

CONSOLIDATING DEMOCRATIC GOVERNANCE IN THE  
SADC REGION:  
MAURITIUS

**CONSOLIDATING DEMOCRATIC GOVERNANCE IN  
THE SADC REGION:  
MAURITIUS**

StraConsult, Mauritius  
Study Commissioned by EISA



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EISA is a non-partisan organisation which seeks to promote democratic principles, free and fair elections, a strong civil society and good governance at all levels of Southern African society.

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EISA Research Report, No. 37

## PREFACE

This research report is the culmination of a study undertaken by EISA focusing on the state of democratic governance in the Southern African region. The programme, implemented under the generic theme 'Consolidating Democratic Governance in the SADC Region', has evolved over a four-year period spanning 2003-2006. The research aims to investigate the state of democracy and governance in the Southern African Development Community (SADC) region, posing a key question as to whether or not the region has undergone democratic transition and, if so, posing a related question as to whether or not the region is firmly set on the road to democratic consolidation. The four key variables for the assessment of the state of democratic governance in this study are: representation and accountability; citizen participation; local governance; and economic management and corporate governance.

Beyond just investigating the state of transitions and the institutionalisation of democratic governance, the principal goal of this programme is to evaluate the progress that is being made in the area of democratic governance in the SADC region, to identify problems encountered by various countries and to suggest appropriate policy options for enhancing democratic governance. The specific objectives of the programme are to:

- strengthen mechanisms for data collection, providing a reliable situational analysis of the state of governance in the SADC region;
- formulate generalisable trends of democratisation in the SADC region on the basis of informed perceptions of key opinionmakers in the countries concerned;
- develop relevant and appropriate research methodologies in the governance field that would not only be useful to EISA but, indeed, to

other relevant research and policy advocacy institutions in the SADC region and beyond; and

- provide up-to-date information on comparative analyses of the governance arena in the SADC region in respect of representation and accountability; citizen participation; local governance; and economic management and corporate governance.

The critical entry point of this regional research enterprise is recognition that the entire African continent, and the SADC region in particular, has made tremendous strides towards multiparty democratic governance. It is now widely accepted that the SADC region has undergone a democratic transition away from authoritarian rule of the past – marked in the main by one-person rule, one-party rule and even military juntas of the 1960s-1980s – towards embracing and institutionalising some form of democratic governance. To be sure, although the SADC region has evidently made commendable progress in this regard, the region still faces a plethora of democratic deficits that need serious attention if democratic consolidation is to occur and endure.

This research programme therefore addresses the double edged governance dilemma, namely: challenges facing the SADC member states towards consolidating democratic governance and improving the quality of democracy on one hand; and on the other hand, the danger of complacency following recent positive political developments in the region, which could lead to new forms of authoritarianism, or in fact a reversal to old forms of authoritarianism. Thus, a situational analysis of the state and quality of democracy in each SADC member state is a useful barometer to gather scientific evidence and make an informed judgement as to whether or not democratic governance is consolidating, or whether, behind the facade of democratic rhetoric, there are possibilities for reversals or a relapse into new forms of authoritarian rule. The study is predicated upon thematic areas organised into four broad clusters as follows:

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***Cluster I: Representation and accountability***

- The executive branch
- The legislative branch
- The judiciary
- The public service
- The security establishment
- Parastatals (public enterprises)
- Local government and decentralisation
- Traditional institutions of governance
- Gender equality in public institutions
- Leadership and governance
- Political parties
- Autonomous public institutions (such as the human rights commission, the public protector or ombudsman, the independent media commission or authority, etc.)

***Cluster II: Citizen participation***

- Civil society organisations
- NGO legislation
- Human rights culture (social and economic rights and political rights)
- Political participation
- Voting behaviour
- Political culture
- Political representation
- Elections
- Election administration
- Electoral system
- Election management body
- Gender and political participation

*Cluster III: Local governance*

- Nature of decentralisation
- History of local government
- Relations between central and local government authorities
- Local governance legislation
- Local governance institutions
- Local government elections
- Local government capacity (finance, human resource, infrastructure)
- Gender issues in local governance

*Cluster IV: Economic management and corporate governance*

- Development strategy
- Economic policy (macroeconomic framework)
- Social policy (social welfare strategies)
- Poverty reduction strategies
- Corruption and anti-corruption strategies
- HIV/Aids epidemic
- Budgeting
- External resource flows
- Public-private linkages
- Gender aspects of resource distribution

This first phase of the programme covered the following countries: Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

On behalf of EISA, I would like to extend our profound gratitude to the Swedish International Development Cooperation Agency (SIDA) in Harare, Zimbabwe as well as to the Embassy of Denmark in Pretoria, South Africa for

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This series of research reports is dedicated to three colleagues who passed away during the course of this programme, namely Dr Joshua Mzizi of the University of Swaziland, Professor Alfred Chanda of the University of Zambia and Nixon Khembo of the University of Malawi. These researchers played an important role in the evolution of this programme at various stages of its implementation – may their souls rest in peace.

*Dr Khabele Matlosa*

*Regional Programme Coordinator and Series Editor*

*March 2007*

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## EXECUTIVE SUMMARY

Mauritius is considered as one of the best-governed, most stable and prosperous African countries. It is a democratic state that has promoted the development of its people since independence in 1968. In general, the government of Mauritius has managed the economy soundly, with relative fiscal transparency, good provision of education, sanitation, water and health services. It has upheld the rule of law, exhibited tolerance of opposition parties, and enshrined fair electoral procedures, with regular alternation of power. The judiciary is considered independent, parliamentary politics are vigorous and widely reported, and human rights are, in the main, upheld. The country has managed its ethnic, religious and cultural diversity with maturity and tolerance. The vibrant business climate has been conducive to investment, with sophisticated financial and communications infrastructure. Compared to other African countries, as well as many developing and developed countries across a range of governance measures, Mauritius emerges at or near the top of the rankings.

This study has been conducted at a critical time when Mauritius is going through a transition and faces considerable challenge to the sustainability of its growth, its economic and social development. This is the second study of the state of good governance in Mauritius since the first was commissioned by UNECA in 2001 and conducted through a process of wide conscientisation and participation of all stakeholders. Therefore this study, commissioned by EISA, although less comprehensive both in topics covered and in methodological instruments used, can be assimilated as an update of the first, in as much it allows us to evaluate evolution and progress. The study was conducted astride two elections, the general elections of June 2005 that saw yet another change in ruling party, and local government elections that saw the downfall of the longstanding stronghold of the MMM over the municipalities. Institutional effectiveness has declined in the last decade and

has greatly reduced the capacity of the state to stand up to the challenges of the day. Serious reform will be necessary in the coming years and serious tension can be expected between the vested interests of the present order and those for improved and more effective governance.

The reports starts with a brief introduction to Mauritius, outlining aspects such as its current economic situation, the major political milestones since independence in 1968, and the Mauritian stance with regard to its regional and international obligations.

The next chapter reviews the methodology for gathering primary and secondary data presented in the report. The instruments for conducting the desk research and the surveys were provided by EISA.

Chapter III is a review of the main publications concerning good democratic governance. It presents the views of experts both from an international and African perspective as well as from a Mauritian perspective. The whole issue of good governance and its correlation (or non-correlation) with economic growth is discussed. The case of good governance in Mauritius as a driving force for development is also presented, together with the case for institutional consolidation and the timid participation of civil society in the governance process.

Political representation and accountability in Mauritius are discussed in Chapter IV. While most of the institutions i.e. the Legislature, the Executive, the Judiciary and the electoral process are in place and performing well, there still exist some constraints to ensure proper political representation and accountability, one of the major constraints being the under-representation of women in parliament, mostly due to flaws in the internal governance of political parties. The relative weakness of the opposition is also an issue to be resolved.

Chapter V presents the role of civil society as an agent of democratic governance. While there are in existence a plethora of associations and NGOs, civil society engagement is only visible during electoral periods. Although trade unions and the media contribute to enhancing democracy through debates with government, other CSOs are almost amorphous when it comes to valuable contribution to policy-making. CSOs tend to focus on socio-cultural, religious and social welfare issues, instead of making a real contribution to the political, economic and democratic issues of the Mauritian society.

The contribution of local authorities to the governance issues in Mauritius is presented in Chapter VI. The reform of the local government system was debated in 2003. The previous government had introduced a new Local Government Act with municipal status being conferred on large villages in the rural areas. This reform has not concretised and the newly elected government has returned to the old system with five municipal councils and four district councils and 124 village councils. Disparities in access to financial resources between urban and rural local government institutions, and gender issues concerning representation at municipal and district council levels are two of the main issues raised in this report.

Chapter VII presents the state of economic management and corporate governance. Mauritius which boasted having one of the most competitive economies in Africa is now confronted with a recession due to global economic and market changes. The role of the private sector and its interaction with public authorities, the informal sector, and corruption are some of the main issues discussed.

Finally, the main conclusions and recommendations of the report are presented in Chapter VIII. Better representation of women at decision-making level, the building up of the capacity of the civil society, and the reform of the

present electoral system are some of the steps to be taken to further enhance the relatively high level of good governance in the country.

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# 1

## INTRODUCTION

### BACKGROUND

EISA has launched a project on Consolidating Democratic Governance in the SADC region with the main objective of documenting and informing on the current governance policies and practices. These policies and practices have a direct bearing on the political, economic and social development of the region. To this end, the project involved research on a set of indicators for monitoring economic, administrative and political governance.

A research team from StraConsult under the leadership of Mr L. A. Darga was appointed by EISA to undertake the country report for Mauritius. A Methodological Workshop was organised in Johannesburg at the end of August 2005 during which the selected institutions of all countries concerned were fully briefed about the project and the methodological instruments and process for its proper implementation.

StraConsult, having prepared the Mauritius country report for the "Monitoring Progress Towards Good Governance" project financed by the United Nations Economic Commission for Africa (UNECA) in 2002, had particular experience in conducting such a study.

The current study aims to research the state of the following four components:

- Representation and accountability,
- Citizenship participation,
- Local governance, and
- Economic management and corporate governance.

These components are key elements to measure the level of democratic governance of a country as they are the basis for democratic participation and consolidation.

#### **ABOUT MAURITIUS**

The Republic of Mauritius is an island off mainland Africa, in the South West of the Indian Ocean. It consists of the main island of Mauritius, Rodrigues, and several outer islands.

Mauritius has been successively a Dutch, Portuguese, French and British colony. It became independent of Great Britain on 12 March 1968 and acceded to the status of Republic within the Commonwealth on 12 March 1992.

The country has a Westminster type of Parliamentary government. The official language is English, but French is widely spoken.

The population, estimated at approximately 1.2 million, includes different ethnic groups described in the constitution as Indo-Mauritians (comprising Hindus and Muslims), General population (people of mixed European and African origin) and Sino-Mauritians.

The islands of Mauritius and Rodrigues have a total area of 1,969 sq. km. and an overall population density of 612 persons per sq km. About 46% of the area is under cultivation, 20% is occupied by built-up areas and 2% by public roads; the remaining consists of forests, scrub land, grasslands and grazing lands, reservoirs and ponds, swamps and rocks.

The climate is sub tropical. The average mid-day temperature on the central plateau varies from 21°C in August to 27°C in February. Near the coastal regions, temperatures are about 4-5°C higher.

**Table 1: Basic Socio Economic Data about Mauritius**

		2000	2004 <sup>1</sup>	2005 <sup>2</sup>
Life expectancy at birth (years)	Male	68.2	68.7	68.8
	Female	75.3	75.6	75.7
Population per doctor		1,099	950	930
Public expenditure on health as % of Total public expenditure		8.4	9.0	8.9
Public expenditure on education as a % of Total public expenditure		15	13.9	14.3
Labour Force - Mauritians ('000)		-	532.1	542.5
Unemployment rate <sup>1</sup>		-	8.5	9.6

**Source:** Central Statistical Office, 2006.

Mauritius is recognised as being one of the African countries where multiparty democracy and alternance have prevailed in a sustainable way since independence. However, regular free and fair elections and alternation in power are not the only measures of good governance. Good governance also entails the participation of all citizens in national, local affairs as well as economic issues and the degree to which regulatory framework and institutional set up ensure effectiveness in delivery of services and fairness in treatment of citizens. Studies such as the one commissioned by UNECA in 2001/2002 have shown that Mauritius still has some areas where good governance practice requires improvement. Decline of institutional effectiveness is one area of most serious concern. Mauritius has just gone through a period of transition on both the economic and social fronts. Improvement in the state of its governance will be both a necessary requisite as well as a desired outcome of its successful emergence into a new phase of economic growth and social well being.

## THE ECONOMY

The 'Mauritian miracle' is not just a slogan. The Mauritian economy has been doing remarkably well over the past three decades with real GDP growth rates averaging 5.4% and inflation declining from the highest ever of 33%

between 1979-1980 to less than 5.3% between 1999-2000. However, the years 2001 onwards have shown a period of recession indicated by declining growth rate and rising unemployment. The downturn is mainly due to external factors which are impacting negatively on two of the pillars the Mauritian economy: sugar and textile and clothing sectors, and delayed decisions to restructure the economy.

Table 1 highlights the main economic indicators of the country from 1996, 2000, and 2005, i.e. over a decade.

**Table 2: Economic Indicators for Mauritius - 1996, 2000 and 2005**

	Period	Unit	1996	2000	2005
Real GDP growth rate	Calendar year	%	6.2	9.5	3
GDP (at market price)	Calendar year	Rs million	79,365	120,065	186,973
Gross National Income at market price	Calendar year	Rs million	78,576	119,282	185,754
GNI per capita (at market prices)	Calendar year	Rs	69,281	100,477	149,370
Inflation rate	Fiscal year ended June	%	5.8	5.3	5.6
Unemployment rate	Mid year	%	5.8	6.7	9.5
Ratio of budget deficit to GDP at market prices	Fiscal year ended June	%	5.6	3.8	5

**Source:** Annual Report 2005 of Bank of Mauritius.

Mauritius managed to take considerable advantage from preferential market access under the Lomé and Cotonou Agreements and the various African Caribbean Pacific/ European Union (ACP/EU) agreements which provided a guaranteed market and price for most of Mauritian sugar as well as duty free entry for clothing exports. New international trade conditions under WTO rules and the phasing out of the Multi Fibre Agreement have led to the erosion of these preferential trade arrangements. This is having a direct impact on two important pillars of the Mauritian economy. The sugar and textile and clothing sectors are now going through a restructuring phase. There has been a centralisation of activities in the sugar sector with now only

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eleven factories still in operation.<sup>1</sup> The guaranteed price for sugar on the European market will fall by 36% by 2008 (See Chapter VII on Economic Management and Corporate Management).

