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DEMOCRACY AND GOVERNANCE ASSESSMENT – USAID/SOUTHERN AFRICA

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DEMOCRACY AND GOVERNANCE ASSESSMENT – USAID/SOUTHERN AFRICA



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DISCLAIMER

The views and recommendations expressed in this report are solely those of the MSI Assessment Team and are not necessarily those of USAID, the U.S. Government, or MSI.

ACRONYMS

AfriMAP	<u>Africa Governance Monitoring and Advocacy Project</u> A Soros Foundation initiative to work with national CSOs to conduct audits of government performance in justice sector and rule of law, political participation and democracy, and effective delivery of public services.
AIDS	<u>Acquired Immunodeficiency Syndrome</u>
ANC	<u>African National Congress</u> South African Ruling Political Party
Ang	<u>Angola</u>
APRM	<u>African Peer Review Mechanism</u> A self-monitoring instrument to which members of the African Union can voluntarily accede.
BDP	<u>Botswana Democratic Party</u> Botswana Ruling Political Party
BNF	<u>Botswana National Front</u> Botswana Political Party
Bots	<u>Botswana</u>
CSO	<u>Civil Society Organizations</u>
DFID	<u>Department for International Development</u> UK foreign assistance agency
DG	<u>Democracy and Good Governance</u>
DPP	<u>Democratic Progressive Party</u> Malawian Ruling Political Party
DRC	<u>Democratic Republic of the Congo</u>
EISA	<u>Electoral Institute of Southern Africa</u> A South African-based regional NGO with expertise in elections, political processes, conflict management, and democracy education. EISA has satellite offices in Maputo, Kinshasa and Antananarivo.
EIU	<u>Economist Intelligent Unit</u>
FPTP	<u>First-Past-The-Post</u> A winner-takes-all voting system. Contrasted for the purposes of this assessment with voting by proportional representation.
FRELIMO	<u>Frente de Libertação de Moçambique</u> (Liberation Front of Mozambique) Mozambican ruling political party and former combatant organization.
HIV	<u>Human Immunodeficiency Virus</u>
IDASA	<u>Institute for Democracy in South Africa</u> A South African-based NGO promoting democracy in Africa.
IDEA	<u>Institute for Development and Electoral Assistance</u> A Stockholm-based NGO promoting democracy throughout the world.
INTERPOL	<u>International Criminal Police Organization</u> An international police organization established to facilitate cross-border police cooperation and prevent international crime.
IREX	<u>International Research & Exchanges Board</u> A US-based NGO promoting higher quality education, independent media and pluralistic civil society throughout the world.
ISS	<u>Institute for Security Studies</u> A South-African based institution that conducts research throughout Africa on a wide range of matters related to human security. The ISS has offices in Pretoria, Cape Town, Nairobi and Addis Ababa.

Lstho	<u>Lesotho</u>
MCC	<u>Millennium Challenge Corporation</u>
MCP	<u>Malawi Congress Party</u> Malawian political party.
Mdgar	<u>Madagascar</u>
MISA	<u>Media Institute of Southern Africa</u> A Namibia-based regional NGO promoting free and pluralistic media. MISA has chapters in Angola (currently being reactivated), Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.
MIwi	<u>Malawi</u>
Moz	<u>Mozambique</u>
MP	<u>Member of Parliament</u>
MPLA	<u>Movimento Popular da Libertação de Angola</u> (Popular Movement for the Liberation of Angola) The Angolan ruling political party and former combatant organization.
Nam	<u>Namibia</u>
NEPAD	<u>New Partnership for Africa's Development</u>
NGO	<u>Non-Governmental Organizations</u>
PR	<u>Proportional Representation</u> A system of voting whereby legislative seats are apportioned by the percentage of votes each party won. In some instances, a threshold must be met before a party can be eligible for seats. Contrasted for the purposes of this assessment with first-past-the-post.
RDP	<u>Rally for Democracy and Progress</u> A new Namibian political party.
RFA	<u>Request for Application</u>
ROL	<u>Rule of Law</u>
SA	<u>South Africa</u>
SADC	<u>Southern Africa Development Community</u>
SADC PF	<u>SADC Parliamentary Forum</u>
SADSEM	<u>Southern African Defence and Security Management Network</u> A network of universities and research institutes offering training and conducting research on security affairs. Has members in Angola, Botswana, DRC, Malawi, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe.
SAIIA	<u>South African Institute of International Affairs</u> A South African institution focused on foreign relations-related research for South Africa and Africa.
SARPPCO	<u>Southern Africa Regional Police Chiefs Council Organization</u> An international police organization for Southern Africa. SARPPCO is part of Interpol but maintains its sovereignty.
SCOPA	<u>Standing Committee on Public Accounts</u> A legislative committee of the South African parliament.
SIPO	<u>Strategic Indicative Plan</u>
SWAPO	<u>South West Africa People's Organization</u> The Namibian ruling political party and former combatant organization.
Swazi	<u>Swaziland</u>
SWOT	<u>Strengths, Weaknesses, Opportunities, and Threats</u>
TAC	<u>Treatment Action Committee</u> A South African NGO focused on HIV/AIDS.

TI/Z	<u>Transparency International Zimbabwe</u> The Zimbabwe chapter of Transparency International, an international NGO focused on issues of governmental integrity. Other countries in the region with chapters include Botswana, Madagascar, South Africa and Zambia.
UDP	<u>United Democratic Front</u> A Malawian political party.
UK	<u>United Kingdom</u>
UN	<u>United Nations</u>
UNDP	<u>United Nations Development Programme</u>
UNECA	<u>United Nations Economic Commission for Africa</u>
UNICEF	<u>United Nations Children’s Fund</u>
UNITA	<u>União Nacional para a Independência Total de Angola</u> (National Union for the Total Independence of Angola) An Angolan political party and former combatant organization.
USA	<u>United States of America</u>
USAID	<u>United States Agency for International Development</u>
USG	<u>United States Government</u>
WFP	<u>World Food Programme</u>
Zam	<u>Zambia</u>
ZANU-PF	<u>Zimbabwe African National Union—Patriotic Front</u> The Zimbabwean ruling political party.
Zim	<u>Zimbabwe</u>

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EXECUTIVE SUMMARY

In April 2008, USAID/Southern Africa contracted MSI to complete an assessment of the state of democracy and good governance (DG) in Southern Africa and, based on that assessment, to recommend options for regional DG programming. The countries examined in the assessment include: Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe.

The MSI assessment team concluded that the region is making uneven progress toward the DG aspirations that are embedded in the respective national constitutions and in the protocols and pronouncements of the Southern African Development Community (SADC). The team judged authoritarian leaders with largely unchecked power to be the paramount threat to DG. This imbalance of power is, in most countries of the region, a hangover from practices that were entrenched during national transitions to independence, when liberation movements operated in centralized ways and many additionally were militarized and wary of outsiders. The imbalance is reinforced by a lack of understanding and consensus as to what democracy is and how it should work. The consequences are widespread corruption and distortions of government priorities; both of which undermine the ability of governments to improve broad-based economic growth and social well-being. Without such improvements, leaders seek scapegoats upon whom angry citizens can heap their frustrations. There are several looming problems that, absent the safety valve of democracy and the remedial powers of good governance, have the potential for sparking significant unrest and instability. Illustrative of these problems are high rates of unemployment (particularly among young people), the rising cost of food and fuel, displacement and increased competition for natural resources caused by environmental volatility (due to climate change), and property rights grievances.

On the positive side of the ledger, elections have been institutionalized in most countries of the region and regional institutions have become adept at helping to organize and to monitor elections. Civil society, while still weak in many countries, is, nevertheless, getting stronger and more vocal in its calls for accountable and effective governance. Especially impressive is the high quality of regional civil society organizations. Several of these organizations can claim a significant portion of the credit for progress on elections and for protecting media freedoms and rights to free speech. They have also developed strong research and analytical capabilities related to assessing progress toward DG. The judiciary too, despite crippling shortages of staff, inadequate budgets, and antiquated equipment, is, in several countries, either already acting independently of the executive or beginning to act independently. Finally, women are increasingly sitting behind the desks in parliaments and statehouses across the region, adding new perspectives to the business of government and policy-making.

The team recommends that USAID/Southern Africa explore four different areas of program support. Its priority recommendations call for support in the areas of media and judicial strengthening. Media is high on the list because of the private media's role in offering an alternative voice to government (especially important when opposition parties are weak), serving as a watchdog vis-à-vis government actions, and providing a platform for educating the public on topics critical to democratic consolidation. Activities to strengthen the judiciary are recommended because of the judiciary's critical roles in balancing the executive, combating corruption and determining how key issues (such as human rights, trafficking, political freedoms, property rights and so forth) are dealt with. Second tier recommendations include support for parliamentary strengthening and assistance in security sector governance. The case for parliamentary strengthening rests with USAID's extensive experience with regional and national parliamentary institutions and the opportunity that parliamentary programs provide to address a wide range of other issues (such as civil society and media legislation, public sector expenditures, etc.). Security sector governance is recommended primarily because how militaries and police are used to respond to what many predict will be increasing levels of unrest will be important to shaping the future of democratic progress in the region.

I. THE TASK AND HOW IT WAS ACCOMPLISHED

In April 2008, USAID/Southern Africa contracted MSI to complete an assessment of the state of democracy and good governance (DG) in Southern Africa and, based on that assessment, to recommend options for regional DG programming.

The countries examined in the assessment include: Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe. These are the countries for which USAID/Southern Africa provides support. The twelve countries constitute the membership of the Southern African Development Community. (The two remaining SADC countries are Tanzania and Mauritius, which are not covered by USAID/Southern Africa.)

In response to USAID's terms of reference, MSI fielded a three-person team that interviewed close to 100 respondents in the U.S. and five of the twelve countries. Field work began on April 14, 2008, and concluded approximately three weeks later on May 6, 2008. The five countries to which members of the team traveled included Botswana, Mozambique, Namibia, South Africa, Zambia, and Zimbabwe.

Given that South Africa hosts the headquarters offices of the majority of civil society organizations with a regional agenda and is, as well, the home base for USAID/Southern Africa, the team spent the majority of its time in that country, interviewing representatives of organizations based in Pretoria, Johannesburg and Cape Town. The team split up to cover the remaining countries, with one team member conducting approximately two days of interviews in each of the countries visited.

The names of the people interviewed and the organizations they represent can be found at Attachment I. The team complemented its interviews with:

- A focus group of students in the Human Rights and Democratisation [sic] program at the University of Pretoria's Faculty of Law;
- A review of past USAID DG assessments done in the Southern Africa region; handbooks and other tools available from USAID's Center for Democracy and Governance; work plans, books and other materials generously provided by interviewees;
- Telephone and e-mail conversations with staff from USAID missions in Angola and Malawi; and
- A survey questionnaire filled out by USAID and Embassy officers in the region managing DG portfolios; and
- A review of relevant literature.

The team's visit was ably guided by Monica Moore, USAID/Southern Africa's DG officer, and James Watson, the mission's program officer. DG officers in Namibia and Mozambique, Monica Koep and Luisa Capelão, were instrumental in arranging meetings in those countries and added substantively to the quality of the assessment. The team also appreciates the strong support it received from Mark Billera and Keith Schultz from USAID/Washington's Democracy and Governance Center in accessing research materials.

The assessment conducted was by no means exhaustive. The number of countries and the limited period of time precluded comprehensive treatment of all relevant topics. Nevertheless, the team is confident that it was able to gather the critical mass of quality information required for a credible analysis of the DG opportunities and challenges that lie ahead for the region and to make recommendations as to how USAID might engage constructively in reinforcing Southern African efforts to strengthen DG.

II. BACKGROUND

A. Brief Historical Context

Southern Africa's transition from colonial rule to democracy was never going to be easy. European hegemony in the region began centuries sooner and lasted decades longer than in other parts of the continent and was arguably more pernicious. Even in countries that managed peaceful transitions to independence, the new governments were left with distorted economies, bureaucracies with limited capacity to absorb the needs of broader populations, and political models that were, in the experience of the large majority of people, authoritarian, arbitrary, and biased in favor of a privileged elite. The five states in the region that emerged from armed conflict --Angola, Mozambique, Zimbabwe, Namibia, and South Africa-- had the added burdens of reconciling ex-combatants and transforming what had been militarized liberation movements into peacetime political parties.

Of the countries that gained independence in the 1960's --Madagascar, Zaire (today's Democratic Republic of the Congo), Malawi, Zambia, Botswana, Lesotho, and Swaziland-- only Botswana was able to establish itself as a stable democracy from the start. Elsewhere, transition to independence was less promising. Within just a few years of independence, Madagascar's first president was forced to surrender power to the military; Zaire succumbed to dictatorship; Malawi and Zambia became one party states ruled by self-proclaimed "presidents for life;" Lesotho fell into a period of internal strife; and Swaziland's king suspended his country's constitution and instituted rule by decree.

Ironically in the context of today's situation, it was Zimbabwe's independence in 1980 that renewed hope for democracy in the region. While Robert Mugabe demonstrated the authoritarian behaviors that are in unremitting display today, they were intermittent, more controlled and, in retrospect, too often largely overlooked earlier during his rule. In the period directly after independence, the country was celebrated as a model of racial reconciliation, criticism of the government was generally tolerated, and the institutions of democracy --including an independent judiciary, a free press, an active civil society, and a professional military-- were beginning to take hold.

Democracy began to gain traction elsewhere in the region beginning in the early 1990's as Southern Africa joined a continent-wide phenomenon in which people began demanding political change in the form of liberal constitutions, multi-party elections, and greater accountability. Specifically:

- New democratic constitutions or liberal reforms to existing constitutions were passed in Mozambique, Zambia, Angola, Madagascar, and Malawi;
- Presidents who had held office since independence in the 1960's in Zambia and Malawi were forced by civil society to call for elections, with both elections resulting in opposition party leaders taking power;
- Military leaders in Madagascar and Lesotho turned over power to democratically elected governments;
- Angola and Mozambique held free and fair elections in post-conflict situations;
- Namibia and South Africa developed widely praised constitutions and held their first ever, multi-racial elections in contests that were, against all odds, peaceful, free and fair; and
- Zairian civic groups and civil service employees began to openly criticize their president's massive theft of state resources.

As Michael Bratton and Nicolas van de Walle write in their book, *Democratic Experiments in Africa*:

“For the first time in the postcolonial era, the trend toward the centralization of political power at the apex of the state was halted and partially reversed. In almost all African countries, autocratic leaders were forced to acknowledge that they could not monopolize and direct the political process and that they would have to divide and redistribute some of the excessive power they had accumulated.¹

By 1994, a transformation had taken place: Not a single *de jure* one-party state remained in Africa. In its place, governments adopted new constitutional rules that formally guaranteed basic political liberties, placed limits on tenure and power of chief political executives, and allowed multiple parties to exist and compete in elections. To all appearances, the African one-party state was not only politically bankrupt but—at least as a legal entity—extinct.”²

The undertow in the democratic currents, however, proved to be powerful. Angola’s 1992 democratic elections (judged to be free and fair by observers) led to fierce fighting and a resumption of the country’s civil war when the losing candidate, Jonas Savimbi of UNITA, refused to accept the victory of the MPLA’s Eduardo dos Santos. In Lesotho, the king helped to stage a coup in which the military was returned to power in 1994. Backsliding elsewhere in the region was more incremental but it is generally true that democratic progress since the mid-1990’s has not kept pace with the promise portended in the earlier half of the decade. Autocratic leaders are no longer in retreat, *de jure* one-party states may not exist but *de facto* one-party states do, and the democratic guarantees offered by constitutions are not always honored by those in power.

Nonetheless, there remain encouraging signs. Among the most positive are the institutionalization of elections in most countries of the region; the growing strength of civil society; the persistence of the media in protecting and exercising media freedoms, keeping the public informed and performing their watchdog role; an impressive record of creating space for women leaders in national political arena; and evidence that the judiciary is showing some capacity to play its role in balancing executive power.

B. The Consequences of Disease and Conflict on Democracy and Good Governance

Southern Africa’s young democracies have all encountered their own particular challenges but there have been at least three challenges that have been (and are being) experienced in the region as a whole: the HIV/AIDS pandemic, the Second Congo War, and the worsening crisis in Zimbabwe. All three have had consequences for DG in the region.

1. Democracy and HIV/AIDS

Southern Africa is the epicenter of the global HIV/AIDS pandemic. Of the twelve countries in the USAID/Southern Africa orbit, only Angola, the DRC and Madagascar have adult prevalence rates in the single digits. South Africa has an estimated 5.5 million people living with HIV/AIDS, making it the

¹ Bratton, Michael and Nicolas van de Walle. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge University Press, 1997, p. 6.

² *Ibid.*, p. 8.

country with the world's largest population of people living with the disease.³ Swaziland, where an estimated 26 percent of the adult population is infected, has the world's highest incidence of the disease.⁴

HIV/AIDS is placing exorbitant strains on the public service sector. Scarce resources that could be directed toward economic development are instead being swallowed by burgeoning HIV-related health care, education and welfare costs. Moreover, at the same time that HIV/AIDS is placing pressure on the demand side of service delivery mechanisms, the disease is robbing government of the manpower it requires to supply much needed services. By way of example, it has been estimated that Botswana lost 17 percent of its healthcare workforce between 1995 and 2005 and Mozambique lost 20 percent of its student nurses in the year 2000. According to a 2006 report, South Africa loses approximately 1000 teachers per year to AIDS.⁵ Hand-in-hand with high rates of mortality rates are high rates of absenteeism and reduced productivity. It is difficult to find statistics on how HIV/AIDS is affecting elements of the public sector outside of health and education, but it is likely that they are being similarly hard hit.

What is important about the HIV/AIDS crisis from a DG perspective is that an inability of government to carry out its basic functions can lead to a people's loss of confidence in its government and in democracy itself. Moreover, just as Amaryta Sen has argued that famines do not occur in democracies because healthy democracies require leaders to be responsive to the people, a case can be made that anti-democratic behavior can exacerbate the spread of HIV/AIDS. South Africa is a case in point. Personalized governance, and a lack of accountability of government to its people, have resulted in one of Southern Africa's most capable governments becoming one of its most dilatory in responding to the disease. As Andrew Feinstein wrote of President Thabo Mbeki's approach:

“...Thabo Mbeki was placing his own centralising, technocratic stamp on the [HIV/AIDS] movement... This stamp included the Presidency's active involvement in and often domination of every area of policy making, and the emergence of a small clique of trusted advisers which usurped the place of collective debate within the ANC.”⁶

South Africa also demonstrates, however, that an organized and engaged civil society, supported by a vibrant, diverse and relatively unfettered media, can mobilize demands for effective government action and ultimately force a response. The Treatment Action Committee (TAC) is one example of how NGOs have made a critical difference. The group emerged in the late 1990s to advocate a more open approach to dealing with HIV/AIDS and to encourage recognition of the human rights dimension to the disease. As it grew stronger, TAC began to campaign for improved access to treatment. In 2001, it took the South African government to court and obtained a ruling that compelled the government to provide treatment to prevent mother-to-child transmission. The government appealed the ruling but lost, and roll-out of the treatment began in 2002. According to Feinstein, it is conservatively estimated that delays in providing the treatment resulted in the loss of 35,000 babies every year due to HIV/AIDS.⁷

One organization that has done research on the relationship between democracy and AIDS is Idasa, an NGO based in South Africa but engaged throughout the region. It offered the following findings in a report that it prepared on the impact of HIV/AIDS on electoral processes⁸:

³ President's Emergency Plan for AIDS Relief. South Africa Country Operational Plan, 2008.

⁴ UNAIDS. Sub-Saharan Africa AIDS Epidemic Update. Regional Survey, 2007.

⁵ American Federation of Teachers. “Teachers Helping Teachers Fight AIDS,” August 2006.

⁶ Feinstein, Andrew. *Life of the Party*, Jonathan Ball Publishers, 2007, p. 133.

⁷ *Ibid.*, p. 136.

⁸ Idasa. “HIV/AIDS and Democratic Governance in Africa: Illustrating the Impact on Electoral Processes.” Presented to the second Governance and AIDS Forum of Idasa, Cape Town. May 22-24, 2007.

- There are disadvantages to “first-past-the-post” (FPTP) vis-à-vis “proportional representation” (PR) electoral systems in the context of HIV/AIDS. To replace an elected official in a FPTP system, a by-election must be held. Because by-elections take time to organize, constituencies go unrepresented. Moreover, by-elections create a drain on the treasury. Illustratively, in December 2005, six by-elections in Malawi cost an estimated \$474,799.¹² Interestingly, opposition parties, in those countries that employ FPTP, have generally lost by-elections. This could be because they do not have the resources to compete that the ruling party has; but whatever the reason, assuming the correctness of the finding, the losses have implications for building multi-party democracies in countries with FPTP elections.
- In the wake of HIV/AIDS, electoral officials are having a difficult time keeping voter rolls up to date. One official commented that, “Our voters’ rolls are bloated with dead voters.” This, of course, creates certain vulnerabilities in assuring fair elections.
- The stigma of HIV/AIDS is, in some instances, a barrier to entering the political arena. In Zambia, it was found that no party was willing to adopt a candidate who was either HIV positive or perceived to be positive. In the seven countries in which Idasa conducted its research -- Lesotho, Malawi, Namibia, Senegal, South Africa, Tanzania, and Zambia-- there is not a single elected parliamentarian or cabinet member who is openly positive.
- The stigma of HIV/AIDS can also limit civic political participation. In South Africa, people who have visible signs of AIDS or who have openly admitted their status are less likely to vote, especially if they live in a rural area. “...The majority of participants [in a South Africa focus group] expressed a desire to participate but said they were constrained by attitudinal and structural factors.”

