under its HIPC Completion Point list of achievements, public expenditure management has been strengthened through a new cash management system in all ministries, the reports of which are published monthly in the Gazette. But sources suggest the APRM should interrogate the effectiveness of this system. In several countries, such as Malawi, cash expenditure management systems become a shadow budget process allowing the executive to cut spending in the spending agreed by parliament and boost it in other areas, which can result in a highly untransparent system contrary to the principles of parliamentary approval and oversight in APRM.

9 *GPRS Fourth Draft Version op. cit.* p.49.

10 *Ibid.*, p.45.

**Failure to Contain New Debt Crowds Out Business:** The Ghana Poverty Reduction Strategy notes that the government has frequently financed deficits with domestic debt, which contributes to driving up interest rates. With high interest rates offered on treasury bills, there is a major disincentive for banks and businesses to invest in productive enterprise.<sup>11</sup>

**Revision of Banking Laws Needed:** The 2002 Ghana Poverty Reduction Strategy report noted several laws need revision to improve monetary and foreign exchange management:

- The Exchange Control Act had not been revised since 1961, as of the writing of the GPRS in 2002.<sup>12</sup> Companies are required to surrender all foreign exchange and banks are required to cover forex holding with local currency, which places strain on the banking system.
- “The Bank of Ghana law must be reviewed and enacted to enhance the independence of the BOG and also that effective bankruptcy/insolvency laws must be established to protect creditors and debtors.”<sup>13</sup>
- The Social Security and National Investment Trust “has serious financial and administrative problems, which threaten its medium-term functioning,” including poor returns, high bad debts and administrative costs. Given its importance to national savings, investment and social goals, the trust needs more rapid reform.<sup>14</sup>

**Institutional Rivalry Limits Budget Effectiveness and Transparency:** Jockeying for influence between the ministry of finance (responsible for the budget), and the National Development Planning Commission (NDPC) (part of the executive responsible for planning) has led to a “failure to link policy-making, planning and budgeting” which may be the “single most important factor contributing to poor budgeting outcomes [in]Ghana,” according to a study of the country’s budget processes.<sup>15</sup>

The presidency has also assumed some planning functions at macroeconomic level making the process less transparent. The Centre for Budget Advocacy, part of the Integrated Social Development Centre (ISODEC) concluded, “in practice, the macroeconomic team in the president’s office has virtually usurped the role of macroeconomic policy formulation [from the minister of finance]. Yet the team’s work is inaccessible to the public, making it difficult to ensure its transparency.”<sup>16</sup>

**Incomplete, Late Budget Information from the President:** A study by the Centre for Democratic Development (CDD-Ghana) and the Friedrich Naumann Stiftung notes how presidential practice contributes to parliament’s weakness in influencing public spending priorities. The executive routinely does not provide timely information and explanation of the budget, and the budget is submitted too late for the House to make any meaningful analysis.<sup>17</sup>

ISODEC’s Centre for Budget Advocacy notes that there is insufficient budget detail provided for parliament or civil society to make meaningful analysis or input into national plans, as well as excessive technical jargon, dearth of expenditure monitoring information, lack of a forum where civil society can influence the process, and uncertainty about civil society’s role in the budgetary process. These conditions seem significantly contrary to the APRM/IMF code on fiscal transparency adopted by the APRM. *See also Killick and Abugre below and Chapter 2: Parliament.*

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11 *Ibid.*

12 *Ibid.*, p.50.

13 *Ibid.*, p.51.

14 *Ibid.*

15 Oduro *op. cit.*

16 Azeem VA and W Ahadzie, *Africa Fiscal Transparency*, Centre for Budget Advocacy – Integrated Social Development Centre (ISODEC), Accra, 2002.

17 The Auditor-General’s office is significantly under-resourced, and accounts from the Controller and Accountant-General are routinely submitted 3-4 years late, so that problems cannot be effectively investigated or prosecuted because staff have moved on and evidence gone. This is contrary to the APRM code on fiscal transparency, which calls for quarterly progress reports on actual expenditure. The Auditor-General’s report is therefore frequently delayed, undermining the legitimacy, effectiveness and efficiency of that office.

## A Dominant Executive

**Top-Down Culture:** Ghana's budget and fiscal management – and thus the effectiveness of its various fiscal management and public accountability mechanisms – are greatly affected by what a variety of experts characterise as a top-down approach to governance.

- “International Financial Institution guidelines urge that a transparent and participatory approach to policy making is important if good policies are to be implemented and sustained and institutional capacities are to be built,” according to Killick and Abugre. “Efforts along these lines have been made in Ghana but the approach falls well short of the ideal. There are frameworks for participation in place which can be built upon but actual processes remain distorted by a top-down culture ... which in the past has, at best accommodated only such ‘consultation’ as can be managed, and preferably manipulated and dominated. As a result, *what may seem to be indications of openness and inclusiveness in policy making have tended to actually be mechanisms of validation and containment.*”<sup>18</sup>
- Other civil society analysts say that in PRSP/budget consultations “civil society organisations were selected in an arbitrary manner, leaving out vital organisations” such as farmers and rural-dwellers who make up the poorest segments of society.<sup>19</sup> Labour was also under-represented and the participation of civil society was largely viewed as a cosmetic exercise aimed at validation of the government process and containment of dissenting voices.<sup>20</sup>

**Advisory Bodies Compromised by Executive Appointments:** Throughout the constitution and legal system, the president and ministers are compelled to consult independent bodies, boards and experts for advice. The independence of these advisory institutions is diminished as they are often staffed with hand-chosen appointees who will endorse executive policies. Transparency International concludes that “these checks are ineffective and poorly enforced in practice. The president and ministers often have a role in the appointment of members of the bodies that are supposed to be advising, thereby creating a gratitude effect.” Advice and checks on executive plans should thus be vested with parliament or boards to which parliament or civil bodies have an active role in selecting members.<sup>21</sup>

**Presidents Delay Reforms in Election Years:** Ghana's fiscal system has been too weak to withstand political pressures, which has resulted in a long-term pattern of heavy overspending in the run-up to elections and violation of macro-economic commitments to donors, who have responded by cutting aid/loan levels. Such policy swings have been significantly detrimental to national development and economic stability.<sup>22</sup>

For example, Dr John Atta-Mills, leader of the opposition National Democratic Congress, accused the Kufuor government at the start of 2004 of increasing the national debt from 41 trillion cedis (US\$4.5 billion) to 63 trillion cedis (US\$7 billion), an increase of 22 trillion cedis (US\$2.5 billion) over a two-and-a-half year period.<sup>23</sup>

This tendency to suppress potentially volatile policies emerged before the December 2004 poll once again, when the president failed to implement a proposed fuel price hike, which had major budget deficit implications.

**Abuse of Incumbency:** Ghana's ruling parties have abused their access to state resources. This problem was considerable during the 1992 and 1996 elections. Researcher Dr Anne Hammerstad notes that “Both times the [ruling National Democratic Congress party] NDC used state resources, vehicles and other equipment to conduct the campaign. The 2000 elections, however, witnessed less abuse. By then the electoral system had become more transparent and consensual, and the media and civil society had

18 Killick T and C Auberger, “Chapter 3: Institutionalising the PRSP approach in Ghana”, in *PRSP Institutionalisation Study: Final Report*, submitted to the Strategic Partnership with Africa, 26 September 2001, p 29. Emphasis in original.

19 Abrokwa M, “A Swot analysis of the PRSP: A Civil Society Perspective”, paper presented at International Forum on PRSP Monitoring and Evaluation, June 2003.

20 Desrosiers A and S Gariba, *PRSP Process in Ghana*, Poverty Reduction Network Brown-Bag, 5 October 2001.

21 Gyimah-Boadi E and Y Asamoah, *National Integrity Systems Country Study Report Ghana 2001*, Transparency International, p 6.

22 “There is a history of government commitments to donor-prescribed reforms slipping badly ahead of elections.”(Economist Intelligence Unit Ghana country study 2003, p 32).

23 “Ghana: Corruption Notebook” in The Centre for Public Integrity *op. cit.*, p.6.

become more active in monitoring the voting process. The New Patriotic Party (NPP) government that came into power in 2001 has promised to desist from using state resources using election campaigns.” However, the weakness of the electoral commission make monitoring and enforcement of this very difficult.<sup>24</sup>

For the 2004 campaign, the Centre for Democratic Development (CDD) and the Coalition of Domestic Election Observers (CODEO) hoped to keep the NPP to their promises, by monitoring three types of abuses of incumbency in the run-up to the polls: using government resources and personnel for campaigning; hidden allocations of public money for unbudgeted projects; and dominating the state media. Researchers noted that the president and his party had an unfair advantage over rivals, and recommended more vigorous enforcement of Ghana’s electoral laws, new codes to plug legal gaps and developing credible, equitable and enforceable rules to clearly differentiate state occasions from party ones.

**Reform of the Civil Service Urgently Needed:** The Ghana Poverty Reduction Strategy paper argued that reform of the size, management and compensation of the civil service was urgently required. “An appropriately sized and adequately compensated public service represents an essential and priority component without which the reform programmes, poverty reduction and sustainable economic growth cannot effectively be implemented.”<sup>25</sup>

The GPRS also noted that past reforms under the National Institutional Renewal Programme and the Civil Service Performance Improvement Programme, undertaken in the 1990s, had stalled: “It would appear that at present these programmes are beyond the capacity of the public service and available consultancies for effective planning implementation in terms of human and financial resources.”

**Laws Protect the President’s Considerable Powers:** Several laws shield the president from scrutiny and should be changed as they have in the past – in Ghana and in many other countries – provided instruments to silence critics and thwart transparency and accountability:

- **Libel Laws:** The abolition of the Criminal Libel and Seditious Law in 2001 – which made reporting intended to injure the reputation of the government a criminal offense punishable by imprisonment. – and dismissal of all pending libel cases has given the press more leeway to report news freely, but the president is immune from prosecution, and it is illegal to defame or insult the head of state, or publish material intended to bring the president into "hatred, ridicule or contempt."<sup>26</sup>
- **Immunity:** Presidential immunity from prosecution has meant that heads of state have not been *legally* accountable for corrupt acts. “No head of state in Ghana, current or former, has been prosecuted for corruption.”<sup>27</sup>
- **Un-amendable Constitution:** In practice, it will prove almost impossible to amend the considerable powers of the president outlined in Chapter 8 of the constitution. There are two types of clauses in Ghana’s constitution: entrenched clauses which can only be changed by referendum – in which 40% of registered voters participate and 75% vote in favour of the change; and non-entrenched clauses which can be changed by parliament. Chapter 8 is entrenched. While entrenched clauses serve as an important bulwark to arbitrary constitutional tinkering, other legal means such as regulation or memoranda of understanding will be required to moderate executive action.

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24 Hammerstad A, *African Commitments to Democracy in Theory and Practice: A Review of Eight Nepad Countries*, African Human Security Initiative, 2004, p 25.

25 *GPRS Fourth Draft Version op. cit.* p.112.

26 *Global Integrity Report op. cit.* p.14.

27 Three former heads of state were shot in 1979, allegedly for corruption. But this did not follow any prosecution in court, unless the ‘Kangaroo Court’ of the Armed Forces Revolutionary Council, which did not sit in public and did not follow the normal procedures of civilised courts and due process,” according to the Centre for Public Integrity, *Global Integrity Report: Ghana*, 2004, Washington DC: The Centre for Public Integrity, p.21.

## CHAPTER 2: PARLIAMENT<sup>28</sup>

A 1999 public survey concluded: “The legislature has failed to overcome executive dominance and [its] related political culture ... legislation passed ... reveals the dominance of the legislature by the executive. Parliament appears to have presided over the erosion of its constitutional powers and mandate; laws have been passed and amended to strengthen the already dominant position of the executive vis-à-vis the legislature.”<sup>29</sup> Since 1999, both the executive and parliamentary majority have shifted from the National Democratic Congress (NDC) political party to the New Patriotic Party (NPP). Despite the party switch, constitutional expert Professor Keri Prempeh argues that the ineffectiveness of parliament continues: “There has been no noticeable change in parliament’s overall public standing. ... Parliament remains, by all accounts, a weak partner in the current constitutional structure.”<sup>30</sup>

### ***Parliament’s Limited Ability to Hold Executive Accountable***

**Concentration of Power at the Heart of Governance Problems:** Professor Prempeh asserts that, “In a country like Ghana where concentration of power and authority in the hands of the executive ... has been at the root of our crisis of ‘bad governance’, one wonders what virtue there is in adopting a constitutional arrangement that can only exacerbate the problem of executive hegemony.”

**Article 108 Removes Lawmaking Power from Parliament:** Article 108 of the constitution prohibits parliament from considering any bill that does not originate with the president, denies parliament the ability to increase any spending proposal of the president (although it may reduce proposed spending), and prohibits parliament from passing legislation affecting increasing taxation or government debt.<sup>31</sup>

Unsurprisingly, there has never been a single Private Member’s bill introduced. Professor Prempeh contends that this interpretation fundamentally abrogates the primary purpose of a legislature. “As understood and enshrined in parliamentary practice, Article 108 shifts the balance of power in the area of legislation and policy-making drastically in favour of the executive.”

**Single Chamber Allows Executive Dominance:** A unicameral legislature with no upper or lower house means a theoretically quicker, less expensive legislative process, but it also made parliament much less able to counter-balance the already-dominant executive.

**Parliament Does Not Control Its Own Budget:** Parliament cannot determine or influence its own budget, and has to practically beg the minister of finance and president for funding, according to constitutional scholars. Prempeh recommends that parliament and the executive agree by law or a memorandum of understanding to use the MTEF rather than an annual budget approach for parliament.

**High Proportion of MPs in Cabinet Subverts Parliamentary Independence:** The large fraction of parliamentarians who serve as ministers or deputy ministers (and enjoy substantial financial benefits) – 53 out of 200 MPs after 2000 – significantly compromises the independence of parliament.<sup>32</sup> Article 78 (1) of

28 **The Parliamentary Electoral System:** Ghana has a single chamber parliament with 230 MPs (increased for the 2004 elections from 200 previously) popularly elected for four-year terms. It uses a constituency-based system with victory going to the candidate with the most votes (not necessarily over 50% of votes cast).

29 CDD-Ghana and Friedrich Naumann Foundation, *Parliament and Democratic Governance in Ghana’s Fourth Republic*, CDD-Ghana, Accra, 2000.

30 **History of Executive Domination/Subversion of Parliament:** Constitutional expert Prof. Keri Prempeh considers parliament weak because of its interrupted, discontinuous existence as each successive junta abolished the legislature, stunting institutional capacity and memory. It faced a legitimacy crisis in its infancy when the NPP boycotted the 1992 parliamentary poll due to alleged rigging in the presidential elections and the House was overwhelmingly dominated by the ruling NDC. All references to his work in this section are to Prempeh HK, *The Executive-Legislature Relationship Under the 1992 Constitution: A Critical Review*, Critical Perspectives 15, Ghana Centre for Democratic Development (CDD-Ghana), September 2003.

31 **Provisions to End Legislative Impasse Went Too Far:** Prempeh contends that framers of the 1992 constitution intentionally wanted to avoid a situation that arose under the 1979 constitution, where the House had rejected a president’s budget and a supreme court nominee. Thus Articles 78 and 108 were designed to weaken the separation of powers and ensure that “a president will never again suffer legislative defeat or resistance as long as his party holds a decisive majority.”

32 In the December 2004 elections, the president’s party won 129 out of 230 seats.

the constitution requires the majority of ministers to be chosen from among MPs, and 78 (2) sets no limits on the number of ministers the president can appoint and no ability of parliament to reject the creation of new posts.

- **Cabinet MPs Have Divided Loyalties:** Prempeh argues that drawing large numbers of MPs into cabinet places ministers' primary loyalty with the executive, not the legislature, stifling debate and limiting criticism of the president. Second, the different status, remuneration and duties between being a minister and an MP means that they concentrate energy on the former and neglect their constituencies and the House (especially those appointed as regional ministers far from Accra). Third, the unlimited ceiling on ministerial appointments induces backbenchers to side with the executive to win favour and perhaps a portfolio. Ministers cannot be dismissed by parliament, and the president is free to ignore any censure of a minister by the House.

### ***Insufficient Budgetary Oversight from Parliament***

Several sources note the weak performance by parliament in interrogating the budget as matter of practice as well as lack of power, capacity and funding. A study of the oversight effectiveness of parliaments in Ghana, Niger, Malawi and Tanzania found that the four parliaments had "limited effectiveness impacting the budget cycle process" with the result that "executive control over budget planning, formulation and implementation is virtually absolute."<sup>33</sup>

**Parliament Does Not Prioritise Oversight:** The Centre for Budget Advocacy notes, "The role of parliament in the legislative phase of the budget process is clearly stipulated. It has the power to adjust both expenditure and revenue downwards. However, it has no say over debt control, no oversight over financing and cannot introduce expenditure or revenue measures. In practice there is poor take-up of legislative powers ... The main weakness of parliaments is that they spend very little time and devote few financial resources to detailed budget scrutiny."

- As the GPRS noted: "In the past parliamentarians have often failed to address themselves to critical matters of governance. Parliamentarians rarely challenged the executive regarding, for example, failure to achieve or even implement policies within the Medium Term Development Plan. In the first instance the need is to provide the machinery by which Cabinet and Parliament have the opportunity to scrutinise the implementation of policies within the GPRS... A monthly progress report to parliament on progress in implementing the GPRS is essential to facilitate an overview. The power of the Parliamentary Committee and Sub Committees on public finance and the review and approval of national budgets and expenditures also needs to be strengthened. Provision of a research capacity for Parliament, particularly in respect of economic and financial matters, is essential."
- In 1999, parliament did nothing when the military refused to be audited.
- There is very little substantive debate about the budget in the legislature. Transparency International notes "The time given to the finance committee of parliament and parliament to review, debate and propose changes is inadequate and they lack the resources and expertise to do a thorough job. Civil society input is negligible and the budget debate is rushed on inadequate information. Financial agreements for the purchase of a new presidential jet were secretly concluded in February 1999 and the jet brought into the country before approval was belatedly sought, after loud civil society displeasure."<sup>34</sup>
- "Parliament's ability to perform the critical role of holding the executive to account on a continuous basis is weakened, to a point of absence of any oversight, by the excessively partisan approach of MPs towards this assignment."<sup>35</sup>

**Infrequent Use of Parliamentary Investigations:** Parliament has express authority, under Article 103 to conduct investigations and inquiries into the activities of ministries and departments. However,

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33 *PRSPs in Africa: Parliaments and Economic Policy Performance*, Accra: Poverty Reduction Network (part of the Canadian Parliamentary Centre), 4 January 2005.

34 Gyimah-Boadi E and Y Asamoah *op. cit.*, p 7.

35 The Centre for Public Integrity *op. cit.*, pp.4-5.

“parliament has not availed itself of these powers, except in preparation of estimates,” according to Dr SKB Asante.<sup>36</sup> It has seldom instituted commissions of enquiry into matters of public interest.

- Parliament has never investigated why construction on its own office block was never completed.
- Parliament has not investigated losses and excessive debt at Ghana Airways.

**Auditor-General Does Not Report to Parliament:** Contrary to what is considered best practice, the Auditor-General is appointed by the president and is independent of both the executive and parliament. Parliament can review Auditor-General reports and appoint its own investigatory committees. Although the Auditor-General does not take direction from the president, critics accuse the Auditor-General of conducting investigations of critics of the government, effectively obviating the supposed constitutional independence of the Auditor-General. For example, the Auditor-General recently launched inquiries with the revenue service about whether media houses have paid their tax liabilities, which is viewed by some commentators as partisan and vindictive.

**Executive Changes Budget After Parliamentary Approval:** A CDD-FNS report said (of the 1999 legislature): “It is a known fact that government alters the budget after the House has approved it. Permission for over-expenditures by the executive is not sought [from parliament], and the House has also never imposed sanctions [for such violations].”

**Parliament Surrendered Power to Approve Ministries:** Through the 2001 Civil Service Amendment Act, parliament has given up its authority to approve new ministries, allowing the president to create them at will.

**Parliament Failed to Abide by Constitutional Requirements:** The 1992 constitution required parliament to enact certain legislation that has never been completed. Professor Prempeh comments “Parliament is not showing a willingness or readiness to do even those things it is commanded to do under the constitution.”

- **Article 187** (15) requires parliament to appoint an auditor to monitor and report on the Auditor-General’s accounts. Parliament has not done so.
- **Article 22** of the constitution that came into effect in 1993 requires parliament to enact “as soon as practicable after the coming into force of the constitution” legislation to secure the property rights of spouses upon the dissolution of a marriage. Only in June 2002 did media reports suggest such a bill was to be put to parliament. (Information unavailable on whether this bill has since passed.)
- **Article 29** requires parliament to enact legislation to secure the rights and advance the interests of the disabled. (Information unclear whether this has been done.)<sup>37</sup>

**Low Public Confidence in Parliament’s Effectiveness:** In a 1999 CDD-Friedrich Naumann Stiftung survey of 300 demographically representative Ghanaian citizens, parliament received extremely low scores for performance. Only 17% of respondents were satisfied with parliament’s overall performance, and it received approval ratings of 7% for oversight, 15% for approval of loans, 14% for reviewing the auditor-general’s reports, and 12% for reviewing the budget.<sup>38</sup>

**Minimal Parliamentary Influence on Opaque Procurement Procedures:** Government rules covering public procurement are outdated and clearly ineffective, given widespread corruption in this area, and the public has no access to the monitoring of this system. Parliament only plays a role in overseeing public tendering when it receives occasional reports from the Auditor-General’s office highlighting irregularities. It is not compelled to act on the Auditor-General’s reports. *See also procurement discussion in corruption/oversight chapter.*

**Parliamentarians’ Interests Kept Secret:** Despite codes of conduct and Article 286 (3) of the constitution compelling MPs, the president and public servants to disclose their financial interests to the Auditor-General’s office at the beginning and end of terms of office, these declarations cannot be

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36 Asante SKB, “Parliamentary Oversight of the Executive”, unpublished manuscript, 2002.

37 Prempeh HK, *The Executive-Legislature Relationship Under the 1992 Constitution: A Critical Review*, Ghana Centre for Democratic Development, Accra, September 2003, p. 19.

38 CDD-Ghana and Friedrich Naumann Foundation *op. cit.* p 4.

accessed by citizens,<sup>39</sup> which leads to suspicion and speculation. The declarations have not been made at the end of the tenure of MPs, president or ministers, which makes the whole disclosure exercise impossible if there is not point of comparison.<sup>40</sup>

The Centre for Public Integrity also notes that, “For the legislature, there is no commissioner for standards, or even a register of outside paid interests of MPs. Therefore, apart from their electorates, it is not known who else, if anybody, they represent in the legislature.”<sup>41</sup> *See also discussion of legal impediments to oversight in corruption/oversight section dealing with the Auditor-General.*

**Parliament Resource-Starved:** Parliament is severely under-resourced. Parliament’s library is short of relevant and up to date information.<sup>42</sup> MPs lack researchers, offices, computers or even rooms in which to caucus or mingle informally. An official commented, “The only time they [MPs] are comfortably seated is in the Chamber. After a day’s hard work ... they are gone because there are no places for them to agree to disagree.”<sup>43</sup>

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39 1992 Constitution; Professor SN Woode, Chairman: Public Services Commission, cited in The Centre for Public Integrity *op. cit.* p.5.