As for the Textile and Clothing sector, for the past thirty years, Mauritius has benefited from a series of positive conditions which have helped to create a solid textile and clothing industry with significant foreign and local investment, the latter being dominant. This sector was one of the main providers of employment and contributed about 12% to the GDP.

The dismantling of the Multi Fibre Agreement and the new challenges of an extremely competitive world market have seriously shaken the sector with a 30% loss of jobs.

The tourism sector which emerged as the third pillar of the Mauritian economy in 1985<sup>2</sup> is still expanding with various hotel projects underway. Building on the assets created from the tourism sector government is now promoting a hospitality sector instead of simply a tourism sector, this by way of property development into Integrated Resort Scheme (IRS) to provide tropical luxury residential facilities to high net worth foreign individuals.

Other sectors have been launched such as the Information and Communication Technology (ICT) sector and the Seafood Hub, but they are yet to be in full bloom. Institutions such as the Board of Investment and Enterprise Mauritius have been set up and strengthened to find new viable sectors to facilitate the diversification of the Mauritian economy.

While Mauritius was ranked 29<sup>th</sup> in the World Competitiveness Report of 1999 outperforming some 'Asian Tigers' and 1<sup>st</sup> among African countries, it has now fallen to the 46<sup>th</sup> place in the world and 5<sup>th</sup> in Africa.

The Competitiveness Foresight, published in January 2005 by the National Productivity and Competitiveness Council (NPCC) stated “the budget deficit as a percentage of GDP (around 6%) has been quite high and this, if not corrected, may lead to a dire fiscal situation, compounded by the high and growing level of public debt.”(15) It also noted “the rising public debt and recurrent deficit put at risk the maintenance of the welfare state.” Social expenditure has risen from 10.7% to 15.1% of GDP (1985-2001).<sup>3</sup> (See Chapter VII.)

### **POLITICAL DEVELOPMENT SINCE INDEPENDENCE**

Mauritius practices the First-Past-the-Post electoral system. Ethnicity has been and remains a factor to reckon with in its political life, but consociational practices have managed to ensure elite gains sharing although it has been a constraint in nationhood building.

One of the main features of Mauritian politics therefore has been coalition governments. These coalition governments<sup>4</sup> take the form of post electoral arrangement, as in 1969 and 1976, or are decided prior to elections (1982, 1983, 1987, 1991, 1995, 2000 and 2005). Coalition governments have ensured both regime and democratic stability though there have been cases of split coalitions during a government mandate. Such splits have not provoked regime change but have increased both parliamentary and extra parliamentary pressure on the government.

A description of the main milestones of political developments in the country since independence follows.

#### ***The First Post-Independence Elections - 1976***

The general parliamentary election of 1976 was a three-cornered fight with the ruling Labour Party, the Parti Mauricien Social Democrate (PMSD) and

the Mouvement Militant Mauricien (MMM) participating. The MMM obtained 34 seats after allocation of the best loser seats while the Labour Party obtained 28 seats and the eight remaining went to the PMSD. The Labour Party and the PMSD formed a coalition government. This election saw the rise of the MMM as the number one party in the country.

### ***1982 Elections - Defeat of Sir Seewoosagur Ramgoolam***

The general election of 1982 saw the defeat of both the Labour Party and the PMSD. The MMM, allied with a smaller partner the (Parti Socialiste Mauricien) PSM, won 100 percent of the seats. Sir Seewoosagur Ramgoolam who had been the Prime Minister since independence was defeated. The MMM/PSM formed the new government with Anerood Jugnauth (the then President of the MMM) as Prime Minister, and Paul Berenger (the Secretary General of the MMM) as Minister of Finance.

### ***1983 - Split in Government***

Following a split in the government in 1983, Paul Berenger resigned along with other members of the MMM. Anerood Jugnauth remained in government with a number of MMM dissidents: they formed a new party, the MSM (Mouvement Socialiste Militant) and declared elections during the same year. The electoral campaign of 1983 saw the resurgence of ethnicity with the Hindu electorate gathering behind the MSM and Labour Party and the MMM winning predominantly the support of the general population and Muslim voters. The MSM in coalition with Labour Party and the PMSD won the elections and MMM sat in opposition.

### ***1992 - Mauritius becomes a Republic***

In 1990 the MSM and the MMM formed a new coalition, went to election and won another 100% of the seats. In 1992 legislation was passed to declare Mauritius a republic in the Commonwealth. The first president elected by

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parliament, Cassam Uteem was a former minister in the 1982/83 and in the 1990/91 MSM-MMM governments.

### ***1995 - Again a Split in Government***

In 1993 a split again occurred between the MMM and MSM in government. Sir Anerood Jugnauth continued as Prime Minister and the MMM went into opposition. During the election held in 1995, the MMM in alliance with the Labour Party defeated the MSM and Sir Anerood Jugnauth lost his seat as Prime Minister. Navin Ramgoolam, son of late Sir Seewoosagur Ramgoolam became the new Prime Minister.

### ***2000 Return of PM and Agreement to share Term of Prime Ministership***

A split occurred between the MMM and Labour Party mid term. Navin Ramgoolam continued his term as Prime Minister while the MMM sat in the opposition. In 2000, the MMM and MSM contracted an alliance and won the election which was held in September 2000. The MMM/MSM alliance formed a new government with Sir Anerood Jugnauth as Prime Minister and Paul Berenger as Deputy Prime Minister and Minister of Finance. One of the central conditions for the alliance was an agreement for the sharing of the prime ministership term, with the leader of the MMM Paul Berenger becoming PM from September 2003 to the end of the mandate in 2005. For the first time in its history, Mauritius had a non-Hindu of a specific caste as Prime Minister.

### ***2005 - The Labour Party and Navin Ramgoolam Back to Front***

The MMM-MSM coalition lost the general election held in July 2005. A coalition led by the Labour Party with former Prime Minister Navin Ramgoolam won the elections. One of the major features of this term is the split in the opposition between MMM and MSM. This has weakened the role of the opposition.

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## POLITICAL SYSTEM REFORM (ACHIEVEMENTS AND CONSTRAINTS)

The need for reform of the electoral system has been raised since 1982 when a coalition won all the seats of the National Assembly thereby leaving the government to rule in absence of an opposition.

The Westminster model which is in place in Mauritius suits most political actors though some believe that the concentration of executive and legislative powers in the hands of government could be reviewed. However, the First-Past-The-Post (FPTP) electoral system has shown its shortcomings with parties winning 90% or even all seats of the National Assembly as in 1982 and 1995. The opposition has a very weak and even symbolic stance in such circumstances.<sup>5</sup>

A commission chaired by South African Constitutional Court judge, Justice Albie Sachs, assisted by Indian Election Commissioner B. B. Tandon and former Mauritian Supreme Court judge Robert Ahnee was instituted in 2000 to review, among other things, the electoral system with a view to ensuring a good representation of opposition parties in parliament. The so-called Sachs Commission recommended that the electoral system be reformed to allow for a compensatory PR formula, which would ensure that a party obtaining at least 10% of the vote could be represented in parliament – thereby creating a stronger opposition. The system proposed by the commission is:

... focused on correcting under-representation of the Opposition without challenging the undisputed right to form the government of the party or alliance that gains a majority under the FPTP system.<sup>6</sup>

However, there has not been any major move to implement the recommendations of the Commission although the debate still goes on, particularly since the ruling Labour Party had the reform of the system as a

commitment of its electoral manifesto and has stated it will do this, although without declaring precisely what the specifics of the reform will be. Notwithstanding this major distortion in the political representation, political transition from one government to another has always been smooth and in strict respect of democratic tradition.

#### **THE EXTERNAL CONTEXT: REGIONALISATION AND GLOBALISATION**

Mauritius is among the founding members of major regional groupings such as the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), the Indian Ocean Rim (IOR/ARC) and the Indian Ocean Commission (IOC). In this respect, it can be said that Mauritius is very active in the regions of the Indian Ocean and of Southern and Eastern African. However, save for some cross border investment made by Mauritian companies in countries such as Mozambique, Tanzania, Namibia, Zambia and Zimbabwe, Mauritius has, probably resting in the comfort of EU preferential market access, failed to take as much advantage as it could have of the regional preferential market access to increase its exports on the region.

On the international scene, Mauritius has for long been a member of the Africa-Caribbean-Pacific (ACP) grouping which has been in constant negotiation with the European Union for quota-free access of various products to European markets. The Mauritian textile and clothing products have in that respect benefited from quota-free entry to Europe for over thirty years, while sugar enjoyed a protocol providing the country a secure guaranteed market for over eighty per cent of its production at a generally higher price than the world market.

Globalisation, particularly as it expresses itself through the multilateral trade negotiations in WTO, is impacting severely on the country. Preference erosion

for textiles and clothing products and the decline in sugar price in 2008 is a double shock which the country has to bear. The drastic reduction in import tariffs decided in 2005 out of political expediency without the accompanying measures to support restructuring has caused severe stress to local industry.

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## 2

### METHODOLOGY

The methodology used to compile this report is one which has been prescribed in comprehensive detail by EISA and the same used across all countries participating in the project. As the research institution for this project, we were provided with a Guide Manual for administering the research instruments, detailed and annotated outline of the report to be prepared, survey design guidelines, coding instructions and other related documents for a proper and scientific management of the process. The project focuses on democracy, governance and development in the SADC Region and was organised on a three-fold approach. The study consisted of:

- A desk study (Instrument A)
- An expert opinion survey (Instrument B)

The **Desk Study** seeks governance data and factual information from various secondary sources such as published material, official documents which include the constitution and various legal instruments, newspapers, etc.

The **Expert Opinion Survey** purposely selects a diverse group of knowledgeable respondents from various sectors who are informed about the governance situation in Mauritius and who can provide answers on governance issues.

The research looks at four key thematic areas of governance:

1. Representation and accountability,
2. Citizenship participation,
3. Local governance, and
4. Economic management and corporate governance.

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The methodology has been strictly applied and the report presents all data captured by the two instruments as well as analyses correlating the findings from the three instruments.

## THE RESEARCH

### *Desk study*

The desk study was based on the guidelines provided by EISA. Instrument A (Appendix 2) which dealt with questions related to the four key thematic areas of governance was used to guide the researchers in defining the topics to be covered in each key thematic area. These questions were very analytical and designed to probe into the actual state of governance in Mauritius.

Given the objectives and the guidelines already established by EISA the administration of the research proved to be manageable. The team was handpicked to combine academic credentials and professional excellence with hands on experience in the governance field. Gender as a specific subject or as a cross cutting issue was adequately taken care of as the team included two female researchers. The project leader provided overall guidance and constant supervision for the proper drafting of the report.

The research data was collected from official documents, from institutions concerned, and through enquiries and interviews with a number of public sector officials and other key-informant persons.

### *Expert opinion survey*

#### *Study Design*

The Instrument B (Appendix 3) is opinion-based and was used to collect responses from appropriately represented segments of society, as requested by EISA. Instrument B originally sought expert opinion from an expert panel

numbering about 100 persons. EISA directed that such experts be taken from a pool of citizens selected from the following categories: (i) central government, (ii) political parties, (iii) the judiciary, (iv) private sector, (v) civil society, (vi) labour organisations, (vii) academic/research, (viii) media agencies, (ix) special public institutions/parastatals and (x) local government.

The final selection for the Expert Opinion Survey was however reviewed by EISA and was finally amended to twenty five persons. The study team had initially completed an approximate forty questionnaires and a final choice of twenty five experts was done according to EISA's request. The expert record is found at Appendix 4. The selected experts consisted of twelve male and thirteen female participants. The breakdown is as follows:

**Table 3: Breakdown of participation to the Expert Opinion Survey**

Sector	Gender		Total
	Male	Female	
Academic/Research	1	2	3
Central Government	1	2	3
Civil Society	2	1	3
Judiciary	1	1	2
Local Government	1	1	2
Media Agencies	1	1	2
Political Parties	-	2	2
Private Sector	2	1	3
Special Institutions/ Parastatals	2	1	3
Labour Organisations	2	-	2
<b>Total</b>	<b>13</b>	<b>12</b>	<b>25</b>

The selection for the Expert Panel was made by building up a database of persons as comprehensively as possible from different listings and directories. The study team complemented the listing with names from its own database and from networking.

Using the different criteria of gender, age, region, professional category, ethnic denomination to ensure a balanced representation, a short list of 150 persons was selected. Questionnaires, accompanied by a cover letter

explaining the purpose of the project, were sent to a first batch of 100 experts considered as more inclined to participate. Experts were given two weeks to complete and return the questionnaire.

After two weeks, experts were prompted by regular phone calls. In some cases, questionnaires had to be re-sent and some of the experts identified in the first list had to be replaced as they were not available at the time of the survey. In other cases, researchers went in person to meet key experts. The questionnaire was then administered on a face-to-face basis. An example of such cases is the interview of Honourable Mrs Sheilabai Bappoo, Minister of Social Security, National Solidarity and Senior Citizens Welfare and Reform Institutions.

### ***Data Collection***

Pre-set questionnaires by EISA (Instrument B) were used for the data collection for the Expert Opinion Survey. Questionnaires were in English and were not translated in this case, as all experts had a good level of English. Questionnaires were sent by post and by e-mail to respondents and were marked by a serial number. Prior to the posting of questionnaires a database was created containing the following information, as requested by EISA: (i) questionnaire number, (ii) name of expert, (iii) gender, (iv) sector, (v) designation, (vi) contact address, (vii) telephone, (viii) email and (ix) fax. The database helped in the editing process as researchers had sometimes to revert back to experts because of missing information or wrong completion of questionnaire.

