



**Summary Report of National Integrity System
Studies of DRC, Mauritius, South Africa,
Mozambique, Botswana, Zambia and Zimbabwe**

Transparency International

2007



With the support of European Investment Bank

Acknowledgement

Transparency would like to express its gratitude goes to all interviewees, authors, reviewers, translators, staff and sponsors who supported this process.

This report was made possible with generous support from the European Investment Bank.



All material contained in this report was believed to be accurate as of 2007.

Every effort has been made to verify the information contained herein, including allegations. Nevertheless, Transparency International does not accept responsibility for the consequences of the use of this information for other purposes or in other contexts.

© 2007 Transparency International

Transparency International Secretariat
Alt Moabit 96
10559 Berlin
Germany
<http://www.transparency.org>

Summary of NIS Studies for Southern Africa: Botswana, Democratic Republic of Congo, Mauritius, Mozambique, Swaziland, Zambia, Zimbabwe.

TABLE OF CONTENT

Introduction.....	4
1. Context	5
2. Key trends in the region.....	7
Trend 1: Legal frameworks for tackling corruption are being introduced, but implementation is not comprehensive or entirely effective.....	7
Trend 2: Multiparty democracy has opened new opportunities for political corruption, but pressure for political finance regulation has grown.....	10
Trend 3: Weak, politicised and corrupt judiciaries.	12
Trend 4: Public procurement reforms are underway, but accountability for public resources is limited.....	14
3. Emerging Good Practices.....	18
Coalitions including Civil Society and Private Sector	18
Public-sector Ethics	19
Public Procurement.....	19
Tackling Corruption Internationally.....	20
Conventions	20
Notes	22

Introduction

This report focuses on the findings of seven National Integrity System (NIS) country studies for Botswana, the Democratic Republic of Congo (DRC), Mauritius, Mozambique, Swaziland, Zambia and Zimbabwe, which were produced in 2007. Therefore it reflects the situation in the region at that time.

There are many aspects of corruption, and a plethora of anti-corruption activities are underway. The first section of this report focuses on four of the trends highlighted by the country studies as particularly crucial. These are: the development of legal frameworks, political financing, public procurement and the judiciary.

An emphasis on the interdependency of the system is in line with international anti-corruption policy work at the OECD Development Assistance Committee (DAC), which has recognised that

powerful complementary efforts are necessary to address endemic corruption. In supporting governance reforms donors have traditionally focused on strengthening bureaucratic capability, such as public financial management and administrative reform. But good governance is not just about government. It is also about political parties, parliament, the judiciary, the media, the private sector, civil society and citizens in general.¹

Transparency International (TI) has long recognised this, as stated in a recent policy paper: 'TI's NIS approach provided the main conceptual basis for its anti-corruption work when TI started out in 1993. It was the first holistic view of corruption and remains the most systemic framework today'.²

In most of the countries considered here, though to a lesser extent in Mauritius and Botswana, the NISs have significant weaknesses. Complex reform programmes are underway to improve legal frameworks and build capacity in state institutions, and there are some promising signs of effective work by coalitions demanding greater accountability from the state. However, generally these reforms are at an early stage. Enforcement of transparency is weak, often facing strong resistance from entrenched political and economic interests and long established ways of working. Therefore, sustained reform efforts are necessary.

The report has three sections: context, key trends in corruption and anti-corruption work, and emerging good practices. The positive trends identified in Section 2 are elaborated in Section 3, which also refers to emerging international good practice. This includes a greater focus on international action to tackle corruption and a better understanding of local context.³

1. Context

Summary and comparison of the NIS systems in these seven countries must take into account important variations in their recent history and development. According to the TI Source Book, this awareness of different contexts is key to understanding 'the social dynamics, the history and the political realities that underlie the incidence of corruption in a society'.⁴ This implies an awareness of both the variations between formal NIS systems and the ways they are evolving in practice.

Most of the countries covered here gained independence in the 1960s, with the exception of Zimbabwe in 1980. For most of the period since independence, Botswana and Mauritius have experienced multiparty parliamentary democracy, although in Botswana one party dominates.⁵ Over the same period, Swaziland has been an absolute monarchy, a non-party system where representatives of *tinkhundla* (constituencies) are elected to the legislature. A new constitution was introduced in 2005 with a view to resolving decades of political uncertainty. Mozambique and Zambia became one-party states after independence, with control of their economies centralised. Periods of economic mismanagement in both countries, combined with the devastating impact of war in Mozambique, were followed by a transition to multiparty democracy during the 1990s. In the DRC, such a transition from one-party state to democracy was interrupted by coup and war in the 1990s. Although elections were held in 2006, peace and security are still fragile. Finally, Zimbabwe formally became a constitutional democracy in 1980 after a protracted armed struggle. It has been dominated by one party, although some 'inroads into the national politics' have been made by the opposition.⁶

Table 1 provides information on the population size, level of development, and perceived levels of corruption in these countries.

Table 1: Population and Corruption

	Population (m)	Human Development Index 2006	Corruption Perceptions Index Score 2007
Botswana	1.88	131	5.4
Mauritius	1.26	63	4.7
Swaziland	1.14	146	3.3
Mozambique	21.39	168	2.8
Zambia	11.9	165	2.6
Zimbabwe	13.35	151	2.1
DRC	62.64	167	1.9

Source: Human Development Index 2006 <http://hdr.undp.org/hdr2006/statistics/> and 2007 Corruption Perceptions Index (CPI) Regional Highlights: Africa http://www.transparency.org/policy_research/surveys_indices/cpi/2007/regional_highlights_factsheets.

Out of the seven African countries considered here, four scored below 3.0 on the 2007 TI Corruption Perceptions Index (CPI), indicating that corruption is perceived as rampant. Two scored between 3.0 and 5.0, showing that corruption is perceived as a serious challenge, and only Botswana and South Africa scored above 5.0.⁷

It is clear that tackling corruption effectively requires a combination of political commitment (or non-interference), adequate resources, technical skills, legal frameworks

and, increasingly, action across borders. According to the OECD-DAC, a more sophisticated debate about governance and the fight against corruption is taking place today and includes a recognition of the need to develop 'a wider appreciation of countries' governance challenges and political economy issues'.⁸ Several of the country studies highlight the complexities of the countries' political economy and the way this presents specific challenges to tackling corruption.