40 *Report on the National Dissemination Workshop On Public Service Ethics In Africa: The Ghana Country Report*, United Nations Report, 10 October 2002, p.13.

41 The Centre for Public Integrity *op. cit.* p.5.

42 Parliament’s revamped website (<http://www.parliament.gh/index.php>) launched in July 2004 is impressive, up to date and informative.

43 Kwadwo Boampong J, District Chief Executive (Adansi West – Obuasi), “Voice of the People”, The Legislature, May-June 2004, p.22.

## CHAPTER 3: THE JUDICIARY

The independence of the judiciary is established in Article 127 of Ghana’s constitution, and there are robust rules for the hiring and firing of judges which require parliamentary approval. But like parliament and other oversight institutions such as the Commission for Human Rights and Administrative Justice, the judiciary remains dependent on the government for its finances, which can be cut if it delivers unfavourable rulings. The current Attorney-General believes that lack of resources and poor salaries have meant that most of the better legal professionals have left the system.<sup>44</sup>

The reputation of the judiciary as an independent institution able to administer justice fairly, uphold the rule of law and hold the executive accountable has been tarnished throughout Ghana’s turbulent political history:

- Retired Supreme Court Justice KE Amua Sekyi concludes that popular confidence in Ghana’s judiciary has evaporated since independence, because of the “subservience of the judiciary to the executive, growing and widespread corruption among judicial officers and staff, and delay in the trial of cases.”<sup>45</sup>
- “In August [2004] the Chief Justice said that some judges had not heard a single case or written a decision all year.”<sup>46</sup>
- A 2003 public opinion survey by CDD found that, among public figures, citizens were most suspicious of the police (79% responded that at least some police personnel were corrupt), followed by customs officials (74%), and judges/magistrates (70%).<sup>47</sup>
- The Economist Intelligence Unit said, “Ghana’s judiciary is relatively well respected and independent, but its reputation continues to suffer from the political interference of previous decades.”<sup>48</sup>
- In recent years the opposition National Democratic Congress (NDC) party has routinely accused the courts of pro-government bias. The ruling New Patriotic Party (NPP) made similar accusations before it took power in 2000.

**Executive Dominates Judicial Selection Procedures:** The nominal independence of the judiciary is undermined in practice by the executive.

- The Centre for Public Integrity notes that “Election of judges is not, and has never been, a practice in Ghana. There are some criteria that lawyers have to satisfy to be appointed and nominees for the Supreme Court have to be approved by the Appointments Committee of Parliament. But otherwise, exactly how judges of the Superior Courts are selected cannot be described as high on transparency.”<sup>49</sup>
- Merit is not always the criterion for senior appointments. For example, in 1995, the Ghana Bar Association challenged the president’s choice of Chief Justice on the grounds of his not being of “high moral character and proven integrity” as required in Article 128 (4), as he was suspected of having secretly retracted and rewritten an opinion. They lost the challenge and he was duly appointed.

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44 Akufu-Addo N, *The Consolidation of Democracy in Ghana*, Accra: Institute of Economic Affairs.

45 Amua Sekyi KE, “Consolidating Democratic Governance in Ghana by Further Strengthening Institutional Capacity”, an address delivered at a ‘Breakfast Forum’ by the Institute of Economic Affairs on ‘The Consolidation of Democracy in Ghana’, 11 June 2001, cited in: Fayemi JK; Jaye T and Z Yeebo, *Democracy, Security and Poverty in Ghana: A mid term Review of the Kufuor Administration*, 2003, p. 9.

46 After years of consideration and research, Ghana finally automated three Fast Track High Courts in Accra in March 2001. They work on a wireless local area network, obviating the need for judges to transcribe notes in longhand for secretaries to type later. They aim to issue a summary of evidence, research and judgment in writing seven days after a trial ends. To further ensure transparency, the court proceedings are produced within 72 hours for interested parties on payment of court fees. The Fast Track High Courts survived a challenge on their constitutionality from an accused NDC politician (on appeal).

47 US Department of State, *Ghana Country Reports on Human Rights Practices*, 2004, Section 1 Respect for the Integrity of the Person, Including Freedom From: (d) Arbitrary Arrest or Detention.

48 Economist Intelligence Unit (EIU), *Country Profile 2003: Ghana*, p. 14.

49 Article 136 [composition and qualifications] and 144 [appointments] of the 1992 Constitution, cited in The Centre for Public Integrity *op. cit.* p.27.

- Transparency International concludes: “Indeed, the President, especially where his party has a strong majority in Parliament ends up exercising a far stronger role in the appointment of judges, at the expense of other bodies involved in the appointment process such as the Judicial Council.<sup>50</sup> Moreover, the Judicial Council itself is currently dominated by representatives from quasi-government legal bodies, thereby increasing the hold of the government on that body.”<sup>51</sup>

**Chief Justice’s Appointment Powers Compromise Independence:** Ghana’s Chief Justice has the power to appoint the judges of his choice to hear particular Supreme Court cases, and may use this ability to benefit political allies. According to the US State Department’s Country Report on Human Rights Practices in Ghana in 2004, this regulation “limited the court’s ability to balance the power of the executive branch and contributed to the perception that the judiciary occasionally was subject to executive influence.”<sup>52</sup> While the current Chief Justice, George Acquah (appointed in June 2003), is respected as honest and impartial,<sup>53</sup> the system could easily be manipulated in future.

**President Can Stack the Court with Supporters:** Ghana’s president has the ability to nominate any number of judges beyond the minimum of nine to the Supreme Court (subject to parliament’s approval under Article 144). This means he can stack the Supreme Court with favourably disposed appointees. For example in 2001, President Kufuor added four judges to the bench at a time when former NDC government officials were being tried. Dr Anne Hammerstad concludes: “presidential dominance, in law and in practice, undermines the effectiveness of the judiciary in functioning as a watchdog of the constitution and as a counteracting force vis-à-vis the executive.”<sup>54</sup>

**Judges Seldom Overrule the Government:** Article 2 of the constitution gives the courts the ability to review and reverse unconstitutional decisions by the executive. Transparency International concludes that although there have been isolated cases of the Supreme Court reversing presidential decisions, for example in January 2000 when it ruled that the president had no right to appoint the top executives in state media organisations, “in general, the courts have been timid in using powers to review executive decisions”<sup>55</sup>

**Limited Oversight of the Judiciary:** Ghana has no ombudsman (or equivalent agency) for the judicial system. “The judiciary is not mentioned in the list of institutions against which complaints can be investigated by The Commission for Human Rights and Administrative Justice (CHRAJ).”<sup>56</sup>

**Access to Justice Prohibitively Expensive:** With so many Ghanaians earning less than \$1 a day, they cannot afford to initiate legal proceedings because of costs. The Centre for Public Integrity notes that “A university professor’s net pay is around US\$200 a month. Lawyers charge by the hour, including long court appearances. The fact that cases are almost without exception postponed many times also has to be taken into account ... As for ordinary citizens, litigation through the courts to assert or defend legal rights is frankly beyond the overwhelming majority.”<sup>57</sup>

The Ghana Poverty Reduction Strategy paper noted that it is “necessary to strengthen the courts, especially the lower courts, in order to provide adequate protection of the rights of individuals,” particularly for the rural, urban poor and disadvantaged. Such reform also must include funding and staff for the Legal Aid Board, to provide legal assistance, cutting the large backlog of criminal cases and

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50 The Judicial Council is a body chaired by the Chief Justice and composed of the Attorney-General, a Supreme Court Justice, an Appeal Court Justice, a High Court Justice, two representatives from the Ghana Bar Association, a representative of the Chairmen of Regional Tribunals, a representative of the lower courts or tribunals; the Judge Advocate-General of the Ghana Armed Forces; the Head of the Legal Directorate of the Police Service; the Editor of the Ghana Law Reports; a representative of the Judicial Service Staff Association, a chief nominated by the National House of Chiefs; and four other persons who are not lawyers appointed by the president. It advises on judicial matters, and is mandated to propose judicial reforms, provide a forum for discussion of justice-related matters and assist in making the courts run more smoothly and efficiently. The above-mentioned associations nominate their own representatives.

51 Gyimah-Boadi and Y Asamoah *op. cit.*, p.9.

52 US Department of State, *op. cit.* and Prempeh, *op. cit.*

53 Hammerstad *op. cit.*, p 86.

54 *Ibid.*

55 Gyimah-Boadi and Asamoah *op. cit.* p 8.

56 Article 10 of the Constitution; cited in The Centre for Public Integrity *op. cit.* p.27.

57 *Ibid.* p.27.

creation of “greater accountability of magistrates.” It noted that the Community Tribunal system does not work well.<sup>58</sup>

Long court delays cause costs to escalate in business disputes, undermining the creation of a business-friendly environment in Ghana.

**Corruption Undermines the Judiciary:**<sup>59</sup> Despite the promises of Ghana’s new Chief Justice to increase transparency and address problems of corruption in the judiciary, the US State Department’s 2004 Human Rights Report cites numerous instances of corruption in the judicial system:

- “A 2003 report adopted by the Parliamentary Select Committee on the Judiciary provided details on corruption in the judiciary, including accounts of extortion; misuse of remand, bail, and contempt of court charges for bribery; and acceptance of gifts or money in exchange for expedited or postponed cases, or losing records. The Committee recommended establishing and enforcing codes of conduct, transparent complaint procedures, and disciplinary mechanisms; however, none of these recommendations had been implemented by year’s end.”<sup>60</sup>
- “Allegations of corruption among the members of the judiciary are quite widespread and their effects do undermine the judicial process.”<sup>61</sup>
- “For the judiciary to be bracketed with the police for corruption, as a public forum organised by the Parliamentary Committee on the Judiciary in Koforidua, a principal town, did in 2002, is a very serious indictment on it.”<sup>62</sup>

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58 *GPRS Fourth Draft Version op. cit.* p.114.

59 The Parliamentary Committee on the Judiciary went on well-publicised tours of the country in 2002 to collate evidence from the public on the performance of the judiciary. **The APRM Secretariat should request this report.**

60 *Ibid.*

61 The Centre for Public Integrity *op. cit.* p.46.

62 *Ibid.* p.5.

## CHAPTER 4: ELECTIONS AND DEMOCRACY

The inability to transfer power peacefully from one regime to another has frequently triggered political repression, violence and civil war in Africa. While elections every four years since 1992 in Ghana have been judged increasingly free and fair by local and international observers alike, and Ghana's Electoral Commission is one of the most experienced and highly-regarded election management bodies on the continent,<sup>63</sup> there remain some concerns about the country's electoral system.<sup>64</sup>

**Biggest Party Rewarded by Voting System:** Ghana does not use any form of proportional representation, but follows a standard, single constituency, first-past-the-post system both in parliamentary and presidential elections. This winner-take-all approach means that there are no other means of allocating seats to smaller parties (who can represent minorities) that may fail to win any constituencies.

In Ghana's presidential elections, "the requirement that a run-off must be organised within 21 days if no candidate obtains more than 50% in the first round of the elections"<sup>65</sup> is an important constitutional provision to ensure that the president has majority support when there are more than two candidates, unlike in Malawi or Kenya where presidents have been elected with small fractions of the vote.

**Population Growth Affects Demarcation of Constituencies:** The electoral commission demarcates the boundaries of constituencies according to strict constitutional principles, one of which requires constituencies to have roughly the same number of voters. Researcher Dr Anne Hammerstad contends that "While this has made gerrymandering more difficult to carry out and easier to expose, it has not been a guarantee against boundary controversies."<sup>66</sup> She notes that shifting demographics and uneven

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63 According to researcher Dr Anne Hammerstad, "Over the last decade, Ghana's electoral commission has made great progress in its ability to ensure that elections are held according to proper standards, and the in the public trust and support it commands. After a controversial 1992 election during which the electoral commission was accused of being biased towards the ruling regime, the commission took several measures to improve its standards. For the 1996 elections, it introduced, with the support of all major political camps, translucent ballot boxes, picture voter identification documents and the counting of ballots at the polling station at the close of balloting. The improvement continued in 2000, and the transparency with which it ran the elections won the commission greater credibility, legitimacy and respect. It has successfully challenged government attempts to curb its authority and there is now widespread agreement among political parties, including the ruling party and civil society that the government should not dabble in electoral matters. In a survey in 2002, 82% of an expert panel assessed the commission as 'always or largely' impartial and transparent in its activities". Hammerstad A, *African Commitments to Democracy in Theory and Practice: A Review of Eight Nepad Countries*, African Human Security Initiative, 2004, p.36.

Dr Kayode Fayemi, Director of the Centre for Democracy and Development in Nigeria (CDD-Nigeria) and a member of the Ecowas-West Africa Civil Society Forum's observer mission to Ghana for the 2004 elections, wrote: "What Ghanaians have managed to do with this election is prove that election management is no rocket science. It requires adequate preparation, a high degree of transparency, a responsible government, which respects its own citizens and an alert citizenry ready to protect their vote." He praised the Electoral Commission for even-handedness, independence and accountability to the people and noted the important role played by FM radio stations in relaying results as they were announced at polling stations, and the vigilance of local observer missions. (Fayemi K, "Reflections on Ghana's recent elections", <http://www.cdd.org.uk/> 10 December 2004).

64 **Background: Cultivating Democratic Stability** Since the restoration of multipartyism in 1992, Ghana has had an uninterrupted cycle of four national elections. Each successive election has cemented democratic gains. In 1992, President Jerry Rawlings won the presidential race convincingly and was elected with 57% of the popular vote. The major opposition parties alleged widespread rigging, and boycotted the parliamentary poll later in the year, resulting in an overwhelming parliamentary majority for Rawlings' NDC, with 189 of the 200 seats in the House. The 1996 presidential poll was much closer. Rawlings and his party campaigned vigorously and used the control of the state media and government resources to their advantage, and he was re-elected to his second and final term. Major opposition parties participated, and boosted their collective numbers from 11 to 67 of 200 seats. Should there be more than two candidates in a presidential race, and none receives a majority of more than 50% of the total number of votes cast, then the top two candidates face each other in a separate run-off election within three weeks. This important provision was put to the test in 2000, when John Kufuor of the NPP beat former Vice President John Atta Mills in the run-off. Despite a low turnout and some isolated violence, the election was largely considered free and fair. This watershed poll led to the first democratic transfer of power in 43 years since Ghana's independence. The NPP won 100 of the 200 seats in parliament (and picked up several more in subsequent by-elections.) Outgoing president Jerry Rawlings respected the constitutional limit of two presidential terms, and the smooth transfer of power was heralded as a model for Africa. On 7 December 2004, John Kufuor was successfully re-elected president with an absolute majority (52.45% of the vote) over John Atta Mills and two other candidates, averting a run-off.

"Despite a few incidents of intimidation and minor irregularities, domestic and international observers judged the elections generally free and fair." (US Department of State, Ghana Country Reports on Human Rights Practices, 2004).

65 Hammerstad *op. cit.* p.15.

66 *Ibid.*, pp.21-22.

population growth (as opposed to overt political manipulation) have skewed constituency numbers. According to the 2000 census, the 22 constituencies of the Greater Accra Region each had an average of 132,000 voters, while the eight constituencies of the Upper West Region had just 72,000 each on average. Ghana increased the number of constituencies from 200 to 230 in the 2004 poll to address this problem.

**Electoral Commission's Independence Could Be Compromised by Executive Appointments:** The Electoral Commission is appointed by the president and is thus not independent. (Only the chairman and deputy chairmen are prohibited from holding public office while sitting on the Commission.) In future campaigns, this could be exploited. The commission consists of a chairman, two deputies and four other members appointed by the president on advice of the Council of State. There is no mechanism for parliament or the public to propose commissioners or remove them. If it so desired, the executive could populate this commission with loyalists. However, the chairperson cannot be arbitrarily dismissed. "The chairperson can only be removed by the president if recommended to do so by a special committee set up by the Chief Justice, on the grounds of stated misbehaviour or incompetence or on the ground of inability to perform the function of office arising from infirmity of body or mind."<sup>67</sup>

**Electoral Commission Dependent on Donors and Other Government Bodies:** The commission is heavily reliant on donors for aid to perform its duties, and depends on other state entities for staff and equipment. "Due to generous assistance Ghana's electoral commission has had sufficient resources to provide reasonably efficient administration of recent elections. There have been sufficient independent electoral officers to administer elections and physically control ballots, although the commission has had to rely extensively on the Public Service Commission to provide vehicles to transport election materials, and on the police and military for their protection."<sup>68</sup> Ghana should work towards being able to fund elections from the fiscus in future.

**Electoral Commission Does Not Report to Parliament:** The Commission declares the results of elections, but there is no annual report to parliament to justify expenditures. The Centre for Public Integrity points out that "the accounts of the Commission, like the accounts of all public bodies, are expected to be audited by the Auditor-General annually and reported to Parliament by the Auditor-General."<sup>69</sup>

**Registration Confined to Specific Periods, so Some Voters Disenfranchised:** Some political analysts advise that there should be provision for year-round voter registration to reduce costs and controversies associated with registration before each poll. Voter registration in Ghana must be done at a citizen's nearest registration centre at specific, limited times set by the Electoral Commission.

- Hammerstad says that rural voters often may have to go twice to the registration centre, to register and take their picture and on another day to collect their card, while urban voters can usually complete the process on the same day. She says, "Apart from this, the formal system of registration in Ghana works well, and seems equally fair to rural and urban voters in all regions."<sup>70</sup>
- In the 2004 election, a new system required every citizen to re-register and have a valid registration card to vote. The US State Department report cites the following relatively minor problems: shortages of registration materials, defective materials, some voters' details not being captured due to internal migration patterns during the registration period, and isolated incidents of violence between rival party supporters.<sup>71</sup>

**Inspection of Voters Roll Necessary:** The APRM should assess the speed with which the voters roll is made public, how much time is allowed for amendments and inspection by citizens and whether opposition parties are afforded timely access to analyse the roll.

**Freedom of Assembly/Right to Campaign Controlled by Police:** "Ghana now only requires notification of the police to hold rallies and demonstrations are seldom disrupted. The discretionary power of the police to ban a planned gathering on the grounds of public security is seldom exercised. The

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67 *Ibid.*, p.28

68 *Ibid.*, p.34.

69 The Centre for Public Integrity *op. cit.* p.18.

70 Hammerstad *op. cit.* p.44.

71 US State Department *op. cit.*

environment for political expression has improved dramatically over the past four years, and particularly since the peaceful change of government in 2001. Before then political rallies were often broken up using violence. For instance, in 1996 pro-government forces countered a massive demonstration by a coalition of opposition forces, resulting in the death of five persons. Critics of the government would often be harassed by the security agencies. In contrast massive opposition demonstrations in Accra and Kumasi were held in 2003 without much difficulty. Criticism of the government is rife and opposition newspapers are often extremely critical without suffering government retribution. All parties have been able to campaign freely and safely across the country although there is often tension when a party invades the strongholds of opponents.”<sup>72</sup>

However, the statutes used to repress dissent remain in force, even if the present government chooses not to exploit them.

**Political-Party Financing Not Transparent:**<sup>73</sup> “Political parties do not receive state funding. Only citizens can make contributions in cash or kind to political parties. Most parties have not provided public accounts on how they fund their activities, but it is believed that personal donations by a few wealthy individuals are the main sources for funding election campaigns. It is also suspected that ruling parties fund themselves through kickbacks from public contracts awarded to party loyalists and other corrupt practices.”<sup>74</sup>

**Improved Participation in Policy-Making:** “Ghana has experienced an explosion in political participation. Voter turnout has been higher in the last three general elections than before, and civil society groups have flourished both in terms of numbers and membership. Opposition leaders submit memoranda to parliament and its committees, and stakeholders review bills pending before parliament. An independent media, new research institutions and advocacy groups are keeping the newly politicised citizens better informed as well as providing some inputs into policy decisions. There is also real effort to include regions and ethnic groups in governing structures.”<sup>75</sup>

**Term Limits Respected:** “Ghana has a hybrid system of presidential and parliamentary governance. The president is both head of state and the head of government. The constitution limits incumbents to a maximum of two four-year terms. Since the coming into effect of the constitution, there have been [four] elections and one change of government. Jerry Rawlings, the country’s long serving leader introduced and won democratic elections in 1992 and won again in 1996. Term limits were not applied to his years of office before the 1992 elections, but Rawlings respected the new rules and did not run in 2000. The opposition led by NPP John Agyekum Kufuor beat Rawlings’ party, NDC, whose candidate John Atta-Mills had been the incumbent vice president.

The term limit is one of the ‘entrenched’ provisions of Ghana’s constitution. It can only be changed by a referendum not by legislation or presidential decree. The idea of changing the term limits was floated by the ruling NDC party in 1997 but was quickly shot down by a barrage of civil society and opposition party protests. No practical steps to change the term limits have been accepted by the executive and the principle of term limits now seems fairly well entrenched in Ghanaian democracy.”<sup>76</sup>

**Conflict in Party Primaries:** Conflicts in party primaries reflected intolerance and weak internal party democracy, highlighting the need for increased civic education. Voter education should promote tolerance of opposition and discourage voters from taking bribes from candidates.<sup>77</sup>

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72 Hammerstad *op. cit.* p.55.

73 According to the Centre for Public Integrity, “A powerful case for regulating private plutocratic and corporate funding of political parties and election campaigns in a fledgling, competitive, multi-party democracy such as Ghana, can be made on both theoretical and empirical grounds. Of all the values at the heart of democracy, equality is king. Alongside equality of the vote, equality of voice and access should command universal assent among democrats. Unregulated private funding of political parties and election campaigns can, and do, assault these fundamental precepts of democracy. Where an incumbent party can overspend by a factor of more than 13 to 1 the combined expenditure of all the major opposing parties, which is what is reported to have happened in the 1996 elections, democracy stands seriously threatened.” (“Ghana: Integrity Assessment” in *Global Integrity Report: Ghana*, Washington DC: The Centre for Public Integrity, [www.publicintegrity.org](http://www.publicintegrity.org), 2004, p.4).

74 *Ibid.*, pp.54-55.

75 *Ibid.*, p.63.

76 *Ibid.*, p.76.

77 *Election 2004: CDD/CODEO Pre-Election Environment Report*, Ghana Centre for Democratic Development and Coalition of Domestic Election Observers, September 2004.

## CHAPTER 5: CORPORATE GOVERNANCE

To fulfil its vision of a “Golden Age for Business in Ghana”, the Kufuor administration must create and maintain a business-friendly policy environment using sound corporate governance measures.<sup>78</sup> These include the responsibilities of ensuring that investments benefit Ghanaians, protecting creditors and shareholders of companies from exploitation, and upholding labour standards. Of the total tax collection in Ghana for the first quarter of 2003, company taxes accounted for 46.9%,<sup>79</sup> implying that enterprise is a crucial source of revenue generation.