## 3

**LITERATURE REVIEW**

The whole issue of good governance has become a key element of many discourses about the development of Africa since the mid 1990s. Pressure was then exerted by “Development Partners” on South countries and principally on African countries to adopt good governance measures in order to benefit from aid from these rich countries. As Julius Nyerere puts it:

... one of the criteria for a nation being classified as among the world’s ‘deserving poor’ came to be having ‘good governance’ as defined by the donor community. And in practice that phrase meant and means those countries having multi-party systems of democracy, economies based on the principle of private ownership and of international free trade and a good record of human rights: again as defined by the industrialised market economy countries of the North.<sup>7</sup>

Nyerere, in his paper of 1998, questioned this definition of good governance imposed by rich countries on the “poor” African ones. He considered that many African countries have already made a positive move towards “living in a state of internal peace, and a peace which is deepening.” He added:

I am confident that African States, individually and in cooperation with one another, can step by step and in an ordered fashion, move towards Good Governance.

The governance agenda, however, gained wider acceptance as it became ‘owned’ by African NGOs and leaders. This was given concrete programmatic perspective with the African Union (AU) developing in partnership with G8 countries, the New Economic Partnership for African Development (NEPAD) that emphasised three aspects of governance having

important prerequisites for assistance from G8 countries to members of the AU. These aspects of governance are:

- Economic and corporate governance
- Political governance
- Peace and security<sup>8</sup>

On the other hand, organised civil society has played a major role in advocating good governance as a solution to the problems of poverty, violation of human rights, and lack of economic and social development in African countries. The civil society organisations (CSOs) in many African countries have participated in the national consultations held with respect to the Africa Peer Review Mechanism (APRM) as an instrument for pressure for more democratic and effective governance. Moreover, many initiatives from CSOs and other instances have mushroomed with regard to the promotion of good governance. For instance, in 2001 the United Nations Economic Commission for Africa (UNECA) commissioned a study to evaluate and monitor the progress towards good governance in about twenty countries. Other initiatives to monitor good governance and the APRM process have emanated from organisations such as the South Africa Institute for International Affairs (SAIIA), Development Policy Management Forum (DPMF) and EISA which has commissioned this SADC wide study on democratic governance.

The governance question is now well mainstreamed; it has moved beyond debate on the fundamentals of the notion and is assessed using well-researched instruments. Assessments of the state of governance of a country do not leave any government indifferent and provides a fertile ground for civil society mobilisation and action for the betterment of citizens.

Good governance is taken and generally accepted as meaning full acceptance and operationalisation of free market economic policies, including

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accountability and transparency of decision making, and on the political management level, democratisation, promotion of multi-party systems and commitment to free elections.

While no one will dispute that good governance involving all the above mentioned attributes is desirable, the debate is raised by Yash Tandon<sup>9</sup> as to whether such conditions necessarily lead to economic development, as is the presumption within the language of the donor community. He further argues “effective governance” resulting in economic growth has been displayed by NICs like South Korea, Singapore or Taiwan, without democratic modes of governance.

Daniel Kaufmann and Aart Kraay<sup>10</sup>, on the other hand, argue that per capita incomes and the quality of governance are strongly positively correlated across countries. They argue that there are logically three possible explanations for this strong positive correlation: (1) better governance exerts a powerful effect on per capita incomes; (2) higher incomes lead to improvements in governance; and (3) there are other factors which both make countries richer and also are associated with better governance.

Mauritius has lived on the understanding that the “state of good governance” has been evident for decades. The country has had free multiparty elections, freedom of expression and association, rule of law, relatively good economic governance resulting in high growth and good distributive policies resulting in an exceptional welfare system. Arvind Subramanian and Devesh Roy<sup>11</sup> had clearly demonstrated that one of the most important factors explaining “the Mauritian Miracle” was the quality of its institutions.

Indeed the state of governance has been quite good enough to be effective in ensuring socio-economic development. For sure there have been flaws, but these were considered minor compared to its strength, at least until

corruption and the loss of effectiveness of institutions started to become evident signs of fracture lines in the system. Those fractures became more and more evident as exogenous factors impacted negatively on the economy. The debate on these governance weaknesses however became caught up in the democratic practice of the Mauritian civil society which is to change one ruling team for another, instead of addressing the systemic questions.

The first systematic approach for examining the state of Good Governance in Mauritius came through the study initiated by UN ECA and carried out by StraConsult. The latter, in its report of 2002, highlighted that although Mauritius was on the right track, major areas still required attention. The study revealed that "...the lack of institutional effectiveness is clearly the weak component of good governance in Mauritius."<sup>12</sup>

This situation is attributed to the prevalence of clientelism, which "*undermines the efficacy, and effectiveness of the civil service.*" The study also highlights that:

- (a) institutional effectiveness, which is far from being commensurate with its level of development;
- (b) democratisation of the economy
- (c) equality of opportunity and treatment for all citizens; and
- (d) achieving a capacity of the CSOs to fully play their role in the democratic space they already enjoy, are among the main concerns when it comes to Good Governance in Mauritius.<sup>13</sup>

A wide spectrum of 'informed citizens' and civil society organisations as well as the media participated in the debate. Again however, debate became politically polarised from 2004 and civil society focused on the 2005 general elections for "change". Once again therefore, civil society delegated responsibility for change to its elected representatives, but assumed little role in the inter-election period.

Chit Dukhira in his book "History of Mauritius: Experiments in Democracy" (2002) underlines that the two important partners to bring about good governance are government (meaning all state actors such as central government, the civil service and other public authorities) and all the citizens of the country. He postulates that: "The responsibility devolves on Government, the civil service and the police to achieve social and economic goals, ensure peace and order, exercise authority and enforce laws". He also adds: "Participation and citizen involvement should not be mere slogans. (...) Nor is participation and end in itself. It is vital to the effective delivery of services and to further democracy."<sup>14</sup>

Weakness of the civil society is the greatest weakness for improved governance in Mauritius.

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## 4

### **POLITICAL REPRESENTATION AND ACCOUNTABILITY**

As stipulated in Section 1 of Chapter 1 of the Constitution, the Republic of Mauritius is a sovereign democratic state, with a multi-party parliamentary system. The political regime is that of a republic with a president elected by parliament and a parliamentary system based on the Westminster model with a unicameral national assembly.

The President of the Republic of Mauritius is the Head of State though he has limited executive powers and mostly dignitary functions. Executive power lies in the hands of the Council of Ministers (the Cabinet) which is headed by the Prime Minister. The affairs of the state and the responsibility of the administration of any governmental department lie with the Prime Minister and his Ministers.

The parliament elects the President. It is the President who appoints a member of the parliament as the Prime Minister who according to him/her has majority support of the members of the National Assembly and requests the Prime Minister to form the government.

Acting on the advice of the Prime Minister, the President appoints a Deputy Prime Minister and other ministers from the members of the Assembly. The President of the Republic also appoints the Leader of Opposition, which is a constitutionally provided position. The Leader of the Opposition is the one who in the opinion of the President is best able to carry the majority support of the opposition members represented in the Assembly.

There is general consensus that Mauritius has a democracy which can be an example to other developing countries. A majority of Mauritians considers that the political system prevailing in Mauritius is stable. However, there are a few opinion leaders who criticise certain aspects of the system like the too

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limited role of the President and the quasi-absolute power of the Prime Minister, but no one has raised the need for a fully executive presidential system.

Political representation at both national and local government level in Mauritius is ensured through a fully competitive electoral process based on universal adult suffrage expressed through secret ballot. Voting age is 18 years. General elections to elect members of Parliament (the National Assembly) are held every five years. The life of a parliament is therefore a maximum of five years. Sixty-two members are elected during general elections on a First-Past-The-Post basis, or rather First-Three-Past-The-Post<sup>15</sup> basis, from twenty-one constituencies. Additionally, eight other members are appointed according to the Best Loser system, thus giving a national assembly of seventy. The appointment of Best Loser member of the assembly is done by the Electoral Supervisory Commission on the basis of a mechanism prescribed under the Section 5 of the First Schedule of the Constitution and in a manner that ensures adequate representation of the officially recognised ethnic groups without changing the balance of forces between the parties as obtained through direct suffrage. The Constitution is very specific on the matter:

Section 5 (1) of the First Schedule of the Constitution explains as follows: In order to ensure a fair and adequate representation of each community<sup>16</sup>, there shall be 8 seats in the Assembly, additional to the 62 seats for members representing constituencies, which shall so far as is possible be allocated to persons belonging to parties who have stood as candidates for election as members at the general election but have not been returned as members to represent constituencies.

Section 5 (3): The first 4 of the 8 seats shall so far as is possible each be allocated to the most successful unreturned candidate, if any, who is a member of a party and who belongs to the appropriate community, regardless of which party he belongs to.

“Appropriate community” in the above section means the community which is most under-represented. The basis for determining the under-representation is the 1972<sup>17</sup> population census figure.

Section 5 (4): When the first 4 seats (or as many as possible of those seats) have been allocated, the number of such seats that have been allocated to persons who belong to parties, other than the most successful party, shall be ascertained and so far as is possible that number of seats out of the second 4 seats shall one by one be allocated to the most successful unreturned candidates (if any) belonging both to the most successful party and to the appropriate community or where there is no unreturned candidate of the appropriate community, to the most successful unreturned candidates belonging to the most successful party, irrespective of community.

The First-Past-The-Post and Best Loser system has in the last 15 years been the subject of major debate with one camp arguing for its disappearance on the basis that its maintenance is contrary to the building up of national identity and the other considering that it remains necessary to secure adequate representation of the different ethnic groups. Another current argues for a redefinition of the ethnic groups in the constitution. The debate was recently revived when the Sachs report was being considered for changes in the electoral system.

## **ORGANS OF GOVERNMENT AND HOW THEY WORK**

### *The Legislature*

As mentioned in the introduction to this chapter, the Parliament of the Republic of Mauritius, also called the National Assembly, is unicameral and is composed of sixty two members elected by twenty three-member constituencies, Rodrigues the 21st constituency electing only two. However, with a view to ensuring a fair and adequate representation of all the ethnic groups that compose the Mauritian society, eight additional seats are

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provided. Holders of these particular seats are chosen by the Electoral Supervisory Commission from amongst persons belonging to parties which have stood for election but who have not been returned. Hence universal suffrage remains in both cases the determining factor.

Two offices of the Legislature may, however, as per the Constitution<sup>18</sup> be held by non-elected members: the Speakership and the Office of the Attorney General. At its first sitting after any general election, the Assembly is required to elect a Speaker from among those of its members who are not ministers or, if it so desires, a non-elected person. The Speaker may be removed from office on a motion presented by the Prime Minister and voted by the majority of Members of the Assembly, without debate.

The Attorney General is the legal adviser to the Government of Mauritius. He also may not be an elected member of the Assembly, which is the case with the present office holder. In that case, he is entitled to take part in the proceedings thereof, enjoys all the Privileges attributed by the Constitution and any other law to a Member of the Assembly, but is not entitled to vote in the Assembly.

The Head of the Government is the Prime Minister. He is appointed by the President of the Republic who, in his own deliberate judgment, selects as such the member of the Assembly who appears to him best able to command the support of the majority of members thereof.

The Prime Minister holds office:

- Until he ceases to be a Member of the Assembly otherwise than by reason of a dissolution of the Assembly;
- Unless he is not a Member of the Assembly at the first sitting thereof after any general election.

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The Prime Minister is required to leave his office if a motion of no confidence in the Government is voted by the Assembly. In such a case, should he not resign within three days after the voting of the motion, the President of the Republic shall remove him from office, unless Parliament has been or is to be dissolved in consequence of such a resolution. The President may also exercise such prerogative if, in consequence of changes in the membership of the Assembly resulting in a general election, the Prime Minister will not be able to command the support of a majority of members of the Assembly.

The Constitution of Mauritius provides for the creation of the important function of Leader of the Opposition who is appointed by the President of the Republic. The Leader of the Opposition is chosen from among the group of Members of the Assembly whose number includes a leader who commands their support in opposition to the Government. He may be revoked by the President where, in his own deliberate judgment, the latter considers that another member of the Assembly has assumed the command of the greatest numerical strength in the Assembly or if he is no longer accepted as such to the leaders of the opposition parties in the Assembly. The term of office of all members, elected under the single First-Past-The-Post system is five years. There are no limitations on re-election.

The Parliament determines and sets up various statutory committees to facilitate the undertaking of its various functions. These include the Legislative committees, the Standing Order Committees and the Public Accounts Committee. All committees comprise members of both the ruling and the opposition parties but the majority is from the ruling party. A member from the ruling party, except for the Parliamentary Accounts Committee, which is chaired by a member from the opposition party, chairs all committees.

**Standing Order Committee:** The Standing Order Committee sets the procedures to be adopted for the carrying out of the functions of Parliament

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during its mandate. It meets whenever it is necessary to amend existing procedures for Parliament. It last met in 1997 when the last Labour government set it up to review a Report prepared in 1995.

**House Committee:** The House Committee is comprised of about five members whose role is to look into welfare matters of the house and its members, such as catering, library facilities etc.

**Committee of Selection:** It is comprised of about nine members and meets at the opening of each Parliament, that is, every five years under the chairmanship of the Speaker. Its function is to appoint the members of the different committees.

**Public Accounts Committee (PAC):** This is certainly the most important committee since it is the one that has the responsibility of ensuring the accountability of the executive. It meets as soon as the Director of Audit's Report is placed on the Table of the Assembly. Its main function is to scrutinise the Director of Audit's report and report to Parliament. The main shortcoming of the existing procedures is that both the Director of Audit's report and the report of the Parliamentary Accounts committee are placed on the Table of the Assembly but Parliament is not bound to debate on either of the reports.

The **Parliamentary Committee** set up under Section 59 of the Prevention of Corruption Act 2002 as an oversight body of Parliament over the Independent Commission Against Corruption is the most recent committee set up in the last decade. In the last legislature the Committee was fraught with partisan infighting which crippled its functioning.

Although often suggested or requested, there is no other standing committee of parliament which could either play an oversight role or act as a think tank of parliament on non-partisan matters such as foreign policy.

**Select Committees** can be set up if government and opposition agree to the need to inquire into or clarify an issue which is recognised as having national importance, or if there is government desire to derive consensus. The select committee on the revision of the electoral system was one such case.