In Swaziland, for example,

the impact of traditional culture on the socio-economic and political landscape is legendary. It permeates all facets of life. For example, nepotism, and its associated ills, is not necessarily considered untoward, considering the fact that, with a relatively small population⁹, there is virtual network of consanguine and affinity relations that compel loyalty to family that any bureaucratic system of governance often can accommodate... Traditional authority permeates every pillar, sector and section of Swazi society... They are therefore fundamental in ensuring integrity and in the prevention of corruption.¹⁰

In Zimbabwe and the DRC it is clear that for many, corruption has become a survival strategy. In Zimbabwe,

the environment in which the various pillars of the Zimbabwe NIS are expected to operate is highly challenged... [The economic] context is very fertile ground for all sorts of criminal activities... as part of the survival strategies by individuals and corporate bodies. The bottom line, under such circumstances, is that attempts to develop and strengthen various Integrity Mechanisms are likely to meet with unusually harsh obstacles which cannot be easily overcome through legal and institutional interventions.¹¹

Clearly, as noted in the DRC NIS study, 'the analysis of an issue so complex and multi-dimensional... merits a[n] ... in-depth and detailed reflection';¹² as the OECD-DAC states, 'understanding these systems, and the conditions that generate high corruption risks, makes it simpler to identify more effective entry points and ways of working with domestic reform coalitions'.¹³

2. Key trends in the region

Trend 1: Legal frameworks for tackling corruption are being introduced, but implementation is not comprehensive or entirely effective.

Much new anti-corruption legislation has been introduced (see Table 2), often reflecting international pressure to tackle corruption. In particular, laws, codes and regulations have defined corruption, established institutions such as anti-corruption commissions and enhanced formal standards of public sector integrity.

Table 2: Examples of anti-corruption laws and regulations

Year	Country	Law/Regulation
1980	Zambia	Corrupt Practices Act
1983	Zimbabwe	Prevention of Corruption Act
1990	Mozambique	Law 4/90
1994	Zambia	Parliament and Ministerial Code of Conduct Act
1996	Zambia	Anti-corruption Commission Act
2002	Mauritius	Prevention of Corruption Act
	Botswana	Procurement Act
	DRC	Code of Conduct
	Mauritius	Prevention of Corruption Act
2004	Mozambique	Anti-Corruption Act
	Zimbabwe	Ministry of Anti-Corruption
2005	Swaziland	Constitution
	Mozambique	Procurement Law
2006	Swaziland	Prevention of Corruption Act
		Public Service Charter on Ethics & Accountability
	Mauritius	Public Procurement Act
	Zimbabwe	Criminal Law (Codification & Reform Act)

These rules are necessary but not sufficient for tackling corruption. Considerable energy has been invested in preparing and refining legal frameworks, but the key challenge is implementation. For example, in the DRC,

Paradoxically, a first evaluation of the NIS in DRC seems to indicate that it functions more or less correctly. Indeed, for each and every pillar within the system, there are laws, regulations, codes of conduct, integrity and transparency mechanisms... However, examples of good practice do not really exist, as the laws and regulations are either not applied at all or only selectively.¹⁴

In general in the region, implementation is slow and resources are limited. In Mozambique, Law 4/90 of 1990 introduced new norms of conduct, rights and duties for top public leaders. However, the corresponding regulations, necessary for the law to take effect, were not approved until ten years later.¹⁵ According to the Swaziland NIS study,

The legislative framework aimed at dealing with corruption was speedily put in place. The deficit however has been in implementing and putting into action the corrective measures to deal with corruption. Human and capital resources that should accompany the legislation have not been forthcoming.¹⁶

Asset declarations are a common example of partial action being taken to implement new anti-corruption rules, but without the necessary follow-up. In the DRC, a code of conduct for public servants was introduced in 2002 requiring asset declarations and regulating conflicts of interest and hospitality but so far only a small number of officials have declared their assets, and follow-up has been limited. In Zambia, the 1994 Parliamentary and Ministerial Code of Conduct required asset declarations by the president and ministers, but no monitoring of these declarations is required. In Zimbabwe, procurement board members and their spouses are required to declare their assets, but these declarations are kept in the President's office. Thus, 'record keeping is not a challenge. The challenge lies in what happens as a follow-up to these declarations in terms of the monitoring aspect to establish any likely deviation from the initial reported status'.¹⁷

In general, there is a lack of political commitment and leadership to enforce the new legal frameworks. As noted in the Mozambique and Zimbabwe NIS studies, impunity at the top of the political hierarchy sends the message to other public servants that they are not obliged to comply with ethical frameworks.¹⁸ This is a common barrier to tackling corruption, not only in southern Africa.¹⁹

There may be a shortage of public resources to fund institutions responsible for implementation; in some cases, the executive may deliberately starve such institutions of resources. In Zambia, for example, the 'lack of properly trained procurement personnel is a major shortcoming of the public contracting system and therefore compromises the integrity of the whole system'.²⁰

The executive can also undermine implementing institutions by ensuring that they are not independent, but instead are politically accountable to it. For example, in the DRC,

For senior members of the executive, ... anti-corruption activities are a means of destabilising their political adversaries and... of keeping their friends/accomplices on the right path... These [activities] could be depriving an institution of the material and financial resources it requires to function, nominating as its head someone loyal to their clan, or even bringing the institution directly under their control... This environment has created a climate of permanent insecurity for people appointed to their positions in such a way, requiring them to accede and/or close their eyes to the financial mismanagement of their boss for fear of losing their position.²¹

In some instances, the legislation itself is still weak, leaving significant loopholes or potential for legal challenge. For example, in Zimbabwe, the 1983 Prevention of Corruption Act is 'the flagship legislation for fighting corruption,' but 'this Act is more reactive and punitive than preventive... and it does not lay out what organisations and institutions ought to do in order to reign in corruption and other unethical conduct'.²²

In the absence of implementation, attention may focus on perfecting legislation. But even where legislation is sound, effective implementation will take time and requires a complex process of institutional change. Often technical capacity building is also needed. For example, in Mozambique,

[t]he problems faced in procurement are not necessarily the result of limitations in legislation or regulations. Broadly speaking, legislation in Mozambique is modern,

progressive, and investor-friendly. In most cases the problem lies in implementation or lack thereof. Accordingly, emphasis must be put on the institutional and incentive structures, which will affect the political will for implementation and enforcement.²³

International Conventions

The key international anti-corruption treaties in the region are the United Nations Convention Against Corruption (UNCAC), the African Union Convention on Preventing and Combating Corruption (AUCPACC), and the South African Development Community Protocol (SADCP). All countries covered by this study have signed one or more of these conventions and several have also ratified (see Table 3). However, while signature and in particular ratification are welcome, this is just the beginning for using these conventions as effective tools against corruption. As Transparency International recognises,

In order to comply with their obligations under anti-corruption conventions after ratification, national governments frequently need to introduce new legislation, and new or enhanced structures. They also need to ensure that there are adequate resources for the government departments responsible for following up, and that sufficient attention is paid to the new obligations by those departments. None of these steps is a given since governments face many competing priorities, often contend with limited resources, and may not take their convention commitments seriously enough.²⁴

Table 3: Date of Signature and Ratification of Anti-Corruption Conventions

	SADCP		UNCAC		AUCPACC	
	Signature	Ratification/ Accession	Signature	Ratification/ Accession	Signature	Ratification/ Accession
Botswana	Aug. 2001	Aug. 01				
DRC	Aug. 2001				Dec. 2003	
Mauritius	Aug. 2001	Jan. 2002	Sep. 2003	Dec. 2004	Jul. 2004	
Mozambique	Aug. 2001		May 2004		Dec. 2003	Aug. 2006
Swaziland	Aug. 2001		Sep. 2005		Dec. 2004	
Zambia	Aug. 2001	Jul. 2003	Dec. 2003		Mar. 2008	Mar. 2007
Zimbabwe	Aug. 2001	Oct. 2004	Feb. 2004	Mar. 2007	Nov. 2003	Dec. 2006

Source: Signatories and ratifications of the SADC protocol as reported in: Report on the Status of Signature and Ratification of Anti-Corruption Treaties by SADC Member States. Chinhamo, O., Shumba, G., Anti-Corruption Trust of Southern Africa, July 2007, www.actsouthernafrica.org; Signatories and ratifiers of UNCAC are at: <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>.