2. The Impact of the Second Congo War on Democracy in the Region

In 1998, over the initial objections of Nelson Mandela who sought a negotiated peace, Zimbabwe, Angola and Namibia sent troops into the DRC under the banner of SADC. The ostensible reason for the incursion was to protect the democratically-elected government of a fellow SADC member. This justification, however, is disputed by many. The only one of the triumvirate with an arguably legitimate national interest in the war was Angola, whose government wanted to block UNITA’s access to the rebels’ bases in Congolese territory. It is commonly believed that Mugabe saw engagement in the DRC as an opportunity to strengthen his standing as a leader on the continent (particularly vis-à-vis Mandela) and a chance to shore up Zimbabwe’s weakening economy. Namibia’s motives were less clear. Most assume that the country was driven by President Sam Nujoma’s close personal ties to Mugabe, a strong ally in Namibia’s liberation struggle. (Some further assert that Nujoma was protecting mining interests of family members.) It is alleged that, ultimately, senior political and military leaders of all three countries, as well as their ruling parties, benefited substantially from diamond, gold, copper and cobalt concessions they reportedly were granted.

The intervention in the DRC had multiple and far-reaching consequences for democracy, good governance and stability in the three intervening countries and in the region as a whole. In all three countries, corruption deepened and the fortunes of political and military leaderships grew more intertwined. More profoundly for the region, the unexpected high cost of the war added to rather than reversed the slide in Zimbabwe’s economic decline. This contributed to the political crisis in the country today and to the outflow of refugees that has created pressures elsewhere in the region. On a lesser scale, it is believed that to punish Namibia for its part in the alliance, UNITA provided material support to an unsuccessful and short-lived, but politically damaging, separatist rebellion in Namibia’s Caprivi Strip in the late 1990s.

3. The Impact of the Situation in Zimbabwe on Democracy in the Region

While the full impact of Zimbabwe's deterioration on the state of democracy in the region cannot yet be determined, one can already identify several consequences. The most immediate is the lack of tolerance and respect for human rights that is manifested in the spate of xenophobic killings that recently swept South Africa. As of May 26, 2008, 40 to 50 people had been killed, over 16,000 people had been displaced, and calls for the resignation of South African President, Thabo Mbeki, already politically weakened by his ineffective "quiet diplomacy" on the Zimbabwe issue, had reached a new pitch.

The violence against immigrants is the result of multiple pressures, but the perception that refugees are responsible for the country's high rates of crime and unemployment is most certainly near the top of the list. Zimbabweans who fled Mugabe's regime make up South Africa's largest refugee population. Because their higher levels of education, they are often more attractive to employers; and, thus, among the most resented refugees. Notably, increased xenophobia in the region is not limited to South Africa. A survey by the Southern African Migration Project found high levels of xenophobia in Namibia and, to a lesser extent, Botswana as well.

Fragile democracies in Southern Africa are likely to be further tested as the price of food continues to climb. In February 2008, Mozambique experienced riots sparked by increases in the price of bread and transport. Six people lost their lives in the riots. In better times, Zimbabwe, characterized as "once the bread basket of Southern Africa but now a basket case," would have been one of the countries able to help ease food shortages in the region.

Finally, for believers in "contagion" theories of behavior, Zimbabwe, under Mugabe's leadership, has clearly lowered DG standards in the neighborhood. First, by pushing the limits and demonstrating the malleability of SADC, Mugabe emboldened his liberation colleagues to join him in flouting democratic norms. Perhaps the most arrant example of this is the influence he wielded over Sam Nujoma, former President of Namibia. Particularly relevant here is Nujoma's disregard for any consultation whatsoever with the Namibian Parliament or the Namibian people when he made the decision to join Mugabe's adventure in the DRC. Second, Mugabe's arbitrary land reform policies raised the expectations of the landless and helped to aggravate race relations across Southern Africa. Third, his actions scared off potential foreign investors in the region by threatening stability. As investment often provides incentives for countries to stay on the pathway of democratic reform, the culling of the private sector deprived the region of forces that might have helped advance the democratic cause. Finally, Mugabe has made what may have been relatively middling progress elsewhere in the region look, by comparison, more impressive than what it perhaps really is.

C. Brief Review of Regional Institutions

The following is a brief review of regional governance organizations. The list is limited to those which the assessment team felt that USAID might want to consider supporting. Except for the Africa Peer Review Mechanism, the list is focused on Southern African organizations and not continent-wide groups. (Regional NGOs are referred to throughout the assessment document; however, given their numbers, no systematic review of the NGOs was conducted.)

1. The Southern African Development Community and its Organ for Politics, Defense and Security

SADC is the inter-governmental organization established in 1992 to promote economic integration, and socio-economic, political and security cooperation in the Southern Africa region. It has been effective in providing a forum for regional heads of state, ministers and other government representatives to discuss

and highlight issues of regional concern; and in facilitating agreement on a wide range of well-conceived protocols, principles, declarations and other accords for the region.

Several of these accords are specific to the promotion of DG. The most broad-ranging of these is the SADC's Organ on Politics, Defense and Security's 2004 "Strategic Indicative Plan" (SIPO), a document that establishes the Organ's role in promoting regional cooperation in:

- safeguarding against instability;
- developing common political values and democratic institutions;
- encouraging the observation of universal human rights;
- preventing, containing and resolving conflict; and
- controlling cross-border crime through cooperation in intelligence and law enforcement.

SIPO is complemented by SADC's 2004 "Principles and Guidelines for Governing Democratic Elections," which outlines practices that are consistent with democratic elections. Underpinning the "Principles and Guidelines" are two earlier documents: the "Principles for Election Management, Monitoring and Observation" developed by the Electoral Institute for Southern Africa, a regional NGO, together with the Electoral Commissions Forum of SADC in 2003; and the SADC Parliamentary Forum's "Norms and Standards on Elections," issued in 2001. Together these documents provide a foundation on which to build democracy and good governance in Southern Africa.

Unfortunately, SADC and its member states have been less than successful at implementing what was agreed to in the documents. Part of the problem is that, despite having been established in 1992, SADC is still in the nascent stages of development. A large number of staff positions have never been filled and there is a consistent gap between available funding and expressed aspirations. Moreover, despite a re-organization in 2001, SADC still grapples with structural problems, primarily linked to how different sections of SADC relate to each other and to the absence of clear entry points for substantive and constructive engagement with civil society.

Aggravating the institutional constraints are political hindrances. Leaving aside questions of capacity, national governments do not always have the will to follow through on what they have committed themselves to do. Additionally, as is the case in regional institutions worldwide, SADC members fall victim to the tendency to put real and perceived national interests over regional interests; and, from time-to-time, intra-regional competition among states, and rivalries among their leaders for regional preeminence, gets in the way of sound decision-making.

Finally, critics make two further claims: first, that SADC is a "Presidents' club" in which leaders, bound by a shared past of liberation struggle, overlook each others' undemocratic lapses under the guise of respecting national sovereignty; and, beyond that, that SADC's predominant inclination is to represent and protect the interests of the political elites, even when this comes at the expense of their people's interests.⁹ The most frequently cited examples offered in support of these claims are the previously mentioned SADC military intervention in the DRC and its gentle handling of Robert Mugabe despite his implicit disdain for SADC's professed democratic norms and the suffering of the Zimbabwean people.

2. Other SADC Institutions

SADC has constituted several other institutions to help serve the region's democratic agenda. The most active is the SADC Parliamentary Forum (SADC PF). Established in 1997 as an autonomous institution

⁹ Interview with Simon Banza of the University of Zimbabwe cited in: Fisher, L.M. Lt. General and Dr. N Ngoma. "The SADC Organ: Challenges in the New Millennium," Occasional Paper 114, Institute for Security Studies, August 2005.

of SADC under the terms of the 1992 treaty that established SADC, the role of SADC PF is to strengthen its member parliaments and promote democracy in the region. It is not a regional legislative body.

The organization earned a good reputation early on with its strong work in promoting free and fair elections. Specifically, in 2001, it issued the “Regional Norms and Standards for Elections,” the first comprehensive framework for elections in the region; and in 2002, showed courage by expressing concern about the conduct of elections in Zimbabwe. In 2007, it continued this practice when it questioned the extent of political and ministerial control in Angola’s electoral process, pointed out to the government that appointing the Vice-Chair of the Supreme Court to head up the Electoral Commission could be seen as a conflict of interest, and encouraged the government to set a date for elections.¹⁰ Due to a lack of invitation from the country’s government, it did not observe the 2008 elections in Zimbabwe.

SADC PF has also been praised for its work in promoting gender balance in parliaments. It has added a gender list to its “Norms and Standards for Elections,” established a standing committee on Gender Development and Conflict Resolution, and organized a regional Women’s Parliamentary Caucus. Its gender activities have attracted funding from the United Nations Democracy Fund.

Parliamentarians across the region have appreciated SADC PF’s work in the professional development of parliamentarians and their staff. Professional development is conducted under the auspices of SADC PF’s Parliamentary Leadership Center, which offers a popular orientation course for new parliamentarians as well as workshops and seminars for parliamentarians and staff on topical and thematic subjects. A sampling of thematic workshop subjects over the past couple of years includes trade and integration (included parliamentarians and civil society), corruption, gender, and several workshops on both HIV/AIDS and the use information technology.

Finally, SADC PF gets high marks for its attempts to promote political competition in the region through greater recognition of the role of opposition parties.

While SADC PF has a solid record of accomplishment, it seems that it has recently lost some of its earlier momentum. The assessment team received mixed responses when it asked others in the region about SADC PF’s performance. Most applauded the accomplishments identified above and agreed that the organization was worthy of continued support. Yet several commented that SADC PF had been sluggish in its interactions with their organizations and some noted internal administrative problems.

In assessing itself, SADC PF conducted a SWOT analysis.¹¹ Among the weaknesses it identified were lack of clear definitions of parliaments, absence of formal recognition of the role of the parliament in regional integration, lack of research capacity, and insufficient robustness. Among its self-identified strengths were diversity of membership representing all shades of political opinion, ability to facilitate political transformation at the national level, and high levels of commitment and buy-in by member parliaments. The SWOT pinpointed the reversal of democratic gains in SADC member states, corruption, and conflicting interests and priorities between the African Union and SADC, and between the Pan-African Parliament and itself, among its threats. The list of opportunities, its shortest list, included increased demand for good governance in the region, regular elections and plural political systems, and the establishment of the African Peer Review Mechanism.

A new SADC body is the SADC Tribunal Court. Like SADC PF, the SADC Tribunal Court is provided for in the 1992 SADC Treaty. Its formal inauguration, however, did not take effect until November 2005. The Tribunal consists of ten judges, including the president of the Tribunal, chosen from among the SADC member states. None of the ten members is employed on a full-time basis. Three are invited to sit

¹⁰ IRIN. “Angola: SADC Team Says Government Grip on Electoral Process Too Tight,” 29 March 2007.

¹¹ SADC Parliamentary Forum, Strategic Plan 2006 – 2010.

as cases arise. The full-time staff of Tribunal includes the registrar (who is also a senior judge) who serves under the supervision of the Tribunal president, a finance and administration officer and a librarian. The Tribunal has the authority to rule on disputes between member states, between member states and legal persons when the legal person has exhausted all available remedies under domestic jurisdiction, between member states and SADC, between legal person and SADC, and between SADC and members of its staff.

The first case accepted by the Tribunal was a case brought by a white Zimbabwean farmer who alleges violation of his right to property following the seizure by the Zimbabwean government of his farm. The Tribunal had the option of not taking the controversial case but it chose to go forward. A preliminary ruling was granted in favor of the farmer prohibiting the government from doing anything to the property of the farmer that would rend the proceedings academic. Zimbabwe committed itself to abiding to the rulings of the Tribunal but it was recently reported that Harare has condemned the preliminary ruling, questioning the Tribunal's competence to undo a judgment of the Supreme Court in Zimbabwe when the Tribunal judges were drawn from High Courts of SADC states, and therefore junior to the Supreme Court judges.¹²

Both SADC PF and the SADC Tribunal are based in Windhoek.

Three other SADC-related institutions that could be relevant to USAID depending on the direction in which it takes its program:

- The SADC Electoral Commissioners Forum. Established in 1998, this group of the regions official electoral institutions does not appear to be as institutionalized as SADC PF and the Tribunal.
- The Southern African Judges Commission. This organization of chief justices in the region is the initiative of a retired Chief Justice of South Africa. It meets to share experiences and discuss ways of protecting human rights and promoting the rule of law.
- The Southern Africa Regional Police Chiefs Council Organization. SARPCCO's objective is to share ideas and experiences on law enforcement, with a focus on ethics, respect for human rights, and rule of law. It is supported by INTERPOL.

3. The African Peer Review Mechanism

The African Peer Review Mechanism (APRM) is a component of the New Partnership for African Development (NEPAD). It was established in 2003 as a voluntary, non-adversarial process to help countries assess the extent to which they conform to agreed-upon standards in relation to democracy and political governance, economic governance, corporate governance and socio-economic development.¹³

Through the process, African countries:

- analyze their own status in a participatory process that involves both government and non-state actors;
- develop a program of action to address identified problem areas and reinforce best practices; and

¹² *Zimbabwe Herald*, 25 April 2008.

¹³ These standards, which come from a variety of different sources, have been collected together in one 614 page document by the South African Institute of International Affairs (SAIIA). The document can be found at SAIIA's website: www.saiia.org.za.

- subject the in-country analysis and the plan of action to a review panel of experts from outside the country led by an “Eminent Person.”

In conducting its review, the peer review panel meets with both government and non-state actors. Based on its findings, it prepares a Country Review Report on which, according to the APRM rules, a government can comment (with comments attached to the Report) but cannot change.

The APRM is commendable not only because it puts Africans in the lead of identifying and addressing the problems of Africa but also because it encourages governments to open themselves up to the scrutiny of, and dialogue with, civil society and experts from outside the country. In these two ways, the APRM represents welcome departures from and balance to both the donor-driven processes in which the region typically participates and the usual SADC practice of mutual non-interference.

The assessment team was told that, in keeping with the desire to maintain the African nature of the APRM, more than 60 percent of the funding comes from African budgets. To the extent donor funding is involved, it is usually at the individual country level.¹⁴

To date, six countries in Southern Africa have acceded to the APRM Memorandum of Understanding: Angola, Lesotho, Malawi, Mozambique, South Africa and Zambia. Of the six, only South Africa has completed its Country Review Report. Outside of South Africa, Mozambique, which completed its preliminary internal assessment in March of this year, is the furthest along. (Other countries in Africa that have completed their Country Review Report are Algeria, Ghana, Kenya and Rwanda.)

The Country Review Reports have generally been praised as honest, well done, and often prescient. The prescience is confirmed in an article in “The Economist” citing the draft report for South Africa:

“Though the draft report highlighted South Africa’s post-apartheid achievements, including its liberal constitution, sound economic policy, generally sensible new laws and free politics, it did not shy away from spelling out problems it has yet to solve: still brittle race relations, rising xenophobia (against immigrants from Zimbabwe, for instance) and the lingering reluctance of some whites to embrace the new South Africa. The reviewers also worried that ‘black economic empowerment’, which is meant to redress the injustice of apartheid, has benefited mainly a lucky few, and that politicians have moved into business with unseemly haste. The reviewers were also worried about the HIV/AIDS epidemic, the persistence of many inequalities and South Africa’s exceptionally high level of violent crime. Moreover, the report said, ordinary people feel disconnected from those they have elected.”¹⁵

Despite the soundness of its findings, the process of finalizing the South Africa report was contentious. Government was roundly criticized by local civil society groups for its heavy handed management of the process, for disregarding public suggestions, and for seeking to marginalize significant problems. According to a senior analyst at The South African Institute for International Affairs:

“...South Africa produced a very superficial [Program of Action] that said almost nothing about how the nation would address its biggest problems... The panel and team of experts did a far more in-depth analysis and resuscitated many recommendations made by civil society that had been removed from the final country self-assessment. By [the

¹⁴ Assessment team interview with Evelynne Change, APRM Secretariat, April 2008.

¹⁵ *The Economist*. “Why is a review of South Africa by its African peers being delayed?” 8 February 2007.

author's] count, the panel made some 180 recommendations (the Sunday Times reported 150)."¹⁶

Thabo Mbeki, one of the prime architects behind the APRM, received the product of his conceptual labors with little joy. Ironically, in light of recent happenings in South Africa, he reportedly indicated that the panel accepted "a populist view," when it suggested South Africa had unacceptable levels of crime and claimed that Report's assertions of xenophobia were "simply not true."¹⁷

Both South Africa and Mozambique are due to make a presentation on their progress under the APRM at an APRM Heads of State and Government Forum in July of this year. It is worth noting that South Africa intends to fully self-finance the activities under its Program of Action.

The difficult experience of APRM in South Africa seems to be reflective of a growing disenchantment with what was originally an undertaking filled with great hope and many expectations. As new countries are hesitant to step into the process, many observers are wondering whether the APRM is stalling out. In trying to answer where the problems lie, an analyst at the Institute for Security Studies offers three possibilities:¹⁸

- The process allows political leaders and government to play "gate-keeper." As a result, the APRM "is becoming ensnared in the usual bureaucratic tangles and inertia that have plagued the continent since decolonization."
- The APRM, in its procedures, leaves too many "grey areas that each country has to navigate on its own."
- The capacity for countries to implement the APRM process and then to follow-up on APRM recommendations is weak.

Still, few want to give up on the process. As the analyst cited above writes, the APRM "rises above just being another pan-African process. It is proving to be a positive experience in democratic institution building that will yield benefits in stimulating change in the government and political culture on the continent."¹⁹

III. THE STATE OF DEMOCRACY AND GOOD GOVERNANCE IN SOUTHERN AFRICA

In the first half of the 1990s, Southern Africans shook off authoritarian regimes and headed down a path toward liberal constitutions, multiparty elections, and government accountability. But the countries set out in the direction of democracy without having first reached a meaningful consensus on what democracy is and on what rules, values, and principles would guide the way toward achieving it. This lack of consensus has hobbled every country in the region—some more than others.

Many would argue that the inability to achieve a democratic consensus is, in large part, due to a deep authoritarian streak in the leadership of the governments that emerged out of liberation struggles from colonial regimes. In writing about Zimbabwe, a Southern African historian wrote:

¹⁶ Herbert, Ross. "Act now, or history will say SA ruined the peer process," *Sunday Times*, 27 May 2007.

¹⁷ *Mail and Guardian*. "Mbeki critical of crime issues in APRM report not true," 6 December 2007.

¹⁸ Chikwanha, Annie Barbara. "The APRM: A Case Study in Democratic Institution Building," Occasional Paper 151, The Institute for Security Studies, October 2007.

¹⁹ *Ibid.*

“The authoritarianism of the colonial era reproduced itself within the nationalist political movements. The war of liberation too, reinforced rather than undermined this authoritarian culture... Every African was expected to embrace the liberation war and everyone had to tow the line. This, more than anything else, generated and institutionalized a culture of fear, conformity and unquestioning support. The guerrilla armies and the nationalist parties were never democratically structured and did not operate in a democratic fashion. They were highly commandist and authoritarian.”²⁰

In the absence of a democratic consensus, centralized power appears to have reasserted itself. In fact, the number of states with autocratic executives and dominant party legislatures now constitutes a majority of the states in Southern Africa. This fusion of power at the central level—and the weaknesses of the institutions designed to check, balance and disperse centralized power—has led to the boundaries between state and party resources being blurred which, in turn, has led to a situation in which a ruling party can mobilize the machinery of the state to perpetuate its power.

As history has repeatedly shown, undemocratic governments are never wholly secure in their hold over power. As a result, real and perceived dissent is all too often labeled as illegitimate, disloyal and subversive to national interests. When dissent is rejected, the opportunity to test, contest and negotiate alternative ideas and policy options in the political arena is squandered. This all too often leads to poor, ineffective policies and a practice of channeling public disappointment of unfulfilled expectations and unmet social and economic demands into resentment against designated ethnic, racial and class-based scapegoats, or the introduction of other “us against them” strategies.