### *Capacity for Parliamentary Oversight*

Citizens are convinced that the National Assembly in Mauritius has enough powers to initiate, scrutinise and amend legislation. However, there is a mixed feeling among the population about how committed their representatives are to looking after their interest at the National Level.

The ambiguity of the public opinion is reflective of the complex situation of the Mauritian parliament. Parliamentarians have at every regular sitting the formidable tool of parliamentary questions (PQs) to keep the executive on its toes, force accountability, policy clarification, expose contradictions, incompetence and ineffectiveness. Each parliamentarian has the right to four written questions per sitting. Members of the opposition have used this mechanism to a large extent. The Leader of the Opposition has the right to the Private Notice Question (PNQ) to question government on urgent issues. PNQs allow the Leader of the Opposition to put a question at very short notice (three hours) to government. When well-drafted PQs and PNQs generally provide scope for numerous supplementary questions. Government often dreads this instrument as it can bring to the front of public debate matters that are very sensitive. The questions and answers are given wide coverage in the media and are largely followed by citizens.

On the other hand, the electoral system can result in a parliament where the representation of the opposition is negligible and consequently the scope of using the PQ instruments is so also. The backbenchers on the government side more often than not subject themselves to parliamentary discipline not to

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embarrass their party members in the executive, thereby reducing further the use of PQs.

In a parliament of 70 members where there are between 20 to 24 ministers and deputy ministers or parliamentary secretaries, the executive arm tends to dominate the National Assembly. While a unicameral legislature theoretically allows a speedy and less costly legislative process, in practice it makes Parliament less able to counteract the already-strong executive.

Although rank and file MPs can introduce motions, the Executive determines Parliament's agenda and limits private member motions to specific time allocations, with the result that few such motions are effectively debated. The right to introduce private member's bills is never used by parliamentarians. Furthermore, there is no drafting capacity available to private members. Bills have to be referred to the State Law Office, which gives priority to bills from the executive, delaying other bills.

Prime Ministers have often rushed bills forward by abusing the certificate of urgency, a prerogative granted to the head of government to fast track legislation. Parliamentarians have no support provided to them to help real examination of complex legislative instruments for effective participation in the debate.

Debate over the national budget is comprehensive with all members afforded adequate time for giving their views. The actual details of the budget are fully subjected to scrutiny during the Committee of Supplies and members have full right to request for a vote to reduce or even deny specific lines of expenditure.

The Public Accounts Committee which is set up by Parliament is composed of not more than 10 Members of Parliament, with a majority of Members being

from the opposition, is a formidable weapon with which to scrutinise the practice of the executive. The committee has full authority to interrogate public officers and call for documents. The PAC examines the reports of the Director of Audit and any other report that is laid on the table of the National Assembly and submits reports thereon together with their recommendations.<sup>19</sup>

It is understandable that the perception of many informed citizens is mixed concerning the independence of Parliament vis-à-vis the Executive. Just over half of the informed citizens interviewed for the Expert Opinion Survey consider that the legislature is free from subordination to the Executive. However a sizeable minority believe that the close link between the Executive and the Legislature impacts negatively on the independence of the latter. The scope of effectiveness of Parliament could certainly be improved if there was no underrepresentation of opposition from the electoral systems, if adequate resources were provided for parliamentarians to do their jobs, if more standing committees were set up to provide space for in depth discussions of certain national concerns.

### *Citizen Participation in the Legislative Process*

Civil society is quite dynamic in Mauritius, but organised civil society engagement with parliament is weak.

The written and private audio media are extremely vibrant and the most active component and instrument of civil society engagement with parliament. The eight dailies and over thirty weeklies give wide coverage to sittings of parliament and their columns are extensively used for voicing opinions and advocacy by civil society.

Civil society has two instruments to interact directly with Parliament:

- By way of petition
- By way of bills promoted through a member of Parliament.

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And, indirectly, through interaction with their members of Parliament

The Standing Orders and Rules of the National Assembly<sup>20</sup> also make provisions for engagement of civil society. The public can present petitions and private bills.

The provisions for petitions (Standing Order 20) are summarised below:

Petitions which are normally signed by a group of persons should be presented by a member of parliament (MP) on behalf of the proponents. The MP must ensure that the petition is well written. It is the responsibility of the member presenting the petition to mention on the first page of the document the number of signatures affixed.

The member presenting a petition must sign the document and deposit it to the Clerk at least one day before a session of the National Assembly. The Clerk must examine the document and submit it to the Speaker for approval. The petition will only be presented to the house if it is endorsed with the following: "National Assembly, Passed by Mr. Speaker."

On presenting a petition, a MP may state the reasons behind the petition and the reasons why he or she is presenting it. Petitions must not make any mention of debates in the National Assembly or of any intended motion to be presented.

Since 1968 there have been eight petitions presented at the National Assembly.<sup>21</sup>

The Private Members Bill is another instrument through which civil society can intervene in parliament. These are bills intended to promote "the interests of some particular persons, associations or corporate body or whereby the

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private rights or property of any particular person, association or corporate body may be directly affected..."<sup>22</sup>

Private bills can only be presented after a petition has been lodged and debated. A notice of the general nature of the bill must be placed in the Government Gazette three times in successive issues and the last insertion should be at least one month before the presentation of the bill at the National Assembly. If there are objections to the presentation of the bill, these should be lodged with the Clerk within three months. The Clerk will make copies of the bill and circulate it among MPs. He will also publish the bill in three consecutive issues of the Government Gazette.

If the Speaker considers that the bill meets all the requirements of the Standing Orders, he may present a motion, which must be seconded, for it to be read a first time. After this first reading, the proponents of the bill may make any amendments which they deem necessary. The bill if considered to be in compliance with the Standing Orders will be read a second time and if approved will be presented to the Private Bills Committee presided by the Speaker. This committee will look into the provisions of the proposed bill and strike out or add any clauses which it feels necessary.

Any person who feels aggrieved by the provision of a private bill may lodge a petition against it within one month of the date of last publication of the bill in the Government Gazette. The Private Bills Committee may hear this petition.

Seven private bills have been presented to the House from 1991 to 2004.<sup>23</sup>

The level of visible engagement of civil society with parliament is very low, except for participation as voters in election and political rallies. However the indirect engagement through interaction with members of Parliament is much more intense. The very nature of competitive politics in Mauritius forces

members of Parliament to interact very regularly with their electorate in their particular constituency. They, therefore, prepare their questions and interventions in Parliament with respect to what their electorate and the public in general have raised as issues of concern.<sup>24</sup>

Political participation is generally high, particularly during the period preceding a national assembly election. The highly competitive nature of politics in Mauritius however imposes regular contacts between elected members and their constituency. This provides for a certain degree of consultation and participation. Furthermore, participation is also ensured albeit often on narrow interests by the lobbying activities of organised civil society and organised interests groups. However, it is felt that the decision participation mechanism encourages only limited public participation or enables only members of the ruling elite to really participate in decision-making.

The results of the Expert Opinion survey reveal that there is some contention about the extent to which the parliamentary debates are informative and responsive to the needs of citizens. Just under half of the interviewees believe that parliamentary debates respond to the needs of the citizens, while somewhat fewer do not share this opinion. This is to a large extent a reflection on the extent to which members of the assembly uses the instruments available to bring to the front the concerns of the people.

### *The Opposition*

The role of the opposition in the Mauritius parliament can be outlined in three phases. These are: Between 1968 and 1976, there was virtually no opposition when the ruling party and the then opposition joined into a government of national unity.

In 1976, when an hitherto extra parliamentary party won almost 47% of seats, it used to its maximum all existing instruments to fully play its role and

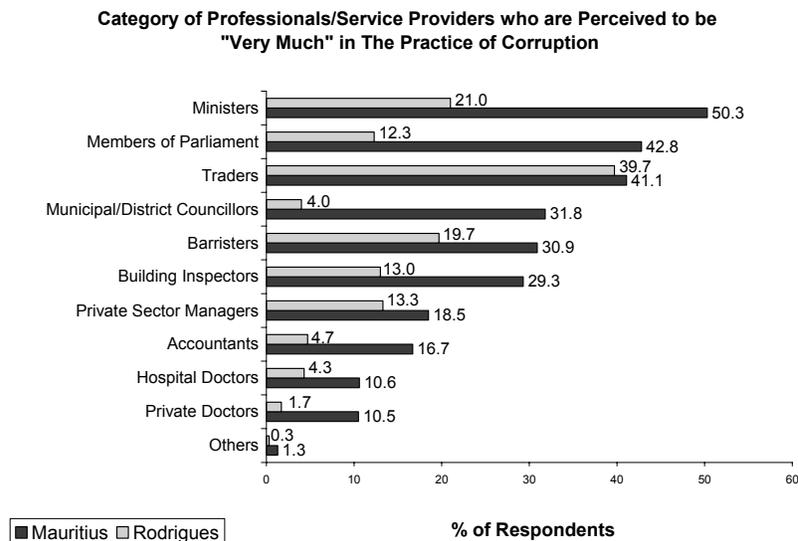
brought in previously never used ones such as the Private Notice Question, Motion of Disallowance, etc. The strength of the opposition is also determined by the electoral system. The FPTP system which prevails in Mauritius has since 1982 more than once resulted into a parliament where the ruling party had over 90% of the seats thereby reducing the opposition to an extremely weak one.

When asked about the influence of the opposition on the National Assembly, just over half of the expert interviewees consider that the opposition in parliament does not have a strong influence on government policy, programmes and legislation.

### *Integrity of the Legislative Organ*

The legislature is held in high regard. However, there is an unfortunate perception that corruption is a 'normal' state of affairs for members of parliament. Parliamentarians are often considered as 'brokers' for various interests. Respondents to a survey on Perception of Corruption in 2003 were requested to state, amongst a category of professionals / service providers, to what extent they believed them to be participating in the practice of corruption.

**Chart 2: Perception of Corruption amongst Professionals/Service Providers**



A large majority of experts interviewed for this study are of the opinion that a considerable number of parliamentarians are involved in corruption.

#### THE EXECUTIVE

The Cabinet, which is the executive arm of government, consists of such number of ministers as the government of the day may decide to a maximum of twenty four. At present there are 20 cabinet ministers, including the Prime Minister. They are collectively responsible to the Assembly for any advice given to the President of the Republic by or under the general authority of the Cabinet or for all things done by or under the authority of any minister in the execution of his office.

Ministers are chosen from among the Members of the National Assembly, except for the Attorney General (Minister of Justice) who as previously explained can be a non elected person. As stipulated under Section 59(3) of the Constitution ministers are appointed by the President of the Republic on the advice of the Prime Minister. A minister may be removed from office when the President, acting on the advice of the Prime Minister, so directs.

It is important here to note that though he appoints the Prime Minister who is the Head of Government, the Head of State i.e. the President has only limited executive power. This non-executive character is translated in section 46(2)(c) and (d) of the Constitution in regard to the assenting of bills passed by the National Assembly. The President may only exercise the power of withholding assent and, within twenty one days of the submission to him of any bill for that purpose, should he decide not to assent, he shall return the bill to the Assembly for reconsideration. However, if the bill is passed again by the Assembly with or without amendment and submitted anew to him for assent, he has no option but to signify his assent. On 15 February 2002, the President preferred resignation to giving assent to a hastily rushed in

Prevention of Terrorism Bill which he considered repulsive to his conscience. The President acts in accordance with the advice of the Cabinet, or of a minister acting upon the general authority of the Cabinet, except as otherwise provided by the Constitution. It is the President who officially may, at any time, prorogue or dissolve Parliament, but he can only do so on the advice of the Prime Minister, not of his own volition.

The Prime Minister is constitutionally required to keep the President fully informed on all matters concerning the general conduct of the Government of Mauritius and shall furnish him with such information as he may request with respect to any particular matter relating to the Government of Mauritius.

As per the Constitution, the President holds office for a term of five years and is eligible for re-election. The President is elected on a motion made by the Prime Minister and supported by the votes of a majority of all the members of the Assembly and can be removed following a motion made by the Prime Minister and which is supported by the votes of not less than two-thirds of all the members of the Assembly.

There is some debate about the limited role of the President and the strong grip which the Prime Minister has in controlling both the Legislature and the Executive. However, a large majority of expert interviewees still believe that there is a clear division of responsibilities between the executive, legislature and the judiciary.

### *Organisation of the Executive Branch*

The government /civil service comprise as many ministries as the government of the day may decide, each with a minister as the political head and a permanent secretary as the administrative head. Some ministries such as the Ministry of Finance and of Economic Development have technical heads because of the technical nature of their functions.

“The Government has a mission: to modernise and to re-invent our country with a view to making life better for all our citizens”.<sup>25</sup> Recognising the need for a civil service which is responsive to the needs of the people and which delivers timely and quality service, a three year programme for the modernisation of the civil service is being undertaken. “The overall vision of government is to develop Mauritius into a modern nation, enhance its competitiveness in the global market and improve the quality of life of the people”.<sup>26</sup>

The Head of the Civil Service is also the Secretary to Cabinet. The Secretary for Public Service Affairs is the supervising officer of the Ministry and is responsible for overall administration and management. The Permanent Secretary assists him.

### *Mode of Recruitment*

The Public Service Commission, the Disciplined Forces Commission and the Local Government Service Commission are responsible for all decisions regarding the selection, promotion and dismissal of employees in the civil service, the police and the local government institutions. Promotion and dismissal are based on the recommendations of the heads of departments.

There is also criticism that appointments and promotions in the civil service, disciplined forces and local government are to say the least not transparent. Just over half of the expert interviewees believed that appointments and promotions within the service are not based on merit and competence. The Public Service Commission (PSC) is responsible for promotions, however the PSC works on the advice of the Responsible Officer. The system is pervaded by a lack of integrity of some of the Responsible Officers, and the practice of clientelism within the service itself. Under-performing or fraudulent officers are rarely sanctioned and such officers move up the ladder. Promotion in the

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Civil service tends to be based on seniority or coterie rather than on merit or performance.

Although the image of the police has been improving in the last few years, except on the issue of police brutality, performance management is at its worst in the police force, where the practice of corruption is also perceived as widespread. Every exercise of promotion is greeted with widespread disgruntled discontent. The lack of professionalism of the police is particularly decried with respect to crime detection.