Zambia, for example, is a signatory to all three instruments, but the NIS study records that 'these protocols/conventions have not been domesticated, and therefore have had no significant impact locally'.²⁵ Meanwhile, in Swaziland,

[e]ven though it is signatory to a plethora of conventions, the process of domestication of international conventions... has always been hampered by the duality of the government system and the insistence of the political structure in maintaining its uniqueness. No recorded protocol, convention or declaration ever ratified or acceded by Swaziland has been domesticated.²⁶

It is clear from the NIS country studies that pillars charged with tackling corruption often lack human, material and technical resources. Assistance may be needed for

governments to comply with treaties and for the establishment of monitoring mechanisms.²⁷ The First Conference of States Parties to UNCAC in December 2006 noted 'the close link that existed between technical assistance and implementation, emphasising that the review mechanism should enable States parties to identify gaps in their legislative and institutional frameworks so that such gaps might be closed, if necessary through the provision of assistance'.²⁸

As with recent anti-corruption legislation, pressure to ratify anti-corruption conventions may sometimes create perverse incentives. Governments may focus on the formal requirements of updating legislation or establishing coordination mechanisms to satisfy donors or critics, rather than taking concrete action against corruption.²⁹

TI argues that for a convention to be effective, an intergovernmental monitoring mechanism is required, but multiple review processes may stretch local capacity. Although the SADC protocol came into force in July 2005, representatives of SADC country anti-corruption bodies meeting in August 2007 in Zimbabwe as Southern Africa Forum Against Corruption (SAFAC) were still calling on leaders of their countries to form the monitoring committee.³⁰ The African Union (AU) Convention is monitored to a limited extent and indirectly through the New Partnership for African Development (NEPAD) Africa Peer Review Mechanism (APRM). The Convention also provides for its own follow-up mechanism, although this has not been established yet. For UNCAC, the First Conference of States Parties in December 2006 established an 'Open-ended intergovernmental working group on Review of the Implementation of the UNCAC', which met in Vienna in August.

Trend 2: Multiparty democracy has opened new opportunities for political corruption, but pressure for political finance regulation has grown.

All the countries under consideration have experienced some degree of transition towards multiparty politics – some, such as Mauritius and Botswana, since independence; others, such as Zimbabwe and the DRC, only recently. There is a link between increasing political competition in the region and political corruption.³¹ As awareness of this link has increased, so has demand for improved regulation of political financing.

As TI's Global Corruption Report (GCR) 2004 stated, 'corruption in political finance takes many forms, ranging from vote buying and the use of illicit funds to the sale of appointments and the abuse of state resources'.³² Legal frameworks have been introduced or updated in Zimbabwe (2001), the DRC (2002), and Mozambique (2004) to regulate party or election financing and improve transparency. However, frameworks are often weak, and there is little enforcement or monitoring so far. In Zambia and Mauritius, where there is no legal framework for party finance, '[t]he issue of political party funding has taken centre stage'³³ and 'become a public question to which citizens seek clear answers'.³⁴

Although demand for party finance reform has grown, prevailing public opinion often views politics as a means to gain power, wealth or employment for candidates and their associates. In Zambia, for instance, 'most Zambian people with political ambitions take elections as an opportunity to get into the political arena to gain influence'.³⁵

The lust for power generates an intense search for campaign finance. According to the NIS studies, dominant or ruling parties in Botswana and Mozambique abuse their position or find it easier than other parties to raise donations. In Botswana, for example,

the ruling party ‘uses its strategic position in government to effect programmes that would enhance its popularity and visibility, whilst opposition parties are often constrained by resources’.³⁶

Once in power, candidates and parties reward their supporters, in particular via awards of lucrative public contracts. In Zambia, for example, senior party officials from three parties observed that ‘private companies... contributed to the ruling party as a way of keeping their contracts “secure” ’.³⁷ This can happen due to a lack of transparency in political party financing and in public contracting as well (see Trend 4 below). In Mauritius, ‘[t]his complete lack of transparency has always been a source of concern in terms of the genuine independence and ethics of elected candidates in relation to their “benefactors”. This represents fertile ground for pernicious practices when it comes to awarding public contracts’.³⁸

The impact of opacity in financing and weak internal and external party accountability is far-reaching. Elected candidates may bring corrupt practices with them into office, affecting other pillars such as the executive, legislature and civil service, in addition to public contracting. Other studies indicate that this problem arises elsewhere in Africa as well. In a case study of four countries, the National Democratic Institute (NDI) found that ‘many of the party finance problems find their origin in undemocratic, secretive and unprofessional party organising practices. These problems not only undermine public confidence in political processes, but also engender governments more susceptible to corruption’.³⁹ In Mauritius, the absence of a legal framework for party finance is considered to undermine the foundation of the NIS.⁴⁰

According to the GCR 2004, ‘one remedy to corrupt political finance [is] disclosure... of the flow of money in politics, whether financing parties or candidates or spent on elections or on public contracting... Enforcement is the linchpin of a successful political finance regime’.⁴¹ While some countries in this region have quite recent legislation governing party accounting and disclosure, there is a common trend of non-compliance. Table 4 summarises the principal requirements for parties as described in the NIS studies. It shows a general trend of lack of transparency and monitoring of party finances.

Table 4: Political Party Requirements

	Campaign Spending Limits		Rules on Funding Sources	Disclosure of Sources	Codes of conduct	Published Accounts	
	Required	Compliance				Required	Compliance
Botswana	Yes	No	No	No ⁴²	No	No	No
DRC	*	*	Yes	No	*	No	No
Mauritius	Yes	No	No	No	No	No	No
Mozambique	No	No	Yes	*	*	Yes	No
Zambia	*	*	No	No	Yes	*	Rare
Zimbabwe	*	*	No	No	*	*	*

* No information available.

Source: NIS studies.