There are, fortunately, pro-democracy forces are still in play on a number of fronts. Except in Angola, the DRC, and Swaziland, democratic elections have become habitual and are well institutionalized. Increasingly, people have come to expect them, governments are obliged to hold them and regional institutions have become adept at helping to organize and to monitor them (although not to enforce their results). Civil society, while still weak in many countries of the region, is, nevertheless, getting stronger and more vocal in its calls for accountable and effective governance. Especially impressive are the quality of regional civil society organizations and the increasingly dense networks of cross-border civil society relationships that are being forged. In countries where the official opposition parties are timid and flaccid, the media is increasingly effective in keeping its audiences informed and government accountable. Just as important, it is organizing itself at the regional level and, in some countries at national levels, to keep political space open and to protect media freedoms and rights to free speech. The judiciary too, despite crippling shortages of staff, inadequate budgets, and antiquated equipment, is, in several countries, either already acting independently of the executive or beginning to act independently, and showing a willingness to take decisions based on the facts and merits of the case rather than on the rewards or penalties that might emanate from the respective players in the case. (From what the assessment team heard, the quest for direct foreign investment is motivating the executive branch to see the value of an independent judiciary.) Finally, women are increasingly sitting behind the desks at the parliaments and statehouses across the region, adding new perspectives to the business of government and policy-making.

There is no doubt but that Southern Africa’s fragile democratic institutions will be challenged over the coming years by rising prices for food, energy and water; continued dislocation caused by man-made and natural disasters; and the world’s highest rates of HIV/AIDS. Many economies will continue to have problems generating the number of jobs needed to employ the region’s expanding pool of unemployed youth. To meet those challenges, each of which is fraught with potential for political volatility and instability, regional governments will need to increase their openness to democratic competition, deepen

²⁰ Ndlovu-Gatsheni, Sabelo as cited by Chris Maroleng. “Zimbabwe: Increased securitization of the state?” Situation Report: Institute for Security Studies. Pretoria, South Africa. 7 September 2005.

their commitment to rule of law, develop greater steadfastness to honest governance, transparency and accountability, and expand their willingness to listen to the voice of the people. It's a tall order.

IV. SUPPORTING ANALYSES

A. Consensus

A broad-based consensus on the fundamental values, principles and rules of how a society will be governed is the scaffolding on which sustainable democracies are built. Constitutions are one way of developing and expressing such consensus. Yet constitutional processes in Southern Africa have had a mixed record of success when it comes to facilitating a consensual agreement on the rules of the game.

Clearly, Zambia's new constitution in 1991 and an amendment to Malawi's constitution in 1993, both actions driven by the popular demand for multi-party politics, and Madagascar's new constitution in 1992, driven by mass protests against military control of politics, were victories for participatory democracy. Democratic forces again came to the fore in 2001 when the President of Zambia failed to pass an amendment to the constitution to allow for a third term; and in 2004 when the President of Malawi was first prevented from amending the constitution to eliminate term limits and subsequently unsuccessful at adding a constitutional provision to allow for a third term.

Unfortunately, however, pushback against executive branch initiatives is not generally the norm. On the whole, more often than not, the record shows governments overriding or disregarding constitutional provisions, dictating constitutional changes to a compliant parliament, or out-manoeuvring the political opposition and/or civil society groups that have organized for change. By way of example, the King of Swaziland unilaterally repealed that country's constitution through a royal decree in 1973, and assumed all legislative, executive and judicial powers for himself. This situation was maintained until 2006 when a new constitution came into effect. Zimbabwe provides many examples of government monopoly over constitutional processes. Its constitution has been amended 18 times since it was adopted in 1980. Many of the amendments have been introduced to strengthen the power of the government (particularly the presidency), and to reduce individual rights. The changes have almost always been made without due public consultation. An example of the Zimbabwean executive branch quashing public initiative occurred in 1997 when a coalition of almost 100 civil society organizations mobilized to promote the idea of a new constitution. In response to the idea, the president appointed a 400 person constitutional commission. To civil society's dismay, at least 300 of the commission members were members of the president's party. Not surprisingly, the commission was both unwieldy and biased. When the commission's proposed constitution was voted on in Zimbabwe's first ever plebiscite it was rejected by almost 55 percent of the voters. With the sting of the referendum defeat, government tightened political space in Zimbabwe, and an initiative that could have strengthened Zimbabwe's democratic foundations instead left them shaken.

One need not look solely to the weaker states in Southern Africa for examples of executive branch control over constitutional change. When the Vice President of Botswana lost two elections in his constituency to a tribal chief in 1969 and 1974, the President of Botswana pushed through two reforms that paved the way for his vice president to succeed him: the elimination of a requirement that a president of the country represent a constituency and the introduction of a requirement that a chief had to have been resigned from his position for five years before being eligible to run for parliament.²¹

Experts say that in order to build an ethos in which constitutions are understood, respected and defended, by the governed and the governing alike, constitutions need to be popular (developed in a participatory

²¹ Good, Kenneth and Ian Taylor. "Presidential Succession in Botswana: No Model for Africa," February 2005.

manner), durable, and autochthonous (indigenous).²² There are varying degrees to which the respective country processes for developing and adopting constitutions might be regarded as popular. The most popular would be South Africa's process which vigorously sought public participation and incorporated public input. Among the least popular would be Zimbabwe's process for constitutional reform where, as described above, civil society's initiative was hijacked by the government. As the rough table at Attachment 2 shows, a level of participation is evident though in most constitutions developed from 1989 onwards. Attachment 2 also shows that most countries have had either multiple constitutions or multiple amendments to their constitutions. Thus, regional constitutions would get a weak score on durability.

Whether the constitutions are autochthonous or not, i.e., rooted in the culture, values and traditions of the society it is meant to govern, gets into the question of what is indigenous and what is universal. Some would argue that the constitutions of Southern Africa are not autochthonous but rather hangovers in one way or another from the colonial era. Swaziland is the one country that does tout its constitution as autochthonous. And yet Swaziland's constitution is one of the constitutions that comes under the most fire from regional critics, including activists and union members in the country itself, who were dissatisfied with the process of consultation that the government undertook. Perhaps Swaziland's situation is a microcosm of the region's predicament, i.e., Southern Africa is a region still in the process of negotiating its consensus. This state of incomplete consensus was reflected in different ways in several interviews the assessment team conducted during its field work.

In Mozambique, the team was told that several years ago USAID supported a (pre-Afrobarometer) survey which included the question "is the President your father or your servant?" According to the person who related the story, the large majority of Mozambicans answered that the President was their father. If this attitude is universal to the region, it has implications for democracy, particularly in those cultures of the region in which the wishes, opinions and dictates of the father are rarely questioned. During the assessment, the team asked others to whom it spoke how they thought the question would be answered in their respective countries. The response was mixed. Many thought the result would approximate the Mozambican response. Some thought the opposite. One thought there would be a difference between the rural and urban responses. There was no consensus.

It was also pointed out in the interviews that many of the liberation leaders had not fought for democracy but rather for self determination. It was suggested that we should take these leaders at their word and to recognize as well that their goal is not "good" governance but rather "efficient" governance.

Several interviewees attributed the gap between the high quality of many of the constitutions, protocols and other documents, and the uneven performance in honoring the documents, to their perceptions that the documents are formulated, in large part, for the donors and not for the countries themselves. Interviewees in Mozambique went beyond this to indicate that to the extent there is a consensus in their country, it is between the government and the donors, not the government and the people. Sadly, the perception is that the donors do not hold the Mozambican government accountable. One respondent indicated that "the donors do not press hard on democracy concerns in their meetings with the government as long as the macro-economic situation is stable and improvements are being made in service delivery." (The substance of this latter comment was confirmed by a donor who explained that the donors find it hard to agree on which DG issues to prioritize, in part because each country has different interests in the country and different DG programs it wants to see move forward. Another donor, however, indicated that the community is coming together on the corruption issue.)

The speculation that some countries have only limited commitment to democracy is reinforced by a sentence in a regional think tank's independent assessment of SADC's performance. The sentence, which

²² Hatchard, John, Muna Ndulo, and Peter Slinn. *Comparative Constitutionalism and Good Governance in the Commonwealth: An Eastern and Southern African Perspective*, Cambridge University Press, 2004, p. 29.

unfortunately is not expanded upon, states that “politically, the lofty values espoused [in the SADC Protocol on its security organ and its electoral norms] do not reflect a practical convergence of members’ thinking on the meaning of democracy and good governance.”²³

Beyond its interviews, the team examined Afrobarometer survey data that it thought might be relevant to the consensus question. Two survey questions stood out.

In the first question, respondents were asked to agree or disagree with the statement, “Democracy is preferable to any other kind of government.” As the table below shows, the results were not encouraging. The Afrobarometer notes that they represent a decrease from the percentage of positive responses found in previous surveys. The good news is that, according to the Afrobarometer, while demand for democracy may have slipped, no other form of governance has yet won more than minority support.

AFROBAROMETER SURVEY: PERCENTAGE SUPPORTING DEMOCRACY²⁴

Botswana	Zimbabwe	South Africa	Zambia	Namibia	Malawi	Mozambique	Lesotho	Madagascar
69	66	65	64	57	56	56	50	43

The second Afrobarometer question is related to people’s understanding of democracy. It asks, “What, if anything, does democracy mean to you?” The most common response was some form of “civil liberties,” which includes freedom of speech, freedom of association, freedom of movement, freedom of religion, and freedom generally. But the second most common response was “I don’t know,” which does not provide a firm basis on which to build consensus.

The lack of knowledge about democracy was confirmed during the assessment team’s field work. A common refrain that we heard during many of our interviews was that people do not have a good grasp of the roles and responsibilities of different institutions of democracy and how the institutions of democracy should ideally relate to each other. According to SADC PF and the SADC Tribunal, respective roles and responsibilities of the different institutions of democracy are often not even understood at the leadership levels.

The bottom line is that a democratic consensus is not valid unless it is rooted in a common set of democratic values, and until citizens have a reasonable understanding of what democracy and the roles its various institutions play. Southern Africans are still in the process of synthesizing the very real democratic values found in their traditional cultures (such as consultation and consensus) with the democratic institutions of the modern world. Initiatives like the APRM are worthy attempts to help further that synthesis. Other initiatives related to consensus building are underway as well. The African Union has, for instance, signed a Memorandum of Understanding with the Stockholm-based Institute for Development and Electoral Assistance (IDEA) that includes among its activities support for constitution building. IDEA promotes a process that begins with “establishing the political community” before moving to agreeing on the rules of the game. Also encouraging is the growing South-South dialogue in which Africans are examining other models of democracy. Finally, it was interesting that two people who were interviewed by the assessment team mentioned the need for tax reform. Tax reform was also raised by a student during a focus group discussion at the University of Pretoria. The point made by those who

²³ South African Institute of International Affairs. “SADC Barometer: Evaluating Progress,” March 2005.

²⁴ Afrobarometer. “The Status of Democracy, 2005-2006: Findings from Afrobarometer Round 3 for 18 Countries.” Briefing Paper No. 40. Revised Version, November 2006.

raised it is that, with many governments in the region able to draw either on natural resource revenues or donor support, there is little incentive for them to seek to achieve democratic consensus with their people and that a taxed population is more likely to be one with which consensus must be reached.

B. Competition

While consensus creates a foundation of common understanding, shared values and the agreed upon order that underpins the institutions and structures through which democracy can be practiced, competition is the means by which persons living in democracies employ to generate and contest ideas, advocate divergent interests, mediate differences, prioritize preferences, develop policies, and check and balance power. Competition occurs within all sectors and at all levels of society, and within structures that are both formal and informal.

“Elections” is usually the first word that comes to mind when we think about democratic competition, and elections are indeed the most basic form of democratic competition; but elections alone do not provide for the continuous competition required to examine and make the policy choices that best serve the common good. Civil society, political parties and media all play roles that are equally important in democratic competition. The three serve as vehicles for disseminating the information that is crucial to debate (all three), aggregating and representing group interests (civil society and political parties), developing policy alternatives (civil society and political parties), and monitoring democratic performance (all three).

To provide for competition within the government itself, democracies institute a system of checks and balances between the executive, legislative and judicial branches of government as well as between different levels of government, i.e., national, regional and local.

The following sections of the paper discuss the progress that Southern Africa has made toward establishing the institutions that undergird competition in a peaceful and well functioning democracy.

1. Civil Society

Civil society organizations (CSOs) in Southern Africa operate in a daunting environment. To start with, the challenges they are up against are profound. Whether it is strengthening democracy, addressing a social problem or promoting economic opportunity there is a good chance that change sought or reform promoted will not come easy.

Second, the financial resources that CSOs are typically able to attract to address the challenges are not only limited but unpredictable. Usually, with few sources of local support, resources must come from foreign donors. This means their projects will be subject to the whims of shifting donor priorities, rising and falling donor funding levels, and the short-term horizons of donor budget cycles. This has implications not only for the material conditions under which CSOs work but also their ability to plan and operate within any sort of long-term strategic framework. The competition for scarce resources can also make it difficult for CSOs to build common cause with other CSOs.

Third, in countries with limited pools of skilled labor, CSOs will frequently have high staff turn-over rates as employees in whom they have invested move on to take higher paying positions with donors and international NGOs. Additionally, those same international NGOs will usually dominate the space in which local groups are trying to operate while often making little meaningful attempt to develop local capacity.

Finally, in almost every country of the region, CSOs are dealing with governments that are suspicious of their activities. Advocacy CSOs in particular generate government concern. At best, most governments view them at best as nuisances; and at worst as antagonists promoting foreign agendas at the cost of local

cohesion. There is a current trend toward governments introducing legislation to more effectively control CSOs, especially those engaged in advocacy work. The Zimbabwe legislature passed a bill last year that would restrict NGOs from taking funding from foreign donors. While the President did not sign it, NGOs have come under increasing pressure and intimidation. Bills to tighten registration requirements are currently being considered in Angola and Zambia.

One positive trend with regard to government-civil society relations is that, in some countries, governments are reaching out to CSOs for help in delivering services. This is especially true where governments are trying to strengthen provincial and municipal capacity.

As one might expect given the conditions outlined above, most countries in the region have not yet developed the depth of civil society organization that is essential to a vibrant democracy. Even countries that have relatively high scores on various indices of democracy, countries such as Botswana, Namibia, Malawi and Mozambique, have only a handful of CSOs actively and effectively promoting democratic development.

Nevertheless, there is room for optimism. South Africa, of course, is a powerhouse of CSOs, many having substantial impact in pushing government reform and acting as a watchdog over government actions. In Zimbabwe, a large coalition of CSOs has organized into a group that calls itself the Crisis in Zimbabwe Coalition. The coalition has conducted public meetings and distributed large amounts of information, including via an extremely well done website, focusing on issues including human rights, media freedoms, land reform, ongoing violence in the country and the restoration of peace. In Zambia, the Oasis Forum, the coalition of NGOs which successfully challenged President Chiluba's third term, is now providing a voice for civil society on the country's constitutional review.

Religious denominations and coalitions of religious denominations, many of which banked a considerable amount of social capital by joining the front lines of the liberation struggles, continue to engage politically, especially on issues related to livelihoods and social conditions, but also in ways to promote respect for human rights, governmental integrity, and an expansion of space for democratic participation. In Angola for instance, affiliates of the Catholic Church support an independent radio station and a university think tank, both which promote public input into issues of national concern. The church in Angola is also publicly encouraging the government to sign on to the Extractive Industries Transparency Initiative. In Zambia, church groups constitute a significant portion of the Oasis Forum mentioned above. Like CSOs, churches can weigh in the other side as well. In 2002, the churches in Madagascar used their influence to reinforce a presidential contender's self-declared victory after the courts had determined that no candidate had received 50 percent of the vote and set the date for a run-off.

There are a number of CSOs in the SADC countries working on gender and human rights issues, both at the national and the regional level. Among the regional CSOs working on women's issues are Gender Links, Women for Change, Women in Law in Southern Africa, and Women in Law and Development. Among the regional engaged in human rights issues are the SADC Lawyers for Human Rights and Human Rights Trust of Southern Africa.

The assessment team was impressed with the high quality of regional CSOs working more broadly in promoting democracy. The team was only able to meet with a small number of these organizations but it was obvious that much of the work being done by groups such as the Institute for Security Studies, the Electoral Institute for Southern Africa (EISA), the Media Institute of South Africa (MISA), Idasa, and the Southern Africa Trust is world class.

2. Media

In the opinion of the MISA, a regional NGO promoting stronger media and freedom of expression, “the last three years has witnessed a steady deterioration of media freedom...characterized by the suppression of the basic fundamental rights of freedom of expression, assembly and human dignity.”²⁵ In a meeting the assessment team had with Director of MISA and two of his staff during its field work, the team was told that the worsening relationship between media and government is its biggest concern. By way of example, the MISA representatives pointed out numerous outbursts from government officials across the region charging media groups as being “enemies of the state, puppets of America, and Eurocentric.” They also noted documented beatings, bombings, detentions, censorship violations, etc. Furthermore, they highlighted initiatives in several countries to “re-regulate” media in discouraging ways.²⁶ According to MISA, there is an increasing use of the courts to intimidate journalists and media outlets. High cost legal suits that those taken to court cannot afford are driving media out of business and encouraging self-censorship. One result is that commercial radio is becoming less focused on the news and increasingly oriented toward entertainment. There is also a pattern of luring private media journalists to the public sector media with higher paying jobs. Of concern are the upcoming elections in many countries, with elections usually being accompanied by increased tension between the government and media.

By way of positive trends, the MISA staff pointed to the growing consideration in parliaments of “Freedom of Information” legislation and a movement toward private media becoming more organized at the national level to defend themselves and promote media interests.

USG officials in Namibia and Mozambique confirmed that media are under pressure in their countries. In both countries the team was urged to include support for media high among its recommendations.

The table below, which measures various democracy-related factors of media effectiveness, is taken from the African Media Barometer which MISA initiated in 2005. The Barometer reflects the views of a panel of ten women and men in each of the countries examined, with representation split five/five between media and civil society (or academia). Note that one set of country data is from the 2006 report and another set from the 2007 report. (It seems that five countries are surveyed, in depth, each year.) The highest possible score is 5.

²⁵ Media Institute for Southern Africa. Statement on the Occasion of World Press Freedom Day, 3 May 2008.

²⁶ MISA’s 2007 state of the media publication, *So This Is Democracy* highlights new or pending legislation in Botswana, South Africa, Swaziland, Zimbabwe that the organization believes could be problematic.

AFRICAN MEDIA BAROMETER²⁷

FACTOR	Lesotho	Malawi	South Africa	Zimbabwe	Botswana	Namibia	Swazi	Zambia
	2006				2007			
Freedom of Expression	2.1	2.9	3.1	1.4	2.2	2.8	2.0	2.5
Diversity, Independence and Sustainability of Landscape	1.6	2.4	3.3	1.4	2.4	2.6	2.3	2.8
Transparency of Broadcasting Regulation; State Broadcaster is a Public Service Broadcaster	1.0	2.3	3.5	1.1	2.0	2.1	1.9	1.6
Media Practices High Levels of Professional Standards	2.0	2.7	3.0	2.1	3.2	3.0	2.7	3.1

Another useful media index is compiled by IREX, a U.S.-based NGO. The IREX index examines five factors conducive to media sustainability: free speech, professional journalism, plurality of news, business management, and availability of supporting institutions. Of the countries it surveyed in Africa, all of which were in Southern Africa, the ranking of the five factors came out as follows, beginning with the strongest: availability of supporting institutions, plurality of news, free speech, professional journalism, and business management.

IREX indicates that the weak score for business management is not surprising. Underdeveloped business sectors and high levels of poverty limit media consumption. The NGO speculates that the poor quality of professional journalism, the second lowest score, could be a result of the industry's weak revenues and low wages, which sometimes leads people in the media to accept money for favorable coverage. IREX also indicates that the score could be the result of self-censorship. The organization posits that, if media were more financially viable, it would give the industry the independence that underpins objective, professional journalism.²⁸ The high score on supporting institutions correlates with MISA's view that regional media are collaborating when it is necessary to protect their interests. According to the IREX report, "Civil society appears vibrant regarding the media profession, even if resources are lacking."

Following are IREX's country scores for countries in Southern Africa. A five would be the top score.

²⁷ Media Institute for Southern Africa. *So This Is Democracy? State of Media Freedom in Southern Africa* 2006, 2007 editions.

²⁸ International Research & Exchanges Board (IREX). *Media Sustainability Index (MSI) for Africa*. 2006-2007.

**IREX MEDIA SUSTAINABILITY INDEX
2006-2007²⁹**

Botswana	Congo, DR	Madagascar	Malawi	Mozambique	Namibia	South Africa	Zambia	Zimbabwe
2.51	1.50	2.14	2.18	2.21	2.9	3.1	2.25	1.27

3. Political Parties

A large number of the ruling and opposition parties in the region’s political arena can trace their *raison d’être* to their country’s struggle for liberation, and their roots to an era colored by an ideological stance that has since lost credibility. Parties that assumed the mantle of leadership at liberation are frequently still the party in power. While the losing opposition parties have had the incentive to redefine themselves, ruling parties frequently continue to operate from a world view that is shaped by the past. Parties that grew out of an armed struggle in particular tend to have a centralized command structure, be suspicious or intolerant of dissent and have a somewhat statist view of the role of government. Many have yet to introduce the democracy that they espouse for their countries into their parties.