Service Commissions are independent by constitutional provision and members of the Commission are not civil servants or politicians. However, the system of delegation of recruitment powers to Responsible Officers gives rise to a perception of some political interference in recruitment, especially of the minor grade staff. The delegated powers have been largely abused by all governments for recruitment of political agents.

The independence of the public service has been undermined by political interference over the years and as top civil servants are engaged in various lobby groups, including ethnic based ones, and as officers interpret the famous British civil service of “loyalty to the government of the day” as subservience to the political masters of the day.

#### **CONSTITUTIONAL ORDER AND HUMAN RIGHTS**

The Constitution is the supreme law of Mauritius as stipulated in Section 2 of Chapter 1 of the said Constitution. The Constitution guarantees the freedom of all citizens of the country and sets the rules for major institutions such the Legislature, the Executive, the Judiciary, the Police and watchdog organisation such as the Ombudsman office to operate. The Constitution

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guarantees the following freedoms and protections from human rights violations for the citizens of Mauritius:

- Protection of right to life
- Protection of right to personal liberty
- Protection from slavery and forced labour
- Protection from inhuman treatment
- Protection from deprivation of property
- Protection for privacy of home and other property
- Provisions to secure protection of law
- Protection of freedom of conscience
- Protection of freedom of expression
- Protection of freedom of assembly and association
- Protection of freedom to establish schools
- Protection of freedom of movement
- Protection from discrimination

The Supreme Court is the guardian of the constitution and is therefore the highest institution of the Judiciary. The following sections analyse the effectiveness and accountability of the Judiciary.

Mauritius has long been rated highly for the political rights and civil liberties granted to its inhabitants. The U.S. based think tank Freedom House ranked Mauritius on the same level of commitment to human rights as countries such as Australia, Belgium, Canada, Denmark, France and Switzerland in its “Freedom in the World 2005” report.

However, although civil rights are generally respected, there are issues that attest to problems with adherence to some generally accepted human rights principles within certain institutions in the country. Police brutality is such a matter.

In 2004 the Human Rights Commission received a number of complaints against the police, who were at times described as overzealous in their methods of enforcing law. For example, their 2004 report says: "There continued to be allegations of beating of suspects and torture by police officers to extract confessions or evidence from them. It is true that some members of the public, especially victims who have been attacked and their close relatives or whose property has been stolen, are in favour of the police rough-handling suspects to obtain evidence, especially where witnesses and independent direct evidence may not be available... but we have always condemned the police for resorting to torture to elucidate crimes."<sup>27</sup>

The country has a National Human Rights Commission (NHRC), an independent body in operation since 2001. It is a government funded organisation and was set up under the Protection of Human Rights Act, enacted in December 1998. The Commission faces several limitations to its powers, jurisdiction and operations.

The NHRC as the Ombudsman, has no jurisdiction over "the President or his personal staff, the Chief Justice; the Director of Public Prosecutions or any other person acting on the DPP's instructions; the Commission on the Prerogative of Mercy, the Electoral Boundaries Commission, the Electoral Supervisory Commission, the Judicial and Legal Service Commission, the Public Service Commission and the Disciplined Forces Service Commission", or any person any person acting on behalf of the latter two bodies through delegation.

### ***Institutional Effectiveness and Accountability: The Judiciary***

The judiciary in Mauritius is admired and recognised for its independence and integrity. The Constitution protects the integrity of judicial rulings, which cannot be rejected by the government. There are clear rules and procedures in the Constitution for the removal of judges. Although criticised over a long

period, the effectiveness of the judicial process which is frustrating to individuals and penalising for business litigations has remained without improvement, this notwithstanding the fact that the matter was the subject of a report in 1997<sup>28</sup>.

### *Structure of the Court System*

The Supreme Court of Mauritius has unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law other than a disciplinary law and such jurisdiction and powers as is conferred upon it by the Constitution or any other law. The judges of the Supreme Court are the Chief Justice, the Senior Puisne Judge and such number of Puisne Judges as may be prescribed by Parliament.

There is a Court of Civil Appeal and a Court of Criminal Appeal for Mauritius, each of which is a division of the Supreme Court, which has jurisdiction and powers to hear and determine appeals in civil and criminal matters. The Judges of the Court of Civil Appeal and the Court of Criminal Appeal are the judges of the Supreme Court. An appeal lies from decisions of the Court of Appeal or the Supreme Court to the Judicial Committee as of right in specific cases and with leave of the court in other cases.

There is a Master and Registrar of the Supreme Court who is a barrister of not less than five years standing at the bar. Subject to such directions as may be given by the Chief Justice, the Deputy Master and Registrar and Judge in Bankruptcy shall have and exercise all the powers, and perform all duties, vested in the Judge in Bankruptcy and Master and Registrar under any enactment.

There is an Intermediate Court, which is a court of record, and which has civil and criminal jurisdiction in all districts and the civil jurisdiction of the Intermediate Court extends to Rodrigues. The Intermediate Court consists of

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a President and such number of Magistrates as is established under the Civil Establishment Act.

There is a court in every district to be known as a District Court, which is a court of record and which has civil and criminal jurisdiction. A District Court is presided over by a Magistrate.

### *Recruitment Mode*

A judicial and legal service commission appoints judges and magistrates. The Chief Justice is appointed by the President acting after consultation with the Prime Minister. The Senior Puisne Judge is appointed by the President acting in accordance with the advice of the Chief Justice. Both are Puisne judges before their appointment. The appointment of the Senior Puisne judge to be Chief Justice is not automatic. The Puisne judges, who must have been entitled to practice as a barrister for at least five years, are appointed by the President acting in accordance with the advice of the Judicial and Legal Service Commission. The latter is composed of the Chief Justice who acts as chairman and the Senior Puisne Judge, the Chairman of the Public Service Commission and one other member appointed by the President acting in accordance with the Chief Justice. The “appointed member” must be a person who is or has been a judge of a court in some part of the Commonwealth or a court having jurisdiction in appeals from such a court.

### *Independence*

The Executive cannot and does not interfere at all in the judicial process. Even the Attorney General, who is also called Minister of Justice, has no right to give instructions to magistrates and judges or even state counsels when the latter act in their capacity as lawyers for the Director of Public Prosecution who has a constitutional post and is totally independent. He or she has of course the right to give instructions to them when they act for the State in civil matters. He or she has the right to consult the chief justice but cannot and

does not interfere with the judicial process. This view is shared by a majority of experts interviewed.

However, there are two main issues, which are often seen as being factors that could diminish the total independence of the Judiciary at least in the perception of the public.

The first is the fact that the budget of the Judiciary is still voted by the legislature and to a large extent still under the control of the executive.

The second is the fact that the Chief Justice is called upon to replace the President if both the President and the Vice President are incapable of exercising their role or have resigned. This situation arose when in 2001, both the then President and Vice President resigned after refusing to give their assent to the Terrorism Act. The Chief Justice was called upon to replace them and gave his assent to the Act.

### *Integrity*

The integrity of the Judiciary is rarely questioned in Mauritius. However, the perception is that the Judiciary is more lenient towards high ranking personalities and therefore a perception exists that Mauritian courts are not always fair. There is open reference of a “two speed system”. The same idea was shared by approximately half of the experts interviewed.

Moreover, the integrity of the Judiciary is called into question by somewhat less than half of the expert interviewees who believe that some of the Mauritian judges and magistrates are corrupt.

The institutional effectiveness of the Judiciary remains however a serious cause for public frustration, particularly as more Mauritians now appreciate their rights and demand more judicial services while the court system has

failed to keep pace with these trends, causing delays in the judicial process. There is a real feeling that “justice delayed is justice denied”.

The Attorney General Rama Valayden himself explains: “The present system is not doing anything to address the backlogs. It could be up to six years before a case could be heard and because of the delays people *feel* like they are denied justice.”<sup>29</sup> He further adds: “Everybody plays the system. Barristers take on more than they can deal with. Once you (barrister) know that there is a probability that your case will be postponed, you take on 5 or 6 cases which will be heard on the same day. *But* if everything *goes* smoothly and all cases can be heard on the same day they (lawyers) will ask for a postponement”.

Lord Mackay, appointed to review and make recommendations for a better performing judicial system, noted in his report that “The time taken to reach decisions and the number of occasions on which persons are required to attend court, without these attendances, so far as they can discover, contributing to the resolution of the cases in which they are interested, are extremely wasteful”.<sup>30</sup>

## POLITICAL PARTIES

### *Political Party Registration (Laws)*

In view of the recognition of the right to association in the Constitution, political parties can be formed freely and there is no need to register them not even as an association unless they want to participate in an election. During election time, each party or alliance participating in the elections, be they general or municipal, or in by-elections, must register itself and the emblem that it will use. Political parties can adopt their own constitution and their own rules. There have been cases before the court when parties have split and a decision had to be taken on the use of the name of the party and its emblem.

The electoral law does not deal with the formation or sanctioning of political parties.

With regard to registration of political parties, the Sachs Commission recommended that they be registered at any time and not just at election time and become 'body corporate' with all the advantages and responsibilities of such legal entities. That is not the case yet.

### *Fairness and Credibility of Political Party Registration*

As there is no legal obligation for parties to be registered for them to exist and operate, the issue of fairness and credibility of political party registration does not arise. When parties register for the purpose of participation in an election, there has never been a case where such registration has been refused.

### *Operational Freedom/Security of Opposition Parties*

Both during normal times and during election campaigns, parties are quite free to operate anywhere in the country and hold public and private meetings anywhere. For public meetings they must obtain the authorisation of the police. Public rallies of any sort are not authorised in the vicinity of Parliament when it is sitting. Any decision of the Commissioner of Police not to authorise a meeting can be challenged in court by the aggrieved party. They are free to hold private meetings in any building or private space and people are totally free to attend such meetings.

Political parties are free to organise their activities as long as they do not infringe the law. The proposed prohibition of communal and religious parties was one of the terms of reference of the Sachs Commission which expressed itself strongly against any "general derogation from freedom of assembly which is vital to the existence of political democracy", and proposed instead to clarify certain clauses of the Constitution to include the fundamental values

which underlie the concept of public interest, or to improve the text with regard to the freedom of conscience.

There had previously been an attempt to pass a law which would have had a great impact on the scope of political parties. Indeed the National Assembly had voted for the Public Security Act in December 1999 and the President of the Republic gave his assent to the Act, but due to pressure from the civil society it was never proclaimed. In that Act, terrorism was defined as being “the use of violence for political ends” which “includes the use of violence for the purpose of putting the public or any section of the public in fear”. But violence itself was not defined and it was believed that this definition was so wide as to enable the government of the day to use the law to stifle any political activity, especially public demonstrations.

It would thus have permitted the proscription of any organisation whenever the Commissioner of Police suspected that that organisation “is engaged in or is likely to engage in, or is concerned with the promotion or encouragement of terrorism...”<sup>31</sup>

### *Party Access to Public Resources*

There is no financial or other material support directly provided to any political party by the state. Resources are indirectly provided to parties by way of monthly allowances and other facilities provided to other elected members. These facilities are the same for all members whether they are from the ruling parties or the opposition and include the right to a duty free car every three years, low interest loans for acquiring such a car, free postage for local mail, free telephone for local calls and financial allocation for hiring a constituency clerk.

Coverage of important party activities by the national state television outside election period has greatly improved and has been than fairer over the last ten

years. All opposition parties, including former ruling parties have, however, regularly complained of unfair treatment by national television.

The Mauritius Broadcasting Corporation, which is the national station broadcasting on both radio and TV, has a long-standing tradition of organising political broadcasts during election time. Its rules have been made over the years and provide that all candidates and parties must share airtime on both radio and television during a fixed period before general elections. Normally independent candidates do not benefit from airtime and the outgoing government and members receive special treatment.

The tradition is that all representatives of parties to such meetings sign a memorandum to avoid any conflict. The important clauses however relate to the content, which cannot be unlawful. This would include defamation or anything which could incite to racial hatred or violence or which could disturb public order. There cannot be any attacks on the personal character of opponents or against friendly countries. Generally these recordings are made in a very sober fashion with the candidate sitting in a neutral background with the emblem of his party as backdrop. Statistical charts, graphs and figures are allowed but not clichés, slogans, photographs, pictures, music, signature tunes or sound effects. There are strict rules with regard to confidentiality and safekeeping of tapes until broadcast.

The Independent Broadcasting Authority (IBA), which is the regulating body for broadcasting, has the duty to issue guidelines to all licensees. This has been included as special conditions in the license. However the IBA has left the responsibility of time allocation for election purposes to the licensees and has kept the role of appealing body in cases of dispute. It imposes on the licensees the duty to issue general guidelines to political parties and candidates on the acceptability of content and technical matters which guidelines must be submitted to the IBA fifteen days prior to broadcast.

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It is interesting to note that the Sachs report proposes that the responsibility of allocating airtime should rest with the Electoral Supervisory Commission in consultation with the Commissioner, and that the Broadcasting Corporation should be consulted only on technical aspects. It also proposes that a condition to the granting of licenses to private broadcasters “should make it incumbent on them in the national interest to provide free time on an equitable basis for political broadcast”.

Although there is an ongoing debate on the need to legislate to have better control of the finances of political parties, there is still no specific party law regulating the conduct and behaviour of parties in Mauritius. In order to invest, they would have to create a company or trust. Nobody, including companies, is bound to declare whatever contribution is made to parties. Occasionally, parties or individual members have received huge sums of money from certain sources against promises of future favours. There has been an ongoing public debate on the issue of the need for legislation to control finances of political parties. Such debates take place even in the National Assembly every now and again.

The Government in fact requested the Sachs Commission to propose a draft Public Funding of Political Parties Bill, which the Commission did as an annex to its report submitted on the 24 January 2002. It commented on the fact that normally a bill is drafted after government takes general policy decisions. But it proposed the draft bill in order to provoke more focused debate on the question.<sup>32</sup>

All the main parties have received huge contributions from the private sector or wealthy individuals. Some parties ask members to contribute and sometimes members of the National Assembly have to contribute a set amount. Small parties have to look for funding and sometimes fundraise by organising their own activities.