Furthermore, none of these countries requires party accounts to be audited.⁴³ Even where there is formal compliance, lack of auditing or monitoring is still an incentive to falsify returns. In Mozambique’s 2004 elections, for example, ‘[i]n order to avoid punishment [fines], political parties and candidates did account for their funds even though such accounting was often faked’.⁴⁴

In Mauritius, limits on campaign spending are out of date, encouraging candidates to lie about spending when they make their official declarations. But from 2004 onwards, a Select Committee has worked to carry out a study of the costs required in a modern electoral campaign and proposed new limits. Since 2005, the business community has also taken the initiative to make campaign donations by cheque rather than in kind, and their code of ethics now requires them to publish the total of their donations to political parties.⁴⁵

Enforcement regimes are generally weak, as the related NIS pillars – electoral commissions and the judiciary – tend to be politicised. In the case of the DRC, Zimbabwe, Botswana and Mozambique,⁴⁶ key figures in the electoral commissions are political appointees or under executive influence, thus impeding them from effectively monitoring compliance with political financing rules. Similar trends in the judiciary are discussed below. A noteworthy recent exception is Mauritius, where in 2007 Supreme Court judges invalidated the election of a candidate due to bribery of the electorate.

Trend 3: Weak, politicised and corrupt judiciaries block anti-corruption efforts.

The judiciary is one of the most crucial pillars in an NIS. According to TI's 2007 Global Corruption Report (GCR 2007),

an important distinction exists between judicial systems that are relatively free of corruption and those that suffer from systemic manipulation. Indicators of judicial corruption map neatly on to broader measures of corruption. Judiciaries that suffer from systemic corruption are generally found in societies where corruption is rampant across the public sector.⁴⁷

Across most of the southern African region, judiciaries are undermined by executive influence and bribery. In Mozambique, for example, the judiciary is considered the weakest pillar in the NIS. Changing political and economic circumstances have undermined some judiciaries, notably in Zimbabwe and the DRC.

In several countries, reforms to the ethical framework for the judiciary are underway. In Mauritius, there has been a serious attempt to regulate conflicts of interest (see Section 3). However, in general, capacity to meet demands on the justice sector is insufficient.

Political and economic circumstances have a direct impact on judiciaries. In the DRC, judicial reform is particularly challenging, as the infrastructure of the judicial system (police stations, prisons, courts, document archives, etc.) was destroyed during the period of Laurent Kabila, and there is a serious lack of qualified judges in the country.⁴⁸ In Zimbabwe, a once well-respected judicial system is now seen as increasingly politicised, as pressures on the judiciary since 2000 have reduced transparency. 'In law, members of the judiciary are obliged to give reasons for whatever decisions they make. However, in some cases, judiciary officers declare a verdict but then suspend giving reasons for the decision... This is especially so in rulings on political and electoral litigations since 2000'.⁴⁹

In Swaziland, the conflict between traditional and western systems of governments plays out in the justice sector as well. Both the government and the public appeal to traditional authorities when 'modern' institutional structures do not satisfy them:

An example is when the executive arm of government was ordered by the traditional authorities to evict certain people from... adjacent chiefdoms... When

the courts of the land ruled that the people should be allowed to return to their land, this order was disregarded by the central government on instruction from traditional authorities.⁵⁰

As the GCR 2007 states, 'most research on customary systems has emphasised their importance as the only alternative to the sluggish, costly and graft-ridden government processes, but they also contain elements of corruption and other forms of bias'.⁵¹

Poor pay and conditions are a common complaint across the judiciaries in the region. Most judiciaries receive limited and irregular funding and are understaffed, contributing to huge backlogs in cases. These factors provide clear incentives for bribery and corruption, especially as codes of conduct are patchy and enforcement is limited. Justice becomes accessible only to the most affluent. In Zambia, for example,

The judiciary has been impaired by the extremely inadequate and erratic funding... [S]trikes have contributed to the inefficiency of the judicial system, creating a backlog of cases. [A government study] completed in 2004 revealed that duration of court cases could be as long as 75 months... [T]his poor performance of the judiciary discouraged potential litigants from taking legal action... Sometimes bribes must be paid in order to speed up legal proceedings.⁵²

In the DRC and Zimbabwe, economic conditions have deteriorated to such an extent that petty bribery and corruption represent survival strategies. In the DRC, for example, 'in almost all the judiciary, over the course of time, a system of unrecorded levies has been established to make up for delays in the payment of salaries'.⁵³

The judiciary is also significantly affected by the extent to which the executive allows it to act independently. In all these countries, except Botswana, the judiciary is given formal independence by the constitution or laws. Each has a type of judicial service commission (JSC) that is usually formally charged with overseeing matters of the recruitment, promotion and dismissal of judges and magistrates. Usually the head of state is required to appoint at least the highest judges on the advice of the JSC. Except for Mauritius, the general picture is one of executive influence or interference in the judiciary. In Swaziland, for example,

The interference and/or conflict between the judiciary and executive arm of government is evident even though it is difficult to substantiate because the Executive carries out its machinations in secret... [S]ome judges of the High Court who are expatriates are still employed on contracts which are either abruptly terminated or not renewed if their decisions do not sit well with the authorities. Reasons are never furnished... The result is that judges in this position tend to be loathe to issue judgements which are averse to the government.⁵⁴

The executive may dominate the JSC itself. In Mozambique, '[s]uch appointments should be based on merit, but there have been claims that this criterion is not always observed. Thus one experienced lawyer... has argued that some judicial appointments are based on political trust'.⁵⁵

In Zimbabwe, the bench was 'restructured' in 2001 and 'there have been concerns that the judiciary is now compromised, especially in dealing with governance issues. This restructuring... [saw] the appointment of new judges based on "party loyalty rather than judicial qualification."'⁵⁶

Sometimes executive influence is partly historical. For example, in Mozambique, the judiciary is considered to be 'politicised', with the ruling party historically having a dominant influence.⁵⁷ Politicisation there appears to intensify when executive power is challenged, for example during election periods.⁵⁸

Reforms to improve internal ethics in the judiciary are being attempted. In Zimbabwe, a Judicial Services Bill has been enacted recently, although not implemented yet.⁵⁹ It includes a code of ethics prohibiting gifts to the judiciary and covering conflicts of interest. In the DRC, a code of conduct introduced in 2002 covers judges as well as other public servants. Mauritius also brought in a new code of conduct for judges in 2002. However, in general and across the region, not only do gaps remain in areas such as asset declarations, but there is limited monitoring and enforcement. This reinforces impunity.