In 2001, a survey of 30 top public and private institutions by the Institute of Directors-Ghana (IoD),<sup>80</sup> found that “the concept of corporate governance has gained ground in Ghana, with the public sector spearheading it. The private sector has some way to go to fully embrace the concept of corporate governance. The findings also reveal some ignorance of the requirements of the law especially in the private sector.”<sup>81</sup>

### ***Business Environment Discourages Investors***

**Economic Volatility Stifles Productive Enterprise; Imports Dominate Trade:** Ghana has improved its macroeconomic stability, but continues to suffer from wide swings in fundamentals. Inflation went from 59.5% in 1995 to 12.4% in 1999 and escalated to 41.9% in March 2001, driven by heavy pre-election deficit spending.<sup>82</sup> Mining and construction industries have grown in recent years but agriculture still employs over 60% of the workforce. There is relatively little value-added manufacturing, and Ghana’s trade portfolio has been dominated by imports rather than exports.<sup>83</sup> The heavy dependence on cocoa and gold renders the economy vulnerable to market shocks.

**Weak Regulatory Environment:** The Public Integrity Scorecard<sup>84</sup> lists Ghana as moderate on taxes and customs, weak on its civil service regulations (implying bureaucratic delays and other costs) and very weak on procurement, privatisation and anti-corruption measures.<sup>85</sup> The Institute of Directors report cautioned that “for Ghana to fully embrace good corporate governance, the legal and regulatory systems will have to be developed to support it.”<sup>86</sup>

**High Costs and Time Delays Inhibit Business:** Despite government efforts to encourage investment,<sup>87</sup> doing business in Ghana is still costly and time-consuming, with minimum equity for a joint venture with a Ghanaian partner being \$10,000 or \$50,000 for wholly-foreign-held ventures.<sup>88</sup>

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### CORPORATE GOVERNANCE

78 Prempeh HK, *Reforming Corporate Governance in Ghana- Part 1: The Private Sector*, CDD Briefing Paper, Vol 3(4), 2002. p.1.

79 Central Bank of Ghana, *An assessment of Corporate Sector Performance and Contribution to Growth in the Ghanaian Economy*, 2003/2004. p.7.

80 The IoD Ghana was established in 1999 by the State Enterprises Commission, the Commonwealth Association of Corporate Governance and the Commonwealth Secretariat, for good corporate governance.

81 Ocran F, President: Institute of Directors-Ghana, “Current State of Corporate Governance in Ghana”, paper delivered at the West African Regional Conference on Corporate Governance, Accra, Ghana, 28-30 January 2001.

82 Economist Intelligence Unit (EIU) *op. cit.*, p.33.

83 Besada H, *Glimpse of Hope in West Africa: The Experience of South African Firms doing Business in Ghana*, SAILA, 2005, pp.17-33.

84 Study produced by the Centre for Public Integrity, a Washington-based think-tank, which compares the political, economic and business environment in various countries on the basis of transparency and ease of access. Ghana scored well on financial sector regulation and supreme audit institutions. [www.public-i.org](http://www.public-i.org)

85 In terms of the statutes on the books, Ghana is rated among the top ten countries having the lowest procedural complexity for enforcing commercial contracts, according to the *Doing Business in 2004: Understanding Regulation* (pg 48) study by the World Bank. The study attempts to rate the quality of regulation and the ways in which it impedes growth.

86 Ocran *op. cit.*

87 Government established the Ghana Investment Promotion Centre (GIPC) in 1994 to minimise delays and bureaucracy; passed laws allowing foreign investors to transfer funds out of the country and guaranteeing against the nationalisation of private property; and established “free zones” with tax-free or preferential tax status, to encourage foreign investment and create jobs.

88 Besada *op. cit.* p.59.

International investors have discovered that starting operations in Ghana can take as long as three years.<sup>89</sup> Bureaucracy, corruption, high finance costs and legal delays have been cited as some of the reasons.

**Credit is Expensive and Difficult to Obtain:** Long-term credit is not readily available and this hinders the growth of business. The cost of funds is expensive, with 42% of companies surveyed in 2003 having paid interest rates over the previous 12 months ranging between 41 and 100%.<sup>90</sup> But it is also notable that 13% of companies pay interest at levels below inflation,<sup>91</sup> raising questions about the criteria for granting credit on such terms.

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89 *Ibid.*

90 Central Bank of Ghana *op. cit.* pp.16-17

91 *Ibid.*

	Starting a Business					Enforcing A Contract					
	Number of procedures, time, cost, and minimum capital requirements to register a business					Number of procedures, time, cost, and degree of complexity to resolve a payment dispute					
	No of Procedures	Time (days)	Cost (US\$)	Cost (% of income per capita)	Min Capital (% of income per capita)	No of Procedures	Time (days)	Cost (US\$)	Cost (% of income per capita)	Procedural Complexity Index	
<b>African Countries</b>											
Congo, Dem. Rep	13	215	\$785	871.9	320.7	Ethiopia	24	895	\$35	34.6	52
Mozambique	15	153	\$209	99.6	30.2	Angola	46	865	\$83	15.7	65
Angola	14	146	\$5,531	838	174	Nigeria	23	730	\$18	6.6	52
Burkina Faso	15	136	\$716	325.2	652.2	Chad	50	604	\$121	58.4	72
Zimbabwe	10	122	\$1,322	285.3	0	Cameroon	46	548	\$367	62.9	63
Botswana	10	97	\$1,076	36.1	0	Mozambique	18	540	\$20	9.1	71
Lesotho	9	92	\$317	67.4	20.2	Togo	43	503	\$59	21.4	63
Namibia	10	85	\$332	18.7	0	Congo, Rep. of	44	500	\$330	51	67
Ghana	10	84	\$302	111.7	1.2	Congo, Dem. Rep.	55	414	\$800	92.3	54
Côte d'Ivoire	10	77	\$873	143.1	235.2	Algeria	20	387	..	..	72
Chad	19	73	\$870	395.3	652.2	Burkina Faso	24	376	\$375	172.8	71
Mauritania	11	73	\$452	110.2	896.7	Burundi	62	367	\$29	27.6	58
Guinea	13	71	\$941	229.9	396.6	Niger	29	365	\$103	57.1	63
Congo, Rep. of	8	67	\$1,897	271	205	Senegal	30	335	\$238	48.6	75
Madagascar	15	67	\$151	62.8	30.5	Kenya	25	255	\$173	49.5	44
Benin	9	63	\$719	189.2	377.6	Benin	44	248	\$114	31	53
Togo	14	63	\$760	281.4	531.4	South Africa	26	207	\$510	16.7	56
Kenya	11	61	\$194	54	0	Egypt	19	202	\$450	30.7	50
Mali	13	61	\$557	232.2	597.8	Zimbabwe	13	197	\$183	39.5	50
Senegal	9	58	\$581	123.6	296.1	Morocco	17	192	\$108	9.1	69
Tunisia	10	46	\$327	16.4	351.7	Zambia	16	188	\$50	15.8	32
Malawi	11	45	\$201	125.4	0	Madagascar	29	166	\$304	120.2	63
Ethiopia	8	44	\$422	421.6	1756.1	Côte d'Ivoire	18	150	\$572	83.3	57
Nigeria	10	44	\$268	92.3	28.6	Guinea	41	150	\$171	40	77
Egypt	13	43	\$900	61.2	788.6	Mali	27	150	\$16	7	71
Rwanda	9	43	\$534	232.3	457.3	Tanzania	14	127	\$10	3.8	62
Zambia	6	40	\$80	24.1	137.8	Sierra Leone	48	114	\$11	8.3	29
South Africa	9	38	\$227	8.7	0	Malawi	16	108	\$920	520.6	48
Cameroon	12	37	\$1,068	190.7	243.6	Uganda	16	99	\$30	10	40
Morocco	11	36	\$227	19.1	762.5	Ghana	21	90	\$80	23.8	33
Uganda	17	36	\$338	135.1	0	Botswana	22	56	..	..	52
Tanzania	13	35	\$557	199	0	Tunisia	14	7	\$86	4.1	60
Algeria	18	29	\$548	31.9	73	Lesotho	..	..	..	..	..
Niger	11	27	\$759	446.6	844	Niger	..	..	..	..	..
Sierra Leone	9	26	\$1,817	1297.6	0	Namibia	..	..	..	..	..
Burundi	..	..	..	..	..	Rwanda	..	..	..	..	..
<b>Selected Non-African Countries</b>											
Australia	2	2	\$402	2	0	Singapore	23	50	\$3,521	14.4	49
Canada	2	3	\$127	0.6	0	New Zealand	19	50	\$1,526	11.6	31
New Zealand	3	3	\$28	0.2	0	Denmark	14	83	\$1,210	3.8	40
Denmark	4	4	\$0	0	52.3	United Kingdom	12	101	\$120	0.5	36
Puerto Rico	6	6	\$300	2.8	0	China	20	180	\$268	32	52
Singapore	7	8	\$249	1.2	0	Hong Kong	17	180	\$1,737	6.9	50
Hong Kong	5	11	\$581	2.3	0	Ireland	16	183	\$1,604	7.2	42
Ireland	3	12	\$2,473	10.4	0	Chile	21	200	\$663	14.7	73
United Kingdom	6	18	\$264	1	0	France	21	210	\$896	3.8	79
Chile	10	28	\$493	11.6	0	Taiwan	15	210	\$68	0.5	37
Finland	4	33	\$739	3.1	32	Thailand	19	210	\$589	29.6	53
Thailand	9	42	\$144	7.3	0	Finland	19	240	\$3,886	15.8	48
China	12	46	\$135	14.3	3855.9	Australia	11	320	\$1,623	8	29
Taiwan	8	48	\$807	6.1	217.4	Mexico	47	325	\$504	10	62
Mexico	7	51	\$1,110	18.8	87.6	India	22	365	\$444	95	50
France	10	53	\$663	3	32.1	Puerto Rico	55	365	\$2,250	20.9	52
India	10	88	\$239	49.8	430.4	Canada	17	425	\$6,065	28	29

Source: Doing Business in 2004: Understanding Regulation survey

**Weak Credit Reporting Systems:** The ability to obtain credit and enforce commercial borrowing contracts is weakened by the lack of an effective bad-debt/credit-reporting system. Fewer than 1% of Ghanaians have credit histories covered in existing credit reporting mechanisms.<sup>92</sup>

### ***Private Companies Manipulate the Law***

**Companies Code Grossly Under-Enforced:** Although the Ghana Companies Code of 1963 (Act 179) is comprehensive,<sup>93</sup> companies do not adhere to it, because it “has had very little enforcement muscle or bite behind it”<sup>94</sup> due to severe capacity and morale deficiencies in the Registrar-General’s department. The Bank of Ghana recommends that “More attention should be focused on the ability of companies to practice transparent ethics.”<sup>95</sup>

In 2002, the Ghana Stock Exchange (GSE) tried to uphold the Companies Code, challenging improper procedures when government replaced the managing director and general manager of the Produce Buying Company, a listed company in which the government has a controlling interest.<sup>96</sup> Prempeh recommends that the burden of enforcing compliance be divided between the GSE for publicly listed companies, the State Enterprises Commission (SEC) for State Owned Enterprises (SOEs), and the Registrar-General for private companies with much clearer, stronger reporting requirements, enforcement/penalisation powers and resources and staff needed for investigation and prosecution.<sup>97</sup>

**Ineffective, Misused Bankruptcy Laws:** Companies regularly misuse “limited liability” by transferring company assets into personal ones before declaring insolvency. Although the code provides for a lifting of the corporate veil and the attribution of liability directly to the controlling shareholder(s), lack of enforcement has resulted in impunity among company executives. The IoD report notes that both competition laws and solvency laws need to be addressed.<sup>98</sup> Prempeh recommends removing the Registrar-General from the Attorney-General’s office and making it a self-sustaining public service agency that collects fees at local authority level, and replaces once-off private company registration with a periodically renewable registration system that can be used to monitor compliance of limited liability companies.<sup>99</sup> The World Bank’s global survey of business regulation, *Doing Business in 2004*, found Ghana among the ten least effective countries in administering bankruptcy laws, which, because of their problems were almost never used and thus has a chilling effect on credit provision.<sup>100</sup>

**Slow, Seemingly Partisan Judicial System Inhibits Business:** Private enforcement via civil litigation is slow and uncertain due to frequent delays and perceived widespread corruption in the judicial system. Some regions have computerised fast-track courts, which give priority to cases involving investors (local and foreign), investment banks, selected commercial and industrial disputes and tax disputes, among others,<sup>101</sup> but this needs to be replicated in all major areas and special commercial courts should be established. (*See Chapter 3: The Judiciary*).

**Companies Undercapitalised, Lack Stability:** Many Ghanaian businesses are substantially undercapitalised, which heightens the risk of insolvency and makes them over-reliant on short-term bank credit.<sup>102</sup> The Bank of Ghana reports that the financial and mining sectors continue to have high debt/equity ratios, though declining ratios in manufacturing companies indicate a gradual policy shift to

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92 *Doing Business in 2004: Understanding Regulation*, World Bank, Washington DC, 2004, p.xiii.

93 The Companies Code has wide-ranging provisions to ensure that company owners and managers do not fleece investors and it vests broad power with the Registrar of Companies to ensure compliance with the code and to bring judicial proceedings when the code is breached.

94 Prempeh *op. cit.* p.3.

95 Central Bank of Ghana *op. cit.* p.21.

96 Prempeh *op. cit.* p.5.

97 *Ibid.*

98 Ocran *op. cit.*

99 Prempeh *op. cit.* p.5.

100 World Bank *op. cit.* p.77.

101 “Ghana: Focus on Fast Track Court System”, IRIN News, 17 September 2002, [www.irinnews.org](http://www.irinnews.org)

102 Prempeh *op. cit.* p.4.

reliance on equity capital rather than more expensive borrowed capital.<sup>103</sup> In a survey by Bruks Associates in 2003, 84% of respondent companies claimed they had provided collateral for the loans they obtained, but only 78% were willing or able to declare the collateral to loan ratio.<sup>104</sup> Also, most companies are registered as private firms rather than public ones, despite a more favourable tax structure for public corporations.<sup>105</sup> Notably, even multinational oil companies such as Shell and TotalfinaElf operate in Ghana as private companies, as do most non-state finance institutions.<sup>106</sup> Better tax differentials could encourage private companies to “go public” and government should regulate specific industries to operate only as publicly listed companies (e.g. commercial banking, oil marketing, etc).<sup>107</sup>

**Corporate Social Responsibility Initiatives Lack Focus and Sustainability:** While some CSR projects have assisted municipalities and local communities,<sup>108</sup> others are unsustainable in the long term. For example, analysis of various community benefits provided by a timber company revealed there was no sustainability mechanism built in, thus the benefits are likely to be eroded when the company leaves the area after the forest resources are exhausted in 2010. Also, the scholarship scheme the company supports has reduced drop-out rates in the region, but it has done little to enhance the poor quality of education,<sup>109</sup> demonstrating that a needs analysis should form part of the preliminary phase of any CSR project.

### ***State Owned Enterprises Poorly Controlled and Inhibit Competition***

**Unrestrained State-Owned Enterprises Incur Major Losses:** SOEs are dominated by politics, populism and patronage, with little consideration given to merit, competitiveness and efficiency. Parliament and the State Enterprises Commission (SEC) exercise little oversight. Most Ghanaian SOEs have failed to publish audited financial statements on time. In 2001, the media reported that the Social Security and National Insurance Trust had not had audited financial statements since 1997.<sup>110</sup> In the same year government had to pay \$5 million to secure landing rights at international airports for the now-defunct Ghana Airways. Spiralling inflation and fiscal shocks during the 1990s were partly attributable to huge borrowings from Central Bank by the National Petroleum Agency.<sup>111</sup>

**Laws Governing SOEs Lack Clarity:** Some SOEs are registered under the Companies Code, while others were established by special laws and have their own governance codes, which are generally less stringent and have created loopholes for poor financial and operational management. Government should either re-incorporate all SOEs under the Companies Code or preferably bring them all under a new law that harmonises their operational framework and imposes liability on SOE directors and governing boards to prevent conflicts of interest.<sup>112</sup>

Many SOEs have suffered losses through investing in activities outside of their specific sector (e.g. where the petroleum agency invests in telephony as the GNPC did). Prempeh advises legal prohibition of this practice and recommends that directors be held liable to reimburse the company for losses sustained through transactions outside the company’s mandate, preventing abuse of public funds in this manner. He also advocates the provision of incentives to public-interest plaintiffs (whistleblowers) by introducing

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103 Central Bank of Ghana *op. cit.* p.12.

104 *Ibid.* p.16.

105 As at April 2003, the vast majority (73%) of registered companies in Ghana were sole proprietorships and 22% were limited liability companies.

106 Prempeh *op. cit.* p.5.

107 *Ibid.* p.4.

108 An aluminium company was noted as making the largest charitable donation in the country, contributing an average of \$600,000 per annum to social projects by partnering with government bodies like the local municipal assembly and the Ghana Education Service. In doing so, the company has assisted the municipality in quadrupling sanitation services in the past twenty years.

109 Boateng JY, *Enhancing Business Community Relations: Prima Woods Case Study*. October 2003.

110 *Daily Graphic*, 28 February 2001.

111 Prempeh HK, *Reforming Corporate Governance in Ghana- Part 2: The Public Sector*, CDD Briefing Paper Vol 3(5), 2002, p.2. Hereafter cited as Prempeh 2002 (b).

112 *Ibid.* p.3.

monetary awards (paid by the defendant) for successful prosecution of cases against SOE directors who breach their fiduciary duty.<sup>113</sup>

**Privatisation of SOEs Slow and Problematic:** Ghana has attempted to privatise over 300 SOEs since the 1990s,<sup>114</sup> but retains equity holdings in many joint ventures and full ownership of some SOEs.<sup>115</sup> Initially, privatisation and joint venture deals raised substantial capital for the government (e.g. the sale of Ashanti Goldfields raised \$400 million and the partial sale of Ghana Telecom raised \$38 million); but government has not dealt with persistent corruption allegations.

For example, claims of fraudulent loans to Ghana Airways surfaced late in 2004 yet government still took over the entire \$160 million dollar debt portfolio of the airline in November. In another questionable transaction, the government now has plans to re-initiate a national airline in a joint venture with the USA's Sky West Airline.<sup>116</sup> In January 2005, despite concerns from NGOs, Ghana began partial privatisation of the Ghana Water Company, helped by a \$103 million loan from the World Bank. The government has written off \$100 million in debt owed by the water company.<sup>117</sup> The Bank of Ghana sees the current slow pace as “a constraint to corporate development” and urges that “divestiture is best done through the GSE [Ghana Stock Exchange].”<sup>118</sup>

The GPRS recommends creation of a plan to reform the entire SOE and subvented organisation sector, with an eye to privatising, closing down or making entities self-financing.<sup>119</sup>

**SOE Regulatory Body Ineffective and Not Independent:** The SEC has failed to discharge its mandate<sup>120</sup> regarding SOEs such as the airways and the petroleum agency, either because of apathy, political interference or tensions with the SOEs' own governing boards (who are appointed directly by the president or the relevant minister). Government should allow each SOE board to appoint its own CEO or MD and have employee/trade union representation. Also ministers and MPs must be prohibited from holding office on SOE boards.

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113 *Ibid.* p. 4.

114 Besada *op. cit.* p.39.

115 Prempeh 2002 (b)

116 Dossier: Ghana Airways, Ghanaweb, November 2000–February 2005, [www.ghanaweb.com](http://www.ghanaweb.com)

117 Ghana: Privatisation brings new investment to water company, IRIN News, 13 January 2005, [www.irinnews.org](http://www.irinnews.org)

118 Central Bank of Ghana, *op. cit.* p.19.

119 *GPRS Fourth Draft Version op. cit.* p.118.

120 The SEC, established in 1981 and reformulated in 1987, is mandated to promote efficient and profitable operation of the SOEs under its control; to review objectives and plans and evaluate performance; to undertake audits where necessary and to make recommendations to government.

## CHAPTER 6: CORRUPTION & OVERSIGHT

The Kufuor administration has prosecuted several high profile politicians for corruption through the Fast-Track High Courts<sup>121</sup> established in 2001.<sup>122</sup> But concerns remain that corruption is still rife in Ghana. Low wages, political impunity, weak procurement systems, weak accountability systems, poor and long-delayed expenditure reporting, lack of transparency and a widespread legacy of patronage are contributing factors. The Centre for Public Integrity notes that “Awarding contracts, purchasing equipment or consumables for the office and selling off state assets, privatisation or, in Ghana, ‘divestiture’, are seen as opportunities for corrupt deals.”<sup>123</sup>

Auditing systems are being strengthened but are currently not strong enough to combat corruption effectively and comprehensively.<sup>124</sup>

### **Rankings Highlight Extent of Corruption**

- In 2000, the Centre for Democratic Development, which carried out a nationwide World Bank-commissioned Ghana Corruption Survey, found that corruption was rife at all levels of society: “Ghana’s corruption problem has deep roots in society and our political culture, where societal expectations of largesse and patronage from holders of public office combine with a culture of official impunity, low remuneration, and opacity and unregulated discretion in the use of public authority to produce a system that is hospitable to corruption.”<sup>125</sup>
- Since the NPP came to power, Ghana’s ranking on the Transparency International Corruption Perception Index has fluctuated slightly, but shown an improvement over the Rawlings era.<sup>126</sup> Of 146

121 “In 2001, Ghana instituted a fast-track court, a specialised section in the high court. It has better technology, including a computerised system for case management, automated transcripts, and random assignment of cases. Judicial process is also eased. The court’s success has prompted plans to establish fast track sections in all regional capital courts,” according to the World Bank’s *Doing Business in 2004: Understanding Regulation* study, p.51.

122 **Ghana has made several high-profile corruption prosecutions worth noting:**

- In 2001, the former minister of youth and sports, Mallam Ali Yusuf Isa, was jailed for four years after \$46,000 meant for the national soccer team went missing. The state then began legal proceedings against two leading ministers of the previous Rawlings governments and four senior public officials for the loss of more than \$20 million in what became known as the Quality Grains Scandal. Ghana’s former finance minister Richard Kwame Peprah, was jailed for four years. (Ephson B, “Ghana: Corruption Notebook”, The Centre for Public Integrity, [www.publicintegrity.org](http://www.publicintegrity.org)).
- A number of Rawlings’ former associates face corruption charges for allegedly receiving up to \$1 million in kickbacks from the French company Societe Internationale de Plantations d’Heveas, which sought to buy the Ghana Rubber Estate when it was up for privatisation (*Ibid.*) In prosecuting the former ministers and high-ranking officials, Kufuor was accused (especially by the NDC) of embarking on a witch hunt.
- Global corruption watchdog Transparency International also reports that a former national insurance commissioner, Samuel Appiah-Ampofo, was found guilty of accepting a \$96,000 bribe from a broker working for a subsidiary of AON, the US-based insurance company. The Commission of Human Rights and Administrative Justice investigated the kickback following a 2002 report in the *Crusading Guide* newspaper.
- Transparency International reports that Ghana’s Divestiture Implementation Committee, formed under former president Jerry Rawlings, became synonymous with corruption and since January 2001 the new government has attempted to address some of the consequences. (Transparency International, *op. cit.*, p.223). For example, in February 2002, the government discontinued the sale of Ghana Telcom to Telekom Malaysia due to corruption allegations.
- In March 2002, the deputy auditor-general disclosed that more than \$20 million had been paid to about 2,000 “ghost” names on the civil service payroll in the previous two years.