Opposition parties are often financially under-resourced and fragmented. They generally lack institutional capacity and a compelling, marketable vision. Their weaknesses are at times compounded by the ruling party’s ability to manipulate and/or co-opt its cohort and control the rules by which the game is played. Opposition parties rarely have the capacity to aggregate and represent group interests or to develop and promote the policy alternatives that constituencies in democracies should ideally be able to expect of an opposition party. Many of the parties that were formed post-independence are sub-national, often ethnically based parties with little capacity to develop a national following.

Sometimes, the publicly-stated objectives of opposition parties are not in sync with the genuine purposes to which they aspire. As one author writes:

“An examination of their actual strategies (as opposed to their rhetoric) reveals that the goals pursued by party leaders vary from grabbing a few crumbs of the “national pie” to gaining a role in the everyday operation of the government (though not necessarily in the formulation of its objectives), receiving a say in the making of certain political decisions, keeping a rival group out of power, or even contributing to the political education of the next generation of African leaders.”³⁰

Conflict between public pronouncements and concrete actions could be due to opposition party perceptions that they lack the necessary ability and means to compete with the ruling party. In other cases, their acquiescence may be based on the view that the crumbs are not always so bad. For example, many in Angola believe that for these very reasons UNITA and other opposition parties were pressing for elections far less vigorously around the political bargaining tables than their public pronouncements would lead one to believe.

While every country in Southern Africa except Swaziland has ostensibly adopted a multiparty political system, only two countries, Malawi and Zambia, can be regarded as having systems in which the opposition has a reasonable shot at turning the tables. Angola, Botswana, Madagascar, Mozambique,

²⁹ Ibid.

³⁰ Monga, Célestin. “Eight Problems with African Politics,” in Larry Diamond and Marc F. Plattner, ed., *Democratization in Africa*, The John Hopkins University Press, 1999.

Namibia, South Africa and Zimbabwe are dominant party states, although Botswana may be showing signs of becoming more competitive.

One consequence of a dominant party state that impacts profoundly on levels of competition is the frequent blurring of the boundaries between the resources and responsibilities of the state and the resources and responsibilities of the ruling party. This allows state resources to be used to build patronage networks which, in turn, lead to a privileged group of recipients sharing an interest in the perpetuation of the status quo, including maintenance of ruling power hegemony. State resources available to the ruling party can also be used to co-opt or intimidate those who might rise to oppose it. By taking advantage of these opportunities, which are facilitated by the limited ability (and willingness) of weak oppositions to perform their oversight role, the dominant party is able to deepen its hold on power, expand its control of resources and continuously entrench its status.

Finally, it is important to recognize the problem of political party finance in the region as a key factor in the lack of competition. Parties in developing countries find it difficult to finance their activities solely on the basis of membership dues. The lack of available funding compromises the strength and stymies the development of opposition parties while it gives rise to yet another temptation for ruling parties to sell access to and favoritism from the machinery of government. South Africa's ANC allegedly succumbed to this temptation in a deal in which it is said the party and several members of its political leadership benefited from kickbacks that were part of a multi-billion rand arms package. As is often the case in kickback schemes, it seems that portions of what was purchased are not relevant to South Africa's military needs. While there is an obvious need for campaign finance laws to be passed and enforced, currently only Lesotho and Namibia have laws that provide for the disclosure of contributions to political parties.³¹

4. Elections

It is difficult to generalize about the quality of the electoral processes in the countries of Southern Africa because of the varying levels of democratic development across the region. In more than half the countries, elections have become habit; and in about half of those countries they can be regarded as being conducted in ways that are largely fair, open and relatively free of chicanery. In the remaining countries, elections are either rarely held, marked by violence or, in the case of Swaziland, not multi-party.

The level of voter participation throughout the region is high except in the latest elections in Mozambique and Malawi. In South Africa, the turn-out of registered voters was high but the number of voters who registered was disappointing.

Inter-party electoral competition is generally weak. Only Malawi and Zambia have oppositions that can challenge the ruling party but Malawi's political system has been thrown into crisis by a split in the ruling party that has left a minority party in power. While inter-party competition in South Africa is relatively weak (an opposition party does hold power in one province), intra-party competition in the country is vibrant as the recent contestation for ANC party president demonstrated.

The technical ability of most countries to manage elections is consistently improving and national electoral commissions are sometimes willing and able to demonstrate some independence from the ruling party dictates. Elections are, however, often de-legitimized in other ways. In most countries, the ruling party has no hesitation in employing state resources to press its advantage during elections. This includes everything from control of state media to questionable use of state transport to the distribution of state resources in the form of patronage. A number of elections in the region are accompanied by voter fraud

³¹ International Institute for Democracy and Electoral Assistance (IDEA). Handbook Series: Funding of Political Parties and Election Campaigns, pp. 205 – 207, undated. Stockholm, Sweden.

and intimidation. Elections themselves are seldom based on political platforms but rather on extravagant promises and accusations of corruption and incompetence in the other party. Voting can often be along tribal or regional lines, or based on urban-rural splits.

Following are brief highlights of each country's most recent experience with national elections. They show that, within the region, there are countries that have not yet habituated multi-party elections, countries where elections are still accompanied by violence, and countries that are doing relatively well.

- *Angola* has not had elections since 1992, when the Jonas Savimbi of UNITA threw the country back into civil war when he lost the presidential race to the MPLA's Eduardo dos Santos.
- *Botswana* has held regular and high quality elections since independence. While the country has not seen an alternation of power, the percentage of vote won by the ruling party has shrunk over the last several elections, from 55 percent in 1994 to 54 percent in 1999 to 51 percent in 2004.³²
- *Democratic Republic of the Congo* conducted its first multi-party presidential elections ever in 2006.
- *Lesotho* had elections in 2007 that resulted in weeks of protest, some of which was violent, when opposition parties felt that the conduct of the elections had been not been fairly managed.
- *Madagascar* held elections in 2006 in which the incumbent won. An exiled former deputy prime minister, who many believed would have been serious competition to the incumbent, was barred from running. There was a limited amount of pre-election violence when another barred candidate distributed leaflets announcing a military take-over.
- *Malawi* had national elections in 2004 that did not meet the standard of transparency that had been set in the 1994 and 1999 elections.
- *Mozambique's* 2004 elections gave the ruling party its largest victory since the adoption of multi-party elections. There were irregularities in the elections but they were not believed to be significant enough to have altered the elections. Voter turn-out was very low.
- *Namibia's* 2004 elections marked the first elections in the country's history in which the first president was not on the ballot. His hand-picked successor had little problem winning the election, after the president manipulated intra-party elections to disqualify his candidate's competition.
- *South Africa* held elections in 2004 that were free and fair. While there was a high turn-out of registered voters, many eligible citizens did not register. There is a growing concern in South Africa about voter apathy.
- *Swaziland* held its first direct elections for its House of Assembly in 2003. Previously, members of the Assembly had been elected indirectly. The Commonwealth Expert Team that observed the elections commended the management of the electoral process but questioned whether elections could be credible "when they are for a Parliament which does not have power and when political parties are banned."³³

³² Bauer, Gretchen and Scott D. Taylor. *Politics in Southern Africa: State and Society in Transition*, Lynne Rienner Publishers, 2005, p. 96.

³³ Report of the Commonwealth Expert Team. "Swaziland National Elections." 18 October 2003. Found on the website of the Electoral Institute of Southern Africa: www.eisa.org.za.

- Zambia's 2006 elections resulted in several days of riots when opposition supporters declared the election had been rigged. International observers had been satisfied with the fairness of the electoral process.
- Zimbabwe's 2008 elections have thrown the country into a crisis that has yet to play itself out.

Angola, Botswana, Malawi, Mozambique, Namibia, and South Africa all have presidential elections coming up in 2008 or 2009. A table providing information on upcoming elections and electoral processes in each of the countries can be found at Attachment 3. Below are brief reviews of what to watch in each election.

Angola (Legislative elections in September 2008; presidential elections in 2009)

Since its independence in 1975, Angola has held only one national election. It occurred in 1992, after a fragile peace agreement had been reached by the country's warring parties. The UN, which had sent over 10,000 military and civilian personnel to help organize and monitor Namibia's transition and first election in 1989, deployed approximately 1000 military and civilian personnel to observe and verify transition and elections in more heavily populated, war-torn Angola. Margaret Anstee, the UN Representative, famously characterized the situation as "flying a 747 with only enough fuel for a DC3." Nevertheless, with hopes high that the path to recovery lay ahead, approximately 92 percent of eligible citizens registered to vote and 91 percent of registrants cast their ballot in what were considered peaceful, fair and free elections. Unfortunately, UNITA's Jonas Savimbi refused to accept the results and plunged the country back into civil war with a renewed ferocity. The war ended with his death ten years later in 2002.

Angola's second national elections have been a long time in coming but legislative elections are now scheduled to take place in September 2008, with presidential elections planned for 2009. Approximately 8.3 million citizens have registered, well over the 7.5 million that the government had originally estimated was possible. The government promises that the elections will be free and fair but, for many Angolans, the ambition is more modest. Peaceful elections will be enough.

Botswana (Elections in October 2009)

Botswana will hold parliamentary elections in 2009. Whereas the Botswana Democratic Party won parliamentary elections by increasingly small margins in the past two elections, the trend is expected to reverse back in the BDP's favor. The Botswana National Front, which has been the primary opposition, is bruised by party infighting and there seems to be little likelihood that an opposition alliance will form. According to the Economist Intelligence Unit report, the difficult prediction to make is whether the Botswana Congress Party will overtake the BNF as the largest opposition party.³⁴

Malawi (Elections in May 2009)

Malawi's first multi-party elections, held in 1994 after decades of dictatorship, were won by Dr. Bakili Muluzi of the United Democratic Front (UDF). After two terms of office, Muluzi was unable to push through a constitutional amendment allowing for a third term and, in 2004, he and the UDF supported the presidential candidacy of Dr. Bingu we Mutharika.

Mutharika defeated his main rival, Malawi Congress Party (MCP) candidate John Tembo, amidst claims that the elections were not free and fair. Soon after taking office, Mutharika abandoned the UDF to form his own party, the Democratic Progressive Party (DPP). Those allied with Mutharika "crossed the aisle" in the National Assembly, changing their political party affiliations from UDF to DPP. As a result,

³⁴ Economist Intelligence Unit. Monthly Report, April 2008.

Mutharika's newly formed DPP has ruled as a minority government. Throughout Mutharika's presidency, political animosity has intensified, creating a polarized political environment that has included impeachment proceedings against the President, the death of the Speaker of the Parliament who collapsed after an acrimonious debate on the Parliamentary floor, an annual crisis in passing the government budget and an unresolved issue of whether 'aisle crossing' is in violation of the Constitution.

The next national elections for President and Parliament, scheduled for May 2009, represent an important test for Malawi's young democracy. Mutharika will stand for the DPP, while it is expected that Tembo will once again be the MCP candidate. The Constitution prohibits candidates running for office beyond two consecutive terms, but is unclear about a third term presidency that is not consecutive in duration. This has opened the door for another Muluzi candidacy.

In the midst of political acrimony, the Malawi Election Commission continues to prepare for the May 2009 elections, which will introduce entirely new voter registration and balloting systems. Despite substantial donors pledges to the elections process, the government has not provided the timely level of support needed for the procurement of new equipment and related training, thus calling into question whether "free and fair" elections can and will be held on time.

Democracy in Malawi has proven to be quite resilient, moving from single-party to multi-party rule and alternating power between three different parties, with minimal violence and a high level of stability. The challenges highlighted above will test this resiliency over the months ahead.

Mozambique (Elections in December 2009)

In 2004, Frelimo was able to win the Presidency and, for the first time since independence, gain a two thirds majority in the Parliament. The party is expected to continue its dominance in the upcoming 2009 elections. Worth watching will be voter turn-out, which was disappointingly low in 2004.

Namibia (Elections in November 2009)

Namibia will hold its fifth parliamentary and fourth presidential election in 2009. The elections will be worth watching with a new party, Rally for Democracy and Progress (RDP), gearing up to contest the race. The RDP is headed by Hidipo Hamutenya, who left the South West Africa People's Organization (SWAPO), the ruling party, after his bid to be the party's presidential candidate was thwarted by the machinations of outgoing President Sam Nujoma. Already SWAPO stalwarts, including Nujoma, are demonizing the new party. Many believe the popular Hamutenya and his party will be able to challenge SWAPO's two thirds majority in the parliament. Others believe that the RDP will follow the course of another offshoot of SWAPO, the Congress of Democrats, and merely further divide the opposition. (There is also a belief that the split in SWAPO has left SWAPO itself more concentrated with those advocating an authoritarian approach to politics and government.)

South Africa (Elections in 2009)

In December 2007, Jacob Zuma thumped political rival and South African President Thabo Mbeki in a contest for the presidency of the African National Congress, virtually assuring Zuma's elevation to South Africa's presidency in April 2008 when a new Parliament is seated. A fortnight later, Zuma was charged with 18 counts of corruption, fraud, racketeering and money laundering, with a trial scheduled for August 2008. The trial has since been postponed and observers are speculating whether the postponements will continue or whether the new Parliament will pass legislation granting Zuma immunity from prosecution. Few, at this point at least, believe the charges will prevent Zuma's ascension to power but there are those who wonder how an immunity law will fare in the courts.

Swaziland (Elections in October 2008)

Swaziland is scheduled to have legislative elections later this year. While the country's new constitution makes reference to the freedom of association, political parties are effectively banned. The Chairman of the Elections and Boundaries Commission explained that the reference allows for activities such as joining soccer clubs but not organizing political parties.³⁵ In electing parliamentarians, Swaziland employs what it calls Tinkhundla, a system whereby candidates are nominated in an open, show of hand process at the local level and then voted on in secret ballots in two subsequent votes. The king often determines who the candidates will be.

The table below measuring political rights is drawn from Freedom House's "Freedom in the World" reports. The questions that Freedom House examines to compile the scores fall in the three categories of electoral process, political pluralism and participation, and functioning of the government. A score of 1 is the best score a country can receive.

POLITICAL RIGHTS IN SOUTHERN AFRICA

	Ang	Bots	DRC	Lstho	Mdgar	Mlwi	Moz	Nam	SA	Swazi	Zam	Zim
2008	6	2	5	2	4	4	3	2	2	7	3	7
2000	6	2	7	4	2	3	3	2	1	6	5	6
1992	6	1	6	6	4	6	6	2	5	6	2	5

5. The Executive, Legislative and Judicial Branches of Government

a) The Executive Branch

Over the years, the executive branch in practically every country of the region has managed to expand its control and amass power. Depending upon the country, this has been accomplished by varying degrees through: the patronage, co-option and coercion that access to state resources makes possible; by executive branch use of democratic institutions to serve autocratic intent; and, in many cases, with the very genuine legitimacy bestowed upon the executive by a freely consenting population. Each is described more fully below.

War-torn, mineral rich Angola is replete with examples of how a wily executive can use the allocation of resources, the award of contracts and concessions, and control over policy to create an entrenched elite with a shared interest in the preservation of presidential power. In his book, *Angola from Afro-Stalinism to Petro-Diamond Capitalism*, Tony Hodges describes how the government manipulated exchange rate policies, distorted credit policies and facilitated a land-grab to benefit "well-connected families of the politico-military elite."³⁶ Angolans joke that the name of the local airline established to serve the diamond mining industry, *Gemini*, stands for "Generals and Ministers." It is more difficult to joke about the profound and widespread conditions of poverty in which the majority of the country's population lives.

But poor people can benefit from patronage as well, at least in the short-term—and usually around election time. The President of Malawi convinced farmers to vote for him in 1994 by promising that they would not have to repay the credit they had received from the Malawi Rural Finance Company. Bucking

³⁵ Swaziland.blogspot.com/2008/05/swazi-election-party-double-talk.html. (or google: Swaziland media commentary election party doubletalk).

³⁶ Hodges, Tony. *Angola from Afro-Stalinism to Petro-Diamond Capitalism*. 2001, p. 115-122.

the typical politician's penchant for forgetting promises, the president did forgive the debts—and the rural credit system of Malawi collapsed.³⁷

Co-option is also used to gain support and quell dissent. MISA reports that Radio Ecclesia, the Catholic Church-based, politically engaged radio station in Angola lost ten journalists to the better paid public media last year.³⁸ It is possible that not all of the state media's gains were the result of co-option but it is likely that at least some of them are given that the government's reputation for the liberal use of this tool in persuading media, opposition party members, and NGOs to support its actions.

Coercion takes many forms. In two countries visited, Mozambique and Namibia, the assessment team heard frequent stories of government employees being asked to take loyalty oaths to the ruling party in order to either hold onto jobs or get promotions. This is, of course, a relative mild form of coercion compared to the detentions, beatings and killings that are now taking place in Zimbabwe. Often coercion is meant to send a signal to others and not just discipline the target of the coercion.

Political leaders in the region are adept at using democratic means, institutions and procedures to serve autocratic intent, advancing their agendas in ways that are usually legal in the narrow sense but not necessarily in accordance with the spirit of democracy. Parliaments are often accomplices in this regard. It is easy to point to examples of this practice in some of the region's less democratic countries, but it also occurs in those with better democracy records. A good example is Botswana's "automatic succession" clause contained in Amendment 16 to the Botswana constitution. Before the Amendment was adopted, language in the constitution provided that, in the event a president vacated the office, the vice president would hold the office until a new president was selected. Amendment 16, adopted in 1997, provides for the "automatic succession" of the vice president to the presidency should the president vacate the office. While on the surface, the amendment seems reasonable, it is important to remember that the president of Botswana appoints the vice president. Although the constitution provides that the appointee must be approved by the parliament, the constitution also gives the president the authority to suspend the parliament. Since Amendment 16 has been passed, the last two presidents have threatened to suspend the parliament if their nominees to the vice presidency are not approved. This, in effect, means the vice president of Botswana is accountable neither to the people nor to its elected representatives but to the president, who himself is indirectly elected by the Parliament. The Botswana constitution also prohibits tribal chiefs from assuming political positions. Nevertheless, the current president is a paramount chief.

It is important to acknowledge that, in many cases, the executive has consolidated its power with the full consent of the majority of the people. In 1999 the constitution of Namibia was amended to allow for its first president, Sam Nujoma, to run for a third term. For many in Namibia, Nujoma was responsible for encouraging a political culture that was increasingly authoritarian, intolerant of dissent, and neo-patrimonial. For many, many more, Nujoma was the father of the country to whom people owed their freedom and the country owed its peace. In surveys completed over a three year period at the turn of the millennium by the Institute for Public Policy Research, a Namibian think tank, 73 percent of the nation's youth expressed strong support for their president.³⁹ Nujoma didn't run for a fourth term but his decision was due more to resistance from the party leadership than because of any fear of losing the election.

³⁷ Booth, David and Diana Cammack, Jane Harrigan, Edge Kanyongolo, Mike Matauri, and Naomi Ngwiri. "Working Paper 261: Drivers of Change and Development in Malawi," Overseas Development Institute, London, UK, January 2006, p. 21.

³⁸ Media Institute for Southern Africa. "So This Is Democracy." 2007.

³⁹ Keefer Patricia, William Lindeke and Phaniel Kaapama. "Namibia Democracy and Governance Assessment." Completed by MSI for USAID, March 2003. The report was citing the work of Christie Keulder at the Institute for Public Policy Research.

From its round 3 data, the Afrobarometer made a number of interesting observations on the demand for democracy in the region. One of its findings was that only 42 percent of Mozambicans and 45 percent of Namibians disapproved of “one man rule.” South Africans and Malawians also had somewhat low disapproval rates for “one man rule.” In South Africa 64 percent of the population disapproved of one man while in Malawi the percentage was 65 percent. Countries with the highest disapproval ratings for one man rule were Zimbabwe, Botswana and Zambia, at 90, 89 and 89 percent respectively.⁴⁰

Only 47 percent of the respondents in Mozambique and Namibia agreed that the president must obey laws and courts. The percentage of the populations that agreed presidents must obey the law and courts in South Africa and Malawi exceeded 50 percent but not by high numbers. In South Africa, 59 percent of those surveyed agreed that presidents must obey the law and in Malawi 64 percent agreed. Countries where those surveyed most believed that presidents must obey the law and courts were Zimbabwe, Botswana and Madagascar, at 82, 73 and 69 percent, respectively.⁴¹

Angola, DROC and Swaziland were not part of the Afrobarometer surveys.

b) The Legislative Branch

Parliaments in the region offer only episodic checks on, and balances to, their executives. There are three primary reasons for this: a political reason, a structural reason and an institutional reason.