Weak, corrupt and politicised judiciaries become a bottleneck in the fight against corruption. This NIS pillar cannot be viewed in isolation, however, as action in the courts also depends on law enforcement agencies: the police, public prosecutors, and anti-corruption commissions who prepare the material for cases and control their progress to court. These institutions are also often under-resourced and subject to executive influence. The office of the Director of Public Prosecutions (DPP), in particular, is often a bottleneck for corruption cases reaching the courts; it may be difficult to tell how much of the problem is due to political pressure, under-resourcing, lack of technical capacity, or an inappropriate legal framework. There may be limited transparency about decisions to advance or withdraw cases. For example, in Zambia,

The constitution gives powers to the DPP to discontinue criminal proceedings without giving any reason... [I]n high-profile cases where the Government has an interest, the provision of 'general considerations of public policy'... can be highly abused. This abuse was quite clear in the Bulaya case... when the president prevailed over the DPP to drop corruption charges.⁶⁰

It is clear that improved performance of the judiciary requires action across other related pillars. Similarly, improving the integrity and capacity of the judiciary can strengthen the NIS as a whole.

Trend 4: Public procurement reforms are underway, but accountability for public resources is limited.

Public procurement is an area highly susceptible to corruption due to the large amounts of resources involved. It is a key interface between the public and private sectors and has often been seen by politicians as a way to reward election supporters with lucrative contracts and to maintain patronage networks. In the DRC, for example,

for political parties in power, the line between 'public funds' and 'private funds' has not always been very clear to public opinion... Given that there are no real lobbies capable of providing financial support to political parties, public tenders have been awarded to certain businesses in return for their financing the political party of the awarding authority.⁶¹

Reforms to public procurement are underway in many countries in the region. This has the potential to significantly improve the NISs, as procurement is a 'critical part' of the NISs.⁶² But making procurement more transparent and competitive is a long and complex process. Mozambique, for example,

has very limited experience with a modern and systematic procurement system. This has fostered a symbiotic and often corrupt relationship between the authorities and segments of the business sector in the award of contracts. Because of the breadth and complexity of procurement, there are many forms of fraud and corruption.⁶³

In recent years, many new laws or regulations have been introduced to reform procurement boards and procedures, for example, in Zimbabwe (2002), Mauritius (2006), and Mozambique (2005). Reform programmes are also underway in Swaziland (following an African Development Bank report in 2003), and a new law is being prepared in Zambia.⁶⁴ Reforms have largely focused on establishing independent tender boards, streamlining bid processes, and closing loopholes that allow for conflicts of interest to arise in the awarding of contracts. The OECD-DAC's 2007 good practice paper highlights the challenge of balancing 'transparency and accountability... with other good governance imperatives, such as ensuring an efficient management of public resources... or providing guarantees for fair competition... in order to ensure overall value for money'.⁶⁵ This very challenge of minimising state inefficiency through long procedures while ensuring transparency has led Mauritius to four different legal reforms since 1994.⁶⁶

Political interests represent a powerful barrier to effective reform. For example, several countries have set up independent tender boards as a way to reduce conflicts of interest and improve the separation of powers in procurement through better organisation. However, to be effective, such boards need true independence and effective integrity rules for members and staff. In Zimbabwe, the Procurement Act and its 2002 regulations set up the State Procurement Board as a central procurement agency for higher value formal tenders, replacing the former Government Tender Board in the Ministry of Finance.⁶⁷ The new board 'was primarily targeted at dealing with the cancer of corruption'⁶⁸ but lacks operational independence. The President appoints its members and the board reports to a presidency minister. There is a 'tendency for Cabinet to decide and draw up procurement procedures... which has often compromised this formal operational independence'.⁶⁹

Existing or recently introduced rules to improve integrity are shown in Table 5. Of course, the existence of these rules does not mean that they are observed. Effective monitoring is often lacking, and sanctions are rare.

Table 5: Procurement Rules Concerning Integrity

	Publications						
	Asset declarations	Conflicts of interest	Code of conduct	AC clause in contracts	Tender	Award	Changes
Botswana	Yes	Yes	Yes	*	Yes	*	Yes
Mauritius	Yes	*	Yes	*	Yes	*	*
Swaziland	No	Yes	*	*	Yes	No	No
Mozambique	No	Yes	*	Yes	Yes	*	*
Zambia	No	Yes	*	No	Yes	Yes	*
Zimbabwe	*	Yes	*	Yes	Yes	*	*
DRC	*	*	Yes	*	Yes	*	Yes

* No information available.
Source: NIS studies.

Certain poor practices in procurement, sometimes permitted under former legal frameworks, are well established and hard to eradicate. In Mozambique, it was legal until recently for members of the tender board to collect cash commissions as part of their incentives.⁷⁰ In the DRC, the separation of financial duties was abolished in the 1970s under Mobutu and has not been re-established.⁷¹

International donors have shown particular interest in the quality of procurement systems. In Mauritius, this has repeatedly proved to be an incentive to reform the procurement law, which now separates the responsibilities for the drafting of standard tender documents, the technical assessment of bids, and appeals and attributes them to three different entities. As the finance minister has pointed out: 'It is very difficult to convince the international donor community that our bidding system is fair, transparent and in conformity with the principles of good governance'.⁷²

In Mozambique, as donors have begun relying more on government systems in the provision of budget support, there has also been pressure to improve procurement systems. The Mozambique NIS study suggests that if donors relied on their own procurement systems, there would be less incentive for government systems to improve.⁷³

As the OECD-DAC paper outlines,⁷⁴ transparency reforms have traditionally focused on the bidding process, but there are also 'grey areas' that are not addressed. Pre-bidding and post-bidding phases and exceptions to competitive procedures are examples of areas still particularly vulnerable to corruption. In Zimbabwe, for example,

Purchases done through the competitive sourcing of quotations do not go through the rigorous process of the Informal and Formal Tenders. Competitive sourcing of quotations is subject to... manipulation to suit the interests of the official in charge of procuring... The official determines which suppliers to approach for the quotations. A supplier of a commodity can be deliberately left out in favour of a more expensive supplier who will in turn reward that effort...⁷⁵

Another grey area is the modification of ongoing contracts, as illustrated by the example of road construction contracts in Swaziland.⁷⁶

It is also important to have a process for appealing the awarding of contract that is independent of the tender board, as is evident in Botswana and under the latest reforms in Mauritius (see Section 3). However, where the executive influences both institutions, there may not be real independence. In Zimbabwe, for example, the President appoints the judge of the administrative court to which procurement appeals are directed.⁷⁷ Effective appeals also depend on transparency regarding the awarding of contracts. In Zambia, no feedback is provided to bidders about awards to allow them to request a review of decisions.⁷⁸

Capacity constraints still limit the effectiveness of institutions. In Mauritius and Botswana, understaffing at central tender boards is said to lead to a lack of attention to detail, which 'exposes [them] to litigation and suspicions of corruption'.⁷⁹ In Mauritius, the workload of the current tender board will be spread across three institutions under the new law.⁸⁰ In Zambia, a lack of trained procurement personnel 'compromises the integrity of the whole system'.⁸¹ Reforms in Mozambique and Mauritius require staff to be appropriately trained in new procurement rules. One frequent consequence of understaffing is that improvements in procurement rules have limited coverage. In the DRC, as an extreme example, provincial tendering is under the control of the governor, and tender boards have not been established.⁸²

Certain groups of NIS pillars have the potential to mutually reinforce each other. Where this does not occur, the NIS can be undermined. One example is the interaction between procurement, the supreme audit institution, and the parliamentary accounts committee.