The electoral law does impose a limit on the expenditure of individual candidates, whether they belong to a party or not. It also provides a procedure for ensuring a proper accountability and for limiting the number of people who can spend officially for a candidate. Candidates and official agents have to keep written proof of expenses and must make an electoral return, which is sworn to before a District Magistrate. Unauthorised expenditure constitutes an illegal practice. But in reality, everyone knows that nobody abides by the prescribed limits, and such electoral offences cannot really be proved.

#### **ELECTORAL SYSTEM AND ELECTIONS**

The electoral system of FPTP has been called into question as early as 1982 when a single party coalition obtained all seats in Parliament. FPTP in Mauritius has often resulted in an unfair over representation of the ruling side and a numerically weak opposition. A commission<sup>33</sup> was instituted in 2000 to review, among other things, the electoral system with a view to ensure a fair representation of opposition parties in Parliament.

The Commission instituted in 2000/2001 and chaired by Mr. Justice Albie Sachs, member of the South African Constitutional Court, assisted by Messrs B.B. Tandon, Election Commissioner of India and Robert Ahnee, a former Judge of the Supreme Court of Mauritius, proposed that a Proportional Representation (PR) system be added to the First-Past-The-Post and Best Loser system to ensure better representation of the opposition.

The PR system would be based on party lists prepared by election contenders and made public before the elections. The party lists would include members of the party or alliance to be selected after FPTP elections results to be representatives of the party at the National Assembly. In short, citizens would still be called to elect members of parliament through the existing

FPTP system but they would also be called to vote for a party or alliance which they would like to represent them in parliament. The votes for the party or alliance would in turn determine additional representation in parliament according to the PR system. This new system would not only ensure a better representation of opposition but would also allow for better representation of women and other minorities, if necessary provisions are made for their inclusion in the party lists.

Following the report of the Commission a select committee comprising members of the government and of the opposition was instituted in April 2002 to further look into the recommendations of the Commission with a view to introducing Proportional Representation in the National Assembly. The Select Committee was more or less in line with the commission in proposing that thirty PR seats be added to the sixty two FPTP seats and the eight Best Loser Seats making a total of 100 seats in Parliament. This would allow for a stronger opposition. However to date no concrete decision has been taken.

### *Legitimacy of the Electoral Process*

The two institutions concerned with the electoral process are the Electoral Supervisory Commission and the Electoral Boundaries Commission.

The Electoral Boundaries Commission consists of a chairman and between two and seven members, all appointed by the President “acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the leader of the Opposition.”<sup>34</sup> The Commission may “take into account representations made to it in respect of any proposed alteration of a boundary” and it has to give public notice of any proposed alteration to be made and fix the manner in which and the time frame for any representation to be made.<sup>35</sup>

The electoral system is well anchored in the Constitution, and it is accepted as ensuring the autonomy and independence of the electoral system from all

organs of state and political parties. The legitimacy of the Electoral Commission as manager of the electoral process has not been contested by political parties and candidates. The same applies to the fairness and transparency of activities of the Electoral Commission. The registration, voting, and results reporting process is fully credible, and legal action against violations as well as mechanism to challenge election results are considered to be largely effective.

It must be mentioned that the Report of the Commission on Constitutional and Electoral Reform headed by Albie Sachs in 2001/02 proposed that the Electoral Supervisory Commission and the Electoral Boundaries Commission should merge into a single stronger body with a full time chairperson and full time administration and premises of its own; all members to be “appointed by the President of the Republic in his or her own deliberate judgment after appropriate consultation” (Sachs Report, 2002).

The Electoral Commissioner and the Electoral Supervisory Commission are totally independent. The post of Electoral Commissioner is provided for in the Constitution and the only qualification imposed is that the person must be entitled to practice as a barrister. The Electoral Supervisory Commission supervises the registration of electors and the conduct of elections. Its chairman is appointed by the President of the Republic in accordance with the advice of the Judicial and Legal Service Commissions. The members are appointed by the President acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the leader of the Opposition.<sup>36</sup>

#### *Capacity of the Electoral Commission/Commissioners*

The Electoral Commissioner’s office comprises the Electoral Commissioner, two Chief Election Officers, Principal Election officers and ten Election Officers. The Office has a support service of about 100 secretaries, word

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processors, clerks and messengers. The staff is housed in the main office in Port Louis, the capital city. A sub office in the island of Rodrigues is used as and when elections are held. The staff is generally considered to be adequate for undertaking the activities of Office. The Electoral Commission uses government primary schools and social welfare centres on a part time basis for the updating of electoral registers and the holding of elections. The officers are well equipped in terms of basic infrastructure.

### *Transparency of the Electoral Commission/Process*

There is complete transparency in terms of the election process. Almost all of the experts interviewed agree that processes and procedures are followed to allow for credible elections to take place. Following the decision regarding the holding of elections the details thereof, such as the date and time etc., are published in at least three newspapers. Anyone who wishes to stand for elections is given documentation by the Electoral Commissioner's office giving all the details of the election process. Details of the type of emblem of other parties are also available from the Commission.

There is complete transparency as regards details on the nomination of leaders of parties, copies of register of electors, nomination of candidates, declaration of community of candidates (for general elections only), voting process, preservation of order at polling stations, vote by proxy, counting of votes, appointment of electoral agents by candidate to supervise the actual voting and the counting (yard agents, classroom agents and counting agents). These matters are detailed in the Election regulations 1968 which is available to all parties/individuals.

### *Credibility of Electoral Challenge Mechanisms*

Electoral challenge is through the judicial process. There have been very few cases of electoral challenge. During the last elections there were some queries and an action has been lodged in court to challenge the election of two

members of the actual opposition. The outcome of this action is still awaited. It can be argued that the challenge mechanism is considered as satisfactory by the majority of respondents of the expert survey.

## GENDER ISSUES

### *Legislature and Executive*

The statement contained in the SADC Human Development Report published in 2000 to the effect that Mauritius is one of its member states where women “representation in Parliament is among the lowest”<sup>37</sup>, is indisputable. In 2000 itself, the number of women sitting in Parliament was four out seventy members, that is a mere 5.7%. As can be seen from Table 3.2, the main political parties which contended the election of July 2005 made a move in the right direction. The percentage representation of women in the National Assembly is now 17%. However, this figure is still far from “the achievement of at least thirty percent target of women in political and decision making structures by year 2005” as stated in 1997 Declaration on Gender and Development<sup>38</sup>.

**Table 6: Women and Elections, 2000 – 2005\***

National Legislature		
Year	Male	Female
2000	66 (24)	4 (1)
2005	58 (18)	12 (2)

**Source:** adapted from MAW and SADRC, *Beyond Inequalities, Women in Mauritius*, 1997, p. 31

\* Figures in brackets refer to men and women in Cabinet

Article 9 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, which was adopted during the AU Summit of 2003 in Maputo Mozambique, also states that:

Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of

their countries through affirmative action, enabling national legislation and other measures to ensure that:

- a. women participate without any discrimination in all elections;
- b. women are represented equally at all levels with men in all electoral processes.<sup>39</sup>

There are no legal restrictions regarding women participation in active politics, including the right to stand for election. Hence, taking into account the party discipline voting patterns, which has characterised the recent polls, it is evident that the responsibility for such low female participation lies at the door of political parties.

Moreover, propositions have been made by the Sachs Commission for better representation of women in the party list if ever Proportional Representation is included in our political system. However, there is still resistance or unwillingness from the part of successive governments to put electoral reform on their agenda.

### *Gender Representation in the Civil Service*

With the adoption of the principle of greater gender equality by government as from the 1980s, steps have been taken to recruit more women, subject to their having the required qualifications, into the civil service. Thus, the percentage of females in the government service has been gradually increasing and reached 28.6% of males in the government service in 1999. By 2005, this percentage had reached 41.4%. The ministries employing the largest percentages of females were the Ministry of Health and Ministry of Education.

The large discrepancies in the percentage of females employed are due to the nature of the jobs performed by the various ministries and are not due to any deliberate government or ministry policy. There are very few occupations which, to date, are still bared to females such as fire services.

**Table 7: Employment in Government Services**

	1999		2005	
	Male	Female	Male	Female
<b>Total Government Services</b>	47,854	13,727	51,857	21,504

**Source:** Women and Men in Figures, Ministry of Women, Family Welfare and Child Development. July 2000 and Central Statistical Office 2005

Though there has been an improvement in the representation of women in the public service, almost half of the experts interviewed still believe that this does not reflect the commitment from Government for gender equality.

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**CITIZEN PARTICIPATION**

The question of citizenship appeared for a long time not to be an issue for the country. The first case that prompted debate was the case of Mauritian women who had married foreign men. While foreign women having married Mauritian men obtained de facto the right to citizenship, the reverse was subjected to the discretion of the Prime Minister. The law was changed in the early 1980s. The second issue concerned about the right to their nationality of Mauritian diaspora children who had failed to claim back Mauritian nationality before the age of eighteen. This was resolved in 1995. More recently the question of the right of the diaspora to vote has been raised.

**ASSOCIATIONAL LIFE**

Mauritius has a long tradition of associational life. Burial societies were among the first initiatives taken by Mauritian citizens, some go back as far as the nineteenth century. Socio-cultural cum religious organisations among indentured labour of the 19th century served as instruments of resistance to de-culturalisation by colonial powers and the settler plantocracy. Labour organisations emerged from the early 20th century, particularly among the sugar and port workers. From this wave of the labour movement, also came the founding of the Labour Party of Mauritius in 1936. In 1968, the labour movement became the bedrock for the emergence of the Mouvement Militant Mauricien which became the leading political party of the last thirty years.

Civil society organisations were also created to serve for the regrouping of people of the same ethnic group or ancestral origin. Activity oriented women's organisations also made their appearance in the mid 1940s. Their primary aim was to improve the socio-economic conditions of women and children in their local community or nationally. Social clubs became an

important form of community organisation from the sixties with one or more in all villages and towns. Although these social clubs were mainly sports-centred, they also acted as the heart of the community where lively discussions were carried on and the first development ideas formulated. A number of such clubs still exist and carry the same unifying role in their respective communities, although they do not have the same progressive role as before.

Organised civil society has evolved and become more diversified in areas of interest. The militancy of women's rights organisations played a critical role in the progress achieved on that front. Some, such as those engaged on the front of environmental issues or more recently on the issue of HIV/AIDS and the rehabilitation of drug addicts, are undoubtedly effective in impacting on national policy orientation; but the impact of organised civil society in general on influencing policies or acting as civil watchdogs is far from being commensurate with their numbers.

### *A Confused Realm*

Ambiguities concerning CSO and NGO definition holds true for Mauritius. There is no legal framework clarifying the realm of such organisations. If they decide to legalise their existence they are to be registered with the Registrar of Association under the Registration of Association's Act. They will therefore be considered to be an "association" alongside a whole range of other associations from charitable organisations, religious or socio-religious organisations, to service clubs.

As at October 2005, 8,777 associations were registered at the Registry of Associations, including some 300 in the island of Rodrigues. The number is actually misleading, as there is no deregistration of those that have ceased to exist. It is estimated that the actual number of existing registered associations is between 6,000 and 6,500. Furthermore, the associations are not officially

classified on the basis of purpose. An umbrella organisation, the Mauritius Council for Social Services (MACOSS), founded in 1955 and operating within a legal framework (Act 55 of 1970), is supposed to aggregate and coordinate NGO activities and support for resource mobilisation.

However, only 205 NGOs are affiliated to the Council operating along the following line of activities:

- Advocacy and Policy
- Material Help and Financial Support
- Children
- Community Development
- Disabled
- Education
- Elderly
- Gender and Family
- Health and Quality of Life
- Natural and Other Disasters
- Poverty Alleviation
- Religious and Cultural
- Service Clubs
- Youth
- Training and Human Resource Development.

Many well known CSOs, which are active with regard to specific issues, are not members of the umbrella organisation MACOSS.

Perceptions about CSOs are mixed. The majority of respondents of the expert survey opined that some of the leaders of CSOs (NGOs, FBO, CBOs) are themselves involved in corruptive practices.

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## CIVIL SOCIETY AND GOVERNANCE

### *Role of Civil Society in Electoral Process*

Civil society is highly mobilised to vote in national elections, much less so in local elections, but is little engaged in between elections in advocacy for its concerns. The right to vote is guaranteed under the constitution. Any citizen aged 18 years and above is entitled to be registered as an elector.

An average of 81.5 % of the registered electors voted at the last general elections held on 3 July 2005. At regional levels, urban and rural elections were held on 2 October 2005 and 11 December 2005 respectively and the average percentage of voter participation was 46%.

Over the years fewer and fewer people attend political party meetings or rally. Various reasons can explain this loss of interest. Political parties have lost their ideological identity, principles and values.

As the means of audio visual communications have become accessible to all households, a majority of citizens would rather have parties communicate with them in this way. There is furthermore the fact that citizens have grown to fear the general climate of clientelism and patronage practised by every ruling party.

There is no organised CSO involvement in the electoral process, probably as a result of effective multipartyism and given the long tradition of democratic elections as well as the confidence of citizens in the credibility of the whole process.

### *Role of CSOs in Policy Formulation and Implementation*

On certain issues of national interest government sometimes initiates a consultation process with the citizens prior to decision-making. This practice

is not codified and therefore rests on the decision of the government of the day and on power relations.

The majority of the expert panel concur that there is a positive interaction between the government and civil society to provide an enabling environment for independent civil society operations. A substantial majority of them stated that the civil society influences government policies and programmes and positively contributes in terms of promoting accountability and transparency.

### *Trade Unions*

Trade unions are long and well established CSOs. They have been accepted as the unavoidable social partners of both public and private sector. General level of unionisation has dropped down to 25%, partly because of more smooth dialogue and negotiating mechanisms in the private sector, and partly due to the loss of credibility of union leadership. The adequate institutionalisation of negotiating has also contributed to less militancy, since once the union is recognised and accepted as an actor in the process, only the effort of a few is required for the benefit of the many. However, unions in the public sector have become much more active as reforms of the state are being engaged and established systems challenged.

### *The Media*

The Constitution guarantees the liberty of opinion and expression. The Mauritius Broadcasting Act 1982 provides for broadcasting by radio and television by the public service. There has been liberalisation of broadcasting by the setting up of an Independent Broadcasting Authority (IBA) through an Act voted on August 2000 and the Authority set up in 2001. The first private radio was set up on 12 March 2002, and to date three private radios are operational. The government has expressed its wish to liberalise television also but no progress has been achieved so far.