The political reason is the most obvious. Most Southern African parliaments are dominated by the ruling party. In Madagascar, Mozambique, Namibia, South Africa and, until recently, Zimbabwe, the ruling party controls at least a two thirds majority of parliamentary seats. In Angola, with the primary opposition fractured, and other opposition parties weak, the ruling party has little problem exercising its will. Swaziland is a one party state. In Namibia and Botswana, countries in which parliamentarians wear dual hats as ministers and vice ministers, it is not only the party that dominates parliament, it is the cabinet that dominates. As such, what results is a fusion of power rather than any separation.

The structural reason that parliaments provide a weak check on executive power is the heavy reliance in the region on the closed party list system of proportional representation (PR) for selecting parliamentarians or mixed PR/First-Past-the-Post (FPTP) systems. Under a system of PR, voters cast their ballot for a party and not for an individual, as they would under an FPTP system. The parties determine who gets the seats that are won. As a result, except for those rare parliamentarians who are willing to risk their seats, parliamentary loyalties are with the party and not a constituency.

Botswana and Zimbabwe each have FPTP systems but in both countries, there are provisions that dilute the effect of constituency representation and reinforce party discipline. In Botswana, candidates for parliament are selected by the party and must declare their loyalty to the party’s candidate for president before getting the chance to represent the party. In Zimbabwe, the President is able to appoint or control the appointment a strong proportion of the representatives in the National Assembly.

The two countries with pure FPTP systems are the two countries which gained their independence first: Malawi and Zambia. These countries have the parliaments that are most likely to challenge the executive (although usually with little success). They are also the countries with the strongest oppositions.

The PR system has many benefits. Because PR systems give seats to parties based on the percentage of total votes that they have won, parties representing a minority viewpoint are often able to gain a large enough percentage of the vote to earn a voice in parliament. In an FPTP system, parties representing

⁴⁰ Afrobarometer. “The Status of Democracy, 2005-2006: Findings from Afrobarometer Round 3 for 18 Countries.” Briefing Paper No. 40. Revised version, November 2006.

⁴¹ Ibid.

minority views usually lose elections and have no direct voice in parliament. Moreover, FPTP systems exaggerate the dominance of the winning party. One of the countries that does have FPTP is Botswana. Botswana's experience provides a good example of one of the downsides of FPTP. In 1999, Botswana's ruling party won 54 percent of the total national vote, but it won 33 of the 40 contested seats or 82 percent of the parliament. In 2004, with 51 percent of the national vote, the ruling party won 77 percent of the seats.⁴²

Another advantage of the PR system is that, because a party can determine who gets the seats it has won, PR systems provide an opportunity for a party to increase the representation of minorities and other disadvantaged groups if it so chooses to. Most parties have assigned women to a significant portion of seats won. This has helped Southern Africa make impressive progress in moving toward gender equality in legislatures.

One critical function on which FPTP systems outperform PR systems is creating a bond between the people and the legislative body. This is because under the FPTP system elected officials need to be mindful of their constituents.

Several parliaments have bicameral parliaments. The second house is usually either made up of traditional leaders or representatives of local government. They tend to be either advisory or review institutions. Each country has chosen unique ways to fill member positions in these houses.

The chart at Attachment 2 provides a breakdown of the country's respective electoral systems.

The institutional reason that parliaments are unable to contest executive branch dictates is that parliaments throughout the region lack capacity. A Mozambican parliamentarian,⁴³ with whom the team spoke, outlined problems that are common to the region. Parliamentarians who are supposed to be legislators do not know how to legislate. Most parliamentarians, for instance, do not know how to take an idea and transform it into a law (which is typical in parliamentary systems throughout the world) or how to amend a law (which should be a more commonly exercised skill), there is limited knowledge of parliamentary procedures, and not as much experience as there needs to be in holding open parliamentary hearings.

Parliamentarians also have problems fulfilling their oversight role. Parliamentary budgets are often decided by the executive and, as the Mozambican told us, "it is hard to oversee the hand that feeds you." In general parliaments are short-staffed and staff are under-trained. One example of the limited oversight role that parliaments play is the report in a Namibian publication that cited a 2006 reference indicating that in its 18 year history, the Parliament of Namibia had never made a single change to the budget.⁴⁴

An example of an aborted attempt of parliamentarians to perform their oversight role comes from South Africa. In the year 2000, the opposition and ruling party parliamentarians serving on the Standing Committee on Public Accounts (SCOPA) jointly held hearings on the government's multi-billion rand purchase of arms. Based on the hearings, the SCOPA parliamentarians made plans for an investigation. Their investigation never got off the ground. The executive branch and senior parliamentarians charged the committee with exceeding its authority and halted the SCOPA investigation. A separate investigative committee cleared the government of wrong doing. The ruling party's senior member of SCOPA and the opposition's committee chair resigned their seats.

⁴² Bauer and Taylor, p. 93.

⁴³ Assessment Team interview with Renamo Parliamentarian Manuel Araújo, April 2008.

⁴⁴ Lindeke, Bill. "Namibia's Parliament in a Presidential Age: Analysis and Opinion," Institute for Public Policy Research, Windhoek, Namibia, March 2007.

The press, however, did not let the story go. One of the journalists who wrote about the story believes that:

“A great challenge facing South Africa is to revisit the role of parliamentarians in holding the executive accountable. One way of building such accountability would be to have some kind of direct constituency representation in the electoral system. Constituency representation is no guarantee that parliamentarians would not be victimized by party leaders, but at least the constituency would have an opportunity to weight in and express its opinion, whether that is in support of its MPs or to recall them. The power of the executive in South Africa is palpable...Parliament needs to be revitalized so it can be the space where a new layer of leaders might find their way into the political system.”⁴⁵

Finally, few parliaments have a pool of civil service staff that is independent of the executive branch civil service.

The implication of parliamentary weaknesses in the region is that parliamentarians are unable to fully perform the representative, legislative, and oversight roles that a democracy demands. The parliamentarian told us that media not parliament was the strongest check on the executive in Mozambique.

SADC PF offers highly praised orientation courses for parliamentarians. Its leadership center provides training for parliamentarians and staff on a wide range of topical areas. According to SADC PF and confirmed by the Mozambican parliamentarian, SADC PF courses are well attended and in high demand.

c) The Judiciary

In most of Southern Africa, judiciaries are the most neglected of the three branches of government. One consequence of the neglect is that staff shortages are pervasive throughout the region. In Mozambique, for instance, the Chief Justice reports that that country’s system has one judge for every 90,500 citizens or only 36 percent of the judges and prosecutors it needs to function effectively.⁴⁶ Staff shortfalls in the region are exacerbated by the fact that many of the staff that judiciaries do have are under-trained.

Because of staff shortages, case load backlogs are staggering. According to the State Department’s Human Rights Report, the Luanda civil courts had 4400 pending civil suits in 2006. Only 830 went to trial.⁴⁷ In many countries, two to three years of pre-trial detention is common for criminal cases. Record keeping is poor, in part because of the lack of staff but also because of limited computer equipment and inadequate physical infrastructure. Remuneration in the judiciary is low, creating strong incentives for corruption.

In an interview with the assessment team, the Chief Registrar of the SADC Tribunal Court noted that judiciaries usually do not have financial autonomy. Because of this, executive branch officials are able to interfere with judiciaries by manipulating judiciary budgets. Moreover, staffs are seldom specific to the judiciary but rather come from the general civil service. The Chief Registrar pointed to Malawi and Zambia as countries with best practices, where staff are independent of the general civil service and the judiciaries run themselves. He shared that USAID had helped the judiciary in Malawi. He went on to say that judiciary accountability is weak and noted that the lack of practiced codes of ethics undermines public confidence in the judiciary.

⁴⁵ Mangcu, Xolela. *To the Brink: The State of Democracy in South Africa*, University of KwaZulu-Natal Press, 2008, pp. 176-177.

⁴⁶ As reported in the Department of State’s 2007 Human Rights Report.

⁴⁷ Ibid.

One of the positive trends in the judiciary that the Chief Registrar highlighted is that political leaders are beginning to show more respect for the judiciary.⁴⁸ This observation was confirmed by an interview the assessment team had in Mozambique with a local advocate.⁴⁹ The advocate attributed the improving attitudes toward the judiciary to governments' interests in attracting foreign direct investment and to demand from the public for stronger rule of law.

Written publications further reinforced impressions that the judiciary is growing stronger. According to the "Economist Intelligent Unit (EIU) Country Profiles for 2008," the South African, Namibian and Botswana judiciaries demonstrate independence from their executive branch counterparts. The independence of the Namibian courts was confirmed in a 2006 study. After studying 247 cases, the researcher concluded that there was no evidence that political cases heard in the High and Supreme Courts of Namibia were swayed by political considerations. The researcher specifically studied a period of time in which there was an increase in threatening government statements directed at the courts. Interestingly, the researchers also found that decisions in human rights cases were more likely to go against the government. The researcher attributed this to the court's "deep history" in dealing with human rights cases, the effectiveness of local human rights advocacy groups, and the fact that many human rights cases were the result of administrative incompetence by government agents and thus difficult to defend.⁵⁰

What is encouraging is that other countries seem to be moving toward Namibia, South Africa and Botswana in honoring judicial independence. According to the EIU, "Despite some questionable judgments in high-profile political cases, the spirited [Zambian] judiciary has managed to preserve its independence from the executive and the legislature."⁵¹ The State Department's Human Rights report stated that, in addition to acting independently of the government, the Zambian courts had awarded damages for police brutality. The Human Rights Report also highlighted that Lesotho had ruled against the government several times in cases related to the right to assemble. The authors of *Politics in Southern Africa* quote another author who, speaking of Malawi says,

"The judiciary has emerged as a primary locus of political activity, deciding numerous cases relevant to the political and person interests of the opposition. [For example, opposition leaders have] turned to the courts for injunctions to halt government actions antithetical to their interests --whether state efforts to go ahead with poorly managed by-elections, extralegal state attempts to block opposition rallies, or plans to strip assets from [ruling party] elites. They have also used the courts to challenge the results of electoral contests that they feel were rigged or inappropriately conducted."⁵²

To conclude, it is worth noting that even when courts are not independent, they are important. A newly elected member of the Senate in Zimbabwe, writing to encourage Kenyan opposition members to challenge disputed election results in the courts, explains that it was the ability to go to the courts that denied Robert Mugabe the ability to "steal" elections in that country. He elaborates as follows:

"Courts are slow and frustrating in any country and unlikely to remove the party in power. But cases do have to be filed to demonstrate a commitment to legitimacy....through the systematic presentation of facts before courts over several years we were able to show all neutral observers that Zanu PF did not enjoy a mandate from the

⁴⁸ Assessment Team interview with the Honorable Justice Charles Chinganyi Mkandawire, Registrar of the SADC Tribunal Court. April 2008.

⁴⁹ Assessment Team interview with José M. Caldeira, Advocate, Law Firm of Sal and Caldeira.

⁵⁰ VonDoepp, Peter. "Politics and Judicial Decision Making in Namibia: Separate or Connected Realms?" Briefing Paper No. 39, October 2006. Institute for Public Policy Research. Windhoek, Namibia.

⁵¹ Economist Intelligence Unit. Zambia Country Profile, 2007.

⁵² Bauer and Taylor, pp. 32-33.

Zimbabwean people. All this helped to create international pressure against the Mugabe regime.”

6. Local Government Institutions

Local governments can strengthen democracies in several ways. They can improve service delivery and thus enhance political stability in a country, provide grassroots experience in democracy practices for people who may not have access to national institutions and, by dispersing power, help to diffuse power at the central level. For a local government to serve this latter purpose, it usually takes three attributes: political authority (including elected rather than appointed officials), the ability to raise substantial revenue from local sources, and administrative capability. Decentralization occurs when all three of these attributes are in place. Only in South Africa has reached the stage of decentralization. Other Southern African countries with local governments can be characterized as having de-concentrated responsibility.

The table below shows where various countries are along the decentralization – de-concentration continuum. The table is sequenced in a way that starts with the most decentralized state (South Africa) and ends with the least (Congo). The total score for each country is provided under the name of the country. The higher the scores indicate greater decentralization. (All scores are approximate as information was taken from a graph and data was difficult to pinpoint.)

COMPARISON OF PROGRESS ON DECENTRALIZATION ACROSS THE REGION⁵³

	SA 10.3	Zim 7.2	Nam 6.4	Mdgsr 6.1	Zam 5.9	Mlwi 5.4	Moz 4.4	Ang 3.1	Congo 2.9
Political Decentralization <ul style="list-style-type: none"> • # of sub-national tiers • direct elections • turnout for and fairness of elections 	3.3	1.6	3.3	2.6	2.6	2.4	1.3	.5	.5
Administrative Decentralization <ul style="list-style-type: none"> • clarity of roles and responsibilities provided by law between local and national • actual responsibility for service delivery • ability to hire and fire staff 	3	2.6	1.6	2	1.6	1	1.6	1.6	1.4
Fiscal Decentralization <ul style="list-style-type: none"> • arrangements governing fiscal transfers from central government • proportion of public expenditure controlled by locality 	4	3	1.5	1.5	1.5	2	1.5	1	1

Botswana has no municipalities and, presumably, because of this was not included in the survey. Another source, however, characterizes Botswana’s local councils as the “centerpiece” of Botswana democracy.

⁵³ Ndegwa, Stephen. “Decentralization in Africa: A Stocktaking Survey,” World Bank Group, November 2002.

The local councils are elected and serve as the link between the central government and local communities.⁵⁴

Several of the countries in the region have provincial levels of government. Of those that do, only South Africa and Namibia elect rather than appoint provincial level governors.

C. Rule of Law

In most countries of Southern Africa, the rich and the poor are likely to experience ‘rule of law’ in two very different ways. The rich will usually rely on the formal courts and in many countries, especially those with high levels of corruption, will be able to manipulate the law in their favor. The poor are more likely to rely on the informal justice system. In most countries, especially in the rural areas, this will include traditional courts. Many observers expected that these institutions would fade into history soon after each country’s independence but, in part, because of what are often overloaded, under-extended formal systems, the traditional courts have continued to be the venue for resolving many disputes. While they have the advantages of being more accessible and more familiar, they are also more culture-bound. This can be a good characteristic in that many cases brought to traditional courts are related to community problems that can be better resolved in ways that correspond to the values and traditions of the local communities. The downside is that traditional courts can be more discriminatory against women (particularly with regard to issues around male-female relationships) and disadvantaged minorities (although in many countries this may be the case in formal courts as well).

The table below shows perceptions of how equal people perceive application of the law to be in nine different countries of the region.

AFROBAROMETER⁵⁵ EQUAL BEFORE THE LAW

How likely do you think it would be that the authorities could enforce the law if:		Bots	Lstho	Mdgsr	Mlwi	Moz	Nam	SA	Zam	Zim
A top government official committed a serious crime	Likely/Very Likely	59	72	59	65	61	55	64	35	25
	Not very likely/not at all likely	37	25	37	32	29	41	32	62	73
	Don't know	4	4	4	4	10	4	5	3	2
A person like you committed a serious crime	Likely/Very Likely	94	97	96	89	78	72	80	95	97
	Not very likely/not at all likely	3	3	3	9	14	24	16	5	3
	Don't know	3	0	1	2	8	2	4	1	0

In several countries in the region, there is an egregious lack of respect for human rights. In these countries, unlawful and indiscriminate killings, torture, beatings, rape, disappearances and forced relocations are not uncommon. Crimes perpetrated by elites often go unpunished. Poorly paid and undisciplined police easily fall into patterns of abusing their positions. While there are many good police

⁵⁴ Bauer and Taylor, p.95.

⁵⁵ Afrobarometer Network. “Citizens and the State: New Results from Afrobarometer Round 3,” Working Paper No. 61, May 2006.

there are also those whose misconduct ranges from soliciting petty bribe taking to brutalizing suspects to aiding organized crime rings. Countries with the worst human rights abuses include Angola, Democratic Republic of Congo, and now Zimbabwe, all places where war, either on-going or past, has led to dissolution of order.

Swaziland is another country with a poor human rights record. In a recent study, UNICEF found that 1/3 of girls under 18, and 2/3 of women between the ages of 18 and 24, had suffered some sort of sexual violence.⁵⁶ The combination of 70 percent of the country's population living under the poverty line and an HIV/AIDS prevalence rate of 26 percent adds up to large numbers of orphans and other children vulnerable to abuse.

According to the State Department's Human Rights Report for 2007, the incidence of certain human rights abuses in Mozambique increased, including the incidence of unlawful killing by security forces. During the assessment team's field work, human rights came up repeatedly throughout the region as an area requiring special attention, especially with regard to training the judiciary.

There is a growing awareness of problems related to human trafficking. South Africa is a major destination point for women and children throughout the region. Women and children in the DROC, Malawi, Mozambique, Zambia, and Zimbabwe are the most vulnerable to becoming victims of international trafficking. Internal trafficking and forced prostitution are reported in several other countries. Few countries have laws specific to trafficking. The Congo continues to have the additional issue of child soldiers.

Many governments in the region are falling short in meeting their most basic obligation to the people, i.e., assuring physical security. According to one report, levels of overall recorded crime in "wealthy Southern African countries would appear [to be more than] 50 times the crime of poor West African nations."⁵⁷ The report's caveat is that countries in Southern Africa are likely to have better reporting mechanisms. Nevertheless, crime was raised as an issue frequently by people interviewed during the assessment team's visit. One person characterized it as "the fastest growing sector of the region's economy." This, of course, has serious implications for democracy. High rates of crime corrode social capital and undermine the legitimacy of the state. Crime rates also have a negative impact on business growth, creating a self-perpetuating cycle as job creation slows down and more people are forced into criminal activity.

As described in the section of this paper on "Competition," judiciaries in even the most advanced countries have limited capacity to deal with their caseloads. Corruption in the judiciary is a concern throughout the region.

D. Inclusion

1. Inclusion Issues

Voters in most Southern Africa countries continue to turn out in high numbers but, for millions of poor people, their time spent in the voting booth is the extent of their participation in the political process. Poor people often self-exclude themselves from formal political processes because of more existential claims on their time but there are also many instances in which they are unable to participate even when they might choose or need to. Poor people generally have less access to media, less ability to voice their concerns to elected representatives, less likelihood of being able to access the judiciary with confidence that they will be treated justly and less experience in organizing to protect their interests. This needs to

⁵⁶ UNICEF. "Ten Things Everyone Should Know About Violence Against Children in Swaziland," March 2008. www.unicef.org/infobycountry/swaziland.html.

⁵⁷ United Nations Office on Drugs and Crime. "Crime and Development in Africa," June 2005.

change. For governments to be fully motivated to respond their situations, poor people need the opportunity to participate as fully as possible in a country's political institutions.

Among poor people, women face higher degrees of exclusion than do men. Rural women, who are often the backbone of local economies, seldom participate in local decision-making bodies and are often discriminated against in tribal justice proceedings. Women in both urban and rural areas can face exclusion when they try to move beyond the traditional types of jobs that are generally assigned to women. Greater opportunity in the economic sector would have the positive impact of amplifying women's political participation.

Another group that encounters exclusion is people with HIV/AIDS. Most political leaders have done little to combat their exclusion. Few leaders are willing to publicly acknowledge how the disease might be affecting them, their families and their friends; and most of what has been done in the way of open, national dialogue on what the disease means for the country's future has been initiated by NGOs, universities and the media and not the leaders. Women with HIV/AIDS and the children left orphaned by the disease suffer from greater exclusion than men. Women generally are subject to more blame for the disease than men are and bear a greater burden of stigma. Both women and children are often by-passed by customary property laws when a husband or father dies of the disease. One of the most encouraging responses to the disease with regard to reversing exclusion has come from the sufferers themselves. In countries throughout the region they have organized to offer peer support and to advocate for themselves and others that the disease has stricken.

Minority cultures have also been targets of exclusion. One of the most well known examples is the Government of Botswana's relocation of the San people from their ancestral home in the Central Kalahari Game Reserve after diamonds were found in the reserve. In late 2006, the High Court ruled that the relocation had been unlawful and that the San had a right to the land. Up until now, the Government has found ways to largely circumvent the court's ruling.

A troubling trend is the willingness of leaders in the region to promote intolerance of imagined enemies and easy- to- hit scapegoats. During his presidency, Sam Nujoma of Namibia frequently lashed out to blame homosexuals, white Namibians and foreigners for his country's ills and to threaten their deportation. More recently, as SWAPO party elder, Nujoma has trained his fire on a newly formed opposition party (RDP), charging its leaders with being "enemies of the Namibian nation, saboteurs of the country's economy when they were members of Government, failed politicians and a factor of destabilization."⁵⁸ The atmosphere that Nujoma is helping to create is the reason for the kinds of situations reported in a recent press release from the Namibian Society for Human Rights, i.e., RDP partisans falling victim to armed harassment, stoned vehicles and housing evictions.⁵⁹

In South Africa, Thabo Mbeki has been likewise divisive. In a chapter entitled, "Mbeki's Assault on Black Intellectuals" Xolela Mangcu writes that African leaders such as Mbeki want to "[reduce] intellectual work to the incantation of the thought leader." Mangcu sees efforts to silence or co-opt intellectuals as a way in which Mbeki and leaders like him impose political hegemony and treat alternative ideas as subversive or standing in the way of development.⁶⁰ In another section of the book, Mangcu describes what he calls "political blackmail" whereby "black people are urged to put solidarity with their leaders or heroes above everything else" or lose their "racial authenticity."⁶¹ According to Joe

⁵⁸ This quote comes from an RDP campaign document but that the phrases were used was confirmed with USAID/Namibia.