In Zimbabwe, the supreme audit institution, the Comptroller and Auditor General (CAG), plays a key role in identifying irregular spending and corruption in public finances. It can bring to the attention of investigating agencies any acts that may warrant further investigation and prosecution. However, in practice, ministries report to the CAG late and ignore its findings. Under-resourced and faced with these backlogs, the CAG suffers delays in reporting back to ministers. This makes it more difficult for the executive to act on recommendations, which have become outdated.⁸³ 'For the [Public Accounts Committee (PAC)] to be effective, the other oversight institutions – especially the CAG – must have done their work properly and in a timely way. Apparently, however, the CAG almost always produces its reports late and this cripples the PAC's work'.⁸⁴

In many countries, the PAC has powers to summon the executive, ask questions about the auditor-general's reports, and recommend follow-up, but it does not have power to enforce its recommendations with the executive. This interrupts the cycle of accountability for the use of public funds. For example, in Swaziland,

Parliament regularly summons government to account for its activities... The Public Accounts Committee is renowned for its watchdog role... [and] has powers to recommend punitive action against any offending government official including Ministers... However the bureaucratic behemoth that is the executive has so far been able to ensure that information is lost within its structures leaving such committees with little to hinge on for effective scrutiny.⁸⁵

By contrast, in Botswana, the pillars that hold the executive to account for financial management have been able to work effectively together. Although the supreme audit institution is not deemed fully independent of the executive, nonetheless

[the] legislature uses the committee system to effectively scrutinise the Executive, thus providing a system of checks and balances... The Public Accounts Committee (PAC), for instance, has enjoyed cross-party support... The Committee has sometimes been viewed by the executive as releasing reports critical of its financial mismanagement...⁸⁶

The Auditor General (OAG) has been able to deliver its audited reports on time.⁸⁷

3. Emerging Good Practices

As Sahr John Kpundeh argues, 'the roots of corruption lie in dysfunctional state institutions'.⁸⁸ Effective institutional frameworks for preventing, detecting and punishing corruption are not built overnight. Likewise, sectors like the media, with the potential to act in coalition with others and to hold the state to account, often still have limited experience and space for manoeuvre. Moreover, as the World Ethics Forum 2006 noted, there is 'limited efficacy of institutional reform when underlying public service values are weak, leadership capacity and commitment are absent, and change agents and champions lack supportive networks and coalitions'.⁸⁹ Therefore it is not surprising that only a limited number of good practices can be identified from this set of NIS studies. A few examples are described here.

Coalitions including Civil Society and Private Sector

Civil society has the potential to play a key role in tackling corruption by calling on government to be more transparent and accountable. As stated in the TI Source Book, civil society has the expertise and networks to address issues of common concern, and it is often closest to frontline public services, which it can monitor.⁹⁰

Civil society can be most effective when forming a coalition. Kpundeh argues that

corruption reform in Africa must evolve among a broad coalition of stakeholders, building and fostering a relationship with civil society and progressive elements of the private sector. Only a broad coalition... will have the power and momentum capable of dislodging powerful elites and institutions with vested interests in the status quo. Coalition building is most effective when government treats civil society and non state actors as participatory allies.⁹¹

The relationship between government and civil society has often been adversarial in Africa,⁹² particularly when issues of corruption are concerned. Nonetheless, several examples of effective coalitions against corruption are described in the NIS studies, even though these coalitions often do not include the government or any state institution.

According to the Zambia NIS study, an effective coalition has been formed between the Anti-Corruption Commission, civil society (TI-Zambia) and the private sector (e.g. Zambia Business Forum).⁹³ Civil society organisations working with church bodies and the media have exerted pressure for improved governance.⁹⁴ For example, the NIS study reports that President Mwanawasa prevailed on the DPP to drop criminal charges against a former permanent secretary, Kashiwa Bulaya, charged with a misappropriation of funds. Civil society, church and media pressure contributed to Bulaya's re-arrest, which allowed court proceedings to continue.⁹⁵

According to the Swaziland NIS study, civil society has been effective where it has been able to network and organise on a common issue. For example, in 2003, the media exposed a cabinet decision to purchase a private jet for use by the king without gaining approval for the decision or the expenditure by parliament. Civil society and other non-state actors mobilised to challenge the decision.⁹⁶

Many of the country studies draw attention to corruption at the interface between the public and private sectors, especially in public contracting. However, there are also examples of initiatives to improve private sector transparency and work in coalitions. In

Mauritius, most of the economy is controlled by a limited number of financial groups, primarily in pyramid and family structures. Traditionally, a small number of shareholders with family ties owns the majority of each of the major financial groups and sits on their boards. 'This leads to companies operating in a way that can be described as 'exclusive', autarkic and contrary to the principles of transparency'.⁹⁷ Since 2001, a committee set up by the Finance Ministry has been working on a good governance code for Mauritian businesses. The committee includes representatives from the private sector, the civil service and civil society (trade unions and professionals). This code was then attached to the 2005 Financial Reporting Act. It requires, for example, independent non-executive directors and greater transparency concerning shareholders' interests. 'The idea is to change progressively how the private sector operates'.⁹⁸

Public-sector Ethics

Section 2 outlines the introduction of new legal frameworks to tackle corruption and the challenges of implementation. According to the NIS studies, in some instances these provisions have proved effective or have genuine potential to improve public sector ethics in spite of these challenges. For example, in Mauritius, improvements to the judiciary are underway; the 2002 code of conduct for judges represents a serious attempt to regulate conflicts of interest.

Botswana introduced formal rules on integrity for the executive for the first time in its 2004 'Green Book', which covers functions, pay and privileges for the president, vice-president, ministers, speakers, and opposition leader. The NIS study describes that although it is not easy to obtain copies of these rules and to determine whether the regulations are being fully observed, there are signs that they are having an effect. The press reported that the president was subsequently forced to stay out of a cabinet meeting that considered an application from his brother-in-law. This is the first time a president of Botswana had taken such action.⁹⁹ As the World Ethics Forum 2007 noted, 'leadership with integrity [is] fundamental to achieving broad-based growth and improved development outcomes'.¹⁰⁰

Public Procurement

As discussed in Section 2, a wave of reforms has raised standards of public procurement systems. These reforms have largely focused on establishing independent tender boards, streamlining bid processes and closing loopholes that allow for conflicts of interest in the awarding of contracts. These reforms are highly complex and at an early stage; it is generally too early to judge whether they will improve integrity in procurement. However, the new processes that are being introduced have significant potential. The following presents a few examples of reforms that are clearly moving in the right direction.