The IBA Act provides that licences cannot be granted if the applicant is “not a citizen of Mauritius, or is not ordinarily resident in Mauritius,” and in the case of a company or body corporate if it is “formed, registered or incorporated in a foreign country, or 20% or more of its shares are owned or controlled, directly or indirectly, by a foreign national, company or body corporate, or 20% or more of the directors are foreign nationals; or 20% or more of the shares of which are owned or controlled, directly or indirectly, by any newspaper or magazine, or any printing press publishing such newspaper or magazine.” Though both private radios are seen to be run by almost the same people who run the newspapers that are associated with them, their ownership is in fact diversified and they respect the percentage imposed by the law.

The media, mainly the written press and private radio stations, provide an appropriate forum for the citizens to participate in the formulation of policies. There is a very old tradition of free press in Mauritius dating back to early nineteenth century.

During the state of emergency from 1971 to 1976, the fundamental rights and liberties found in the Constitution were suspended. Then in 1984 the Newspaper and Periodicals Act of 1837 was amended with a view to tightening control of the press by imposing very high deposits for the right to create and operate a newspaper. However, since 1990 these amendments have been repealed and there is no legal hindrance with regard to the press, other than respect for the civil and criminal law with regard to defamation, libel, sedition or spreading false news or publishing pornographic material.

Journalists of the private sector feel that they are free but there is sometimes obvious disregard of ethics. The public broadcaster is however in a more delicate position in that the law provides that journalists cannot give their opinions and have often been considered as being a tool for government

propaganda. Journalists sometimes practice self-censorship but at other times they want to compete with private broadcasters and they tend to go to the other extreme.

According to findings of the expert survey, a large majority of the experts view the media as independent and just over half hold the opinion that journalists are free from restrictive laws, harassment and intimidation. It is also just more than half who reckon that journalists are not effective in investigating government and other big corporations.

Two big groups control several publications seen as being independent from the state, but are not quite so from private sector interests, having regards to major advertising budgets coming from such quarters.

Some newspapers are close to certain religious or socio-cultural groups. Others are close to some political parties. Only one newspaper declares itself as being an organ of a party. Readers are however mature enough to differentiate between the different newspapers.

#### **CHALLENGES FOR NON STATE SECTOR IN GOVERNANCE**

In Mauritius, civil society organisations have a lot of space to operate. Complacency resulting from living in a democratic society, easy approach to elected representatives and mediation of individual interests through narrow often sectarian lobby groups may explain the low level of organisation and militancy of CSOs.

Leaders of civil society organisations and other opinion leaders have easy access to their representatives in Parliament, to Ministers and to the press. They use these channels of communication to lobby and make their views heard. But gaining access to these people or institutions does not necessarily

mean that they succeed in lobbying for democracy and human rights. Lobbying is mainly done through the press.

Civil society organisations like the trade-unions, women's organisations, and other groups were very active in the 1970's and early 1980s fighting for better conditions of work, for women's rights, and against environmental degradation. The main shortcomings of these organisations in influencing policy making are the lack of clear objectives and commitment, capacity building and resources (both human and financial), networking, independence vis-à-vis government and political parties, and structures to ensure real civil society participation in decision making processes.

Opportunities exist but civil society organisations fail to explore and seize these opportunities whenever they arise. For example, the preparation of electoral manifestos by political parties before the general elections could have been an occasion for CSOs to lobby, which unfortunately they did not do. This also applies at regional level i.e. district and municipal councils.

### *Civil Society and the APRM*

The APRM process in Mauritius has been almost a failed one and this may be the best illustration of the weakness of the Mauritian organised civil society. The conduct of the APRM process in Mauritius has been entrusted to the National Economic and Social Council (NESC). The NESC is an institutional forum to address economic issues, to enhance national policy-making and to dynamise the democratic process through consultation, consensus building and dialogue. Civil society and workers organisations' representatives are in a majority in the council.

Ghana, Rwanda, Kenya and Mauritius voluntarily offered to become the first four pilot countries to be peer reviewed under this uniquely African governance initiative. Ghana and Rwanda have already submitted their reports to the APRM Secretariat and the NEPAD HSGIC, while Kenya is

nearing the completion of the exercise. Hence, of the four pioneer countries, Mauritius is the only one lagging behind in the completion of its report.

The failure of Mauritius to make good on its position as a torchbearer in APRM was a reflection of political complacency on the part of the political elite. On the government side, paradoxically the same reason that drove it to be among the first to volunteer to be reviewed is that which led it to missing the target. The fact is that for the Mauritian government the eagerness to sign up for a review where it considered the country would come out with much credit, led to little concern to see the process through. The exercise, started in June 2004 with a sensitisation workshop for all stakeholders, led to a draft assessment report in February 2005 and a validation workshop in March 2005. The Self-Assessment Report was however perfunctory and lacked substance. The NESC was diplomatically requested to consolidate the exercise and produce a quality report that would encapsulate the exact situation around the four core areas. By that time, national elections were around the corner and the whole process was put on hold until a new government was set up and agreed to provide the additional funds required for a more dynamic stakeholders consultation process. The new Minister of Foreign Affairs has clearly indicated his strong willingness to see the process properly completed and the source of diplomatic embarrassment overcome. It is understood that the process will soon be revived.

It is however on the civil society both as represented on the council of the NESC and outside it that the failure is a clear indictment. They failed to see in the APRM a formidable opportunity for the mobilisation of stakeholders, an exercise of conscientisation and an opportunity for a proper evaluation of the state of governance of Mauritius. The civil society members of the NESC allowed the process to be managed as a formality and civil society outside never rose to challenge the manner in which the process was conducted and the result that it produced.

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## 6

### LOCAL GOVERNANCE

There has been an obvious decline in the quality of governance of local government institutions since the mid-nineties.

Decentralised administration, i.e, local government, has a long tradition of over two hundred years in Mauritius and has been the bed and stepping-stone of opposition parties particularly in the urban areas. It has seen at different periods the best in performance and contribution to socio-economic development, and the worst in terms of abuse of power and non-performance of its statutory duties. Many of the top leaders of the country have at one time been municipal or district councillors. The first Mauritian Prime Minister, Sir Seewoosagur Ramgoolam, the first President Cassam Uteem, and a long list of ministers are among those.

#### CONTEMPORARY HISTORY OF LOCAL GOVERNANCE

The Local Authorities in Mauritius fall under the portfolio of the Ministry of Local Government. They comprise five (5) Municipal Councils, four (4) District Councils and one hundred and twenty four (124) Village Councils. The provisions of the Local Government Act 1989 govern the functioning of all these Councils. The duties and responsibilities of the Local Authorities are wide ranging and include the development and maintenance of basic infrastructure such as roads, public lighting, drains and pavements, the collection and removal to approved disposal sites of household, industrial, commercial and agricultural waste; the maintenance and cleansing of rivulets and streams; and the control of pollution causing public or private nuisance, the development and management of public commercial and social infrastructure such as fairs, libraries, nurseries, sports, traffic centres, the determination of physical planning, development and building permits, and

the determination of revenues raising schemes including property tax as may be required to provide for management of the affairs of the area under its jurisdiction.

#### **LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR LOCAL GOVERNANCE**

Local government is not enshrined in the Constitution. The major part of the existing local government legislation in Mauritius was introduced during the period of British colonisation from 1810 to 1968.

The Ministry of Local Government was established in 1959, following the legislative elections held during that year. The Local Government Bill No.1X, designed to amend, consolidate and modernise the existing legislation governing Municipal, Town, District and Village Councils was passed in June 1962. The first Local Government Act was promulgated on 4 July 1962. It was replaced by the Local Government Act 1989.

This provides quite a wide scope for local authorities to engage in local development and the provision of welfare services to its citizens. Village Councils have very limited powers and do not have powers to construct and maintain roads or buildings except with the approval of the Minister. Local authorities are empowered to make regulations on a range of matters provided for by various laws. When a local authority fails to carry out any of its duties, the Minister may intervene to have the same carried out by another party and the expenses shall be borne by the local authority.

A need to revamp and upgrade the local government structure with a focus on devolution of power, more administrative and financial autonomy and greater accountability was felt, and a new legislation was passed. The Local Government Act 2003 was introduced. The Act provided for rural authorities to operate as municipal councils on the same footing as urban authorities.

Consequently, the four district councils were to be replaced by seven municipal councils. Another innovation made provision for the payment of a monthly honorarium to Deputy Mayor and councillors. Mayors and presidents of District Councils have always received such an honorarium. This legislation never became a reality.

The Minister of Local Government is granted considerable discretion in the making of "such regulations as he thinks fit" for the purposes of the Local Government Act. This includes any matter on the setting up of a local authority and the way in which it is to function. After consultation with municipal, district or village councils, the Minister may amend the arrangements for their meetings and proceedings in accordance with the law.

In respect of village councils additional powers are given, where, with the consent of the district council, the Minister may withdraw the powers, suspend the activities, or decide on the dissolution of the council. On the advice of a village council the Minister has the authority to suspend a councillor. The Minister is also responsible for the financial provisions for local government.

Local Government councillors are elected for a term of five years. All elections are conducted under the system of First-Past-The-Post.

Members of their respective councils elect mayors in municipal councils and chairs of district and village councils annually. They are non-executive part-time mayors and chairpersons and receive a monthly allowance.

There is a ward system for municipal councils with wards returning between five and eight councillors. The total number of municipal councillors is 126. Each of the 124 villages has twelve elected councillors. District councillors are elected indirectly. Each Village Council elects a councillor to represent the

village at District Council level. The Grand-Port/Savanne, Moka-Flacq, and Pamplemousses/Riviere du Rempart District Councils areas each include thirty six villages respectively, while the Black-River District Council includes sixteen villages. The total number of councillors in the District Councils is 124.

An assembly presided over by the Permanent Secretary of the Ministry of Local Government is held and at which village councillors elect, by secret ballot district councillors. The President of a village council is elected by secret ballot by the councillors at a meeting chaired by the chief executive of the district council.

The municipal, district and village councils are mandatorily required to appoint a committee of the whole council and committees for finance, public health, works and welfare. They have discretion to appoint other committees.

Among the twenty five participants of the expert survey twenty one stated their observation that local government authorities are not independent from central government.

Administrative control by central government on local authorities, especially control over finance is quite extensive. The Minister for Local Government must approve the yearly estimates of all the local authorities as well as their re-allocation of funds, if any, besides prescribing the budgetary form. In case of governmental grants, the Minister prescribes the period and other conditions for the operation of the grant formula. In the case of any default or non-performance of a service he may under section 71(2) of the Local Government Act 1989 "reduce any grant payable to a local authority". Borrowings even for capital projects must be sanctioned by central government. This has sometimes resulted in the central government blocking or frustrating developments (mainly) in areas where the opposition is dominant.

The chief executives of local authorities, although employed by local councils, cannot be reprimanded or sanctioned by these councils. This function rests with the permanent secretary in the Ministry of Local Government. This puts these CEs in a situation of dual loyalty – to the council they serve, and the ministry that hires and could fire them.

#### **LOCAL GOVERNMENT STRUCTURES AND FUNCTIONING**

Local government on the island of Mauritius is divided into urban and rural authorities. In the urban areas there are five municipal councils, with the Capital, Port Louis having the status of a city. In the rural areas there is currently a two-tier system of four district councils and 124 village councils. Municipal and district councils have the same responsibilities but different revenue-raising powers.

Village councils have a limited range of functions and no revenue raising power, they are entirely dependent on funds devolved to them by the district councils for whatever activities they may want to engage in.

Local Authorities are free to determine their own policies so long as these are in line with legal requirements and regulations. Central Government exerts its powers of control through the dispensation of financial resources and approval of the councils budget, external audit which is performed by the Director of Audit, personnel policies and pay administration.

A Local Government Service Commission Act was passed in 1975, but promulgated in August 1983, to remove the power of hiring, firing and promotion of personnel from councillors. The Local Government Service Commission (LGSC) is responsible for the appointment of persons to posts and for the efficient discharge of the functions of the local councils. The Permanent Secretary of the Ministry specifies the qualifications and conditions of service for the posts after consultation with the Chief Executive

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of the local authority, the Ministry of Civil Service and the Pay Research Bureau.

Prior to the establishment of the LGSC, local authorities had full powers of recruitment and firing of their personnel. The political parties that were from the 60s in power in the municipal authorities greatly abused these powers through political clientelism and favouritism in their personnel management practice.

The LGSC was supposed to have been created as an independent body for fair and meritocratic recruitment and dismissal. However, time has shown that the same practice of political recruitment, promotion and dismissal has only shifted from the local council to the central government through the appointment of the commissioners of the LGSC. Notwithstanding the fact that there has been an improvement in the quality of the staff recruited, and higher calibre staff in local councils, the capacity to perform is very mixed in most local councils.

This is because the Local Service Commission was only created in 1988 by which time most local authorities already had a historical legacy when human resources recruitment was under the control of local politicians who placed their own supporters in posts with little regard for qualifications or capacity to perform. Some local councils continue to be regarded as the private turf of local politicians although this tendency is being reduced. Thus, efficiency levels vary among the local authorities as younger officers usually recruited more recently on the basis of meritocracy and qualifications have to work alongside the residue of older and less qualified employees.

A majority of the experts surveyed stated that local government authorities do not have the human, financial and technological capacities to carry out their responsibilities efficiently.

The Pay Research Bureau has reviewed the organisational structures and harmonised salary and grading between the municipal and district councils.

A Chief Executive heads each local authority. One of the most critical areas of relationship between central and local government is the Chief Executive, equivalent to a permanent secretary in a ministry. The law puts the Chief Executive in a position where he must at the same time serve the council, but is answerable to and can be sanctioned by the permanent secretary of the Ministry of Local Government. In short the CEO must serve two masters, and in reality, his survival derives from allegiance to the political masters of central government who have power of sanction against him or her.

Municipal council activities are organised under seven departments: town clerk, treasury, works, planning, welfare, health and library. Two municipal councils namely Port Louis and Curepipe also have a department for parks and gardens. District council activities are organised under six departments: secretariat, treasury, works, planning, health and welfare.