123 The Centre for Public Integrity *op. cit.* p.5.

124 **Background on Corruption in Ghana** : President John Kufuor put fighting corruption high on his political agenda after coming to power. In his inauguration speech on 7 January 2001, he promised, “My government will have zero tolerance for corruption, indiscipline and nepotism.” He also promised to establish an “office of accountability” under the direct supervision of the presidency to oversee a code of conduct for civil servants. It was established in June 2003. Its activities “are limited to appointees of the president, such as ministers and senior aides, and will not supersede any of the other governmental bodies charged with fighting corruption.” (Ghana: Corruption Timeline, Centre for Public Integrity, [www.publicintegrity.org](http://www.publicintegrity.org)).

As Transparency International points out, anti-corruption campaigns in West African countries are “often cosmetic and rarely address fundamental problems ... Launched with great fanfare in the media and often accompanied by the dismissal of a handful of government officials, campaigns typically remain rhetorical.”

125 *The Ghana Governance and Corruption Survey: Evidence from Households, Enterprises and Public Officials*, study commissioned by the World Bank and conducted by the Centre for Democratic Development (CDD-Ghana), August 2000, [www.worldbank.org/wbi/governance/ghana.pdf](http://www.worldbank.org/wbi/governance/ghana.pdf)

126 Transparency International, cited in *Blueprint Ghana*, Standard Bank Group Economics, January 2005, p.2.

countries included in the 2004 TI Corruption Perception Index, Ghana ranked 64<sup>th</sup> with a score of 3.6 out of 10 (10 being least corrupt). This was up from 70<sup>th</sup> in 2003 (score of 3.3) but down from its 2002 score of 3.9 (50<sup>th</sup> out of 102 countries).

- According to the World Bank Institute's Governance Research Indicators, Ghana is ranked in the lower half of countries with 58% of countries ranking better and 42% less effective at controlling corruption. **See table below.**
- In a CDD report (September 2004), 42% of people surveyed felt that kickbacks were the strongest manifestation of political corruption, ahead of political appointments and extortion.<sup>127</sup>

<b>World Bank Institute Rankings of 6 Governance Indicators for Ghana</b>						
<b>Governance Indicator</b>	<b>Year</b>	<b>Percentile Rank (0-100, a rank of 100 would indicate all nations perform worse than Ghana)</b>	<b>Estimate (-2.5 to + 2.5)</b>	<b>Standard Deviation</b>	<b>No. of surveys/polls</b>	<b>Regional Average, Percentile</b>
Voice and Accountability	2002	50.5	+0.01	0.17	8	31.0
Political Stability	2002	41.1	-0.11	0.22	6	34.8
Government Effectiveness	2002	59.3	+0.01	0.17	7	28.9
Regulatory Quality	2002	44.8	-0.29	0.19	6	30.6
Rule of Law	2002	53.6	-0.15	0.14	9	30.5
Control of Corruption	2002	42.8	-0.40	0.16	8	32.4

Source: [D. Kaufmann, A. Kraay, and M. Mastruzzi 2003: Governance Matters III: Governance Indicators for 1996-2002.](#)

### ***Weak Systems for Controlling Corruption***<sup>128</sup>

**No Central Anti-Corruption Strategy:** The CSSDCA code referenced in the APRM requires countries to have an independent anti-corruption authority. Ghana does not have one body so dedicated. Corruption was allowed to mushroom in the 1990s, partly because several different bodies were responsible for combating graft, resulting in a confusion of roles and differing levels of commitment to solving the problem.

127 US Department of State, *op. cit.*, Section 3 Respect for the Political Rights: The Right of Citizens to Change Their Government.

128 The law, however, is strong on corruption. "The Criminal Code comprehensively criminalises corruption: both giver and receiver are liable; indirect corruption is illegal, both agent and principal are liable; inchoate corruption, that is, attempting or preparing or conspiring to bribe, is illegal; territoriality as the basis of the law makes irrelevant the nationality of the person who is bribing or being bribed in Ghana, hence both the giver and the taker are liable; insider trading is illegal, and so on. Only money laundering, a relatively new crime in the world, is not yet a crime in Ghana. But the new Banking Bill will catch up with, and give legal backing to, a practice that several banks already have in place." (Centre for Public Integrity, "Ghana: Integrity Assessment" in *Global Integrity Report: Ghana*, Washington DC: The Centre for Public Integrity, [www.publicintegrity.org](http://www.publicintegrity.org), 2004, p.5).

Writing in 2001, Transparency International researchers observed that, “No cases of corruption have been prosecuted in the past ten years through the criminal justice mechanism. The Commission on Human Rights and Administrative Justice and the Serious Fraud Office (SFO) have handled such matters more than the traditional police. The police are lethargic about pursuing their mandate against corruption. Whistle blowing is not the norm.”<sup>129</sup> They add that, “There has not been an explicit strategy anti-corruption strategy. John Kufuor’s government has expressed a verbal commitment to attack corruption. The verbal pronouncements have yet to be translated into a coherent strategy.”<sup>130</sup>

- President Kufuor established the Office of Accountability in July 2003 “to reduce corruption by government appointees and public servants. The office’s activities are limited to appointees of the president, such as ministers and senior aides, and will not supersede any of the other governmental bodies charged with fighting public corruption.”<sup>131</sup>

**Oversight Bodies Ineffective Because They Lack Financial Autonomy:** The Centre for Public Integrity strongly asserts that despite the real constitutional and practical autonomy of Ghana’s oversight bodies, they are all variously dependent on government for finances, whose members are often the instigators of public service malpractice. “The Commission for Human Rights and Administrative Justice (CHRAJ), the Office of the Auditor-General, the Inland Revenue Service, Customs, Excise and Preventive Service, the Bank of Ghana and the Securities Exchange Commission, all have the necessary legal independence of the executive and, as far as one could determine, the necessary independence in practice, too, for them to perform as expected. [But] ... apart from the Central Bank, all the other organisations depend on government subvention to a greater or lesser degree. Thus, retaliatory cuts in financing are always available as a weapon for the government, and there is no question that in the past governments have sometimes used that weapon.”<sup>132</sup>

**Oversight Bodies Legally Hamstrung:** The Auditor-General and CHRAJ do not have strong enough powers by law to execute their oversight duties adequately, for instance in “monitoring the asset declaration and conflicts of interest which are enjoined on all people in public positions with any real power ... Neither Chapter 24 of the Constitution, the Code of Conduct Chapter, nor the Public Office Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550) gives the Auditor-General’s office more than mere custodial function over assets declarations. The office is given neither a monitoring role nor an enforcement role. As there is not yet a Freedom of Information Act, the only occasion that anybody, including the Auditor-General, knows what has been declared is when a court or CHRAJ calls for it.”<sup>133</sup> *See also discussion of parliamentary interest being kept secret.*

CHRAJ’s powers are also limited by the law, and it lacks the power to prosecute independently of the attorney general in corruption or embezzlement cases and its focus – which includes public education, human rights and administrative issues – suggests it is too broad and ill-equipped to handle the detailed forensic accounting and investigation needed for anti-corruption cases. The Centre for Public Integrity concludes that, “Although CHRAJ can access asset declarations in its investigations, it is not given the power to prosecute in cases of corruption. In cases of administrative injustice, it can initiate prosecution proceedings. But in the case of corruption, CHRAJ must turn to the attorney general, a member of the president’s cabinet, to prosecute.”<sup>134</sup> This would appear a violation of the CSSDCA commitment to formation of an independent anti-corruption authority, cited in the APRM standards.

The Centre For Public Integrity maintains that “what is really required is the willingness and the determination to implement existing anticorruption legislation.”<sup>135</sup> It recommends establishing an independent State Prosecutor’s office to aid in anti-corruption efforts.

**Tax and Customs Agencies Do Not Report to Parliament:** The national tax collection agency as well as the customs and excise agency do not report to the legislature but rather to the Ministry of Finance.<sup>136</sup>

129 Gyimah-Boadi E and Y Asamoah *op. cit.* p.11.

130 *Ibid.* p.17.

131 “Ghana: Corruption Timeline” in The Centre for Public Integrity, *op. cit.*, p.9.

132 The Centre for Public Integrity *op. cit.* p.4

133 *Ibid.*, p.5.

134 *Ibid.*,

135 *Ibid.*,

The customs and excise agency is “notorious for varying charges, depending on how much of a bribe one is prepared to pay”.<sup>137</sup>

**Auditor-General Does Not Report to Parliament:** Effective auditing services are the first line of defence against corruption in any organisation, but Ghana’s are weak.<sup>138</sup> Audit services need to be able to provide assurance to parliament and taxpayers that public finances are well managed, properly spent and used economically, efficiently and effectively.<sup>139</sup> They need to be financed by, and report to, parliament rather than directly to government.<sup>140</sup> Contrary to what is considered best practice, the Auditor-General is appointed by the president and is independent of both the executive and parliament. Parliament can review Auditor-General reports and appoint its own investigatory committees. Although the Auditor-General does not take direction from the president, critics accuse the Auditor-General of conducting investigations of critics of the government. Recently the Auditor-General investigated whether media houses have paid their tax liabilities, which is viewed by some commentators as vindictive.

**Audit Reports Completed Very Late:** Although the constitution requires the Auditor-General to present a report on spending within six months of the close of the year, “The Auditor-General’s Office is usually a few years late with its reports,” which makes corrective action problematic, according to the public accounts committee.<sup>141</sup> The Centre for Public Integrity notes that the audit service requested 73 billion cedis from government in 2003 but only was allocated 25 billion cedis, and says “it is not surprising that it is so short-staffed (with no engineer in the service, only one architect and one quantity surveyor, three lawyers and only six qualified accountants), or that its annual reports to Parliament are sometimes four years behind.”<sup>142</sup>

**Recurring Audit Problems:** Although the government is setting up an implementation committee to track actions identified in audit reports, the Centre for Public Integrity study of anti-corruption systems found that the same types of problems of corruption, unauthorised and inappropriate spending recur year after year.<sup>143</sup>

- “Both external and internal audit services are inadequate and lack resources. The External Audit Board needs strengthening. An independent internal audit regulatory body is essential ... The internal audit service requires strengthening to enable it to perform the functions required of it by law. In this regard it is of particular importance for it to be extended from simply financial audit to performance audit for which additional expertise is required. Current legislation does not provide adequate guidance on internal auditing functions... A common general ledger system and a more comprehensive Chart of Accounts should be introduced as early as possible.”<sup>144</sup>

**No Effective System for Recording, Tracking Assets:** “Procedures and methods of recording procurement and asset management are inadequate and ineffective. A fixed asset management module is required... [to provide] a permanent system for tracking and recording assets. Regulations, requiring asset depreciation to be calculated and recorded and an assets register, maintained promptly, must immediately be enforced,” the GPRS report noted in 2002.<sup>145</sup>

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136 *Ibid.*, p.39.

137 *Ibid.*

138 There are no provisions on how the head of the audit agency can be removed in the Audit Service Act (2000) or in the relevant articles of the Constitution (Articles 188 and 189), “but it is expected that if it were to happen, his removal would be in accordance with procedures for the removal of, for example, judges of the superior courts.” Centre for Public Integrity, *Global Integrity Report: Ghana*, Washington DC: The Centre for Public Integrity, [www.publicintegrity.org](http://www.publicintegrity.org), 2004, p.38).

139 With financial and logistical help from the European Union since 2002, Ghana’s audit service has been modernising its operations and offices. The audit of the government’s payroll and the performance audits submitted to parliament have resulted in savings of 7.1 billion cedis (\$780,000). The 2003 Internal Audit Act is intended to enhance transparency and reduce corruption. See “Audit service in Ghana”, *Traders*, 21, February 2005 – May 2005.

140 “Audit service in Ghana”, *Traders*, 21, February 2005 – May 2005.

141 Minutes of Meetings of the Public accounts Committee; Reports of Public Accounts Committee (Hansard), cited in The Centre for Public Integrity *op. cit.* p.25.

142 The Centre for Public Integrity *op. cit.* pp.4-5.

143 The Centre for Public Integrity *op. cit.*

144 *Ghana Poverty Reduction Strategy Fourth Draft Version op. cit.* p.125

145 *Ibid.* p.125

**Poor Quality Financial Information:** “The biggest problem” with accountability and auditing, according to *Parliament and Democratic Governance in Ghana’s Fourth Republic*<sup>146</sup> “is the credibility of reporting. Normally figures provided by the Accountant General, the Auditor-General, the Bank of Ghana and the Ministry of Finance do not reconcile.”

- The International Budget Project notes that “Ghana’s score in the ‘encouraging public and legislative involvement’ category indicates significant room for improvement. While it provides some information that highlights policy and performance goals, it provides little in the way of supplementary materials that can help facilitate a better understanding of budget and its policies. The legislature holds only limited public hearings on the budget, and its power to amend the budget is very restricted.”<sup>147</sup>

**Unrestricted Gifts to the Executive:** There are no regulations concerning gifts and hospitality for the executive, and Ghanaian constitutions and laws have turned a blind eye to this issue. “It is informative to note that the Commission for Human Rights and Administrative Justice (CHRAJ) is currently drafting some guidelines on conflict of interest, gifts, etc. that will be put before Parliament for consideration in due course.”<sup>148</sup>

**Money Laundering Still Legal:** Money laundering is not yet illegal, although a new Banking Bill, yet to go before Parliament, will outlaw this practice.<sup>149</sup>

**Poor Government Procurement Practices:** Ghana has a history of poorly regulated public procurement. Prior to the passing of the Public Procurement Act (2003) for example, companies found guilty of bribery were not barred from participating in procurement bids.<sup>150</sup> The Act goes a long way towards improving procurement practices. For example it limits single-source procurement (with a few exceptions, such as where the goods or services can only be supplied by one firm) as a measure to introduce more competition and transparency into the ways in which government buys goods and services. Government now has to establish tribunals to deal with officials who contravene the competitive tender system for awarding government contracts.<sup>151</sup>

But the Act was only passed on 31 December 2003 and the APRM should inquire about how effectively it will be implemented. Under the new act there are still some issues of concern. Notably, there is no law enabling unsuccessful bidders to instigate an official review or challenge procurement decisions in the courts. While the Procurement Act does provide that companies are sent written grounds for their tender being approved or rejected,<sup>152</sup> officials are prohibited from disclosing official information to unauthorised persons, and there is as yet no Freedom of Information Act that would facilitate this.

## ***Corruption in the Civil Service Widespread***

**No Registers of Gifts for Civil Servants:** There are no regulations or registers concerning gifts and hospitality for senior civil servants, including the president. “Ghanaian Constitutions and laws have turned a blind eye to this issue. The Code of Conduct published by the Head of the Civil Service discourages public servants from accepting gifts, but these do not show up in any relevant laws such as Declaration of Assets law or the Code of Conduct for Public Officers in the Constitution.”<sup>153</sup>

**Civil Servants Not Barred from Working in Private Sector.** Senior public servants (apart from the president, vice president and chief justice) are *not prevented from entering positions in the private sector* after their stint in government. “The idea of post-employment conflict of interest has not percolated yet into public

146 Centre for Democratic Development and Friedrich Naumann Stiftung *op. cit.* p. 26.

147 International Budget Project, [www.internationalbudget.org/openbudgets/index.htm](http://www.internationalbudget.org/openbudgets/index.htm)

148 Chapter 24 of the 1992 Constitution [Code of Conduct for Public Officers]; Declaration of Assets (Public Officers) Act, 1988, cited in: The Centre for Public Integrity *op. cit.* p.22.

149 The Criminal Code, 1960, Chapter 5; Draft Banking Bill; cited in: The Centre for Public Integrity *op. cit.* p.41.

150 The CPI report says that, “The spirit behind the Foreign Corrupt Practices Act has not percolated sufficiently into Ghana to result in the passage of an act prohibiting firms found to be guilty of bribery from participating in procurement bids.” Global Integrity Report: Ghana, Washington DC: The Centre for Public Integrity, [www.publicintegrity.org](http://www.publicintegrity.org), 2004.

151 [www.newsinghana.com](http://www.newsinghana.com), 30 April 2004.

152 Government of Ghana, Public Procurement Act (2003), Section 28.

153 Chapter 24 of the 1992 Constitution [Code of Conduct for Public Officers]; Declaration of Assets (Public Officers) Act, 1988, cited in: The Centre for Public Integrity *op. cit.* p.29.

discourse in Ghana. Apart from the president, vice president and the chief justice, who are specifically barred from entering into employment after their service, there is no law that clearly or specifically restricts what public servants may do after they leave office.”<sup>154</sup>

**Police Corruption is Extensive:** Corruption in the police force has constantly manifested itself, despite attempts from bodies such as the CHRAJ to weed it out. “The 2003 Police-Community Relations survey found that 68% of respondents believed extortion or bribery occurred frequently within the Police Service. Of the small number of respondents who admitted having offered a bribe, 92% reported that police officers accepted the bribe. Similarly, a public opinion survey that CDD released in 2003 found that, among public figures, citizens were most suspicious of the police (79% responded that at least some police personnel were corrupt), followed by customs officials (74%), and judges/magistrates (70%).<sup>155</sup>

The police have also restricted citizens’ freedom of movement in order to facilitate their corrupt activities. “The police administration acknowledged that some officers occasionally erected illegal barriers to solicit bribes from motorists.”<sup>156</sup>

**Corruption Evident in Prisons:** “At a prison in the Central Region, four wardens faced disciplinary action in June for covering up information regarding the escape of inmates in 2002. The prisoners were able to escape because they were hired out to work for local farmers by some prison officials, who then pocketed the money paid for the prisoners’ labour.”<sup>157</sup>

**Codes of Conduct Widely Ignored:** Chapter 24 of the constitution explicitly contains a code of conduct which delineates conflicts of interest.<sup>158</sup> The head of the civil service published a Code of Conduct for the Ghana Civil Service in 1999. Adherence to these codes is poor, according to the Centre for Public Integrity, which ranked Ghana as “very weak” on administration and civil service, placing the country 24<sup>th</sup> out of the 25 countries surveyed in this sphere for a Global Integrity Report. “Despite many years of expensive restructuring and public sector reforms ... clear job descriptions for civil servants are only now making slow inroads into the arena; ... there is no agency monitoring conflict-of-interest and asset-disclosure regulations;<sup>159</sup> ... ‘moonlighting’ is rampant, as regular salaries are grossly inadequate to tide even a single person (not the usual family of four or five in Ghana) over for the full salary cycle of one month.”<sup>160</sup>

**Nepotism Prevalent:** Recruitment and appointment practices within the civil service are problematic, with allegations of nepotism at all levels. For example, Mrs Sai, chair of the anti-corruption Office of Accountability established in the presidency in 2003, is the wife of a presidential advisor. Her daughter also works in the presidency.<sup>161</sup> Improved “human resource management practices – like recruitment based on merit, fair remuneration packages, motivation of staff and appropriate disciplinary measures – could impact favourably on unethical behaviour.”<sup>162</sup>

**Whistle-Blowers Not Protected:** There is no incentive to report corruption in the civil service, nor an internal corruption reporting mechanism. Civil servants who report corruption are not protected from recrimination or other negative consequences since there is no Whistle-Blower Act in place as yet.<sup>163</sup>

154 Interview, Professor Woode, Chairman, Public Service Commission; former Director, School of Administration; cited in The Centre for Public Integrity *op. cit.* p.29.

155 US Department of State, *op. cit.*, Section 1 Respect for the Integrity of the Person, Including Freedom From: (d) Arbitrary Arrest or Detention.

156 US Department of State, *op. cit.*, Section 2 Respect for Civil Liberties, Including: (d) Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.

157 US Department of State, *op. cit.*, Section 1 Respect for the Integrity of the Person, Including Freedom From: (c) Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

158 Government of Ghana, *Constitution of the Republic of Ghana*, Chapter 24, Articles 284 to 288, 1992.

159 The Auditor-General’s office receives civil servant asset declarations but has no mandated powers to penalise those who do not file and does not have power to investigate when the information in declarations manifestly points to examples of abuse of office. It cannot subpoena records of those not declaring and has not taken action on many politicians, including allegedly the president, did not obey the constitutional provision requiring declarations to be made at the end of a term in office.

160 Saffu Y, “Ghana: Integrity Assessment” in The Centre for Public Integrity *op. cit.* p.5.

161 Joy FM, “CDD Raises Questions on Accountability Office”, Interview with Dr Baffour Agyeman-Duah, 24 February 2004.

162 *Public Service Ethics in Africa* Volume 2, 2001, United Nations Report, pp.27-30.

163 The Centre for Public Integrity *op. cit.* p.31.

**Vocal, Vibrant Press Exposes Corruption:** On the positive side, the reporting of corruption in the press is largely unfettered. In July 2001, parliament repealed the criminal libel and sedition laws under which many journalists had been jailed. Ghana has over a dozen privately-owned newspapers that have survived for at least five years and a robust, vocal Private Newspaper Publishers and Proprietors Association of Ghana.<sup>164</sup> The government has also begun to hold presidential press conferences where journalists have the opportunity to pose questions and get answers. Ministers also meet the press on a regular basis.<sup>165</sup>

**Freedom of Information Law Stalled:** The constitution asserts a right to freedom of information, but parliament has been slow in passing legislation to allow the public access to government documents. “The State Secrets Act has provided a cover over the years for corrupt, inefficient and lazy bureaucrats”, according to an assessment of the country’s public integrity institutions.<sup>166</sup> The Speaker may deny access to information he deems “injurious to the public interest” or liable to “endanger the security of the state.”<sup>167</sup> There have been repeated delays in enacting freedom of information legislation in parliament.<sup>168</sup>

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164 Saffu Y, “Ghana: Integrity Assessment” in The Centre for Public Integrity *op. cit.*

165 *Ibid.*

166 Saffu *op. cit.*, p.5.

167 Afari-Gyan K, The Ghanaian Constitution: An introduction, Friederich Ebert Foundation, Accra, 1998, p.48.

168 Saffu *op. cit.*, p 5.

## CHAPTER 7: HUMAN RIGHTS<sup>169</sup>

**Human Rights Watchdog Under-Funded:** Ghana established the independent Commission of Human Rights and Administrative Justice (CHRAJ) in 1993. The CHRAJ has representation down to the district level. Its activities include public education campaigns, investigating violations of human rights and corruption among public officials. In the past 11 years, the commission has received more than 60,000 cases, resolving three-quarters of these matters.