An appeals process that is independent of the original contract awarders is important to the fairness of procurement. According to the OECD-DAC good practice paper, 'effective recourse systems... should provide timely access, independent review, efficient and timely resolution of complaints, and adequate remedies'.¹⁰¹ A number of the new procurement reforms in this region introduce independent appeals. For example, in Mauritius, there are plans to establish an Independent Review Panel.¹⁰² In many cases, disappointed bidders may appeal to the judiciary as an independent institution from the tender board, but alternative resolution systems to the judiciary may be more timely¹⁰³ or

provide greater protection against corruption where the judiciary lacks integrity. In Botswana, appeals may be taken first to an Independent Complaints Review Committee and then, if unsuccessful, to court; there are many such cases, demonstrating that contractors can seek recourse.¹⁰⁴

The OECD-DAC states that 'transparency... is a necessary but not a sufficient condition for integrity in procurement. Building professionalism among procurement officials with a common set of professional and ethical standards is equally important.'¹⁰⁵ With the huge number of new procedural and ethical rules being introduced as procurement reforms are being rolled out, staff need to be trained in these new rules. In Zambia, where, according to the NIS study, a 'lack of properly trained procurement personnel... compromises the integrity of the whole system',¹⁰⁶ the procurement reforms that began in 2004 include plans to train staff through Procurement and Supply Units. In Mozambique, the new procurement law introduced in 2005 introduces regulations addressing conflicts of interest for public procurement officials and 'to prevent the risk of misinterpretation, there is also mandatory training'.¹⁰⁷

Tackling Corruption Internationally

In recent years there has been increasing recognition that corruption has a significant international dimension. As stated by TI, '[b]ribe money often stems from multinationals based in the world's richest countries. Global financial centres play a pivotal role in allowing corrupt officials to move, hide and invest their illicitly gained wealth'.¹⁰⁸ International cooperation and mutual legal assistance are needed to help trace and return stolen assets. New international legal treaties such as UNCAC and the AU Convention (see below) now provide the frameworks to facilitate such action. However, as a recent U4 brief highlights, the costs of litigation are high and relevant legal and technical expertise is limited in many countries.¹⁰⁹

An example of where action has been possible as a result of international cooperation is the recent civil action against the former president of Zambia, Frederick Chiluba, in the High Court in London.¹¹⁰ In May 2007, Chiluba and 19 associates were found liable of defrauding the Zambian government of over \$40 million¹¹¹ and Chiluba was ordered to repay the money.¹¹² Criminal proceedings against him then began in Zambia in August 2007. Officials who have watched this case closely suggest that it was innovative, as legal action was first taken outside the jurisdiction of Zambia, but the successful ruling encouraged subsequent action in the Zambian courts.

Flexibility and effective international cooperation between authorities in different countries are necessary to the success of such cases. International cooperation can also lead to new action in-country that might not have otherwise been possible: One outcome of the Chiluba case has been that electronic evidence is now admitted in Zambian courts. There are also reports that this case may lead to less impunity for acts of corruption, making public officials more wary. However, the lasting impact of this will depend on the outcome of Chiluba's ongoing trial in the Zambian courts.

Conventions

There has been progress with the signature and ratification of regional and global anti-corruption conventions and instruments in the region. The region is covered by three international anti-corruption treaties: the UN Convention against Corruption (UNCAC), the AU Convention on Preventing and Combating Corruption (AUCPACC) and the South

African Development Community Protocol (SADCP). It is also covered by the UN Convention against Transnational Organised Crime (UNTOC). TI's view is that

These texts, agreed by governments, recognise corruption as a worldwide and cross-border affliction, and express a shared high-level political commitment to addressing this critical problem individually and collectively. Each text establishes an international, regional or sub-regional framework of rules and standards, some of them binding, that promote domestic action and facilitate international cooperation. Some take a selective approach and address some key aspects of the problem. Many of them adopt a comprehensive approach to corruption, calling for a wide range of measures to prevent it, measures to punish it when it occurs, measures to check corruption-related money laundering and facilitate the return of corruptly taken assets, and measures to provide assistance to countries where required. The most comprehensive of them is also the most recent, the landmark UN Convention against Corruption (2003), global in its reach and with the most extensive approach to addressing the corruption problem.¹¹³

Table 3 (above) shows that all countries covered by this study have signed one or more of these anti-corruption conventions; several have also ratified them. Signature and particularly ratification is welcome, as these conventions serve to facilitate international cooperation, provide internationally agreed reference points, create peer pressure, provide means to hold governments accountable, and provide frameworks for stakeholders to meet and discuss progress in tackling corruption.¹¹⁴ In the DRC, for example, although the country has yet to ratify both the AU and the UN conventions, these have provided a standard to assist with refining the anti-corruption legal framework. This is reflected in the review of its penal code in March 2005, including by distinguishing between petty and grand corruption and 'active' and 'passive' corruption, extending the law concerning agency, introducing whistleblower protection and extradition for corruption committed outside the DRC, and updating fines,¹¹⁵ although this has not yet had a practical impact.