⁵⁹ Namibian Society for Human Rights. Press Release. 19 May, 2008.

⁶⁰ Xolela Mangcu, p. 47.

⁶¹ Ibid. Pages 40-41.

Diescho, a Namibian intellectual living in South Africa, Nujoma, Mbeki and other leaders who demonize or create outsiders, “render the public space a terrain of exclusion.”⁶²

2. An Inclusion Success Story

The SADC countries have made impressive progress in opening doors in the political arena to women. Many are actively participating in and leading civil society organizations. Women also fill an increasing share of positions at national political levels. SADC is second only to Scandinavia in the percentage of women in its national parliaments. Between 1997 and July 2005, the percentage of women in SADC cabinets increased from 12 percent to 19.5 percent, along with women deputy prime ministers in South Africa, Zimbabwe and Namibia; a woman prime minister in Mozambique; and women in 36 percent of the judgeships in Lesotho.⁶³

PERCENTAGE OF WOMEN PARLIAMENTARIANS IN SADC COUNTRIES⁶⁴

Moz	SA	Nam	Zim	Angola	Malawi	Zambia	DRC	Bots	Lstho	Swazi
36	32.75	26.92	16	15.1	13	12	12	11.11	11.7	10.77

E. Governance

This section examines governance from four perspectives: the ability of government to perform their day-to-day functions, transparency and accountability, regional issues and security sector governance.

The World Bank’s “Governance Matters” Indicators are provided in Attachment 4.

1. The Ability to Govern

The capacity of governments of Southern Africa to make policy, deliver goods and services and manage the day-to-day functions of government ranges widely. At one of the spectrum there are countries such as the DRC and Angola with extremely weak capacity. It is easy to get trapped in blaming problems in these countries on a lack of political will but it is difficult to muster will when capacity is so meager. The World Bank reports, for instance, that 29 percent of the civil servants in Luanda, Angola’s capital city, have only a primary education, if that. Only seven percent of civil servants in the city have a degree from an institution of higher learning.⁶⁵ Presumably, government staff outside the capital city have even less education.

Botswana, on the other hand, has a bureaucracy that lends itself to the comment that “Botswana is one of the few African states with the characteristics of a developmental state.”⁶⁶ Its Ministry of Finance and Development Planning is likened to “the Japanese Ministry of Trade and Industry, the centralized,

⁶² Global Integrity 2004 Country Report. “Namibia: Corruption Notebook.” Joe Diescho as quoted by Gwen Lister.

⁶³ The website of Gender Links, a regional NGO.

⁶⁴ Ibid.

⁶⁵ World Bank. “Deepening Short and Medium Term Capacity in Angola.” July 2005.

⁶⁶ Bauer and Taylor, page 92, citing Tsie, Balefi. “The Political Context of Botswana’s Development Performance,” *Journal of Southern African Studies*, 1996, p. 601; and Hwedie, Osei. “The State and Development in Southern Africa: A Comparative Analysis of Botswana and Mauritius with Angola, Malawi and Zambia,” *African Studies Quarterly*, 2001.

meritorious, and autonomous agency that oversaw Japanese industrial development.” Because of the Ministry’s capacity, responsibility for Botswana’s development has been strongly centralized.⁶⁷

Transparency and Accountability

To varying degrees throughout the region, feebly checked centralized power has led to weak systems of transparency and accountability and, in a noxious cycle, these weak systems loop back to reinforce and further entrench centralized power. Together strong central power and weak systems of transparency and accountability have created the conditions for high, sometimes extraordinarily high, levels of corruption.

Corruption can be found at two basic orders of magnitude within governments of the region: grand and petty. Grand corruption includes high value embezzlement of government funds, kickbacks from preferentially awarded contracts, concessions, etc., and other similar schemes. It is usually perpetrated by senior politicians and bureaucrats seeking for personal gain and/or for feeding the political party that keeps them in power. It is grand corruption that leads to the distorted policy choices and misallocated funds that undermine progress toward broad-based economic development. Petty corruption usually consists of small value bribes extracted for preferential treatment. When it is found, it usually involves lower level officials, including police, trying to supplement low salaries and weak benefit packages. Together, the two types of corruption erode government legitimacy and grind down people’s belief in democratic values such as trust, justice and equal opportunity. They can also lead to high levels of crime and the emergence of a culture of impunity. Cultures with high levels of political corruption often also have high levels of business corruption.

In Attachments 4, 5 and 6, readers can find corruption-related indices done by the World Bank Institute, the Mo Ibrahim Foundation and Transparency International, respectively. Botswana, South Africa and Namibia are consistently perceived as the least corrupt countries in the region while the DRC, Zimbabwe, and Angola are perceived to be the most corrupt.

Also interesting to examine are the surveys done by Afrobarometer for its report on “Citizens and the State in Africa: New Results from Afrobarometer Round 3.”⁶⁸ The tables from the surveys can be found at Attachment 9. Generally, the Afrobarometer tables and the narrative in the Afrobarometer document show that:

- Southern Africans define preferential treatment and requests for bribes as wrong (countering arguments that these variations of corruption are culturally acceptable). If the surveys are accurate in their reflections, citizens in Madagascar are the most tolerant of corrupt behavior while, depending upon the violation presented, citizens of Malawi, Zimbabwe, Botswana, and South Africa are least tolerant.
- Zimbabweans perceive high levels of corruption within the Office of the President. Zimbabweans are also concerned about the integrity of parliamentarians. South Africans worry about officials in local government. Zambians and Zimbabweans agree that most or all of their police are corrupt.
- The level of corruption experienced in the region is lower than the level of corruption perceived; nevertheless, the level experienced is still high vis-à-vis international standards. Depending upon the category, Zimbabweans and Mozambicans experienced the most corruption in the region (other countries with reputations for high levels of corruption, Angola and DRC, were not part of

⁶⁷ Bauer and Taylor, page 93, citing Samatar, Ismail Abdi. *An African Miracle: State and Class Leadership and Colonial Legacy in Botswana Development*, 1999.

⁶⁸ Afrobarometer. Working Paper No. 61: “Citizens and the State in Africa: New Results from Afrobarometer Round 3.” 2005-2006.

the survey) while citizens in Botswana, Lesotho and Malawi experienced the least. Interestingly, Mozambicans reported one of the lowest levels of perceived corruption in the region and one of the highest levels of experienced corruption.

The Afrobarometer report also shares the very important point that,

“Africans [throughout the continent] do not tend to place as high a priority on reducing corruption as the international community (it does not even make the top ten among the ‘most important problems’ identified by respondents in Round 3....This does not bode well for many of the states....because the public perceives widespread corruption among public officials.”⁶⁹

This finding is consistent with a finding that one of the team members remembered from a series of focus groups in Angola. The focus of Angolans was on service delivery and jobs. Corruption did not come up as a major problem. Some speculated that it was perhaps because the links between corruption and other problems is not deeply understood.

2. Regional Issues

Countries in the region are up against a number of stresses that have the potential to trigger social unrest. Already this year the region has seen riots in Mozambique in response to rising food and petroleum prices, a spate of horrific xenophobic killings in South Africa and a man-made crisis in Zimbabwe.

The ability of governments in the region to mitigate the stresses, as well as their ability to respond effectively and humanely to any outbreaks of related violence, will have an impact not only on each country’s democratic trajectory but also on the region’s ability to maintain long-term stability.

The following list of possible destabilizing issues is not exhaustive.

- a. **Land Issues:** Practically every country in the region has issues related to land use, ownership and access. These issues are most acute in Zimbabwe, South Africa and Namibia. One person interviewed by the team commented that “if Zimbabwe was breakfast, dinner [South Africa] is yet to come.” Land issues exist in other countries as well. The Millennium Challenge Corporation’s 2008 Country Scorebook shows Angola, Lesotho, Madagascar, Namibia Zambia, and Zimbabwe all in the “red zone” on land rights and access. Even countries in the MCC’s “green zone” have problems, as the assessment team learned in Mozambique, where the laws are commendable but implementation lagging and land grabs occurring. Land laws and how they are implemented affect economic growth, rule of law, issues of race and tribalism and, particularly important in the context of HIV/AIDS, the property rights of women and children. Resolution of land issues would have an impact on the region’s ability to deal with projected long-term food shortages.
- b. **Economic Pressures:** The UN Economic Commission for Africa (UNECA) estimates that Southern Africa has an unemployment rate of 31.6 percent, the highest unemployment rate in Sub-Saharan Africa.⁷⁰ While many of the national economies have impressive rates of economic growth, job creation is not keeping pace with job demand. Part of the problem is that much of the region’s growth is in the capital intensive extractive industries.

⁶⁹ Ibid., p. 34.

⁷⁰ UNECA. “Meeting the Challenges of Unemployment and Poverty in Africa.” 2005.

Among the most likely to be unemployed are the region's youth. Again drawing from UNECA's data, youth in Africa are 3.5 times as likely to be unemployed than adults.⁷¹ The youth in Southern Africa have grown up under the shadow of HIV/AIDS. Unemployed and with little to lose, many of these young people are vulnerable to self-destruction and susceptible to those who might use them for economic and political gain. Inherent in these conditions are chances for increases in crime and civil disorder.

The economic situation becomes bleaker, and the potential for resentment more pronounced, when one considers the wide disparities of wealth that are evident almost throughout Southern Africa. According to UNDP data, Namibia has a Gini Coefficient (a measure of income disparity) of 74.3.⁷² Assuming the number is accurate, Namibia is the country with the widest income disparities in the world. Joining Namibia in the top ten are Lesotho, Botswana and South Africa. Not far behind are Zambia, Swaziland, Zimbabwe, Madagascar and Mozambique.⁷³

Countries with wide disparities of income usually have small middle classes. As the excerpt below implies, a good-sized middle class is an important component of a stable democracy:

“Many middle-class Zimbabweans (most of them black) have irritating ideas about democracy, and have the means to make themselves heard. They bankrolled the Movement for Democratic Change (MDC), an opposition party that would have won the last two national elections, had they not been rigged. Mr. Mugabe feels safer when whites and white collar blacks leave the country: then they cannot vote.

He pushes them out in various ways. Employing thugs to break their fingers is one. Confiscating private property is another. But he also uses more subtle techniques. For example, last month, his government ordered the country's private schools to reduce their fees or close.”⁷⁴

- c. Climbing Food and Energy Prices: Food and energy prices are soaring worldwide. The WFP characterized today's high food prices as “the biggest challenge WFP has faced in its 45 year history.” The organization indicates that the average price for a metric ton of wheat rose 108 percent between the first four months of 2007 and the first four months of 2008, from \$207.00 to \$430.00 a metric ton. Prices of vegetable oil have risen 73 percent, pulses 61 percent, rice 50 percent, and maize 33 percent.⁷⁵ Energy prices have also skyrocketed. Food and energy costs make up the bulk of household expenditures for many poor families in Southern Africa. With coping mechanisms already stretched, continued prices increases could be calamitous. According to the WFP, there have been food and energy price-related protests in at least 25 countries of the world in recent months.⁷⁶
- d. Global Climate Change: During the assessment team's interviews, two people who were asked what posed the greatest threats to democracy in Southern Africa surprisingly included global

⁷¹ Ibid.

⁷² In the Gini Coefficient, zero represents absolute equality and 100 represents absolute inequality. According to the UNDP, Gini Coefficients are not strictly comparable across countries because the underlying household surveys differ in method and type of data collected.

⁷³ http://en.wikipedia.org/wiki/List_of_countries_by_income_equality.

⁷⁴ Economist. “Why Zimbabwe's leader wants to drive away his middle class and keep a frightened and starving peasantry in his thrall.” 24 June 2004.

⁷⁵ “World Food Program Crisis Page: High Food Prices.” www.wfp.org/english/?ModuleID=137&Key=2853.

⁷⁶ Ibid.

climate change high on their list.⁷⁷ Surprisingly, that is, until one looks at the record. Over the past several years, the region has experienced extremes in both droughts and floods. Since last year, Southern Africa has seen torrential flooding in Zambia, Zimbabwe, Mozambique and Malawi; record numbers of cyclones in the Southwestern Indian Ocean, and severe drought in South Africa and Lesotho. Both droughts and floods create circumstances in which agricultural production plummets, food security slumps, and health conditions deteriorate. Often, drought, and especially flooding, set off massive dislocation, with many people never able to go back home. All of these outcomes create conditions for instability.

3. Security Sector Governance

The team felt that security sector governance was important to highlight for three reasons. First, the nature of civil-military relationships in several countries of the region is more politicized than what might be considered ideal in a healthy democracy. According to a regional expert on civil-military relations, “In Mozambique, Namibia, Zambia, Angola,[and] Zimbabwe...members of the military elite are either card-carrying members of the ruling party or, more significantly, are represented on the central committees of the ruling parties themselves.”⁷⁸ While there is merit in “shared values” between the military and political leadership (the shared values being “a product of an enduring political-military partnership that had its roots in the fusion of political and military leaderships that occurred during the liberation wars,”⁷⁹) recent events in Zimbabwe have shown that there are dangers as well. Military engagement in Zimbabwe’s political situation today can be traced back at least to January 2002 when the military announced criteria for candidates contesting for the office of president.⁸⁰ Today, many believe it is the military, fearful that their role in recent events will be punished, that keeps Robert Mugabe from stepping aside.

While Southern Africa has not had the level of military intervention that other regions on the continent have experienced, military governments have been in power and challenged civilian governments in Madagascar and Lesotho, and there are several coup attempts in Zambia’s history. The President of the Congo is heavily influenced by military advisors. Swaziland is another country of concern. During the assessment team’s meetings, several respondents express concern at the “securitization” of governments in the region.

The second reason for highlighting security sector governance is that the region is currently facing an array of problems that are prone to creating civil unrest. Among the problems are xenophobia, climbing prices for food and fuel, economic growth that cannot keep pace with the demand for jobs, and increasing dislocation due to unusual episodes of weather. Notwithstanding some unforeseen breakthroughs, these are problems that are likely to get worse and not better. The police, who throughout the region, are under-trained and poorly equipped, as well as the army in some instances, will be called upon to deal with these situations. How they perform will be important in determining how democracy in the region evolves.

Finally, militaries are often one of the prime drivers of corruption. Changing the culture of a country’s military would be a giant step forward toward a more transparent and accountable state. A first step in this direction would be for parliaments and civil society to be capable of greater oversight of military budgets.

⁷⁷ Assessment Team Interviews with Christie Keulder of Media Tenor in Namibia and Subethri Naidoo of DFID in South Africa. April 2008.

⁷⁸ Williams, Rocky, Gavin Cawthra and Diane Abrahams, eds. *Ourselves to Know: Civil Military Relations and Defence Transformation in Southern Africa*. Rocky Williams: “Conclusion: Mapping a new African civil-military relations architecture.” Institute for Security Studies, Pretoria, South Africa. Undated but, from dates in the narrative, appears to have been written 2002 or after, p. 275.

⁷⁹ Ibid.

⁸⁰ Ibid. Martin Rupiya. “Civil-military relations in Zimbabwe: Is there a threat?” p. 257.

MILITARY EXPENDITURES AS A PERCENTAGE OF GDP⁸¹

	Ang	Swazi	Zim	Nam	Bots	Lstho	DRC	Zam	SA	Mlwi	Mdgs	Moz ⁸²
% of GDP	5.7	4.7	3.80	3.70	3.3	2.6	2.5	1.80	1.70	1.30	1.00	.80
Rank out of 173 countries	13	21	34	36	42	60	65	92	98	124	135	150

V. RECOMMENDATIONS

In a half day workshop, the assessment team and the DG officers of USAID/Southern Africa and USAID/Namibia reviewed ten possible areas in which USAID might provide assistance. The group narrowed USAID/Southern Africa's options to the four areas below, with the idea that final decisions would be made in consultation between USAID/Southern Africa, its client missions and Washington.⁸³

- Media
- Rule of Law
- Parliament
- Security Sector Governance

In making its decisions, the group's top consideration was the assessment team's conclusion that pace of democratic development in Southern Africa is impeded by a lack of competition that stems from a weak consensus on what democracy is and how democracy should function. Thus, the group was biased toward sub-sectors that might strengthen the ability to check and balance executive power, and promote a better and more broadly shared understanding of democracy is and how it should work.

Another bias was toward sub-sectors that could provide a platform for addressing specific issues the region is facing. For instance, if USAID chooses to focus on media or parliaments, it could design the program in a way that helps journalists or parliamentarians better deal with issues related to land reform or public expenditures. Rule of law could provide a platform for dealing with land and constitutional reform issues and so forth.

Additionally, the group considered whether the sub-sector presented opportunities for complementarity with USAID's partnership with Transparency International as well as how much demand there was from USAID missions and embassies in the region for the activity.

Also important was whether there were strong regional organizations working in the sector. This is because the group felt that, by implementing through a local organization, USAID could provide an added

⁸¹ Central Intelligence Agency. The World Factbook. All percentages are from 2006, except Zambia which is listed as 2005, est.

⁸² The assessment team was told during its visit to Mozambique that the police are better funded than the military.

⁸³ The group also gave serious consideration to recommending 'support to elections,' given the large number of elections coming up in the next two years. It chose not to make this recommendation because it seemed to be the sub-sector that bilateral missions were most easily able to obtain funding for. It is, however, recommended that, if USAID involves itself with the media or the security sector, it include an "elections" element to the program. For media, the idea would be strengthening media's ability to cover elections. For the security sector, the idea would be to find a way, within USAID's regulations, to improve the security sector's ability to deal with elections related tensions.

benefit to democracy in the region by strengthening local civil society capacity and, at the same time, spend a greater percentage of its scarce democracy fund on program, with the lower administration and overhead costs associated with local grants.

Finally, the group factored in what a regional approach added that a bilateral approach could not. Here, the group felt the following to be the regional program's comparative advantages: strengthening regional organizations, working in DG arenas that might be considered too contentious for bilateral programs, creating regional peer support groups, and filling gaps that bilateral programs were generally not addressing.

Below is a summary of the case for each of the four areas recommended plus ideas for consideration during the activity development stage. (Media and Rule of Law are together at the top of the assessment team's list of recommendations. Media is presented first because of the strong regional institutions in the sub-sector and the fact that, because of those organizations, it would probably be the sub-sector more easily supported and more likely to deliver near term results.)

A. MEDIA

Why Media?

Media performed well against all the criteria. It has the potential to have a positive impact on both of the factors the assessment team determined to be the most critical constraints to deepening democracy in the region. It can:

- Build consensus on how democracy should work by educating readers/listeners;
- Provide fora for public discussion and dialogue; and
- Facilitate checks on executive power by playing a watchdog role and by offering alternative perspectives. (As one interviewee put it: media helps to fill the void of a weak opposition.)

Media can complement the objectives of the grant to Transparency International Zimbabwe (TI/Z), either indirectly by more effectively playing its watchdog role or directly, should USAID decide to access TI/Z's expertise in training journalists.

In addition, media can provide a strong platform from which to address other democracy objectives. For instance, partnerships between media and regional organizations such as the SADC Parliamentary Forum and/or the SADC Tribunal Court could educate the people of the region on the roles of the parliament and the judiciary, respectively. Alternatively, regional journalists could be trained to report on public expenditure, land reform, trafficking and other topics.

There are several media groups capable of mounting a regional media program. The assessment team met two of them, the MISA and PANOS. Among the other organizations that might be worth contacting include the Institute for the Advancement of Journalism, Bush Radio and Witwatersrand University, which cooperates with MISA on an investigative journalism program. All of these organizations, except MISA, are based in South Africa. MISA is based in Namibia but has branch offices throughout the region.

There is a high demand from USAID missions and Embassies for media programs. Specifically, media was recommended strongly by USAID and the Embassy in Namibia and the Embassy in Mozambique.

1. Activity Ideas in Media

a. Support for Community Radio: USAID could support the spread of community radio and its increased use as a democracy-building tool. Such an activity could:

- Support the development of template radio programs designed to help people better understand the institutions and practices of democracy (and the adaptation of the templates to local situations).
- Support regional workshops to train radio journalists on how to report on issues of regional concern, including public expenditures, anti-corruption, land reform, human rights, etc.
- Support advocacy efforts to ease licensing and other restrictions on community radio.
- Complement and partner with local government programs being implemented under bilateral USAID programs.