However, the commission has had capacity problems. “CHRAJ operated with no overt interference from the Government. Its biggest obstacle was a lack of adequate funding. Low salaries and poor working conditions resulted in the loss of many CHRAJ-trained personnel to other government agencies that were able to pay their employees more.”<sup>170</sup> CHRAJ is also hamstrung by not having the power to prosecute. *See also discussion of how oversight institutions lack financial autonomy and sufficient legal muscle in Corruption section.*

**Capital Punishment Not Outlawed:** Capital punishment is still on the statute books in Ghana. According to Amnesty International, “Although no executions are known to have been carried out in Ghana since 1993 by firing squad, and since 1968 when the last hanging took place, the death penalty has continued to be handed down in cases of murder and for treason convictions for alleged coup-plotting.”<sup>171</sup>

**Prison System Strained:** Government efforts to upgrade prison facilities have been slow and inadequate, making incarceration conditions harsh and life threatening. In 2002, more than 100 prisoners reportedly died in custody from malnutrition and disease.<sup>172</sup> “The 2003 Prisons Service Annual Report revealed that prisons remained overcrowded and under-financed. According to the report, there was a monthly average of 11,038 prisoners serving in prisons meant for a total population of 6,500. The report also noted that the President granted amnesty in 2003 to 1,823 prisoners to help relieve the congestion in prisons.”<sup>173</sup>

**Slow Judicial Process Infringes on Prisoners’ Rights:** The wheels of justice turn very slowly, meaning that prisoners may spend long periods in detention before they are tried. According to the US State Department Human Rights Report, the Director-General of Prisons met numerous remand prisoners detained for up to ten years without a trial. Some serve longer periods in remand cells than the maximum sentences for their crimes.<sup>174</sup>

### **Women’s Rights**

Ghana’s constitution, while guaranteeing fairness and non-discrimination, is largely silent on upholding specific rights of and obligations towards women. Though it has signed the African Union Convention on the Protocol to the Charter on Human and People’s Rights on the Rights of Women in Africa, Ghana has not yet ratified it.<sup>175</sup>

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169 Rights Widely Respected. The US Department of State’s overall assessment of human rights practices in Ghana was that “the Government generally respected the human rights of its citizens” but it noted several problem areas, including police brutality and corruption (see above), prison conditions and the rights of the vulnerable. Ghana has not ratified the Protocol on the Establishment of an African Court on Human and People’s Rights.

170 US Department of State, *op. cit.*, Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.

171 Amnesty International Press Release, “Ghana: Time to abolish the death penalty”, 18 April 2002, <http://web.amnesty.org/library/Index/ENGAFR280012002?open&of=ENG-GHA>

172 Cherubin-Doumbia G, *African Commitments to Human Rights: A Review of Eight NEPAD Countries*, African Human Security Initiative, 2004, p.32.

173 US Department of State *op. cit.*, Section 1 Respect for the Integrity of the Person, Including Freedom From: (c) Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

174 US Department of State, *op. cit.*, Section 1 Respect for the Integrity of the Person, Including Freedom From: (d) Arbitrary Arrest or Detention.

175 African Commission on Human and People’s Rights, [www.achpr.org/english/\\_doc\\_target/documentation.html?../ratifications/ratification\\_women\\_en.pdf](http://www.achpr.org/english/_doc_target/documentation.html?../ratifications/ratification_women_en.pdf)

**Traditional Practices Discriminate Against Women:** Women accused of witchcraft have been lynched or otherwise killed by their own communities, forcing those accused to flee their villages. This has been viewed as a violation of the African Commission’s elaboration of the right to life principle.<sup>176</sup>

According to the US Department of State: “Traditional village authorities can punish rural women with banishment for being pregnant out of wedlock or for suspected witchcraft. The press reported that hundreds of women accused of witchcraft were sent to penal villages in the northern Region by traditional authorities such as shamans. During the year, 46 women were sent to seven witch camps in the north. After passing through customary rituals to ‘render them powerless’ 11 were permitted to return home. In 2003, the CHRAJ estimated that there were approximately 1,090 persons living in three main witch camps in the area of Gambaga, Ngani, and Kukuo. Various organisations provided food, medical care, and other support to the residents of the camps. The CHRAJ and human rights NGOs had little success in their efforts to end this traditional practice.”<sup>177</sup>

“A strong belief in witchcraft continued in many parts of the country. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune.... There were several cases of lynching and assault of accused witches during the year. For example, on August 24, a 35-year-old man was prosecuted and sentenced to death by a fast-track high court for murdering his wife on the suspicion that she was a witch.”<sup>178</sup>

**Women Sexually Harassed:** No specific laws protect women against sexual harassment, though such cases can be prosecuted under the Criminal Code. The police service has a Women and Juvenile Unit that concentrates on domestic violence, child abuse and juvenile offences. Still, one in three women experienced abuse during 2004, while most cases went unreported, according to the International Federation of Women Lawyers.

Also, the prevalent practice of female genital mutilation, a practice that has been outlawed, put girls’ lives at risk. At school, girls also experienced sexual abuse and were pressured into sexual activities. “There were frequent reports that male teachers sexually assaulted their female students. The girls were often reluctant to report the attacks to their parents, and social pressure often prevented parents from going to authorities. A 2003 survey reported that 27% of school girls interviewed stated their teacher had pressured them for sex, 25% stated they knew at least one teacher having an affair with a school girl, and 79% stated they were sexually harassed by male classmates. Reliable data for the entire country was unavailable, so the overall scale of this problem was unknown. There were several press reports of teachers and headmasters/headmistresses either arrested for sexual harassment of female students or dismissed for ignoring reported problems.”<sup>179</sup>

**Women Under-Represented in Leadership Positions:** In the 2000 parliamentary elections, 19 female MPs were elected out of 101 women candidates for the 200-member assembly. In the 2004 elections, 101 women ran and won 23 of the 230 contested seats (10%) and there were just 13 female ministers or Council of State members out of 92. *See also discussion of gender equity in Socio-Economic Chapter.*

## **Children’s Rights**

**High Incidence of Child Labour:** Poverty has forced many children onto the labour market to help sustain their families. “The law prohibits forced and compulsory labour performed by children; however, during the year, children were reportedly sold, leased, or given away by parents to work in agriculture, fishing villages, quarry mines, shops, or homes.”<sup>180</sup>

In terms of protecting children against child labour, there have been problems in implementing laws as most of the children involved in labour practices are in the informal sector. An International Labour

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176 Cherubin-Doumbia *op. cit.* p.26.

177 US Department of State, *op. cit.*, Section 2 Respect for Civil Liberties, Including: (c) Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.

178 US Department of State, *op. cit.*, Section 5 Discrimination, Societal Abuses, and Trafficking in Persons.

179 *Ibid.*

180 US Department of State *op. cit.*, Section 6 Workers Rights (d) Prohibition of Child Labour and Minimum Age of Employment.

Organisation International Programme to Eliminate Child Labour statistical survey found out that in 2003 there were 2.47 million children engaged in some economic activity. “The fishing industry on Lake Volta had a particularly high number of child labourers engaged in potentially hazardous work, such as deep diving. According to an ILO representative, child labour in the tourism industry also increased. Child labourers were poorly paid and subjected to physical abuse; they received little or no health care and generally did not attend school.”<sup>181</sup>

**Some Traditional Practices Harmful to Children:** In some areas of the country, children continue to be subjected to harmful traditional practices, including ritual servitude (*trokosi*), female genital mutilation, widowhood rites, early marriage and polygamy.<sup>182</sup>

*Trokosi*, or *Fiashidi*, is a religious practice of the Ewes in the Volta Region, involving a period of servitude lasting up to three years where a young virgin girl, sometimes under the age of ten but usually in her teens, must work at a shrine in atonement for an allegedly heinous crime committed by a family member. She is forbidden to engage in sexual activity, and while isolated instances of abuse may occur, there is no evidence that sexual or physical abuse is an integral part of the practice. Observers said there were no more than 100 girls serving at *trokosi* shrines throughout the Volta Region during 2004.<sup>183</sup>

Ghana has not yet ratified the Charter on the Rights and Welfare of the Child.<sup>184</sup>

## Vulnerable Groups

**Discrimination Against Homosexuals:** “Homosexuality is criminalised in the country. There is a minimum misdemeanour charge for homosexual activity, and homosexual men often are subjected to abuse in prison. In May, the Acting Commissioner for CHRAJ publicly suggested that the Government consider decriminalising homosexuality to conform to international standards of human rights. Homosexuality was socially taboo in the country, and many persons continued to erroneously link the prevalence of HIV/AIDS only with a homosexual orientation.”<sup>185</sup>

**People With Disabilities Neglected:** Concerning people with disabilities, the law provides for their rights and protects them from discrimination and exploitation. “The Constitution also provides persons with disabilities access to public buildings “as far as practicable” however, in practice this provision was not implemented.”<sup>186</sup>

**Refugees Accepted but Not Integrated:** Ghana had an estimated 48,000 refugees and asylum seekers at the end of 2004, including 40,000 from Liberia and 3,000 from Côte d’Ivoire. According to the 2004 US State Department report, “The country generally had a liberal policy of accepting refugees from other West African nations, although this did not extend to granting work permits or permanent residence.”<sup>187</sup>

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181 US Department of State, *op. cit.*, Section 6 Workers Rights (d) Prohibition of Child Labour and Minimum Age of Employment.

182 UNICEF, *At a Glance: Ghana, The Big Picture*, [www.unicef.org](http://www.unicef.org)

183 *Ghana International Religious Freedom Report 2004*, cited in US State Department Human Rights Report, Ghana, 2004.

184 Cherubin-Doumbia *op. cit.* p.55.

185 US Department of State *op. cit.* Section 5 Discrimination, Societal Abuses, and Trafficking in Persons.

186 *Ibid.*

187 US Department of State *op. cit.* Section 2 Respect for Civil Liberties Including (d) Freedom of Movement Within the Country, Foreign travel, Emigration and Repatriation.

## CHAPTER 8: MANAGING CONFLICT<sup>188</sup>

### **Sources of Conflict**

**Ethnic, Religious and Regional Tensions Undermine Stability:** While there is no history of civil war in contemporary Ghanaian society, inter-group rivalry, in the form of inter-tribal and clan conflict, has resulted in intensely violent incidents, which has brought some instability to Ghana's northern provinces.<sup>189</sup> Religious conflict is less frequent and less acute than tribal clashes and rarely between the country's dominant faiths, which are Christianity (the majority of the population), Islam (18-30% of the population) and traditional.<sup>190</sup>

The two most violent conflicts in recent years, the Bawku conflict of 2000 and the Yendi incident of 2002, illustrate the complexity of ethnic conflicts in Ghana and government's slow response to solve the underlying problems. During the highly contested election campaign of 2000, clashes in the town of Bawku in the Upper East Region of the northern province left some 50 people dead and hundreds more displaced.<sup>191</sup> The main cause of the fighting appeared to be "clan antipathy" but it was also clear that that "party political affinity added a key combustible element to an already volatile set of conditions".<sup>192</sup> The levels of poverty in the area (80% living in extreme poverty) and literacy (26.3% of adults functionally literate) as well as high population density and high levels of political party affiliation combined with simmering disputes over the Bawku kingship to create an inflammable situation.<sup>193</sup>

The response of the newly elected government was slow. President Kufuor received Bawku chiefs and "reiterated his position that the government should not interfere in chieftaincy matters."

- "Kufuor reasoned that experience had shown that whenever the government interfered in chieftaincy disputes, the result is 'catastrophic'. He announced that the government would provide the Traditional House of Chiefs 'with support in finding a lasting solution to the numerous chieftaincy disputes.'"<sup>194</sup>

**Security Forces and Government Implicated in Ethnic Clashes:** In the Yendi incident<sup>195</sup> in March 2002, the murder of the Ya Na (King or Paramount Chief) of the Dagombas represented the "most egregiously violent incident in a long history of tribal conflict in Ghana."<sup>196</sup> Despite the presence of a police station within 300 metres and a military camp within 500 metres of the palace where the Ya Na and 30 others were beheaded and dismembered, the police and military did not intervene to stop the atrocities.<sup>197</sup> Military sources claimed they were waiting for orders, while the police said the key to their armoury was lost, but subsequently found after the king's death. During the three-day battle, the then-interior minister and MP for the area announced on national and international radio that the region was calm.<sup>198</sup>

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188 Between independence in 1957 and 1981, Ghana had four coups and nine changes of government. However, it has, thus far, largely escaped the ethnic and religious conflict so prevalent in many other West African countries. The framers of the 1992 constitution attempted to prevent further instability. Despite fears that outgoing President Jerry Rawlings would cling to power after his National Democratic Congress (NDC) party's defeat at the ballot box in 2000, the transition to the New Patriotic Party (NPP) rule under President John Agyekum Kufuor was remarkably peaceful.

189 Hughes T, *Managing Group Grievances and Internal Conflict: Ghana Country Report, 2002*, Cape Town: South African Institute of International Affairs, p.45.

190 *Ibid.*, p.57.

191 *Ibid.*, p.50.

192 *Ibid.*, p.51.

193 *Ibid.*, p.50.

194 *Daily Graphic*, 2002, cited in Hughes *op. cit.*, p.52.

195 In March 2002, a chieftaincy dispute in Yendi in the Northern Region escalated into a three-day siege, with 30 people being massacred and dismembered, including the king (White Paper on Wusuku Commission Report, Government of Ghana, December 2002). A curfew was installed and a government commission of inquiry instituted, but dissatisfaction remains amid allegations of police and government complicity in the incident ([www.ghanaweb.com](http://www.ghanaweb.com), 8 October 2004).

196 Hughes *op. cit.*, p.52.

197 Fayemi JK; Jaye T and Z Yeebo, *Democracy, Security and Poverty in Ghana: A mid term Review of the Kufuor Administration*, 2003, p.16.

198 IRINNews, 13 August 2002, [www.irinnews.org](http://www.irinnews.org)

Government's response to the Yendi incident was to appoint a Presidential Commission of Inquiry (including the Chief of the Asante as one of the troika of members) and also to launch a campaign to "rid the chieftaincy institution of all factors that breed conflict in it".<sup>199</sup> The government also "committed itself to the retrieval of firearms illegally acquired by groups in an attempt to defuse the potential of chieftaincy disputes to escalate into violence."<sup>200</sup> Hughes says that, "The Yendi conflict has also brought into focus the question of reforming traditional leadership with argument being proffered that all chiefs should be popularly elected. Some proposals go so far as to suggest the 'mainstreaming' of traditional chieftaincy into a second upper house of parliament."<sup>201</sup>

**Economic Disparities Prevalent:** Economically the country has been split since colonial times between the mineral-rich southern and coastal areas, which have been more economically and politically dominant, and the rural, agricultural north, which has remained impoverished, marginalised and under-developed. The Kufuor government has paid more attention to improving the economic condition of the impoverished northern populations, including greater allocations of poverty relief to the northern regions. But much more remains to be done, such as applying greater agricultural extension and other services to boost the economy in these areas and reducing land pressures.

Politically, the NPP is seen as largely Akan and Christian with a strong southern base, while the NDC draws considerable support from the Volta region, which is predominantly Ewe, and various northern Muslim groups. There is thus less incentive for the NPP to address the grievances of the northern groups.

In early 2005, a government enquiry was instituted to investigate ethnic clashes between the Zonga and Krachi groups in the Volta region.<sup>202</sup>

**Role of the Chiefs Requires Clarification:** The 1992 constitution tries to balance the traditional chieftaincy system with the modern state. The decentralised district assembly system is an attempt at offering participatory decision-making at local level, but the district assemblies fund has been insufficiently resourced and there have been tensions between MPs, District Chief Executives as well as chiefs over roles, responsibility and accountability.<sup>203</sup> Ashanti chiefs continue to wield significant influence in state matters, although all chiefs are now constitutionally barred from running as members of parliament.<sup>204</sup> Other chiefs are less powerful with more localised influence.

**Government Must Do More to Tackle Arms Proliferation:** West Africa is believed to have over 8 million small arms circulating illegally. There are an estimated 40,000-100,000 unlicensed weapons in Ghana, many stolen during military coups and in five regions Ghana is estimated to have 35,000-40,000 illegally produced guns.<sup>205</sup> The Kufuor administration has had some success in collecting small arms.

- In the aftermath of the electoral victory of the NPP in 2000, the administration initiated a collaborative police-cum-military collaborative weapons-retrieval strategy called *etuo mu ye sum* – the gun is dangerous. This was a three-tier approach for tackling the small arms and light weapons problem in Ghana. First, the new administration granted a general amnesty to all those with unregistered guns who surrendered them through a two-week moratorium. Second, a weapons buy-back programme was initiated; and, third, punitive measures were instituted to forcibly collect unregistered firearms in private possession.<sup>206</sup>

In light of the potential for conflict and the APRM's goal of anticipating and forestalling problems, Ghana should focus resources and attention on collecting arms. There has been much stricter control of arms stockpiling and the possession of illegal firearms since the 2002 Yendi incident. Ghana is also

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199 Hughes, *op. cit.*, p.55,

200 *Ibid.*

201 *Ibid.*, p.56.

202 Ghanaweb, 19 February 2005, [www.ghanaweb.com](http://www.ghanaweb.com)

203 Ayee JRA, *Decentralisation and Conflict: The Case of District Chief Executives and Members of Parliament in Ghana*, Accra: Friedrich Ebert Foundation, 1999.

204 The Asantehene (Ashanti king) has a role on the Council of State (the executive advisory body) and is said to have extensive influence with President Kufuor.

205 "Development and implementation of programmes on voluntary surrender and destruction of SALW", in Sabala K, *African Commitments to controlling small arms and light weapons: a Review of Eight Nepad Countries*, African Human Security Initiative, 2004.

206 Sabala K *op. cit.*, pp.43-44.

implementing the Ecowas moratorium on the import, export and manufacture of small arms and light weapons. MPs, traditional leaders and other government members supported the NGO-initiated Ghana Small Arms Awareness Week in February 2005.

**Troubled Neighbourhood Makes Ghana Vulnerable:** Ghana has in recent times been a beacon of stability in West Africa, as countries like Sierra Leone and Liberia have imploded into civil wars. Conflict in its three immediate neighbours – civil war in Côte d'Ivoire to its west, ongoing ethnic tensions amidst the election preparations in its northern neighbour Burkina Faso and the recent succession crisis in Togo to the east – pose potential risks for Ghana, such as increased refugee flows, rebel forces using its territory as a base and disruptions of trade.<sup>207</sup>

Ghana has been an active player in peacekeeping and its efforts have helped make the Economic Community of West African States (Ecowas) an effective body that can respond to regional crises. Ghana has been a strong supporter of Ecowas since its inception in 1975. Ghana's former Deputy Foreign Minister has been Ecowas Executive Secretary since early 2002. Ghana has contributed more than 80,000 troops to peacekeeping operations worldwide.

### ***Police Brutality and Disregard for Human Rights***

Various incidents of police brutality were recorded in 2004, largely reflecting the police service as either disrespectful of basic human rights and freedoms or oblivious to their existence. Instances of arbitrary arrest were cited. Police often denied involvement in beatings or alleged that force employed was justified. The US State Department Human Rights Report noted: "The police service came under repeated criticism following incidents of police brutality, corruption, and negligence. Public confidence in the police remained low, and mobs attacked several police stations due to perceived police inaction, delays in prosecuting suspects, rumours of collaboration with criminals, and the desire to deal with suspects through instant justice. According to the police service's Monitoring and Inspections Unit, there were 590 complaints or petitions received against the police, compared with 455 cases reported in 2003. The number of complaints during the year of harassment or unlawful arrest and detention with human rights violations was 48 cases, compared with 22 in 2003."<sup>208</sup>

**Suspects' Rights Trampled On:** The US State Department also said, "A 2003 survey conducted by the Centre for Democratic Development on Police-Community Relations found that many of those arrested believed that they were not treated according to the law; there was a strong belief that police often violated the human rights of those arrested. Of those who stated that they were arrested, 46% were not informed of the charges against them, 51% were not read their rights, 67% reported they were not given the opportunity to contact a lawyer, and 44% believed they were presumed guilty from the onset."<sup>209</sup> Constitutional provisions to uphold the rights of arrestees and the right to swift arraignments were often ignored, although the incidence of these abuses was lower than in previous years.<sup>210</sup>

**Police Use Excessive Force:** Documented evidence shows that police over-exerted force and influence. Some of these incidents have contributed to low public confidence in the police: "One local press source reported several incidents of beatings by police throughout the year, although the police alleged the use of force in these cases was necessary. In June, a police officer reportedly beat an employee of the electricity company for disconnecting the power supply to a police station that had failed to pay its bill. Police and security officers also beat a group of political party activists and prevented their travel to a regional capital to protest a decision made at their party's headquarters in Accra."<sup>211</sup>

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207 At the end of 2004, Ghana was said to host a total of 48,000 refugees, mainly from Liberia, but with significant numbers coming from Côte d'Ivoire, Sierra Leone and Togo.

208 US Department of State *op. cit.*, Section 1 Respect for the Integrity of the Person, Including Freedom From: (d) Arbitrary Arrest or Detention.

209 *Ibid.*

210 *Ibid.*

211 US Department of State *op. cit.*, Section 1 Respect for the Integrity of the Person, Including Freedom From: (c) Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

## CHAPTER 9: SOCIO-ECONOMIC DEVELOPMENT

For the government to combat poverty effectively, attract investor and donor confidence, and fulfil the Millennium Development Goals, sound administration is necessary and socio-economic development expenditure must be transparent and sustainable. While Ghana has attempted to align its PRSP more closely with its budgeting system, the lack of genuine consultation on the Ghana Poverty Reduction Strategy (noted earlier), and the diversion of funds away from pro-poor activities in election years, reflect some problems in this area.

**Budget Does Not Always Reflect Development Aims:** In recent years, there has been increased pro-poor budgeting, yet expenditure on poverty reduction is still relatively low and focused on recurrent expenditure (primarily salaries). Salaries represent some 30% of total government spending.<sup>212</sup> In 2003, the GPRS acknowledged that spending levels on health and education of 2% and 2.8% of GDP respectively were “much lower than African averages”. These two sectors attract about 90% of social expenditure, and depend heavily on donors, who contribute to the non-wage funding.<sup>213</sup>

While primary and junior secondary school education is free and compulsory (Article 39 of Ghana’s constitution),<sup>214</sup> a 1997 public review focusing on social sector expenditure showed that the geographical areas that needed the most in terms of resources, actually disbursed the least to their citizens.

**Not Reaching the Most Vulnerable, Jeopardising MDGs:** While the World Bank acknowledges that Ghana is facilitating growth through the president’s special initiative to create jobs and diversify exports in the cassava, oil palm, salt and textiles sectors, it says this must be complemented by targeting vulnerable and excluded groups. To hope to reach the Millennium Development Goals (MDGs) which hope to halve poverty by 2015, government must improve water supply and sanitation coverage, quality and access to education, and nutrition.<sup>215</sup>

In 2002, the Director-General of the National Development Planning Commission, Professor George Gyan Baffour, stated that Ghana was unlikely to achieve *any* of its eight MDGs by the target date of the year 2015.<sup>216</sup> This may have been a stratagem to demand more donor aid, as the UN rates Ghana as one of the most likely African countries to achieve some of the MDGs.<sup>217</sup> But Hughes says the UN’s optimism masks regional, gender, and other asymmetries. While economic growth has averaged around 4.39%, most of the economic progress appears to be occurring in urban and coastal areas. Disparities in gender education levels, employment and income, are expected to persist.<sup>218</sup>

**Education Quality Low, Drop Out Rates High:** Though Free Compulsory Universal Basic Education (FCUBE)<sup>219</sup> was introduced in 1987, an estimated 20-25% of children were not in school in the 1990s, with a drop-out rate of 25% before primary completion.<sup>220</sup> Enrolments were far lower in rural than in urban areas and there was a considerable gender gap. The quality of education was – and continues to be – extremely low, with pass rates at the end of primary school in 2000 below 10% in English and Mathematics.<sup>221</sup> The poorly paid, poorly motivated teaching force and the weak management of teacher performance have affected the quality of education, with rural schools having most difficulty in recruiting and retaining teachers.<sup>222</sup>

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212 Civil service employment in Ghana is the third highest (1.8%) in Sub-Saharan Africa and the government wage bill (5.6%) is significantly higher than the average for low wage non-CFA countries.