Notes

- ¹ OECD-DAC, 'An agenda for collective action for improving governance to fight corruption', March 2007.
- ² 'Policy Paper: Poverty, Aid and Corruption', Berlin: TI, 2007.
- ³ See for example OECD, 'Policy Paper and Principles on Anti-Corruption', 2007.
- ⁴ TI Source Book 2000. Jeremy Pope & TI.
- ⁵ Only one party, the Botswana Democratic Party (BDP), has won all the elections since 1965. [Botswana p. 19].
- ⁶ Zimbabwe p. 8.
- ⁷ Op cit.
- ⁸ OECD DAC, March 2007.
- ⁹ According to the official census, the population is slightly above the 1 million mark; about 1.2 million people.
- ¹⁰ Swaziland pp. 7, 23-24.
- ¹¹ Zimbabwe p. 6.
- ¹² DRC p. 2.
- ¹³ OECD DAC p. 5.
- ¹⁴ DRC p. 10.
- ¹⁵ Mozambique p. 13.
- ¹⁶ Swaziland p. 10.
- ¹⁷ Zimbabwe p. 48.
- ¹⁸ Mozambique p. 13, Zimbabwe p. 42.
- ¹⁹ See for example World Ethics Forum, 'Conference Report: Leadership, Ethics and Integrity in Public Life', Oxford: Oxford University, April 2006.
- ²⁰ Zambia p. 48.
- ²¹ DRC p. 91.
- ²² Zimbabwe p. 6.
- ²³ Mozambique p. 47.
- ²⁴ See the conventions section of the TI website at:
http://www.transparency.org/global_priorities/international_conventions.
- ²⁵ Zambia p. 76.
- ²⁶ Swaziland p. 83-84.
- ²⁷ Chihamo, O., Shumba, G. July 2007.
- ²⁸ UN, 'Report on the meeting of the Open-ended Intergovernmental Working Group on Review of the Implementation of the UNCAC', September 2007,
http://www.unodc.org/unodc/en/crime_convention_corruption_WG_1.html.
- ²⁹ Schultz, J., 'A Primer for Development Practitioners: U4 Brief', Bergen, Norway: CMI, 2007, www.u4.no.
- ³⁰ <http://www.sahrit.org/content/view/175/1/>
- ³¹ See for example John Githongo's comments to the UK Overseas Development Institute, March 24, 2007 www.odi.org.uk/events/states.
- ³² 'Global Corruption Report 2004', London: TI, 2004 p. 1.
- ³³ Zambia p. 23.
- ³⁴ Mauritius p. 46.
- ³⁵ Zambia p. 3.
- ³⁶ Botswana p. 20.
- ³⁷ Zambia p. 23.
- ³⁸ Mauritius p. 22.
- ³⁹ Sefakor Ashiagbor, 'Party Finance Reform in Africa. Lessons learned from four countries: Ghana, Kenya, Senegal & South Africa', Washington, DC: National Democratic Institute for International Affairs, 2005.
- ⁴⁰ Mauritius pp. 21-22
- ⁴¹ GCR 2004, p. 14.
- ⁴² Except for the Botswana Congress Party, which does disclose external funding, most of which comes from the British Labour Party. Botswana p. 19.
- ⁴³ Although the Zimbabwe NIS study is ambiguous on this point. Zimbabwe, p. 25.
- ⁴⁴ Mozambique p. 25.
- ⁴⁵ See Mauritius p. 46.
- ⁴⁶ DRC p. 87, Zimbabwe p. 26, Zambia p. 26, Mozambique p. 27.
- ⁴⁷ GCR 2007, Berlin: TI, 2007.
- ⁴⁸ DRC p. 52.
- ⁴⁹ Zimbabwe p. 35.
- ⁵⁰ Swaziland p. 23.

- ⁵¹ Global Corruption Report 2007. Berlin: Transparency International. Quoting the OECD/DAC Network on Conflict, Peace and Development Cooperation, 'Enhancing the Delivery of Justice and Security in Fragile States', August 2006.
- ⁵² Zambia pp. 33-4.
- ⁵³ DRC p. 55.
- ⁵⁴ Swaziland p. 40-41.
- ⁵⁵ Mozambique p. 36.
- ⁵⁶ Zimbabwe p. 32.
- ⁵⁷ Mozambique p. 13.
- ⁵⁸ Mozambique p. 38.
- ⁵⁹ Zimbabwe p. 32.
- ⁶⁰ Zambia p. 43. See also footnote 336 to Zambia 'In the Dr. Bulaya case, Government particularly the Executive had great interest. According to *The Post* Newspaper of 21 May, 2005, Dr. Bulaya was one of the witnesses who favourably testified on behalf of President Levy Mwanawasa in a case in which three opposition leaders had petitioned the election of Mwanawasa in the 2001 polls'.
- ⁶¹ DRC p. 57.
- ⁶² Zimbabwe p. 49.
- ⁶³ Mozambique p. 46. Examples of corruption in procurement cited here include 'bribes and kickbacks, conflicts of interest, collusive bidding, bid rigging, false statements and claims, avoiding competition requirements, manipulation of the bidding procedure by public officials, false or duplicate invoices by contractors, failure to meet contract specifications, and purchases for personal use or resale'.
- ⁶⁴ Zambia p. 47.
- ⁶⁵ 'Integrity in Public Procurement: Good Practice from A to Z', Paris: OECD, 2007.
- ⁶⁶ Mauritius p. 25.
- ⁶⁷ Zimbabwe p. 46.
- ⁶⁸ Zimbabwe p. 48.
- ⁶⁹ Zimbabwe p. 46.
- ⁷⁰ Mozambique p. 44.
- ⁷¹ DRC p. 13.
- ⁷² Mauritius p. 26.
- ⁷³ Mozambique p. 44.
- ⁷⁴ OECD-DAC pp. 12-13.
- ⁷⁵ Zimbabwe p. 47.
- ⁷⁶ Swaziland p. 56-7.
- ⁷⁷ Zimbabwe p. 49.
- ⁷⁸ Zambia p. 49.
- ⁷⁹ Botswana p. 40.
- ⁸⁰ Mauritius p. 26-7.
- ⁸¹ Zambia p. 48.
- ⁸² DRC p. 72.
- ⁸³ Zimbabwe pp. 31.
- ⁸⁴ Zimbabwe p. 19.
- ⁸⁵ Swaziland pp. 25-26.
- ⁸⁶ Botswana p. 16.
- ⁸⁷ Botswana p. 26.
- ⁸⁸ Kpundeh, S., 'Process Interventions Versus Structural Reforms' in Levy B. & Kpundeh S. *Building State Capacity in Africa* (Washington: World Bank Institute, 2004), p. 258.
- ⁸⁹ World Ethics Forum, 2006, p. 2.
- ⁹⁰ TI Source Book, p. 133.
- ⁹¹ Kpundeh, S., op cit, p. 279.
- ⁹² Op cit p. 280.
- ⁹³ Zambia p. 55.
- ⁹⁴ Zambia p. 64.
- ⁹⁵ Zambia p. 63.
- ⁹⁶ Swaziland pp. 57, 72.
- ⁹⁷ Mauritius p. 43.
- ⁹⁸ Mauritius p. 44.
- ⁹⁹ Botswana p. 12.
- ¹⁰⁰ World Ethics Forum, op cit.
- ¹⁰¹ OECD-DAC, 2007, p. 106.
- ¹⁰² Op cit.
- ¹⁰³ OECD-DAC, p. 14.
- ¹⁰⁴ Botswana p. 41-2.
- ¹⁰⁵ OECD DAC, p. 13.
- ¹⁰⁶ Zambia pp. 48.

¹⁰⁷ Mozambique pp. 47.

¹⁰⁸ TI press release for CPI, 2007.

¹⁰⁹ For a useful brief on routes countries can take to trace and recover assets and technical and financial resources now available see: Smith, J. Pieth, M. Jorge, G., 'The Recovery of Stolen Assets: U4 Brief', 2007, www.u4.no.

¹¹⁰ Described in the Zambia NIS study: Zambia p. 6.

¹¹¹ Zambia p 9.

¹¹² <http://news.bbc.co.uk/2/hi/africa/6624547.stm>.

¹¹³ See the conventions section of the TI website at:

http://www.transparency.org/global_priorities/international_conventions.

¹¹⁴ See the conventions section of the TI website at:

http://www.transparency.org/global_priorities/international_conventions.

¹¹⁵ DRC p. 16.