This activity could be implemented by one media NGO in the region or a partnership of media and/or other types of NGOs. Ideally, the organization chosen to implement the program would reach out to SADC Parliamentary Forum, the SADC Tribunal Court and other regional governance bodies to participate in developing content for media programs.

b. Training in Investigative Reporting and Other DG-Related Topics: USAID could support a general training program for investigative journalism and/or a program to train journalists on reporting about specific issues, such as corruption, public expenditures, land reform, human rights, etc. The assessment team recommends that, if a decision is taken to go with an issues-based program, USAID mix training on controversial issues with training on non-controversial issues. For instance, USAID could, through expertise available from other portfolios, provide training on how to cover trade or HIV/AIDS. The assessment team also heard considerable demand for more training on regional trade issues.

USAID could undertake this activity by picking up an on-going investigative journalism program managed by MISA in partnership with Witwatersrand University for which current donor funding is ending, or issue a request for applications from interested parties in the region.

c. Training in Ethical and Responsible Journalism: If USAID follows through with either (a.) and/or (b.) above, it should consider adding training in ethics and responsible journalism.

d. Improving the Environment for a Free Media: This activity could support:

- the efforts of regional organizations to promote more progressive legislation in the countries of the region on media rights;
- the efforts of regional organizations to promote more progressive ‘access to information’ legislation;
- workshops involving media, elections officials and other key players to discuss the role of media during elections;
- training for government officials on the role of the media in a democratic society and how to deal with media in a constructive way;
- workshops for judges on dealing with media-related cases.

Activity d. could be free-standing or part of an RFA for activities b. and c. above. It would be useful to have the implementer engage in collaboration with SADC Parliamentary Forum on the legislative aspects of the activity, with the SADC Tribunal Court on any workshops for judge, and with SADC Electoral Commissioners on activities related to the role of media during elections.

B. RULE OF LAW

Why Rule of Law?

Rule of law also fared well in meeting the criteria. With regard to addressing the key constraints to democracy in the region:

- Strong and independent judiciaries would be powerful forces in checking and balancing the power of the executive and in helping to reinforce transparent and accountable governance.
- Improving the capacity of the judiciary would complement the objectives of the grant to Transparency International.

Rule of law could provide a platform for having an impact on several of democracy issues. For instance, training programs or peer networks could be created for dealing with issues like human rights, land reform, corruption, etc.

There are several capable NGOs in the region dealing with rule of law issues. SADC Lawyers for Human Rights is among the strongest. Some of the NGOs are specialized, such as Women in Law and Development in Africa. The SADC Tribunal Court is a new regional institution that should be explored. The Southern African Judges Commission would also be worth getting to know.

There was interest from USAID/Namibia and USAID/Malawi for a Rule of Law program.

1. Activity Ideas for Rule of Law

- Civic Education:*** Several interviewees noted that the general public has little understanding about the judicial system's role in a democracy, weak knowledge of how to access justice, and limited awareness of their basic rights. It is recommended that USAID explore possibilities for supporting ROL-related civic education in ways that do not create unrealistic demand side expectations of the judiciary while the supply side is still weak. This could include support for developing media content on the judiciary, regional moot court events for young people, assistance to help the SADC Tribunal Court introduce itself to the region, and so forth.

To undertake this activity, USAID could issue a Request for Applications from regional NGOs that work on ROL issues, from networks of national legal assistance centers, or from partnerships between ROL NGOs, media NGOs and/or universities.

- Training for Lawyers and Judges:*** Both lawyers and judges interviewed during the assessment expressed interest in training on dealing with human rights issues. USAID could support a series of regional training sessions for lawyers and judges on human rights and other democracy/good governance-related legal issues that are common to the region, including land reform, corruption, trafficking, and so forth.

To undertake this activity, USAID could issue a Request for Applications from regional NGOs that work on ROL issues and/or from networks of national legal assistance centers. USAID should determine whether the SADC Tribunal Court might play a role in the activity. This activity could be part of the same RFA as the activity above.

- c. *Judicial Reform*: The assessment section of this report identifies a number of issues that are common to judiciaries throughout the region, e.g., limited judicial independence, weak accountability, etc. USAID could seek proposals from regional NGOs or networks of national NGOs asking proposers to identify reforms that might and should be undertaken on a regional basis and present a plan for addressing the reforms. This could be a free standing activity or clustered together in one Request for Applications with activities b. and c. above.
- d. *Peer Support Groups*: MISA has demonstrated the strength of peer groups in protecting media freedoms and protecting journalists. USAID could make a constructive contribution to judicial independence by supporting and strengthening peer groups for judges. Possibilities could include a series of regional workshops that allow judges to share experiences on how they are dealing with common topics of concern and to determine best practices, an annual publication on the state of the judiciary in the region, etc. If a regional workshop approach is taken, topics could include how different countries deal with legal problems, such as property rights, human rights, HIV/AIDS-related legal issues, etc. and with judicial problems, such as judicial independence, case overload, etc. If funding is available, workshop participants could be encouraged to identify follow-up actions, with USAID willing to fund a portion of the actions.
- e. *Advancing Regional Cooperation on a Key Issue*: USAID could identify issues with regional implications (such as trafficking) and support activities, such as SADC-sponsored regional workshops, to harmonize laws in the region to deal with the issue.
- f. *Strengthening the SADC Tribunal Court*: USAID could assist the new court by responding to its request for a law library and to help it develop an outreach program training judges and lawyers in the region on human rights and other issues.
- g. *Strengthening the Rights of Disadvantaged Populations*: USAID could solicit proposals from organizations protecting the rights of women and minorities.

C. PARLIAMENTS

Why Parliaments?

Support for Parliaments had a mixed score against the criteria:

- In theory, Parliaments should be one of the major balances to executive power. In Southern Africa, however, this is not the case.
- Parliaments have the legal capacity to promote transparency and accountability but rarely have they shown leadership in promoting transparency and accountability.
- Parliaments have an interest in helping to build the consensus between the governed and the governing on how democracy should work. Parliaments themselves are interested in having their roles better understood by the general population and better respected by the executive and several Parliaments have established ties to civil society that could be expanded into a broader dialogue on roles and responsibilities.

Parliament is, in theory, a strong vehicle for having an impact on other democracy issues. It has a role in land reform, overseeing public expenditures, fighting corruption, etc. Plus, it has the power to hold hearings on issues.

The regional Parliamentary institutions are not as strong as the regional civil society organizations that USAID would have the opportunity to work with on the other proposed programs.

Demand from the USAID missions in the region for a Parliamentary program was not expressed.

Activity Ideas for Parliaments

- a. Orientation and In-Service Training for Members and Staff on Legislative Responsibilities and Procedures: This is a popular and useful on-going program.
- b. Training and Workshops for Members and Staff on Selected Issues: This could be done through the SADC PF Leadership Center. Issues could include the ones raised in the assessment, such as land reform, constitutional reform, anti-corruption, human rights, etc. as well as issues where USAID has on-the-ground expertise, such as trade and HIV/AIDS.

D. SECURITY SECTOR GOVERNANCE

Why Security Sector Governance?

Security Sector Governance is recommended because of the strong institutions in the sector; and because how security forces are used --as crime in the region continues to increase, food prices rise, economies cannot create jobs as fast as they are needed, and natural disasters possibly grow progressively worse, resulting in dislocated people and the tensions that accompany those situations-- will have a major impact on the course of democracy.

Security Sector Governance addresses the criteria in the following ways:

- In several countries in the region, the executive and the forces in the security sector have a symbiotic relationship, with security forces loyal first to the executive and secondarily to the people. A program to promote good governance in the security sector could help both the executive and the military to become more accountable to the people and, in the process, lead to more effective checks on executive power over the longer term.
- The security sector is often the source of considerable corruption. More effective legislative and civil society oversight over the military would have a positive impact on transparency and accountability.

Security sector governance does not deliver as much value as the other options with regard to providing a platform for having an impact on other democracy issues.

The assessment team met with two strong regional organizations working on security sector governance issues: the Institute for Security Studies (ISS) and the Southern African Defense and Security Management Network, a network of universities. Another organization to explore is the Center for Conflict Resolution in Cape Town.

USAID/Namibia made the case that difficult-to-handle topics like security sector governance and land reform are best handled from a regional platform.

Activity Ideas for Security Sector Governance

- a. **Parliamentary Oversight:** USAID could support an on-going program being implemented by the ISS and the SADC Parliamentary Forum to strengthen parliamentary control and oversight of: (i) defense and security policy and (ii) plans and budgets; and to build transparency on defense and security issues.
- b. **Civil Society and Media Oversight:** USAID could solicit proposals from the NGOs engaged in the security sector for training other civil society organizations and the media on how to analyze security sector policies and budgets.
- c. **Community Policing:** USAID could help communities organize themselves to conduct community policing and improve relationships between communities and local police forces

VI. OTHER RECOMMENDATIONS

The assessment team also had several other recommendations for USAID consideration:

A. Complement On-Going Anti-Corruption Efforts

The team recommends that USAID seek to build linkages between its on-going anti-corruption activity and any new activities. All four of the democracy sub-sectors recommended for consideration, i.e., media, judiciary strengthening, security sector governance, and parliamentary strengthening have the potential to be effective vehicles for promoting anti-corruption. For instance, TI/Z could provide training for investigative journalists on how best to cover corruption, conduct ethics training for the judiciary and security forces, or collaborate with SADC PF to help parliamentarians develop freedom of information legislation or codes of ethics. The team further recommends that, to the extent possible, USAID focus anti-corruption activities on political parties, judiciaries, and security sector institutions.

B. Incorporate Gender and Youth into the Design of Programs

The team recommends that, in design of its DG activities, USAID identify ways to ensure that women and youth are participants in activity implementation. In a media activity, USAID might, for instance, set aside a certain number of training slots for women journalists, or create a special training program for young aspiring journalists. A judicial activity might include a peer program for women judges in the region or support judicial workshops on topics where women and children are often victims, such as human trafficking. If a decision is taken to continue support to SADC PF, USAID might want to support SADC PF's successful women's caucus program and/or help SADC PF create a regional 'youth in parliament' week. Depending upon legal latitude, USAID could, in the security sector, provide training to police on how to better deal with women and children victims of crime or support activities in which youth and police could interact constructively. There may also be opportunities to improve relationships between the military and women and/or youth.

C. Help to Strengthen Regional Civil Society Groups Outside of South Africa

South Africa serves as the headquarters for a number of impressive civil society organizations. In order to provide some balance to South Africa's predominance, the team recommends that USAID consider ways in which it might help strong national NGOs outside of South Africa expand their activities and their networks beyond their borders. This could be done through competitive grants programs in which

national NGOs are encouraged to form cross-border partnerships to bid on and implement USAID's DG activities, or in which South African-based NGOs are encouraged to bid in partnership with NGOs from other countries.

D. Promote Democracy and Good Governance as a Cross-Cutting Theme

USAID is dedicating large amounts of funding in the region to the health and education sectors. DG officers should increase efforts to convince health and education counterparts to include DG components in their programs, with the rationale that good governance will improve accountability for the funds and increases the chances for sustainability beyond the life of the funds. Health and education programs could provide training for media to report on their sector, work with ministries to increase procurement integrity, support for improving the quality of dialogue between government and civil society, decentralization promotion assistance, training for parliamentarians, and so forth. These types of programs would increase the quality and sustainability of health and education interventions and, at the same time, strengthen democratic values and democratic practices.

E. Commit Time and Resources to Gaining a Deeper Understanding of Regional Problems

Given the time available, the assessment team was not able to explore any one DG topic in depth. There are, as the governance section notes, a number of issues that the region is facing that could reverse democratic progress to date or undermine democratic progress in the future. Land and crime come to mind first. The team recommends that USAID conduct a more thorough assessment of these issues and what might be done to help address them.

F. Consider Adding More Staff to the Regional DG Operation

The team recommends that USAID consider ways to supplement the staff in the regional DG office to support DG programs in non-presence countries and USAID missions who are without democracy officers. This will be particularly important given the number of upcoming elections in the region.

G. Recognize (and Realize) the Value of "Soft" Power

Relative to other donors, the USG is providing minimal support to regional organizations. Many of these organizations are doing strong work, and it would serve USG policy objectives well for USAID to work with them. While there is a case to be made for not trying to do everything, it is also in the interest of the American people to be supportive of, and to be perceived to be supportive of, democracy promotion in the region. For this reason, increased funding to regional NGOs is recommended. In addition, the assessment team spoke with two organizations to which USAID had indicated it would provide funding but for which funds never arrived. The assessment team encourages decision-makers in Washington to consider the damage done to the U.S.'s reputation abroad when budget levels are as unstable as they are.

ATTACHMENT 1

LIST OF PEOPLE INTERVIEWED

Botswana

Parliament

Pono Moathoni
Bothogile Tshireketo
Chief Moet Mahwase

USAID (formerly)

Thato Jensen

Mozambique

Center for Public Integrity

Marcelo Mosse, Executive Coordinator

DFID/Mozambique

Jean Rintoul, Senior Governance Advisor

Electoral Institute of Southern Africa/Mozambique

Miguel de Brito, Country Director

Parliament of Mozambique

Honorable Manuel de Araújo, MP, Deputy Chairperson International Relations Commission

Sal & Caldeira, Advocates and Consultants, LDA

José M. Caldeira, Advocate, Social Manager

USAID/Mozambique

Todd Amani, Director
Nancy Fisher-Gormley, Program Officer
Luisa Capelão, DG Officer

U.S. Embassy/Mozambique

Todd C. Chapman, Chargé d' Affaires, a.i.
Matthew P. Roth, Political-Economic Section Chief
Mary Walrz, Political Officer

Namibia

Delegation of the European Commission to Namibia

Alain Joaris, First Counselor, Head of Economic and Social Section

Legal Assistance Centre

Willem Odendaal

Media Institute of Southern Africa

Werani Chirambo, Program Specialist, Communications & Media Development
Kaitira Kandjii, Regional Director
Jennifer Mufune, Program Specialist, Gender, HIV/AIDS & Training

Media Tenor

Christie Keulder, Executive Director

Namibia Institute for Democracy

Theunis Keulder, Executive Director

SADC Parliamentary Forum, Namibia

Dr. Kasuka Mutukwa, Secretary General
Bookie Kethusegile-Juru, Assistant Secretary General
Rumbidzai Kandawasvika-Nhundu, Senior Program Officer

SADC Tribunal

Honorable Justice Charles Mkandawire, Registrar

Southern Africa Defense and Security Management Network

Dr. André du Pisani, Professor, University of Namibia

USAID

Gary Newton, Director
Doug Ball, Program Officer
Monica Koep, DG Officer

U.S. Embassy

Ambassador Dennise Mathieu
Mark Cassaryre, Political Officer

South Africa**Secretariat for the Africa Peer Review Mechanism**

Evelynne Change

Africa Policy Institute

Dr. Peter Kagwanja, President

AfriMAP

Ozias Tongwarara

DFID/Southern Africa

Subethri Naidoo, Governance Advisor

Electoral Institute of Southern Africa

Dr. Khabele Matlosa, Senior Advisor, Research

Idasa

Paul Graham, Executive Director

Institute for Security Studies

Chris Maroleng, Senior Researcher, Africa Security Analysis Programme
Dr. Naison Ngoma, Programme Head, Security Sector Governance

NEPAD

Professor Firmino Mucavele, Chief Executive Officer

Open Society Institute for Southern Africa

Sami Modiba, Programme Manager, Human Rights & Democracy Building

PANOS

Gillian Ayong, Regional Manager

SADC Lawyers Association

Elijah Munyuki, Executive Director (based in Botswana but met in SA)

Southern African Development Community

Jean Karisilila, Chief Information Officer
James Chavaravala, Chief Legal Advisor (based in Botswana)

Southern Africa Litigation Centre

Lloyd Kuveya
Prit Patel

Southern Africa Trust

Bruno Umba Dindelo, Coordinator: Multi-Stakeholder Policy Dialogue
Jennifer Chiriga, Coordinator: Civil Society Capacity Building
Barbara Kalima-Phiri, Policy Analyst: Poverty Reduction Strategies

University of Cape Town

Professor Schirire
Professor Bob Mattes
Professor David Welsh (retired)

University of Pretoria

Focus Group of Students from different African countries
Rosemary Bareebe, Japheth Biegon, Mohamed Farah Hasi, Demola Jegede, Mohamed Kamara,
Kulani Maringa, Aguinaldo Mondlane, Tazorora Musarurwa, Peace Ofei, Zelezeck Serge,
Sarah Swart

USAID

Carlene Dei, Director
Gary C. Juste, Deputy Director
James Watson, Program Officer
Monica Moore, Regional DG Officer
Katherine Liesegang, DG Officer, South Africa
Tina Dooley-Jones, Team Leader, Economic Growth, South Africa and Regional
Roxana Rogers, Team Leader, HIV/AIDS, South Africa
Karen Turner, HIV/AIDS, Regional

US Embassy

Dr. Raymond Brown, Political Counselor
Tim Trenkle, Regional Political Officer

UK

Minority Rights Group International (via e-mail)

Cynthia Morel, Legal Officer

USA

Department of State

Jeffrey Krilla, Deputy Assistant Secretary of State, Bureau for Democracy, Human Rights and Labor

Karen Gilbride, Africa Section Head, Bureau for Democracy, Human Rights and Labor

Molly Davis, Foreign Affairs Officer, Bureau for Democracy, Human Rights and Labor.

Millennium Challenge Corporation

Malik Chaka, Director, Threshold Countries

USAID

Mark Billera

Ed Connerly

Ryan McCannell

Ian McNairn

Zambia

Embassy of Sweden

Inger Jernberg

Transparency International Zambia

Stephen Lungu

USAID

Jason Villar

Women in Law and Development

Tamala Kambikambi

Women in Law for Southern Africa

Matrine Chulu

Women for Change

Douglas Chipoya

Zimbabwe

Idasa

Tony Reeler

USAID

Karen Freeman, Director

ATTACHMENT 2

CONSTITUTIONS

Country	History/Status of Constitution
Angola	<p>For symbolic reason, Angola dates its constitution 1975, the year it gained independence. The first constitution, however, was adopted in 1976. It provided for a one-party state and a strong presidency. In 1991 a law was passed revising the constitution. It instituted a democratic state with rule of law, respect for human rights and a multi-party political system. A second law was passed in 1992 dealing with decentralization. Subsequent legal changes have increased the power of the presidency.</p> <p>Before the war ended, in 1998, a constitutional commission with cross-party representation was formed to draft a new constitution. The commission was disbanded in 2004 when opposition parties suspended their participation, frustrated with delays in declaring a timetable for elections.</p>
Botswana	<p>The Botswana constitution is dated 1966. The foundation document is based on the Westminster model that many former British colonies were bequeathed.</p> <p>Executive power rests with the president, who is selected by the ruling party in the parliament. The constitution provides for the protection of fundamental rights and an independent judiciary.</p>
Democratic Republic of the Congo	<p>The DRC's first constitution was based on the 1958 constitution of the 5th French Republic. It was adopted in 1964. It had adopted new or significantly amended existing constitutions in 1967, 1971, 1974, 1978, and 1990.</p> <p>The current constitution is dated 2005. It provides for rule of law, protection of rights and clear separation of power.</p>
Lesotho	<p>Lesotho was the recipient of a Westminster constitution in 1966, which fell out of use. A new constitution was drafted in 1993. It was amended in 1996, 1997, 1998, and 2001.</p>
Madagascar	<p>Madagascar's constitution was adopted in 1992, after the country's first elections in 17 years. It was approved by a referendum. Constitutional reform occurred in 2007.</p>
Malawi	<p>The British gave the Malawians a constitution in 1963 before full independence which was granted in 1964. A new constitution, declaring a one-party state, was adopted in 1966. That constitution was amended in 1993 to provide for a multi-party state.</p> <p>Today's constitution was adopted in 1995. It emerged out of a constitutional conference and was approved by the parliament.</p>
Mozambique	<p>1975 constitution provided for a one-party state. A new constitution was adopted in 1990. It was adopted by an all-Frelimo parliament in 1990, after considerable public debate. It provides for a multi-party state and a separation of powers. It protects human rights.</p>
Namibia	<p>The Namibian constitution was developed by an elected Constitutional Assembly. It was considered a remarkably consensual process, particularly given that both SWAPO and the Democratic Turnhalle Alliance, a break-away group from the apartheid Nationalist Party, participated. The Namibian constitution provides for a multi-party democracy and strong protections for human rights.</p>
South Africa	<p>During the transition from apartheid, South Africa chose to adopt an interim constitution until a National Assembly could be elected to draw up the constitution. Once the National Assembly was elected, it was constituted as a Constitutional Assembly. The Constitutional Assembly launched a massive campaign to involve the people in the process. By one account, 73 percent of the population was reached and 2 million comments were received.⁸⁴ Once the draft was completed the Court had to confirm that it conformed to the 34 principles established by drafters of the interim constitution. The entire process was completed and the constitution adopted in 1996.</p> <p>The constitution provides for a multi-party democracy and strong protections for human rights. It has been amended 12 times.</p>

⁸⁴ www.usinfo.state.gov/journals/itdhr/0304/ijde/hart.htm.