213 *Ghana Poverty Reduction Strategy 2003-2005*, p.2.

214 U.S. Department of State, *op. cit.*, p. 2.

215 *Memorandum on a Country Assistance Strategy of the World Bank Group for the Republic of Ghana*, International Finance Corporation, February 2004, pp.19-20.

216 ISODEC, “UNCTAD launches damning report: Ghana has made some gains, but has a tight rope to climb”, [www.isodec.org.gh/Alerts\\_News.htm](http://www.isodec.org.gh/Alerts_News.htm)

217 Hughes T, “Ghana – Developing the Best from Worst Practice”, 2004, p.3.

218 *Ibid.*

219 FCUBE includes both primary and junior secondary phases.

220 National Development Planning Commission, Ghana MDG Report. 2002. p.10.

221 Foster M and D Zornelo, *How, When and Why does Poverty get Budget Priority?* London: Overseas Development Institute, ODI Working Paper 164, April 2002, p.17.

222 *Ibid.* p.18.

According to the IMF, most of the planned 2003 policy measures to increase primary school enrolment and narrow gender gaps in enrolments in the poorer northern regions were implemented.<sup>223 224</sup>

**Questionable Statistical Data Hamper Development Planning:** Census data puts adult literacy in Ghana at 71% in 2003, up from 68% in 1989, but this conflicts with data from a national household survey, which says literacy increased from 43% in 1989 to 51% in 2003.<sup>225</sup> *See also discussion of poor quality financial information in Chapter on corruption and accountability.*

**Healthcare Systems Remain Weak:** Healthcare is under-resourced, with Ghana spending the equivalent of just \$51 per capita in 2000. According to the 2003 Economist Intelligence Unit report, there are six doctors per 100,000 people, and only 45% of rural people have access to health services.<sup>226</sup> The expansion of primary health care and the introduction of user fees under NPP rule has placed the health system on firmer economic footing, helped further by the 2004 National Health Insurance Act. Government increased the proportion of non-wage recurrent expenditure on healthcare from 10.5% in 2002 to 11.8% in 2003, exceeding the HIPC target of 7% in both years.

Currently, there is no system to identify the most poor, and significant improvements in the health of this group could be achieved through better targeting and concentration of health facilities in vulnerable districts.

**Health Indicators are Declining:** Despite recent strengthening of the economy, both infant and childhood mortality rates appear to have *increased*. Infant mortality rose from 57 per 1,000 live births in 1998 to 64 per 1,000 in 2003. Childhood mortality (deaths of children aged under five) increased from 108 deaths per 1,000 live births in 1998, to 118 deaths in 2003.<sup>227</sup> Child malnutrition – measured by the proportion of underweight children – has risen 10.5% in the last five years, in all regions except the three northern regions where it has always been high.

Ghana's 2004 PRSP Annual Report cites many possible reasons for the decline, including lack of access to clean water and sanitation, poor access to healthcare services (including free vaccinations), malnutrition, and inability to pay cash up-front fees for health services. In rural areas, income poverty and poor access to services exacerbate the situation, with the under-five mortality rate in northern Ghana being three times higher than in Accra and only 18% of pregnant women receiving trained antenatal care in rural areas compared with 43% in Accra.<sup>228</sup>

A review of health sector priorities in light of the declining indicators is necessary. Since child and infant mortality correlate positively with malnutrition, children's nutrition programmes should be strengthened. Immunisation coverage should also be increased.

**HIV/AIDS Prevalence Low, But Stigmatisation is High:** UNAIDS estimated that there were 364,000 HIV-positive people under age 49 in Ghana in 2001, representing 3% of adults. Government committed 15% of the health budget to combating HIV/AIDS and the President chairs the Ghana AIDS Commission. A programme to help prevent mother-to-child transmission operates at 19 sites and provides anti-retroviral-therapy to AIDS patients in several hospitals.<sup>229</sup> Stigmatisation of people living with HIV/AIDS is high.

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223 Government increased the education sector's share of the budget from 28.4% in 2001 to 35.3% in 2002 and it has used HIPC relief funds to build schools. In 2003, it spent 39 billion cedis building 685 three-unit classroom buildings, and a further 15 billion cedis from other sources for 440 additional six-unit classroom blocks. 31 secondary schools in poorer areas were upgraded. Government undertook measures to keep teachers on the public payroll in 2003. Fewer teachers were allowed paid study leave and more attended short courses and studied by correspondence. Incentive packages were provided for teachers in poorer districts, including accommodation and material incentives such as 5,000 radio cassette players, 5,000 sets of cooking utensils and 14,000 bicycles. The proportion of trained teachers in primary schools increased from 69.9% in 2001/2002 to 73.5% in 2002/2003. (IMF, "Ghana: Poverty Reduction Strategy Paper Annual Progress Report", Washington D.C., IMF Country Report No. 04/207, July 2004)

224 "Ghana: Poverty Reduction Strategy Paper Annual Progress Report", Washington DC: IMF Country Report No. 04/207, July 2004, p.8.

225 *Education for all: the Quality Imperative*, UNESCO, EFA Global Monitoring Report, 2005, p 12.

226 Economist Intelligence Unit *op. cit.*

227 "Ghana: Poverty Reduction Strategy Paper Annual Progress Report", Washington DC: IMF, Country Report No. 04/207, July 2004, p.10.

228 National Development Planning Commission. Ghana MDG Report. 2002. pp.17-21.

229 IMF (2004) *op. cit.*, p.113.

**Water Quality Remains Inadequate:** Despite good progress in provision of water and sanitation facilities<sup>230</sup>, reports of guinea worm (a water-borne infestation), rose from 5,545 in 2002 to 8,000 cases in 2003, suggesting that the quality of water provision is declining.<sup>231</sup>

**Land, Credit, Markets, Energy and ICT Still Out of Reach for Most:** Households involved in food crop farming are the poorest Ghanaians, with about 35% of food crop farmers living in extreme poverty.<sup>232</sup> Access to land is thus an indicator of poverty levels. Although 83,000 fixed line telephones were installed during 2003, the national total is still only 283,000 lines.<sup>233</sup> Access to energy has improved,<sup>234</sup> but progress on the Takoradi Thermal Plant, aimed at boosting industrial development in the region, has been slow.

**Despite Some Progress, Gender Inequities Remain:** Men and women play equally central roles in economic production but Ghanaian women, compared to their male counterparts, experience greater poverty, have lower literacy and numeracy rates and lower utilisation rates of productive assets.<sup>235</sup> Economically active women are especially involved in micro-enterprises and food crop production but have difficulty accessing credit land and credit. Maternal mortality, at 214 deaths per 100,000 births, is unduly high in view of the preventable nature of most fatalities. Women also bear extra burdens with regard to water and fuel collection in rural areas where access is limited and time-consuming.

Although they constitute more than half the population, women's share of political and public office in Ghana is only 8-10%. In the 2000 parliamentary elections, 19 female MPs were elected out of 101 women candidates for the 200-member assembly. In 2004, again 101 females contested the elections, with 23 women winning their seats. There have been calls for President Kufuor to increase the female representation when he appoints a new cabinet in March 2005. Among the ten regional ministers there are no women and only one deputy-minister. Ghana has two women among ten Justices of the Supreme Court, seven women out of 110 District Chief Executives and four out of 45 ambassadors.<sup>236</sup> According to Nana Oye Lithur of the Commonwealth Human Rights Initiative, this poor representation is due to the political climate, low educational levels, low income and inadequate professional experience amongst women as well as negative gender ideology.

While disparities in school enrolments have improved at primary levels, the gender gap increases at higher levels of education, with the quality of facilities being a key factor affecting girls' enrolment. Female enrolment at university is only 30%,<sup>237</sup> and this influences women's participation in economic and political life.

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230 The proportion of rural populations with access to safe water increased from 40% in 2000 to 46.6% in 2003. Access to safe sanitation sits at around 55% in the more developed areas and 20% (or lower) in the three deprived areas. The IFC estimates that its country assistance scheme will provide access to safe water for 800,000 citizens and access to sanitation for 166 000 Ghanaians by 2007.

231 International Finance Corporation. Memorandum on a Country Assistance Strategy of the World Bank Group for the Republic of Ghana, February 2004, p.37.

232 Oduro AD and I Aryee, *Investigating Chronic Poverty in West Africa*, CPRC Working Paper No 28, April 2003, p.23.

233 IMF (2004) *op. cit.* p.66.

234 51% of households in 2003 having electricity compared with 37% in 1997 and the rural electrification programme completed substations in 84 communities and connected 3,572 towns to the national grid. Communities not connected to the national electricity supply benefited from 4,500 new solar sources and 700 kerosene tanks.

235 International Finance Corporation, *op. cit.*, p.16.

236 Ghanaweb.com "In Ghana Politics, Women are Very Lean", 9 January 2005

237 Ministry of Education, *Education strategic plan: 2003-2015*, Vol 1 Policies, Targets and Strategies, May 2003.

## APPENDIX A: APRM Issues Matrix

The conclusions of the main section of this report have been put into a cross-reference matrix, which provides a short description of the issue with the page number where this issue is discussed in this report. This matrix is organised in four sections, according to the APRM Questionnaire’s main objectives.

<b>SECTION 1: DEMOCRACY &amp; GOOD POLITICAL GOVERNANCE</b>		
Obj 1	<b>Prevent and reduce intra- and inter-country conflicts</b>	<b>Sources of Conflict</b> ..... 32 <ul style="list-style-type: none"> <li>• Ethnic, Religious and Regional Tensions Undermine Stability..... 32</li> <li>• Economic Disparities Prevalent..... 33</li> <li>• Role of the Chiefs Requires Clarification..... 33</li> <li>• Government Must Do More to Tackle Arms Proliferation..... 33</li> <li>• Troubled Neighbourhood Makes Ghana Vulnerable..... 33</li> </ul> <b>Security Forces</b> ..... 34 <ul style="list-style-type: none"> <li>• Police Brutality and Disregard for Human Rights..... 34</li> <li>• Security Forces and Government Implicated in Ethnic Clashes ..... 32</li> <li>• Suspects’ Rights Trampled On ..... 34</li> <li>• Police Use Excessive Force ..... 34</li> <li>• Freedom of Assembly, Right to Campaign Controlled by Police ..... 16</li> <li>• Conflict in Party Primaries..... 17</li> </ul>
Obj 2	<b>Constitutional democracy, including periodic political competition and opportunity for choice, the rule of law, a Bill of Rights and supremacy of the Constitution</b>	<b>A Dominant Executive</b> ..... 5 <ul style="list-style-type: none"> <li>• Top-Down Culture ..... 5</li> <li>• Concentration of Power at Heart of Governance Problems..... 8</li> <li>• Article 108 Removes Lawmaking Power from Parliament ..... 8</li> <li>• Single Chamber Allows Executive Dominance ..... 8</li> <li>• High Proportion of MPs in Cabinet Subverts Parliamentary Independence ..... 8</li> <li>• Cabinet MPs Have Divided Loyalties..... 9</li> <li>• Executive Changes Budget After Parliamentary Approval ..... 10</li> <li>• Low Public Confidence in Parliament’s Effectiveness ..... 10</li> <li>• Judges Seldom Overrule the Government..... 13</li> <li>• Advisory Bodies Compromised by Executive Appointments ..... 6</li> <li>• Abuse of Incumbency ..... 6</li> <li>• Laws Protect the President’s Considerable Powers: Libel Laws; Immunity..... 7</li> <li>• Unamendable Constitution..... 7</li> </ul> <b>Electoral System</b> ..... 15 <ul style="list-style-type: none"> <li>• Biggest Party Rewarded by Voting System ..... 15</li> <li>• Population Growth Affects Demarcation of Constituencies ..... 15</li> <li>• Independence of the Electoral Commission Could be Compromised by Executive Appointments ..... 16</li> <li>• Electoral Commission Dependent on Donors and Other Government Bodies ..... 16</li> <li>• Electoral Commission Does Not Report to Parliament ..... 16</li> <li>• Registration Confined to Specific Periods, So Some Voters Disenfranchised..... 16</li> <li>• Inspection of Voters Roll Necessary ..... 16</li> <li>• Freedom of Assembly, Right to Campaign Controlled by Police ..... 16</li> <li>• Political-Party Financing Not Transparent ..... 17</li> <li>• Term Limits Respected..... 17</li> <li>• Conflict in Party Primaries..... 17</li> </ul>
Obj 3	<b>Promotion and protection of economic, social and cultural rights, civil and political rights as enshrined in African and international human rights instruments</b>	<ul style="list-style-type: none"> <li>• Human Rights Watchdog Under-Funded ..... 29</li> <li>• Capital Punishment Not Outlawed ..... 29</li> <li>• Prison System Strained ..... 29</li> <li>• Slow Judicial Process Infringes on Prisoners’ Rights ..... 29</li> </ul> <b>Women’s Rights</b> ..... 29 <ul style="list-style-type: none"> <li>• Traditional Practices Discriminate Against Women ..... 29</li> <li>• Women Sexually Harassed..... 30</li> <li>• Women Under-Represented in Leadership Positions..... 30</li> </ul> <b>Children’s Rights</b> ..... 30 <ul style="list-style-type: none"> <li>• High Incidence of Child Labour..... 30</li> <li>• Some Traditional Practices Harmful to Children ..... 30</li> </ul> <b>Vulnerable Groups</b> ..... 31 <ul style="list-style-type: none"> <li>• Discrimination Against Homosexuals..... 31</li> <li>• People With Disabilities Neglected..... 31</li> <li>• Refugees Accepted but Not Integrated..... 31</li> <li>• Police Brutality and Disregard for Human Rights..... 34</li> <li>• Security Forces and Government Implicated in Ethnic Clashes ..... 32</li> <li>• Suspects’ Rights Trampled On ..... 34</li> <li>• Police Use Excessive Force ..... 34</li> <li>• Freedom of Assembly, Right to Campaign Controlled by Police ..... 16</li> <li>• Conflict in Party Primaries ..... 17</li> </ul>

Obj 4	<b>Uphold the separation of powers, including the protection of the independence of the judiciary and of an effective parliament</b>	<b>Executive ..... 5</b> <ul style="list-style-type: none"> <li>• A Dominant Executive ..... 5</li> <li>• Top-Down Culture ..... 6</li> <li>• Advisory Bodies Compromised by Executive Appointments ..... 6</li> <li>• Abuse of Incumbency ..... 6</li> <li>• Laws Protect the President’s Considerable Powers: Libel Laws; Immunity ..... 6</li> <li>• Unamendable Constitution ..... 7</li> <li>• Unrestricted Gifts to the Executive ..... 26</li> </ul> <b>Parliament ..... 8</b> <ul style="list-style-type: none"> <li>• Parliament’s Limited Ability to Hold Executive Accountable ..... 8</li> <li>• Concentration of Power at Heart of Governance Problems ..... 8</li> <li>• Article 108 Removes Lawmaking Power from Parliament ..... 8</li> <li>• Single Chamber Allows Executive Dominance ..... 8</li> <li>• Parliament Does Not Control Its Own Budget ..... 8</li> <li>• High Proportion of MPs in Cabinet Subverts Parliamentary Independence ..... 8</li> <li>• Cabinet MPs Have Divided Loyalties ..... 9</li> <li>• Insufficient Budgetary Oversight from Parliament ..... 9</li> <li>• Parliament Does Not Prioritise Oversight ..... 9</li> <li>• Infrequent Use of Parliamentary Investigations ..... 9</li> <li>• Auditor General Does Not Report to Parliament ..... 9</li> <li>• Executive Changes Budget After Parliamentary Approval ..... 10</li> <li>• Parliament Surrendered Power to Approve Ministries ..... 10</li> <li>• Parliament Failed to Abide by Constitutional Requirements ..... 10</li> <li>• Low Public Confidence in Parliament’s Effectiveness ..... 10</li> <li>• Minimal Parliamentary Influence on Opaque Procurement Procedures ..... 10</li> <li>• Parliamentarians’ Interests Kept Secret ..... 10</li> <li>• Parliament Resource Starved ..... 11</li> </ul> <b>Judiciary ..... 12</b> <ul style="list-style-type: none"> <li>• Executive Dominates Judicial Selection Procedures ..... 12</li> <li>• Chief Justice’s Appointment Powers Compromise Independence ..... 13</li> <li>• President Can Stack the Court with Supporters ..... 13</li> <li>• Judges Seldom Overrule the Government ..... 13</li> <li>• Limited Oversight of the Judiciary ..... 13</li> <li>• Access to Justice Prohibitively Expensive ..... 13</li> <li>• Corruption Undermines the Judiciary ..... 13</li> <li>• Slow, Seemingly Partisan Judicial System Inhibits Business ..... 20</li> <li>• Process Infringes on Prisoners’ Rights ..... 29</li> </ul>
Obj 5	<b>Ensure accountable, efficient and effective public office holders and civil servants</b>	<ul style="list-style-type: none"> <li>• Police Brutality and Disregard for Human Rights ..... 34</li> <li>• Advisory Bodies Compromised by Executive Appointments ..... 6</li> <li>• Improved Participation in Policy-Making ..... 18</li> <li>• Political Party Financing Not Transparent ..... 17</li> <li>• Weak Systems for Controlling Corruption ..... 24</li> <li>• No Central Anti-Corruption Strategy ..... 24</li> <li>• Auditor General Does Not Report to Parliament ..... 25</li> <li>• Audit Reports Completed Very Late ..... 26</li> <li>• Recurring Audit Problems ..... 26</li> <li>• Minimal Parliamentary Influence on Opaque Procurement Procedures ..... 10</li> <li>• Parliamentarians’ Interests Kept Secret ..... 10</li> <li>• Poor Quality Financial Information ..... 26</li> <li>• Poor Government Procurement Practices ..... 26</li> <li>• Corruption in the Civil Service Widespread ..... 27</li> <li>• No Register of Gifts for MPs ..... 27</li> <li>• Civil Servants Not Barred from Working in Private Sector ..... 27</li> <li>• Codes of Conduct Widely Ignored ..... 27</li> <li>• Unrestricted Gifts to the Executive ..... 26</li> <li>• Nepotism Prevalent ..... 28</li> <li>• Whistle-Blowers Not Protected ..... 28</li> </ul>
Obj 6	<b>Fighting corruption in the political sphere</b>	<ul style="list-style-type: none"> <li>• Rankings Highlight Extent of Corruption ..... 23</li> <li>• Weak Systems for Controlling Corruption ..... 24</li> <li>• No Central Anti-Corruption Strategy ..... 24</li> <li>• Oversight Bodies Ineffective Because They Lack Financial Autonomy ..... 25</li> <li>• Tax and Customs Agencies Do Not Report to Parliament ..... 25</li> <li>• Auditor-General Does Not Report to Parliament ..... 25</li> <li>• Audit Reports Completed Very Late ..... 26</li> <li>• Recurring Audit Problems ..... 26</li> <li>• No Effective Systems for Recording, Tracking Assets ..... 26</li> <li>• Poor Quality Financial Information ..... 26</li> <li>• Unrestricted Gifts to the Executive ..... 26</li> <li>• Oversight Bodies Legally Hamstrung ..... 25</li> <li>• Poor Government Procurement Practices ..... 26</li> <li>• Corruption in the Civil Service Widespread ..... 27</li> </ul>

		<ul style="list-style-type: none"> <li>• No Registers of Gifts for Civil Servants..... 27</li> <li>• Civil Servants Not Barred from Working in Private Sector ..... 27</li> <li>• Police Corruption is Extensive ..... 27</li> <li>• Corruption Evident in Prisons ..... 27</li> <li>• Codes of Conduct Widely Ignored ..... 27</li> <li>• Nepotism Prevalent..... 28</li> <li>• Whistle-Blowers Not Protected ..... 28</li> <li>• Vocal, Vibrant Press Exposes Corruption ..... 28</li> <li>• Freedom of Information Law Stalled ..... 28</li> <li>• Corruption Undermines the Judiciary ..... 13</li> <li>• Political Party Financing Not Transparent..... 17</li> <li>• Slow, Seemingly Partisan Judicial System Inhibits Business ..... 20</li> </ul>
Obj 7	<b>Promotion and protection of the rights of women</b>	<ul style="list-style-type: none"> <li>• Traditional Practices Discriminate Against Women ..... 29</li> <li>• Women Sexually Harassed..... 30</li> <li>• Women Under-Represented in Leadership Positions..... 30</li> </ul>
Obj 8	<b>Promotion and protection of the rights of children and young persons</b>	<ul style="list-style-type: none"> <li>• High Incidence of Child Labour ..... 30</li> <li>• Some Traditional Practices Harmful to Children ..... 30</li> </ul>
Obj 9	<b>Promotion and protection of the rights of vulnerable groups including internally displaced persons and refugees</b>	<ul style="list-style-type: none"> <li>• Police Brutality and Disregard for Human Rights ..... 34</li> <li>• Discrimination Against Homosexuals..... 31</li> <li>• People With Disabilities Neglected ..... 31</li> <li>• Refugees Accepted but Not Integrated ..... 31</li> </ul>