Country	History/Status of Constitution
Swaziland	<p>Swaziland gained independence and a Westminster constitution in 1968. The king repealed the constitution in 1973 and ruled by decree until a new constitution was adopted in 2006. The new constitution was drawn up by a Constitutional Review Committee appointed by the king. While a consultative process putatively took place, there are charges that participants were intimidated during the process. The constitution does not guarantee protections for political parties, which have historically been banned in Swaziland. Its human rights clauses are weak, although women are given the right to not participate in customs which they are "in conscience opposed to." The king maintains his position above the law and is given the authority to appoint 20 of 30 senators, 8 of whom must be women.</p> <p>While civil society groups and unions rejected the constitution some tribal leaders believe it went too far in granting rights.</p>
Zambia	<p>Zambia received a Westminster Constitution at independence. A new constitution in 1972 provided for a one-party state. A 1991 constitution introduced a multi-party system. The existing constitution was passed in 1996. The drafting of the 1996 constitution began as a highly participatory process but cut the process off at the end. The constitution was approved by parliament and not by referendum as had been recommended. It expanded presidential power and reduced judicial power.</p> <p>Zambia is currently undergoing a constitutional review that began in 2003. A draft constitution was prepared in 2005, with the recommendation that it be adopted through a constitutional assembly. The president prefers a model whereby a constitution conference, which will make recommendations to parliament.</p>
Zimbabwe	<p>Zimbabwe's 1980 Whitehall constitution has been amended 18 times. Some of the amendments were to eliminate or supersede colonial era provisions, including provisions on land ownership. Many have been to strengthen the power of the government, particularly the presidency, and to reduce individual rights. In 1997, a coalition of almost 100 civil society organizations mobilized to promote the idea of a new constitution. In response, the president appointed a 400 person constitutional commission. At least 300 of the commission members were members of the president's party. Not surprisingly, the commission was both unwieldy and biased. When the commission's proposed constitution was voted on in Zimbabwe's first ever plebiscite it was rejected by almost 55 percent of the voters.</p>

ATTACHMENT 3

UPCOMING ELECTIONS AND THEIR ELECTORAL PROCESSES⁸⁵

Country	Date of Upcoming National Elections	Electoral Process
Angola	Presidential – 2009 National Assembly - Sept 2008	Direct Proportional Representation 130 from National List/90 from Provincial List
Botswana	Presidential National Assembly - October 2009	Leader of Majority Party in National Assembly Mixed: First Past the Post (57) Appointed by Majority Party (4)
DRC	President – 2011 National Assembly - 2011	Direct Vote Mixed: Proportional Representation (440) and First Past the Post (60)
Lesotho	Senate Prime Minister National Assembly - 2012 Senate	Elected by Provincial Assembly Leader of Majority Party in National Assembly Mixed: First Past the Post (80) and Proportional Representation (40)
Madagascar	President -2011 National Assembly - 2011 Senate – 2008	Direct Vote Mixed: First Past the Post and Proportional Representation (Total:160) Mixed: 60 from National Assemblies 30 appointed by President
Malawi	President – May 09 National Assembly - May 2009	Direct Vote First Past the Post (193)
Mozambique	Presidential – Dec 09 Assembly of the Republic - December 2009	Direct Vote Proportional Representation (250)
Namibia	Presidential – Nov 09 National Assembly - November 2009 National Council - November 2009	Direct Vote Proportional Representation (72) President may name 6 non-voting members Chosen by Regionally Elected Officials (26)
South Africa	Presidential National Assembly - 2009 National Council Of Provinces 2009	Leader of Majority Party in National Assembly Proportional Representation (400) Ten Representatives from each of the Nine Provincial Assemblies (90)
Swaziland	Prime Minister House of Assembly - October 2008 Senate	Appointed by King Mixed: First Past the Post (55); Appointed by King (10) Mixed: Appointed by King (20) Appointed by National Assembly (10)
Zambia	Presidential – 2011 National Assembly - 2011	Direct Vote First Past the Post (150) Appointed by President (8)

⁸⁵ Compiled from the African Elections Database, found at www.africanelections.tripod.com.

Country	Date of Upcoming National Elections	Electoral Process
Zimbabwe	Presidential – Ongoing House of Assembly: Just completed Senate	Direct Vote First Past the Post (120) Appointed by President (12) Chiefs (10) Governors Appointed by President (8) First Past the Post by Province (50) Appointed by President (6) Traditional Chiefs (10)

ATTACHMENT 4

WORLD BANK INSTITUTE GOVERNANCE MATTERS

Voice and Accountability

	2000		2004		2006		2007	
Trend Lines below based on scores, not rank	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)
Angola (trend ↑)	7.7	-1.51	13.5	-1.24	13.5	-1.20	15.9	-1.11
Botswana (trend ↓)	71.6	+0.74	74.5	+0.81	62.5	+0.50	61.5	+0.49
DRC (trend ↑)	1.9	-1.89	3.8	-1.73	7.7	-1.55	8.7	-1.46
Lesotho (trend ↑↑↓)	32.7	-0.49	44.7	-0.15	55.3	+0.23	52.4	+0.12
Madagascar (trend)	51.4	+0.08	47.1	-0.06	46.6	-0.07	47.6	-0.04
Malawi (trend ↓↑↑)	45.2	-0.17	33.2	-0.52	38	-0.29	39.9	-0.26
Mozambique (trend ↑↑↑)	44.2	-0.20	47.6	-0.04	46.2	-0.08	47.1	-0.06
Namibia (trend ↓↑↑)	61.5	+0.44	57.7	+0.31	61.1	+0.49	64.4	+0.58
South Africa (trend ↓↑↓)	72.1	+0.75	72.1	+0.72	70.7	+0.76	68.8	+0.74
Swaziland (trend ↑↑↓)	9.6	-1.39	10.6	-1.32	16.3	-1.09	16.3	-1.10
Zambia (trend ↑)	35.6	-0.41	36.5	-0.38	37.5	-0.33	40.4	-0.26
Zimbabwe (trend ↓↑↓)	15.9	-1.16	5.8	-1.58	8.7	-1.50	7.7	-1.54

Political Stability

	2000			2004			2006			2007	
Trend Lines below based on scores, not rank	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)
Angola (trend ↑↑↓)	1.4	-2.39		18.8	-.95		30.8	-.44		28.4	-.46
Botswana (trend ↓↓↓)	78.8	+.95		77.9	+.92		80.3	+.96		78.4	+.84
DRC (trend ↑↓↑)	.5	-2.64		1.4	-2.22		1	-2.39		2.4	-2.26
Lesotho (trend ↑↓↓)	47.1	+.01		61.5	+.43		52.9	+.16		44.7	+.04
Madagascar (trend ↓↓↓)	51.4	+.14		45.7	-.04		48.1	+.07		40.4	-.06
Malawi (trend ↑↑↓)	26.9	-.56		42.8	-.11		45.7	0.00		41.8	-.01
Mozambique (trend ↓↓↑)	45.7	-.01		43.8	-.10		63.5	+.52		57.2	+.37
Namibia (trend ↑)	35.1	-.30		64.4	+.56		72.1	+.81		79.3	+.90
South Africa (trend ↑)	32.2	-.40		38	-.22		46.6	+.05		51	+.81
Swaziland (trend ↑↓↑)	41.3	-.09		52.9	+.11		41.3	-.12		47.6	+.10
Zambia (trend ↑↑↓)	32.7	-.39		51	+.08		55.8	+.31		54.3	+.24
Zimbabwe (trend ↓↓↑)	10.6	-1.44		7.7	-1.55		15.4	-1.06		11.5	-1.30

Rule of Law

	2000			2004			2006			2007	
Trend Lines below based on scores, not rank	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)
Angola (trend ↑↑↓)	2.4	-1.61		7.1	-1.35		7.6	-1.28		6.7	-1.35
Botswana (trend ↑↓↑)	67.6	+57		68.6	+66		67.6	+63		70.0	+67
DRC (trend ↑)	1.4	-1.99		1.4	-1.78		1.4	-1.73		1.4	-1.67
Lesotho (trend ↓)	52.4	-.05		50.5	-.08		49	-.25		47.1	-.35
Madagascar (trend ↑↓↑)	44.3	-.32		49	-.14		45.7	-.39		46.7	-.35
Malawi (trend ↑↓↑)	35.2	-.53		45.2	-.27		45.2	-.44		44.8	-.39
Mozambique (trend ↑↑↓)	28.6	-.78		29.5	-.68		31	-.64		29	-.68
Namibia (trend ↓↓↓)	59.5	+26		52.4	-.03		55.7	+15		56.7	+12
South Africa (trend ↑↑↓)	56.7	+12		58.1	+13		58.6	+24		57.1	+15
Swaziland (trend ↓↓↓)	30	-.65		19	-.89		28.1	-.67		25.7	-.76
Zambia (trend ↓↓↑)	33.8	-.56		35.2	-.61		27.6	-.67		31.4	-.64
Zimbabwe (trend ↓↓↓)	9.0	-1.25		2.9	-1.68		1.9	-1.56		1.9	-1.67

Control of Corruption

	2000			2004			2006			2007	
Trend Lines below based on scores, not rank	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)
Angola (trend ↑)	2.9	-1.49		6.3	-1.30		6.8	-1.21		6.3	-1.12
Botswana (trend ↑↑↑)	76.2	+0.74		81.6	+0.91		79.1	+0.86		79.7	+0.90
DRC (trend ↑↑↑)	2.4	-1.60		3.4	-1.39		2.9	-1.44		3.9	-1.27
Lesotho (trend ↓↑↓)	52.9	-0.19		51.5	-0.20		57.8	-0.05		54.6	-0.19
Madagascar (trend ↓↓↑)	55.3	-0.06		54.9	-0.13		51.9	-0.24		56.5	-0.16
Malawi (trend ↓↑↓)	39.8	-0.44		23.3	-0.80		26.7	-0.72		26.1	-0.74
Mozambique (trend ↓↑↑)	29.1	-0.69		28.2	-0.71		30.6	-0.65		35.3	-0.59
Namibia (trend ↓↑↑)	69.9	+0.55		56.3	-0.04		61.2	+0.14		62.8	+0.19
South Africa (trend ↓→↓)	70.4	+0.56		69.4	+0.44		69.9	+0.44		67.1	+0.32
Swaziland (trend ↓↑↓)	51.9	-0.19		31.1	-0.63		42.2	-0.41		41.5	-0.47
Zambia (trend ↑)	18.4	-0.90		22.8	-0.82		27.7	-0.71		34.3	-0.60
Zimbabwe (trend ↓↓↑)	15.5	-0.96		6.8	-1.29		4.4	-1.32		4.3	-1.25

Government Effectiveness

	2000			2004			2006			2007	
Trend Lines below based on scores, not rank	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)
Angola (trend ↑↑↑)	5.2	-1.39		9.0	-1.18		9.5	-1.25		11.4	-1.16
Botswana (trend ↑↑↑)	73.5	+0.63		76.8	+0.79		72	+0.62		73	+0.70
DRC (trend ↑↓→)	2.4	-1.76		5.2	-1.48		1.9	-1.68		1.4	-1.68
Lesotho (trend ↓)	52.1	-0.16		46.4	-0.26		44.1	-0.35		39.8	-0.42
Madagascar (trend ↑↓↓)	33.6	-0.57		46.9	-0.25		44.5	-0.33		46.9	-0.30
Malawi (trend ↓↓↓)	45	-0.34		21.8	-0.79		20.4	-0.85		30.8	-0.59
Mozambique (trend ↑↓↓)	42.2	-0.36		43.6	-0.35		43.1	-0.37		40.3	-0.41
Namibia (trend ↓↑↑)	64	+0.29		60.2	+0.09		61.1	+0.15		62.1	+0.17
South Africa (trend ↑↓↓)	74.9	+0.66		76.3	+0.77		74.4	+0.75		74.9	+0.72
Swaziland (trend ↓↑↓)	24.6	-0.71		20.9	-0.82		27.5	-0.69		25.6	-0.71
Zambia (trend ↑)	14.2	-0.96		19	-0.86		25.6	-0.74		31.3	-0.59
Zimbabwe (trend ↓)	17.1	-0.90		10	-1.14		6.2	-1.36		2.8	-1.48

Regulatory Quality

	2000			2004			2006			2007	
Trend Lines below based on scores, not rank	Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)		Percentile Rank Worldwide (0 to 100)	Score (-2.5 to +2.5)
Angola (trend ↑)	4.4	-1.86		10.7	-1.18		13.2	-1.08		16.5	-1.00
Botswana (trend ↓)	71.7	+0.65		69.3	+0.60		66.3	+0.52		65	+0.48
DRC (trend ↑)	1.5	-2.34		3.4	-1.70		7.3	-1.40		8.3	-1.35
Lesotho (trend ↓→↓)	35.6	-0.37		27.8	-0.58		28.8	-0.58		24.8	-0.69
Madagascar (trend ↑)	27.8	-0.56		41.5	-0.34		45.9	-0.24		49.0	-0.20
Malawi (trend ↓↓↑)	41.5	-0.20		30.7	-0.55		24.9	-0.67		29.6	-0.51
Mozambique (trend ↓↓↑)	42	-0.19		37.6	-0.47		31.7	-0.53		31.6	-0.49
Namibia (trend ↓→↓)	61	+0.25		58.5	+0.10		55.6	+0.10		54.4	+0.02
South Africa (trend ↑↑↓)	65.9	+0.43		68.8	+0.57		69.8	+0.62		65.5	+0.48
Swaziland (trend ↓↑↓)	32.7	-0.44		25.4	-0.63		29.8	-0.57		26.2	-0.66
Zambia (trend ↓↓↑)	43.9	-0.16		30.2	-0.55		30.7	-0.56		33	-0.48
Zimbabwe (trend ↓↑↓)	7.8	-1.44		1.5	-2.13		2	-2.10		1	-2.24

ATTACHMENT 5

IBRAHIM INDEX OF AFRICAN GOVERNANCE

Participation and Human Rights⁸⁶

	2000	2002	2005
Angola	32.8	33.1	36.8
Botswana	78.1	78.1	75.5
Congo, DR	22.8	37.1	24.3
Lesotho	33.2	60.9	63.4
Madagascar	79.0	66.3	58.1
Malawi	67.6	67.4	66
Mozambique	71	76.7	71
Namibia	79.1	82.7	69.4
South Africa	87.4	88.5	81.1
Swaziland	32.6	34.7	31.2
Zambia	48.1	57.3	54.9
Zimbabwe	43.5	49.0	45.0

Rule of Law, Transparency and Corruption⁸⁷

	2000	2002	2005
Angola	23.6	24.3	38.1
Botswana	87.3	89	88.3
Congo, DR	35.8	35.8	25.4
Lesotho	67.5	69.4	66.7
Madagascar	48.4	54.4	57.8
Malawi	68.4	65.7	65
Mozambique	39.8	43.1	43.8
Namibia	90.6	86	74.5
South Africa	76.5	73.8	75.2
Swaziland	52.8	49.1	51.3
Zambia	61.3	60.7	61.3
Zimbabwe	52.9	45.2	45.8

⁸⁶ Ibrahim Index of African Governance. Mo Ibrahim Foundation.

⁸⁷ Ibid.

ATTACHMENT 6

TRANSPARENCY INTERNATIONAL CORRUPTION PERCEPTIONS INDEX⁸⁸

	2005 Score	2006 Score	2007 Score
Angola	2.0	2.2	2.2
Botswana	5.9	5.6	5.4
Congo, DR	2.1	2.0	1.9
Lesotho	3.4	3.2	3.3
Madagascar	2.8	3.1	3.2
Malawi	2.8	2.7	2.7
Mozambique	2.8	2.8	2.8
Namibia	4.3	4.1	4.5
South Africa	5.1	4.6	5.1
Swaziland	2.7	2.5	3.3
Zambia	2.6	2.6	2.6
Zimbabwe	2.6	2.4	2.1

⁸⁸ www.transparency.org.

ATTACHMENT 7

AFROBAROMETER CITIZENS AND THE STATE IN AFRICA ⁸⁹

DEFINING CORRUPTION

For each of the following, please indicate whether you think the act is not wrong at all, wrong but understandable, or wrong and punishable		Bots	Les	Mad	Mwi	Moz	Nam	SA	Zam	Zim
A public official decides to locate a development project in an area where his friends and supporters lived.	Not wrong at all	5	6	38	3	10	13	3	13	5
	Wrong but Understandable	13	18	35	9	22	30	12	33	19
	Wrong and punishable	79	75	23	88	57	52	82	54	76
	Don't know	3	1	4	1	12	5	4	0	0
A government official gives a job to someone from his family who does not have adequate qualifications	Not wrong at all	1	3	9	4	5	6	1	3	5
	Wrong but Understandable	4	9	34	8	21	20	6	26	18
	Wrong and punishable	93	88	53	87	67	73	91	71	75
	Don't know	2	1	4	1	7	1	1	9	2
A government official demands a favor or an additional payment for some service that is part of his job	Not wrong at all	7	1	9	6	5	9	1	8	1
	Wrong but Understandable	11	8	30	5	18	30	8	22	4
	Wrong and punishable	79	89	58	88	70	58	88	69	95
	Don't know	3	1	3	2	7	4	3	1	0

⁸⁹ Afrobarometer. Working Paper No. 61: "Citizens and the State in Africa: New Results from Afrobarometer Round 3." 2005 – 2006.

PERCEPTIONS OF CORRUPTION

How many of the following people do you think are involved in corruption or haven't you heard enough about them to say?		Bots	Les	Mad	Mwi	Moz	Nam	SA	Zam	Zim
The President and officials in his office	None/Some of them	65	64	65	49	64	66	67	55	50
	Most/All of them	15	6	11	19	10	22	22	31	42
	Don't Know/Haven't heard enough	20	29	23	32	26	12	11	14	8
Members of Parliament	None/Some of them	63	62	65	48	64	62	58	53	55
	Most/All of them	20	11	15	22	11	27	26	38	40
	Don't Know/Haven't heard enough	17	27	20	30	26	11	16	9	6
Elected local government councilors	None/Some of them	66	59	73	51	59	60	47	56	47
	Most/All of them	17	8	12	15	11	29	44	35	49
	Don't Know/Haven't heard enough	17	33	16	33	30	11	9	9	4
National government officials	None/Some of them	58	52	60	45	59	57	54	51	47
	Most/All of them	29	19	11	25	19	35	36	36	49
	Don't Know/Haven't heard enough	13	29	30	30	21	9	10	13	4
Local government officials	None/Some of them	60	47	64	47	56	57	47	49	48
	Most/All of them	27	5	13	23	18	34	45	40	49
	Don't Know/Haven't heard enough	13	48	23	30	26	9	8	11	4
Police	None/Some of them	59	52	57	45	53	52	46	27	36
	Most/All of them	30	35	31	28	31	44	48	70	62
	Don't Know/Haven't heard enough	12	13	12	27	16	4	5	3	2
Tax Officials	None/Some of them	58	42	59	45	53	51	51	36	41
	Most/All of them	20	14	20	23	20	37	22	50	44
	Don't Know/Haven't heard enough	22	44	22	32	27	13	26	14	14

Judges and magistrates	None/Some of them	66	64	56	51	58	53	62	62	64
	Most/All of them	14	11	25	20	16	32	22	31	25
	Don't Know/Haven't heard enough	20	24	19	29	26	15	16	7	12

EXPERIENCES OF CORRUPTION

In the past year, how often (if ever) have you had to pay a bribe, give a gift or do a favor to government officials in order to:		Bots	Les	Mad	Mwi	Moz	Nam	SA	Zam	Zim
Get a document or a permit?	Never	86	59	56	73	58	58	56	71	66
	Once or twice	2	5	8	2	9	7	3	11	10
	A few times/Often	0	1	5	1	10	5	4	2	7
	Don't know/No experience	12	35	31	25	23	31	37	16	16
Get a child into school	Never	86	76	61	76	63	57	60	75	72
	Once or twice	1	1	2	2	7	8	2	7	4
	A few times/Often	0	0	2	1	9	5	2	1	2
	Don't know/No experience	13	23	34	21	21	29	36	17	22
Get a household service (like piped water, electricity or phone)	Never	86	52	31	75	56	55	59	76	78
	Once or twice	1	1	2	2	5	9	4	3	5
	A few times/Often	0	0	1	1	7	7	3	2	2
	Don't know/No experience	13	47	66	23	32	29	35	20	16
Get medicine or medical attention from a health worker	Never	88	85	67	79	61	55	62	79	82
	Once or twice	1	1	6	2	8	10	3	8	7
	A few times/Often	0	1	7	2	17	8	3	3	6
	Don't know/No experience	11	14	21	17	15	27	31	10	5

Avoid a problem with the police (like passing a checkpoint or avoiding a fine or arrest)	Never	86	64	39	75	60	57	56	73	70
	Once or twice	1	2	3	1	6	6	5	9	11
	A few times/Often	0	1	4	1	11	6	5	4	10
	Don't know/No experience	13	33	55	23	23	31	34	15	8