## SECTION 2: ECONOMIC GOVERNANCE AND MANAGEMENT

Obj 1	<b>Promote macroeconomic policies that support sustainable development</b>	<ul style="list-style-type: none"> <li>• Presidents Delay Reforms in Election Years..... 6</li> <li>• Budget Does Not Always Reflect Development Aims ..... 35</li> <li>• Persistent Problems with Public Expenditure Management ..... 3</li> <li>• Actual Spending Unrelated/Uncontrolled by Declared Budget Plans ..... 3</li> <li>• Budget Categories Not Useful for Poverty Management ..... 4</li> <li>• Agreed Budget Reforms Not Implemented..... 4</li> <li>• Debt Management Systems Need Fundamental Change ..... 4</li> <li>• Failure to Contain New Debt Crowds Out Business ..... 4</li> <li>• Revision of Banking Laws Needed ..... 4</li> <li>• Not Reaching the Most Vulnerable, Jeopardising MDGs ..... 35</li> <li>• Questionable Statistical Data Hamper Development Planning ..... 36</li> </ul>
Obj 2	<b>Implement sound, transparent and predictable government economic policies</b>	<ul style="list-style-type: none"> <li>• Weak Budgeting Systems Encourage Excess ..... 3</li> <li>• Persistent Problems With Public Expenditure Management: ..... 3</li> <li>• Actual Spending Unrelated/Uncontrolled by Declared Budget Plans ..... 3</li> <li>• Budget Categories Not Useful For Poverty Management ..... 4</li> <li>• Agreed Budget Reforms Not Implemented..... 4</li> <li>• Debt Management Systems Need Fundamental Change ..... 4</li> <li>• Failure to Contain New Debt Crowds Out Business ..... 4</li> <li>• Revision of Banking Laws Needed..... 4</li> <li>• Institutional Rivalry Limits Budget Effectiveness and Transparency ..... 5</li> <li>• Incomplete, Late Budget Information from the President ..... 5</li> <li>• Presidents Delay Reforms in Election Years..... 6</li> <li>• Parliament Does Not Prioritise Oversight..... 9</li> <li>• Tax and Customs Agencies Do Not Report to Parliament ..... 25</li> <li>• Auditor General Does Not Report to Parliament ..... 25</li> <li>• Weak Audit Functions..... 26</li> <li>• Executive Changes Budget After Parliamentary Approval ..... 10</li> <li>• Low Public Confidence in Parliament's Effectiveness ..... 10</li> <li>• Minimal Parliamentary Influence on Opaque Procurement Procedures ..... 10</li> </ul>
Obj 3	<b>Promote sound public finance management</b>	<ul style="list-style-type: none"> <li>• Weak Budgeting Systems Encourage Excess ..... 3</li> <li>• Persistent Problems With Public Expenditure Management ..... 3</li> <li>• Actual Spending Unrelated/Uncontrolled by Declared Budget Plans ..... 3</li> <li>• Budget Categories Not Useful For Poverty Management ..... 4</li> <li>• Agreed Budget Reforms Not Implemented..... 4</li> <li>• Debt Management Systems Need Fundamental Change ..... 4</li> <li>• Failure to Contain New Debt Crowds Out Business ..... 4</li> <li>• Revision of Banking Laws Needed ..... 4</li> <li>• Institutional Rivalry Limits Budget Effectiveness and Transparency ..... 5</li> <li>• Incomplete, Late Budget Information from the President ..... 5</li> <li>• Presidents Delay Reforms in Election Years..... 6</li> </ul>

		<ul style="list-style-type: none"> <li>• Insufficient Budgetary Oversight from Parliament ..... 9</li> <li>• Parliament Does Not Prioritise Oversight ..... 9</li> <li>• Tax and Customs Agencies Do Not Report to Parliament ..... 25</li> <li>• Auditor General Does Not Report to Parliament ..... 25</li> <li>• Executive Changes Budget After Parliamentary Approval ..... 10</li> <li>• Minimal Parliamentary Influence on Opaque Procurement Procedures ..... 10</li> </ul>
Obj 4	<b>Fight corruption and money laundering</b>	<ul style="list-style-type: none"> <li>• Money Laundering Still Legal ..... 26</li> <li>• Rankings Highlight Extent of Corruption ..... 23</li> <li>• Weak Systems for Controlling Corruption ..... 23</li> <li>• No Central Anti-Corruption Strategy ..... 24</li> <li>• Oversight Bodies Ineffective Because Lack Financial Autonomy ..... 25</li> <li>• Oversight Bodies Legally Hamstrung ..... 25</li> <li>• Codes of Conduct Widely Ignored ..... 27</li> <li>• Nepotism Prevalent ..... 28</li> <li>• Whistle-Blowers Not Protected ..... 28</li> <li>• Political Party Financing Not Transparent ..... 17</li> </ul>
Obj 5	<b>Accelerate regional integration by participating in the harmonisation of monetary, trade and investment policies</b>	

### SECTION 3: CORPORATE GOVERNANCE

Obj 1	<b>Promote an enabling environment and effective regulatory framework for economic activities</b>	<ul style="list-style-type: none"> <li>• Business Environment Discourages Investors ..... 18</li> <li>• Economic Volatility Stifles Productive Enterprise ..... 18</li> <li>• Imports Dominate Trade ..... 18</li> <li>• Weak Regulatory Environment ..... 18</li> <li>• High Costs and Time Delays Inhibit Business ..... 18</li> <li>• Credit is Expensive and Difficult to Attain ..... 18</li> <li>• Weak Credit Reporting Mechanisms ..... 20</li> <li>• Debt Management Systems Need Fundamental Change ..... 4</li> <li>• Failure to Contain New Debt Crowds Out Business ..... 4</li> <li>• Revision of Banking Laws Needed ..... 4</li> </ul>
Obj 2	<b>Ensure that corporations act as good corporate citizens with regards to human rights, social responsibility and environmental sustainability</b>	<ul style="list-style-type: none"> <li>• Private Companies Manipulate the Law ..... 20</li> <li>• Companies Code Grossly Under-Enforced ..... 20</li> <li>• Ineffective, Misused Bankruptcy Laws ..... 20</li> <li>• Slow, Seemingly Partisan Judicial System Inhibits Business ..... 20</li> <li>• State Owned Enterprises Are Poorly Controlled And Inhibit Competition ..... 21</li> <li>• Corporate Social Responsibility Initiatives Lack Focus and Sustainability ..... 21</li> </ul>
Obj 3	<b>Promote adoption of codes of good business ethics in achieving the objectives of the corporation</b>	<ul style="list-style-type: none"> <li>• Ineffective, Misused Bankruptcy Laws ..... 20</li> <li>• Companies Code Grossly Under-Enforced ..... 20</li> <li>• Judicial System Slow and Corrupt ..... 20</li> <li>• Companies Undercapitalised, Lack Stability ..... 21</li> <li>• Unrestrained State-Owned Enterprises Incur Major Losses ..... 21</li> <li>• Laws Governing SOEs Lack Clarity ..... 21</li> <li>• Privatisation of SOEs Slow and Problematic ..... 21</li> <li>• SOE Regulatory Body Ineffective and Not Independent ..... 22</li> <li>• Codes of Conduct Widely Ignored ..... 27</li> <li>• Nepotism Prevalent ..... 28</li> <li>• Whistle-Blowers Not Protected ..... 28</li> <li>• Vocal, Vibrant Press Exposes Corruption ..... 28</li> </ul>
Obj 4	<b>Ensure that corporations treat all their stakeholders (shareholders, employees, communities, suppliers and customers) in a fair and just manner</b>	<ul style="list-style-type: none"> <li>• Private Companies Manipulate the Law ..... 28</li> <li>• Companies Undercapitalised, Lack Stability ..... 20</li> <li>• Corporate Social Responsibility Initiatives Lack Focus and Sustainability ..... 20</li> <li>• State Owned Enterprises Poorly Controlled and Inhibit Competition ..... 21</li> <li>• Laws Governing SOEs Lack Clarity ..... 21</li> <li>• Privatisation of SOEs Slow and Problematic ..... 21</li> <li>• Poor Quality Financial Information ..... 26</li> </ul>
Obj 5	<b>Provide for accountability of corporations, directors and officers</b>	<ul style="list-style-type: none"> <li>• Private Companies Manipulate the Law ..... 20</li> <li>• State Owned Enterprises Poorly Controlled and Inhibit Competition ..... 21</li> <li>• Unrestrained State-Owned Enterprises Incur Major Losses ..... 21</li> <li>• Laws Governing SOEs Lack Clarity ..... 21</li> <li>• Privatisation of SOEs Slow and Problematic ..... 21</li> </ul>

	<ul style="list-style-type: none"> <li>• SOE Regulatory Body Ineffective and Not Independent ..... 22</li> <li>• Weak Systems for Controlling Corruption ..... 24</li> <li>• Poor Quality Financial Information ..... 26</li> <li>• Poor Government Procurement Practices ..... 26</li> <li>• Codes of Conduct Widely Ignored ..... 27</li> <li>• Nepotism Prevalent ..... 28</li> <li>• Whistle-Blowers Not Protected ..... 28</li> <li>• Vocal, Vibrant Press Exposes Corruption ..... 28</li> <li>• Freedom of Information Law Stalled ..... 28</li> </ul>
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## SECTION 4: SOCIO-ECONOMIC DEVELOPMENT

Obj 1	<b>Promote self-reliance in development and build capacity for self-sustaining development</b>	<ul style="list-style-type: none"> <li>• Social Spending Does Not Always Reflect Development Aims ..... 35</li> <li>• Not Reaching the Most Vulnerable, Jeopardising MDGs ..... 35</li> <li>• Questionable Statistical Data Hamper Development Planning ..... 35</li> <li>• Top-Down Culture ..... 6</li> </ul>
Obj 2	<b>Accelerate socio-economic development to achieve sustainable development and poverty eradication</b>	<ul style="list-style-type: none"> <li>• Budget Categories Not Useful For Poverty Management ..... 4</li> <li>• Institutional Rivalry Limits Budget Effectiveness and Transparency ..... 5</li> <li>• Incomplete, Late Budget Information from the President ..... 5</li> </ul>
Obj 3	<b>Strengthen policies, delivery mechanisms and outcomes in key social areas including education and combating of HIV/AIDS and other communicable diseases</b>	<ul style="list-style-type: none"> <li>• Education Quality Low, Drop Out Rates High ..... 35</li> <li>• Healthcare Systems Remain Weak ..... 36</li> <li>• Health Indicators Are Declining ..... 36</li> <li>• HIV/AIDS Prevalence Low, But Stigmatisation is High ..... 36</li> </ul>
Obj 4	<b>Ensuring affordable access to water, sanitation, energy, finance (including micro-finance), markets, ICT, shelter and land to all citizens, especially the rural poor</b>	<ul style="list-style-type: none"> <li>• Water Quality Remains Inadequate ..... 36</li> <li>• Land, Credit, Markets, Energy and ICT Still Out of Reach for Most ..... 36</li> </ul>
Obj 5	<b>Progress towards gender equality in all critical areas of concern, including equal access to education for girls at all levels</b>	<ul style="list-style-type: none"> <li>• Despite Some Progress, Gender Inequities Remain ..... 37</li> <li>• Education Quality Low, Drop Out Rates High ..... 36</li> <li>• Traditional Practices Discriminate Against Women ..... 29</li> <li>• Women Sexually Harassed ..... 36</li> <li>• Women Under-Represented in Leadership Positions ..... 30</li> </ul>
Obj 6	<b>Encourage broad-based participation in development by all stakeholders at all levels</b>	<ul style="list-style-type: none"> <li>• Improved Participation in Policy-Making ..... 18</li> <li>• A Dominant Executive ..... 5</li> <li>• Top-Down Culture ..... 5</li> </ul>

## APPENDIX B: Selected APRM Codes Matrix

### Political and Democratic Governance

<p>Objective 1: <b>Prevent and reduce intra- and inter-country conflicts</b></p>	<p><b>CSSDCA DRAFT MOU 2002 COMMITMENT C:</b> Recommit to the adoption of a comprehensive response for the prevention and resolution of conflict, with emphasis on the prevention and containment of conflicts before they erupt into violent confrontation and the creation of an African capacity for regional peace-support operations as a measure for conflict resolution.</p> <p><b>CSSDCA SOLEMN DECLARATION 2000. GENERAL PRINCIPLES:</b> (a) Respect for the sovereignty and the territorial integrity of all Member States;</p> <p>(b) The security, stability and development of every African country is inseparably linked to that of other African countries. Instability in one country affects the stability of neighbouring countries and has serious implications for continental unity, peace and development;</p> <p>(c) The interdependence of Member States and the link between their security, stability and development make it imperative to develop a common African agenda. Such an agenda must be based on a unity of purpose and a collective political consensus derived from a firm conviction that Africa cannot make any significant progress without finding lasting solutions to the problem of peace and security;</p> <p>(d) The peaceful resolution of disputes, with emphasis on seeking African solutions to African problems;</p> <p>(e) The prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;</p> <p><b>CSSDCA SOLEMN DECLARATION 2000. PLAN OF ACTION:</b> We agree to e) Recommit ourselves to politically negotiated approaches for resolving conflicts so as to create an environment of peace and stability on the continent that will also have the effect of reducing military expenditure, thus releasing additional resources for socio-economic development; and f) Ensure that parties to conflicts commit themselves to fully cooperate with the efforts made within the framework of the OAU Mechanism for Conflict Prevention, Management and Resolution and of regional mechanisms;</p> <p><b>CAIRO DECLARATION ON CONFLICT MANAGEMENT 1993. ARTICLES 13–15.</b>13. ...we hereby establish, within the OAU, a Mechanism for preventing, managing and resolving conflicts in Africa.</p> <p>14. The Mechanism will be guided by the objectives and principles of the OAU Charter; in particular, the sovereign equality of Member States, non-interference in the internal affairs of States, the respect of the sovereignty and territorial integrity of Member States, their inalienable right to independent existence, the peaceful settlement of disputes as well as the inviolability of borders inherited from colonialism. It will also function on the basis of the consent and the co-operation of the parties to a conflict.</p> <p>15. The Mechanism will have as a primary objective, the anticipation and prevention of conflicts. In circumstances where conflicts have occurred, it will be its responsibility to undertake peace-making and peace-building functions in order to facilitate the resolution of these conflicts. In this respect, civilian and military missions of observation and monitoring of limited scope and duration may be mounted and deployed. In setting these objectives, we are fully convinced that prompt and decisive action in these spheres will, in the first instance, prevent the emergence of conflicts, and where they do inevitably occur, stop them from degenerating into intense or generalised conflicts. Emphasis on anticipatory and preventive measures, and concerted action in peace-making and peace-building will obviate the need to resort to the complex and resource-demanding peacekeeping operations, which our countries will find difficult to finance.</p> <p><b>NEPAD FRAMEWORK DOCUMENT 2001. ARTICLES 45 –46</b> Across the continent, democracy is spreading, backed by the African Union (AU), which has shown a new resolve to deal with conflicts and censure deviation from the norm. These efforts are reinforced by voices in civil society, including associations of women, youth and the independent media. In addition, African governments are much more resolute about regional and continental goals of economic cooperation and integration. This serves both to consolidate the gains of the economic turnaround and to reinforce the advantages of mutual interdependence.</p> <p>The changed conditions in Africa have already been recognised by governments across the world. The United Nations Millennium Declaration, adopted in September 2000, confirms the global community's readiness to support Africa's efforts to address the continent's underdevelopment and marginalisation. The Declaration emphasises support for the prevention of conflict and the establishment of conditions of stability and democracy on the continent, as well as for the key challenges of eradicating poverty and disease. The Declaration further points to the global community's commitment to enhance resource flows to Africa, by improving aid, trade and debt relationships between Africa and the rest of the world, and by increasing private capital flows to the continent. It is now important to translate these commitments into reality.</p>
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<p>Objective 2:  <b>Constitutional democracy, including periodic political competition &amp; opportunity for choice, the rule of law, a Bill of Rights and supremacy of the Constitution</b></p>	<p><b>CONFERENCE ON SECURITY, STABILITY, DEVELOPMENT AND CULTURE IN AFRICA (CSSDCA) 2000 MOU INDICATOR III B(14)</b> "By 2004 adopt, and in some cases recommit, to the fundamental tenets of a democratic society as stipulated in the CSSDCA Solemn Declaration as an African common position, namely, a Constitution and a Bill of Rights provision, where applicable, free and fair elections, an independent judiciary, freedom of expression and subordination of the military to legitimate civilian authority; rejection of unconstitutional changes of government; and implement these principles by 2005, where they are not already applicable."</p> <p><b>AU CONSTITUTIVE ACT 2002 ARTICLE 3 G &amp; 4 P</b> The objectives of the Union are to: 3(g) 'Promote democratic principles and institutions, popular participation and good governance;' The Union shall function in accordance with the following principles: (p) 'Condemnation and rejection of unconstitutional changes of governments.'</p> <p><b>AFRICAN CHARTER ON HUMAN RIGHTS ARTICLE 13- 1</b> 'Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.'</p> <p><b>UN UNIVERSAL DECLARATION OF HUMAN RIGHTS ARTICLE 21- 3</b> 'The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.'</p> <p><b>CSSDCA. SOLEMN DECLARATION 2000</b>We agree to: a)' Intensify efforts aimed at enhancing the process of democratization in Africa. In this regard, the strengthening of institutions that will sustain democracy on the continent including the holding of free and fair elections should be encouraged.'</p> <p><b>CSSDCA SOLEMN DECLARATION 2000 ARTICLE 11 d</b> 'There shall be no hindrance to the promotion of political pluralism. All forms of extremism and intolerance foster instability'</p> <p><b>CSSDCA SOLEMN DECLARATION 2000 PLAN OF ACTION STABILITY I</b> We agree to: i) 'Protect and promote respect for Human Rights and Fundamental Freedoms, such as the freedom of expression and association, political and trade union pluralism and other forms of participatory democracy;'</p> <p><b>CSSDCA SOLEMN DECLARATION 2000 PLAN OF ACTION STABILITY B</b> 'Adopt and implement a set of guidelines for dealing with unconstitutional and undemocratic changes in Africa in line with the Decisions that we took during the 35th Ordinary Session of our Assembly held in Algiers in 1999.'</p> <p><b>CSSDCA DRAFT MOU 2002 INDICATOR B ARTICLE 18</b> Establish by 2003 where they do not exist, independent national electoral commissions and/or other appropriate mechanisms and institutions to ensure free, fair, and transparent elections in all African countries.</p> <p><b>CSSDCA DRAFT MOU 2002. CORE VALUE ARTICLE I O</b> 'The conduct of electoral processes in a transparent and credible manner and a concomitant obligation by the parties and candidates to abide by the outcome of such processes in order to enhance national and continental stability.</p> <p><b>CSSDCA DRAFT MOU 2002. COMMITMENTS ARTICLE II O</b> Adhere to the fundamental tenets of a plural democratic society ... including; promulgated constitution with a Bill of Rights' provision; free and fair elections at constitutionally stipulated intervals; multiparty political systems; separation of powers; an independent judiciary; a free press and freedom of expression and assembly; effective military subordination to civilian authority, and accountability and popular participation in governance.'</p> <p><b>CSSDCA DRAFT MOU 2002 COREVALUE ARTICLE I K</b> 'The rejection of unconstitutional changes of government in any African country as a threat to order and stability in the African continent as a whole.'</p> <p><b>CSSDCA DRAFT MOU 2002 - COMMITMENTS ARTICLE II V</b> Encourage and provide enabling conditions for popular participation by all African people in the governance and development of their countries as a basis of a people's empowerment to direct their socio-economic transformation.</p> <p><b>CSSDCA DRAFT MOU 2002 INDICATOR B ARTICLE 23</b> Adopt by 2004, where it does not exist, enabling legislations on the formation and operation of political parties to ensure that such parties are not formed and operated on the basis of ethnic, religious, sectarian, regional or racial extremism and establish a threshold of voter support as criteria for public funding, without compromising freedom of association and the principle of multi-party democracy.</p> <p><b>OUA DECLARATION ON UNCONSTITUTIONAL CHANGES 2000 ELECTIONS AND RIGHTS VI VII VIII</b> Organization of free and regular elections, in conformity with existing texts; vii) guarantee of freedom of expression and freedom of the press, including guaranteeing access to media for all political stakeholders; viii) constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights (1948) and the African Charter on Human and Peoples' Rights (1981)</p> <p><b>OUA DECLARATION ON UNCONSTITUTIONAL CHANGES 2000 PROMOTE PLURALISM IV</b> Promotion of political pluralism or any other form of participatory democracy and the role of the African civil society, including enhancing and ensuring gender balance in the political process;'</p> <p><b>OUA DECLARATION ON UNCONSTITUTIONAL CHANGES 2000 DEMOCRATIC CHANGE V</b> 'the principle of democratic change and recognition of a role for the opposition;'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 13</b> We will : 'strengthen, and, where necessary, establish an appropriate electoral administration and oversight bodies, in our respective countries and provide the necessary resource and capacity to conduct elections which are free, fair and</p>
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	<p>credible; 'reassess and where necessary strengthen the AU and sub-regional election monitoring mechanisms and procedures;'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 7</b> We undertake to work with renewed determination to enforce: 'the inalienable right the individual to participate by means, of free, credible and democratic political processes in periodically electing their leaders for a fixed term of office;'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 13</b> We will: 'promote political representation, thus providing for all citizens to participate in the political process in a free and fair political environment; 'enforce strict adherence to the position of the African Union (AU) on unconstitutional changes of government...'</p> <p><b>CSSDCA DRAFT MOU 2002 --INDICATOR B ARTICLE 16</b> Adopt by 2005 a commonly derived Code of Conduct for Political Officers, an inviolate constitutional limitation on the tenure of elected political office holders based on nationally stipulated periodic renewal of mandates and governments should scrupulously abide by it.</p>
<p>Objective 3: <b>Promotion and protection of economic, social and cultural rights, civil and political rights as enshrined in African and international human rights instruments</b></p>	<p><b>AU CONSTITUTIVE ACT 2002 ARTICLES 3 H AND 4 M</b> The objectives of the Union shall be to: (h) 'Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments; The Union shall function in accordance with the following principles; (m) 'Respect for democratic principles, human rights, the rule of law and good governance;'</p> <p><b>CSSDCA SOLEMN DECLARATION 2000 PRINCIPLES STABILITY C</b> 'All rights and freedoms of citizens should be promoted and protected.'</p> <p><b>CSSDCA DRAFT MOU 2002. CORE VALUE ARTICLE I H</b> 'Good governance including, accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and People's Rights and those of the Universal Declaration of Human Rights.'</p> <p><b>CSSDCA DRAFT MOU 2002. COMMITMENTS ARTICLE II S</b> 'Observance, protection and promotion of the human rights of all Africans....'</p> <p>'<b>CSSDCA DRAFT MOU 2002. INDICATOR B ARTICLE 26</b> By 2003, all African countries that have not done so, should ratify all provisions of the Charter on Human and People's Rights, as well as all other relevant international instruments for the protection and promotion of human rights; and vigorously proceed with the implementation of such requirements ... including the provision of required resources for the work of these bodies.' 'By 2004, all African countries should submit annual reports, on the status of human and peoples' rights within their countries ...'</p> <p><b>OUA DECLARATION ON UNCONSTITUTIONAL CHANGES 2000. PRINCIPLE VIII AND IX</b> 'constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981'; 'guarantee and promotion of human rights.'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 1</b> 'We undertake to do more to advance the cause of human rights in Africa generally and, specifically, to end to moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa.'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 13</b> We will: 'heighten public awareness of the African Charter on Human and Peoples' Rights, especially in our educational institutions.'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002. ARTICLE 15</b> We have agreed to: 'support the Charter, African Commission and Court on Human and People's Rights as important instruments for ensuring the promotion, protection and observance of Human Rights;'</p> <p><b>CSSDCA SOLEMN DECLARATION 2000. PLAN OF ACTION STABILITY I</b> We agree to: i) 'Protect and promote respect for Human Rights and Fundamental Freedoms, such as the freedom of expression and association, political and trade union pluralism and other forms of participatory democracy;'</p> <p><b>CSSDCA DRAFT MOU 2002. INDICATOR B ARTICLE 23</b> 'Adopt by 2004, where it does not exist, enabling legislations on the formation and operation of political parties to ensure that such parties are not formed and operated on the basis of ethnic, religious, sectarian, regional or racial extremism and establish a threshold of voter support as criteria for public funding, without compromising freedom of association and the principle of multi-party democracy.'</p> <p><b>AFRICAN CHARTER ON HUMAN RIGHTS ARTICLE 10 1</b> 'Every individual shall have the right to free association provided that he abides by the law. 2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.'</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002. ARTICLE 7</b> we undertake to work with renewed determination to enforce: 'individual and collective freedoms, including the right to form and join political parties and trade unions, in conformity with the constitution;'</p> <p><b>RIGHTS - AFRICAN CHARTER ON HUMAN RIGHTS ARTICLE 11</b> 'Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics</p>

	<p>and rights and freedoms of others.’</p> <p><b>RIGHTS - UN UNIVERSAL DECLARATION OF HUMAN RIGHTS ARTICLE 20</b> ‘Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.’</p> <p><b>CSSDCA SOLEMN DECLARATION 2000 PLAN OF ACTION STABILITY I</b> We agree to: i) ‘Protect and promote respect for Human Rights and Fundamental Freedoms, such as the freedom of expression and association, political and trade union pluralism and other forms of participatory democracy;’</p> <p><b>CSSDCA DRAFT MOU 2002 COMMITMENTS ARTICLE II O</b> “Commitment” - II – (o) ‘Adhere to the fundamental tenets of a plural democratic society.... These should include; promulgated constitution with a Bill of Rights’ provision; free and fair elections at constitutionally stipulated intervals; multiparty political systems; separation of powers; an independent judiciary; a free press and freedom of expression and assembly; effective military subordination to civilian authority, and accountability and popular participation in governance.’</p> <p><b>RIGHTS - AFRICAN CHARTER ON HUMAN RIGHTS ARTICLE 9 1 AND 2</b> ‘Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate his opinions within the law.’</p> <p><b>RIGHTS - UN UNIVERSAL DECLARATION OF HUMAN RIGHTS ARTICLE 19</b> ‘Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.’</p> <p><b>OAU DECLARATION ON UNCONSTITUTIONAL CHANGES 2000 PRINCIPLE VII</b> ‘guarantee of freedom of expression and freedom of the press, including guaranteeing access to the media for all political stakeholders;’</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 15</b> Agreed to ‘ensure responsible free expression, inclusive of the freedom of the press.’</p>
<p>Obj 4: Uphold the separation of powers, including the protection of the independence of the judiciary and of an effective parliament</p>	<p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 7 &amp; 14</b> ....we undertake to work with renewed determination to enforce: ‘adherence to the separation of powers, including the protection of the independence of the judiciary and of effective parliaments.’ We have agreed to: ‘ensure the independence of the judicial system that will be able to prevent abuse of power and corruption.’ We have agreed to: ‘ensure the effective functioning of parliaments and other accountability institutions in our respective countries, including parliamentary committees and anti-corruption bodies;’ We have agreed to: ‘ensure the effective functioning of parliaments and other accountability institutions in our respective countries, including parliamentary committees and anti-corruption bodies;’</p> <p><b>OAU DECLARATION ON UNCONSTITUTIONAL CHANGES 2000 PRINCIPLE D 3iii)</b> ‘separation of powers and independence of the judiciary;’</p> <p><b>CSSDCA DRAFT MOU 2002 --COMMITMENTS ARTICLE II Q</b> “Commitment” - II – (q) ‘Ensure independence of the judiciary, particularly through an effective separation of powers, constitutionally guaranteed tenure of office and adequate funding.’</p> <p><b>RIGHTS - AFRICAN CHARTER ON HUMAN RIGHTS ARTICLE 26</b> States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.’</p> <p><b>RIGHTS - GRAND BAY DECLARATION OAU 1999 ARTICLE 3 AND 4</b> ‘The Conference further affirms the interdependence of the principles of good governance, the rule of law, democracy and development. 4. The Conference recognizes that the development of the rule of law, democracy and human rights calls for an independent, open, accessible and impartial judiciary, which can deliver justice promptly and at an affordable cost. To this end, such a system requires a body of professional and competent judges enjoying conducive conditions.’</p> <p><b>CSSDCA DRAFT MOU 2002 --COMMITMENTS ARTICLE II R</b> “Commitment” - II – (r) ‘Accept the necessity for significant improvement in the African electoral process including the establishment of truly independent national electoral Commissions and other appropriate mechanisms to ensure transparency, fairness, and credibility of elections.’</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY Article 1.1.2</b> – The responsibilities of different levels of government, and of the executive branch, the legislative branch, and the judiciary, should be well defined.</p> <p><b>CSSDCA SOLEMN DECLARATION 2000</b> We affirm that: (a) ‘The Executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactment promulgated by National Assemblies. No one should be exempted from accountability.’</p> <p><b>CSSDCA DRAFT MOU 2002 I. (j)</b> Sustainable Stability in Africa demands the establishment and strengthening of democratic structures and good governance based on common tenets.</p> <p>“Commitment” - II – (o) ‘Adhere to the fundamental tenets of a plural democratic society.... These should include; promulgated constitution with a Bill of Rights’ provision; free and fair elections at constitutionally stipulated intervals; multiparty political systems; separation of powers; an independent judiciary; a free press and freedom of expression and assembly; effective military subordination to civilian authority, and accountability and popular participation in governance.’</p>

	<p><b>“Indicator”</b> – III B(14) - By 2004 adopt, and in some cases recommit, to the fundamental tenets of a democratic society as stipulated in the CSSDCA Solemn Declaration as an African common position, namely, a Constitution and a Bill of Rights provision, where applicable, free and fair elections, an independent judiciary, freedom of expression and subordination of the military to legitimate civilian authority; rejection of unconstitutional changes of government; and implement these principles by 2005, where they are not already applicable.</p> <p><b>CSSDCA SOLEMN DECLARATION 2000</b> We affirm that: (a) ‘The Executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactment promulgated by National Assemblies. No one should be exempted from accountability.’</p> <p><b>IMF STANDARDS ON MONETARY AND FINANCIAL TRANSPARENCY</b> Officials of the central bank should be available to appear before a designated public authority to report on the conduct of monetary policy, explain the policy objective(s) of their institution, describe their performance in achieving their objective(s), and, as appropriate, exchange views on the state of the economy and the financial system’</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY</b> Fiscal information should be subjected to independent scrutiny</p>
<p>Objective 5: <b>Ensure accountable, efficient and effective public office holders and civil servants</b></p>	<p><b>AU CONSTITUTIVE ACT 2002. ARTICLE 3 G</b> The objectives of the Union are to: (g) ‘Promote democratic principles and institutions, popular participation and good governance.’</p> <p><b>AU CONVENTION ON PREVENTING AND COMBATING CORRUPTION</b> The State Parties to this Convention undertake to abide by the following principles: 1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance. 2. Respect for human and peoples’ rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments. 3. Transparency and accountability in the management of public affairs. 4. Promotion of social justice to ensure balanced socio-economic development. 5. Condemnation and rejection of acts of corruption, related offences and impunity.</p> <p>Article 7 (1) requires declaration of assets by public servants</p> <p>Article 7 (2) requires code of conduct for public officials and body to enforce it</p> <p>Article 7 (4) requires transparency and efficiency in tending and public hiring</p> <p>Article 10: Funding of Political Parties- Each State Party shall adopt legislative and other measures to: (a) Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and (b) Incorporate the principle of transparency into funding of political parties.</p> <p><b>CSSDCA SOLEMN DECLARATION 2000</b> We affirm that: (a) ‘The Executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactment promulgated by National Assemblies. No one should be exempted from accountability.’ d) Recommit ourselves to the promotion of Good Governance, a culture of peace and accountability by leaders and officials, as a shared community value;</p> <p>‘Strengthen, improve and practice good governance in public and private domains in Africa to ensure adherence to the rule of law; strict accountability by all and transparency in public affairs as called for in the 1995 Cairo Agenda for Action, and other decisions of the Assembly of Heads of State and Government.’</p> <p><b>CSSDCA DRAFT MOU 2002 “Commitment”</b> - II- (y) ‘Establish an impartial, efficient, transparent and accountable civil service.’</p> <p><b>“Indicator”</b> – III B(20) - Conclude by 2004 legal mechanisms for the institution of campaign finance reform including disclosure of campaign funding sources and for proportionate state funding of all political parties, to ensure transparency, equity and accountability in electoral contests.</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002</b> We believe in just, honest, transparent, accountable and participatory government and probity in public life. We therefore undertake to combat and eradicate corruption, which both retards economic development and undermines the moral fabric of society.</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002</b> We have agreed to: ‘adopt clear codes, standards and indicators of good governance at the national, sub-regional and continental levels; accountable, efficient and effective civil service;’</p>
<p>Objective 6: <b>Fighting corruption in the political sphere</b></p>	<p><b>CSSDCA DRAFT MOU CORE VALUE ARTICLE I H</b> ‘Good governance including, accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and People’s Rights and those of the Universal Declaration of Human Rights.’</p> <p><b>AU CONVENTION ON PREVENTING AND COMBATING CORRUPTION</b> The State Parties to this Convention undertake to abide by the following principles: 1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance. 2. Respect for human and peoples’ rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments. 3. Transparency and accountability in the management of public affairs. 4. Promotion of social justice to ensure balanced socio-economic development. 5. Condemnation and rejection of acts of corruption, related offences and impunity.</p>

	<p>Establish, maintain and strengthen independent national anticorruption authorities or agencies. 4. Adopt legislative and other measures to create, maintain and strengthen internal accounting, auditing and follow-up systems, in particular, in the public income, custom and tax receipts, expenditures and procedures for hiring, procurement and management of public goods and services. 5. Adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities. 6. Adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals.</p> <p>Article 9 requires enactment of laws granting freedom of information: “Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences.”</p> <p><b>CSSDCA SOLEMN DECLARATION 2000.</b> ‘Ensure the equitable distribution of national income and wealth, as well as transparency in the exploitation of Africa’s resources. In this regard, the negative impact of external and internal interests in the exploitation of Africa’s resources and corruption, which continue to fuel conflicts on the continent, should be addressed in a more cohesive and effective manner;’</p> <p><b>CSSDCA DRAFT MOU 2002</b>To respect and abide by:(h) ‘Good governance including, accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and People’s Rights and those of the Universal Declaration of Human Rights...’</p> <p>The eradication of corruption, which undermines Africa’s quest for socio-economic development and the achievement of sustainable stability in the continent.</p> <p><b>CSSDCA DRAFT MOU 2002</b> “Commitment” - II – (x) ‘Develop institutional and administrative capacity for dealing effectively with corruption and criminality, both of which threaten the stability of Africa.’</p> <p><b>CSSDCA DRAFT MOU 2002 INDICATOR B ARTICLE 17 “Indicator”</b> – III B(16) - Adoption, signing and ratification of an OAU Convention on Combating Corruption and establish by 2004 in each African country ... with an independent budget that must annually report to the national parliament on the state of corruption in that country.</p>
<p>Objective 7: <b>Promotion and protection of the rights of women</b></p>	<p><b>UN MILLENIUM DECLARATION 2002. PRINCIPLE 6, ARTICLES 20 &amp; 25</b> No individual and no nation must be denied the opportunity to benefit from development. The equal rights and opportunities of women and men must be assured. We also resolve: To promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable.</p> <p><b>NEPAD FRAMEWORK DOCUMENT 2001. ARTICLE 49.</b>To combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination against Women</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 10</b> Promoting the role of women in social and economic development by reinforcing their capacity in the domains of education and training; by developing revenue-generating activities through facilitating access to credit; and by assuring their participation in the political and economic life of African countries</p> <p><b>CSSDCA DRAFT MOU 2002</b> ‘We undertake to do more to advance the cause of human rights in Africa generally and, specifically, to end the moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa.’</p> <p>Provide appropriate conditions for effective participation at national and continental levels by civil society organizations, in particular women’s groups, trade unions, the youth and professional associations as envisaged in the Constitutive Act of the African Union</p>
<p>Objective 8: <b>Promotion and protection of the rights of children and young persons</b></p>	<p><b>WSSD JOBURG PLAN OF IMPLEMENTATION. ARTICLE 119 AND 153</b> Develop the capacity of civil society, including youth, to participate, as appropriate, in designing, implementing and reviewing sustainable development policies and strategies at all levels. Promote and support youth participation in programmes and activities relating to sustainable development through, for example, supporting local youth councils or their equivalent, and by encouraging their establishment where they do not exist.</p> <p><b>UN MILLENIUM DECLARATION 2002. ARTICLE 20</b> We also resolve: To develop and implement strategies that give young people everywhere a real chance to find decent and productive work.</p> <p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 10</b> ‘We undertake to do more to advance the cause of human rights in Africa generally and, specifically, to end the moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa.’</p> <p><b>CSSDCA DRAFT MOU 2002.</b>Provide appropriate conditions for effective participation at national and continental levels by civil society organizations, in particular women’s groups, trade unions, the youth and professional associations as envisaged in the Constitutive Act of the African Union.</p>

<p>Objective 9: <b>Promotion and protection of the rights of vulnerable groups including internally displaced persons and refugees</b></p>	<p><b>AU DECLARATION ON GOOD POLITICAL GOVERNANCE 2002 ARTICLE 10'</b> We undertake to do more to advance the cause of human rights in Africa generally and, specifically, to end to moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa.'</p> <p><b>CAIRO DECLARATION ON CONFLICT MANAGEMENT 1993. ARTICLE 9</b> Conflicts have forced millions of our people into a drifting life as refugees and displaced persons, deprived of their means of livelihood, human dignity and hope</p> <p><b>CSSDCA SOLEMN DECLARATION 2000 PRINCIPLE 10 G AND PLAN OF ACTION J</b> The problem of refugees and displaced persons constitutes a threat to peace and security of the continent and its root causes must be addressed.</p> <p>We agree to: Address the root causes of the problem of refugees and displaced persons on the continent and work towards the mobilization of resources to provide adequate assistance for asylum countries to enable them mitigate the impact of the refugee burden</p>
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## Economic Governance and Financial Management

<p>Objective 1: <b>Promote macroeconomic policies that support sustainable development</b></p>	<p><b>IMF CODE ON FISCAL TRANSPARENCY ARTICLE 32</b> 'Budget information should be presented in a way that facilitates policy analysis and promotes accountability.'</p> <p><b>NEPAD FRAMEWORK DOCUMENT 2001.</b> Noting the importance of regional and sub-regional cooperation and integration to the development of our continent, and the efforts so far made in this connection to implement the Abuja Treaty establishing the African Economic Community, as well as the various initiatives of the Regional Economic Communities (RECs); and stressing the need to articulate and harmonize the macro-economic policies, strengthen the institutions for regional integration and build regional infrastructural networks, particularly in the transport and communication sectors.</p>
<p>Objective 2: <b>Implement sound, transparent and predictable government economic policies</b></p>	<p><b>SELECTED GUIDELINES FROM IMF CODE OF GOOD PRACTICES ON FISCAL TRANSPARENCY:</b> The public should be provided with full information on the past, current, and projected fiscal activity of government.</p> <p>A commitment should be made to the timely publication of fiscal information.</p> <p>The budget documentation should specify fiscal policy objectives, the macroeconomic framework, the policy basis for the budget, and identifiable major fiscal risks.</p> <p>A statement of fiscal policy objectives and an assessment of fiscal sustainability should provide the framework for the annual budget.</p> <p>Any fiscal rules that have been adopted (e.g., a balanced budget requirement or borrowing limits for subnational levels of government) should be clearly specified.</p> <p>The annual budget should be prepared and presented within a comprehensive and consistent quantitative macroeconomic framework, and the main assumptions underlying the budget should be provided.</p> <p>Major fiscal risks should be identified and quantified where possible, including variations in economic assumptions and the uncertain costs of specific expenditure commitments (e.g., financial restructuring).</p> <p>Budget information should be presented in a way that facilitates policy analysis and promotes accountability.</p> <p>Procedures for the execution and monitoring of approved expenditure and for collecting revenue should be clearly specified.</p> <p>There should be a comprehensive, integrated accounting system which provides a reliable basis for assessing payment arrears.</p> <p>Procurement and employment regulations should be standardized and accessible to all interested parties.</p> <p>Budget execution should be internally audited, and audit procedures should be open to review.</p> <p>The national tax administration should be legally protected from political direction and should report regularly to the public on its activities.</p> <p>There should be regular fiscal reporting to the legislature and the public.</p> <p>A mid-year report on budget developments should be presented to the legislature. More frequent (at least quarterly) reports should also be published.</p> <p>Final accounts should be presented to the legislature within a year of the end of the fiscal year.</p> <p>Fiscal data should meet accepted data quality standards.</p> <p>Fiscal information should be subjected to independent scrutiny.</p> <p><b>STANDARDS ON MONETARY AND FINANCIAL TRANSPARENCY IMF</b> Officials of the central bank should be available to appear before a designated public authority to report on the conduct of monetary policy, explain the policy objective(s) of their institution, describe their performance in achieving their objective(s), and, as appropriate, exchange views on the state of the economy and the financial system'</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY</b> Fiscal information should be subjected to independent scrutiny.</p>

	<p><b>IMF CODE ON FISCAL TRANSPARENCY ARTICLE 3 2</b> 'Budget information should be presented in a way that facilitates policy analysis and promotes accountability.'</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY ARTICLE 1.1.2</b> 'The responsibilities of different levels of government, and of the executive branch, the legislative branch, and the judiciary, should be well defined.'</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY. ARTICLE 1 1 5</b> 'Government involvement in the private sector (e.g., through regulation and equity ownership) should be conducted in an open and public manner, and on the basis of clear rules and procedures that are applied in a nondiscriminatory way.'</p>
Objective 3: <b>Promote sound public finance management</b>	<p><b>IMF STANDARDS ON MONETARY AND FINANCIAL TRANSPARENCY</b> Officials of the central bank should be available to appear before a designated public authority to report on the conduct of monetary policy, explain the policy objective(s) of their institution, describe their performance in achieving their objective(s), and, as appropriate, exchange views on the state of the economy and the financial system'</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY</b> Fiscal information should be subjected to independent scrutiny</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY. ARTICLE 1 1 5</b> 'Government involvement in the private sector (e.g., through regulation and equity ownership) should be conducted in an open and public manner, and on the basis of clear rules and procedures that are applied in a nondiscriminatory way.'</p> <p><b>IMF CODE ON FISCAL TRANSPARENCY ARTICLE 3 2</b> 'Budget information should be presented in a way that facilitates policy analysis and promotes accountability.'</p>
Objective 4: <b>Fight corruption and money laundering</b>	<p><b>CSSDCA DRAFT MOU 2002 COREVALUE ARTICLE I H</b> 'Good governance including, accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and People's Rights and those of the Universal Declaration of Human Rights....'</p> <p><b>CSSDCA SOLEMN DECLARATION 2000.</b> 'Ensure the equitable distribution of national income and wealth, as well as transparency in the exploitation of Africa's resources. In this regard, the negative impact of external and internal interests in the exploitation of Africa's resources and corruption, which continue to fuel conflicts on the continent, should be addressed in a more cohesive and effective manner.'</p> <p><b>CSSDCA DRAFT MOU 2002</b>To respect and abide by:(h) 'Good governance including, accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and People's Rights and those of the Universal Declaration of Human Rights...'</p> <p>The eradication of corruption, which undermines Africa's quest for socio-economic development and the achievement of sustainable stability in the continent.</p> <p><b>CSSDCA DRAFT MOU 2002 "Commitment" - II - (x)</b> 'Develop institutional and administrative capacity for dealing effectively with corruption and criminality, both of which threaten the stability of Africa.'</p> <p><b>CSSDCA DRAFT MOU 2002 --INDICATOR B ARTICLE 17 "Indicator" - III B(16)</b> - Adoption, signing and ratification of an OAU Convention on Combating Corruption and establish by 2004 in each African country ... with an independent budget that must annually report to the national parliament on the state of corruption in that country.</p> <p><b>AU CONVENTION ON PREVENTING AND COMBATING CORRUPTION, 2003</b> "The State Parties to this Convention undertake to abide by the following principles:</p> <ol style="list-style-type: none"> <li>1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance.</li> <li>2. Respect for human and peoples' rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments.</li> <li>3. Transparency and accountability in the management of public affairs.</li> <li>4. Promotion of social justice to ensure balanced socio-economic development.</li> <li>5. Condemnation and rejection of acts of corruption, related offences and impunity.</li> </ol> <p>[Article 5] The State Parties to this Convention undertake to ...</p> <ol style="list-style-type: none"> <li>3. Establish, maintain and strengthen independent national anticorruption authorities or agencies.</li> <li>4. Adopt legislative and other measures to create, maintain and strengthen internal accounting, auditing and follow-up systems, in particular, in the public income, custom and tax receipts, expenditures and procedures for hiring, procurement and management of public goods and services.</li> <li>5. Adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities.</li> <li>6. Adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals.</li> </ol> <p>[Article 7] In order to combat corruption and related offences in the public service, State Parties commit themselves to:</p> <ol style="list-style-type: none"> <li>1. Require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service.</li> </ol>

	<p>2. Create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics.</p> <p>3. Develop disciplinary measures and investigation procedures in corruption and related offences with a view to keeping up with technology and increase the efficiency of those responsible in this regard.</p> <p>4. Ensure transparency, equity and efficiency in the management of tendering and hiring procedures in the public service.</p> <p>5. Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials.</p> <p>Article 9 requires enactment of laws granting freedom of information: "Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences."</p>
<p>Objective 5: <b>Accelerate regional integration by participating in the harmonisation of monetary, trade and investment policies</b></p>	<p><b>NEPAD FRAMEWORK DOCUMENT 2001. ARTICLE 45, 47 , 74, 91 &amp; 102</b> In addition, African governments are much more resolute about regional and continental goals of economic cooperation and integration. This serves both to consolidate the gains of the economic turnaround and to reinforce the advantages of mutual interdependence.</p> <p>The (NEPAD) agenda is based on national and regional priorities and development plans that must be prepared through participatory processes involving the people.</p> <p>Efforts to build Africa's capacity to manage all aspects of conflict must focus on the means necessary to strengthen existing regional and subregional institutions.</p> <p>These economic conditions point to the need for African countries to pool their resources and enhance regional development and economic integration on the continent, in order to improve international competitiveness. The five subregional economic groupings of the continent must, therefore, be strengthened.</p> <p>Objective: To enhance regional cooperation and trade through expanded cross-border development of infrastructure.</p> <p><b>CSSDCA SOLEMN DECLARATION 2000. SPECIFIC PRINCIPLES AND PLAN OF ACTION</b> The accelerated economic development of our countries is at the centre of our national policies and in this regard, comprehensive programmes will be put in place at the national and regional levels to address capacity constraints, infrastructural problems and weak industrial and technological base.</p> <p>Rapid physical and economic integration of the continent through the African Economic Community and the Regional Economic Communities is vital for Africa's economic recovery and development and for enhancing prospects to achieve competitiveness in a globalizing world.</p> <p>Noting the importance of regional and sub-regional cooperation and integration to the development of our continent, and the efforts so far made in this connection to implement the Abuja Treaty establishing the African Economic Community, as well as the various initiatives of the Regional Economic Communities (RECs); and stressing the need to articulate and harmonize the macro-economic policies, strengthen the institutions for regional integration and build regional infrastructural networks, particularly in the transport and communication sectors...</p>

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