Municipal and district councils have the same responsibilities, except for the municipality of Port Louis which also has a fire brigade. All are responsible for the provision of pre-school education, kindergartens, housing, roads, waste management, cemeteries and crematoriums, environmental protection, consumer protection, museums, libraries, parks, sports and leisure etc. Councils may carry out other activities in their areas but these are subject to ministerial approval.

Village councils have a more restricted range of responsibilities, covering recreation, culture, general welfare, public health and pre-primary education. They are also responsible for local government and for the well being of local people. Subject to the approval of the Minister, a village council may carry out any of the functions assigned to municipal or district councils.

Most of the experts think that the procedures for resource allocation with respect to service delivery by local government do not provide an equitable distribution, whilst only a very small number asserted that there is an equitable distribution.

The main source of income for the local authorities is a grant from central government, which provides around 60% of municipal council and 75% of district council revenue. The grant is calculated on a well-established and transparent formula based on population size, length of tarred road and whether the area is a depressed one. The Minister of Local Government prescribes the level of central government grant to councils in Mauritius.

Local authorities also raise income through property tax (urban only) tenant's tax for commercial property, rents, licenses, permits and other fees. Tax on immovable property is levied in urban areas, but has never been used in rural areas for political reasons. The publication of the regulations, which provide the procedures for the levy of fees, does not require the approval of the Minister. Support for capital projects is one area where central government has more discretion and can support or block local administration depending often on political motivation at a central level. Since the eighties, local authorities have not been allowed to receive grants from foreign sources, except with the approval of the responsible minister.

#### **REPRESENTATION, ACCOUNTABILITY, AND CITIZEN PARTICIPATION IN LOCAL GOVERNANCE**

Local government elections in urban areas were conducted for the first time on a universal suffrage basis in 1956. Village council elections, based on universal adult suffrage were first held in 1962. Although the Local Government Act of 1962 provides for elections to be held every three years, in practice this has not been strictly adhered to in the past.

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Now and then Central Government used its legislative powers, and amendments were made to postpone the elections. In rural areas elections were held in 1957, 1962, 1968, and 1971. Elected Municipal Councils were suspended and replaced by Government appointed Commissions. Municipal elections were then held in April 1977. In 1979, municipal elections were again postponed and the councillors of the then opposition party that controlled two Municipal Councils resigned on the day when their term of office of three years came to an end. Commissioners were appointed to sit on Municipal Councils. Subsequently, Commissions replaced the District Councils and even some Village Councils.

General elections took place in June 1982, and municipal and village council elections were held in December 1982 and April 1983 respectively. Since then, local government elections have been held at the regular intervals provided for by the law. The Local Government Act of 1989 changed the period of mandate of all local authorities from three to five years. The evolution of the Local Government Act from 1962 to 1992 shows improvement in local governance, where the concept of representation has been reinforced.

Under the Local Government Act of 1962, each Town Council was to consist of twelve elected and four nominated members. Every village council was to have a minimum of seven and a maximum of twelve members. Three of the members were appointed by the then Governor. The district Council was made up of fifteen members. Ten of them were elected from among all Village Council Chairmen of the District Council area. Five of them were nominated.

Under the Local Government Act of 1989:

- All municipal councillors shall be elected in accordance with the Representation of the People Act.

- Village Councils shall consist of twelve councillors, and the village councillors shall be elected in accordance with the Representation of the People Act.
- Only three members were appointed by the Minister on each District Council every year.

Following the Amendments to the Act of 1992, district councillors are elected by secret ballot from among the members of village councils and each village council is represented by one representative elected from among its councillors.

All local bodies are administered by councillors who are elected through a First-Past The-Post system. However, in the absence of candidates in Village Council to any casual vacancy, the Minister is empowered to nominate such number of councillors as will raise the total to twelve.

Urban and rural elections were held on 2 October 2005 and 11 December 2005 respectively. An average of 46% voters participated in the elections.

Local councillors enjoy considerable autonomy and fully play their role as elected representatives of their constituents. While the Municipalities have been historically linked closely to national political parties, it is local issues and concerns which dominate politics at district and village council levels, although political parties do play a role in the background to position their own members or sympathisers.

It is difficult to measure the effectiveness of the services meted out by the local authority's viz. issue of permits to the public as they are governed by specific regulations. The performance levels can only be measured against compliance and time frame. Local authorities have up to now not embarked on a proper setting of performance targets and indicators.

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Through the last decade, local authorities have had recourse to private contractors for the delivery of some of the services such as refuse collection. The quality of these services is spelt out in the agreements between Councils and the Service providers.

There is a legal obligation on the local authorities to maintain a reasonable standard of efficiency and progress in order to benefit from the grant from central government. These standards and targets are laid down in the performance contracts with the suppliers of the services that are contracted out. The service targets can be verified in the level of service delivery available to the public. No control is however effected in reality.

As regards financial accountability, the accounts of the local authorities are examined by the (i) Director of Audit and (ii) in a lesser measure by Officers of the Ministry of Local Government. A system of internal audit is also maintained and heads of departments ascertain that the decisions of the committees of local authorities are not ultra vires.

Civil society participation in local government is generally weak. Level of participation in local government elections has generally been low indicating that citizens themselves give lower importance to it. Between elections, except for some rare expressions of protests, and some individual complaints through independent radio call in programs, citizens almost never call councils to accountability for their policies or actions. Although the law provides that any member of the public of the local council can attend meetings of a local council and question about any matter of public interest, this is an extremely rare happening. The law also provides that citizens can question the validity of the accounts since they have right of access to the accounts of their own local authority.

The quality of councillors has seriously declined in the last decade, particularly in municipal councils. During the eighties when the party which

controlled these councils was in the opposition at national level, it took great pain to ensure that the quality of councillors would be the best possible so that the results of performance in urban areas would provide gains at national level. As the party became part of government in the nineties, it has become more complacent and relegated local government to the background. 52.5% of those interviewed for the Public Opinion Survey are not satisfied with the way their elected representatives at local level look after their interests.

### GENDER ISSUES

Although Mauritius is economically and politically progressive, it has not managed to promote a fair level of women's representation whether at central or local elective bodies. In the municipal areas one could lay the blame of under representation at the door of political parties, but at a village council level where there is quasi autonomous constitution of contending teams of candidates, the problem is clearly at grassroots level. Presently out of the 250 councillors in the five municipal and four district councils only nineteen are women, i.e. women comprise only 7.6%, which is far from the targeted women's representation under the SADC Declaration on Gender and Development.

**Table 8: Gender Representation in the Municipal and District Councils in Mauritius**

Municipal/District Councils	2004 - 2005			2006 - 2007		
	Total	M	F	Total	M	F
Port-Louis	30	28	2	30	27	3
Beau-Bassin/ Rose-Hill	24	22	2	24	19	5
Quatre-Bornes	24	18	6	24	20	4
Vacoas- Phoenix	24	22	2	24	22	2
Curepipe	24	21	3	24	23	1
Pamplemousses/Rivière-du-Rempart	36	36	0	36	33	3
Moka-Flacq	36	36	0	36	35	1
Grand-Port/ Savanne	36	35	1	36	36	0
Black-River	16	15	1	16	16	0
<b>Total</b>	<b>250</b>	<b>233</b>	<b>17 (6.8%)</b>	<b>250</b>	<b>231</b>	<b>19 (7.6%)</b>

**Source:** Conversation with Local Government Officials

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The expert survey furthermore indicated an awareness of the fact that women do not participate effectively in local government structures.

#### **CONCLUDING REMARKS**

Good local governance impacts not only on cities and districts but also on the whole nation. To achieve good local governance, there must be sentinel watchtowers constantly assessing the performance of local administration and civil society participation. The primary responsibility for this lies with those who reside within the regions concerned.

Mauritius by virtue of its size makes of it an almost quasi city state situation, with a population 1,143,069 inhabitants out of which 503,045 are from urban areas and 604,024 are from the so-called rural areas. Inequality in the legal framework between urban and rural government remains to be removed. The legal framework for local government proposed in the Local Government Act 2003 aimed at greater devolution of responsibilities and power in order to enhance the role of local government in good governance if equal effort is invested in capacity building of human resource both at the political and administrative level. This Act has been amended in 2005, to maintain the status quo at the level of District Councils and, thereby, disparity with urban councils.

Tension may exist between local and central government particularly when opposing parties are in control. However, it may also happen that tensions arise even if it is the same party which is present at local and at central government level. For instance, it may happen that members of parliament decide to undercut the local representatives so as to give themselves more importance. On the other hand, it has also been a deliberate policy of central government to restrain access of local government to capital for development projects and undertake the project itself as a way to reap political benefits.

This has been particularly so in urban areas, which for long remains the privileged grounds of the opposition.

## 7

**ECONOMIC MANAGEMENT AND CORPORATE  
GOVERNANCE**

The Mauritian economy has been doing remarkably well over the past three decades with real GDP growth rates averaging 5.4% and inflation maintained at single digit for the last twenty years except in 1989, 1990 and 1993, and less than 5% from 2002. Mauritius has successfully restructured its post-colonial mono-crop economy in a first phase with the creation of two new sectors, namely export oriented manufacturing based mainly on garments production and 'Tourism for foreign high spenders'. In a second phase starting late 80s and beginning 90s, while consolidating the existing economic pillars, the strategy shifted towards developing services sector, namely through the setting up of the free port to make of the country a trading platform for the Eastern and Southern African region, and through the creation of an offshore business and financial sector. In the last six years there has been some slack in job creation, and an unemployment level of 10% now prevails. On an average, the economic performance of Mauritius has been among the highest in Sub-Saharan Africa. Mauritius was ranked 29<sup>th</sup> in the World Competitiveness Report of 1999 outperforming some 'Asian Tigers', and first among African countries.

However sugar which for long had under the ACP-EU successive Agreements had a guaranteed quota and price has seen the erosion of guarantee for price which will be reduced by about 36% over three years starting 2007. The EU Everything but Arms market access policy, followed by the January 2005 phasing out of the Multifibre Agreement, pose serious issues of competitiveness to the Mauritian textiles and garment industry. The refusal of the U.S. to allow the third country derogation to Mauritius made matters worse. The Hong Kong companies operating in Mauritius (fortunately not a dominant component of the sector) on the basis of preferential access to the

U.S. market simply closed down, thereby reducing exports and export earnings and making a number of employees redundant. With these down pillars being adversely affected Mauritius is going through a transition period where it is having to re-engineer its economy to a non-preference based competitiveness, and at the same time fast track its economic base diversification. On one estimate, the ending of MFA in January 2005 and the phasing out of sugar preferences by 2008 could cost Mauritius as much as 8 to 9% of GDP, 20% of exports and 40% of government revenue<sup>40</sup>.

Economic growth has declined to 3.5% in 2005/06, amongst the lowest in the last decade except for years of drought and cyclone. The low growth reflects a fall in output in the textile and clothing sector and the poor performance of the sugar sector. The unemployment rate which had fallen to almost zero during the 1990s rose in September 2005 to 9.5%, and is now reckoned at 10.2%, with male unemployment rate being at 9.0% and female at 12.6%. Thus, domestic savings as a ratio of GDP fell to 17.5% in 2005 and would decrease further to reach around fourteen and a half percent this year. This is the lowest savings rate since 1980 when it reached 24%.

The trend in investment as a ratio of GDP has been falling since 2000 to reach 21% 2005. The private sector investment as a ratio of GDP has declined from 18% in 2000 to around 15% in 2005. In 2006 it is forecast at around fifteen and a half percent. Foreign direct investment has increased from Rs 1.8 billion in 2004 to achieve Rs 2.4 billion in 2005. Our share in global FDI has continued to fall as investors have gone to other markets at an 8% annual clip. Our share in international trade has declined.

The trade deficit has doubled from Rs 10 billion in 2003/04 to Rs 20 billion in 2004/05 and is expected to reach Rs 25 billion in 2005/06. The current account shows a deficit of Rs 6.2 billion in 2004/05 compared to a surplus of Rs 1.3 billion in 2003/04. It worsened still further in 2005/06 with a deficit of around

Rs 7.7 billion. The current account balance as a percentage of GDP is -3.0 for 2004/2005. Net foreign reserves dropped to Rs 53.5 billion in June 2005 before recovering slightly to around Rs 60 billion at end June 2006 representing 7.9 months. For 2005/2006 the budget deficit amounts to Rs 10.7 billion. The deficit as a ratio of GDP turns out to be 5.5% and has been over 5% for the past five years.

**Table 9: Macro Economic Trends over past 10 years**

	Period	Unit	1996	2000	2001	2002	2003	2004	2005
Real GDP Growth Rate	Calendar year	%	6.2	9.5	5.4	2.1	3.7	4.5	3
GNI Per Capita at market prices	Calendar year	Rs	69,281	100,477	110,439	118,328	127,386	141,634	149,370
Inflation Rate	Fiscal year ended June	%	5.8	5.3	4.4	6.3	5.1	3.9	5.6
Unemployment Rate	Mid-year	%	5.8	6.7	6.9	7.3	7.7	8.5	9.5
Ratio of Budget Deficit to GDP at market prices	Fiscal year ended June	%	5.6	3.8	6.7	6.1	6.2	5.4	5

Source: Annual Report 2005 of Bank Of Mauritius

#### PERFORMANCE OF MAIN PILLARS OF THE ECONOMY

Table 9 shows the performance of the main pillars in their contribution to GDP. The negative impact of exogenous factors already explained is evident on the agricultural sector where sugar is dominant and on the manufacturing sector in which textiles and clothing weighs heavily.

**Table 10: Sectoral Contribution to GDP in Percentage Terms**

	1999	2005	% Change in Contribution
Agriculture	6.09	5.74	-6%
Manufacturing	23.88	19.63	-18%
Hotels & Restaurants	6.9	7.58	10%
Transport, Storage & Communication	12.18	13.49	11%
Financial Intermediation	8.36	10.26	23%
Real Estate	8.99	10.22	14%
Construction	5.67	5.55	-2%
Other <sup>41</sup>	27.93	27.53	

Source: Computed from CSO data.

The dramatic recession of the share of manufacturing is the result of the closures of a number of textiles and clothing companies and consequential reduction in output and exports. On the other hand the financial sector where the offshore business is the main driver has continued to contribute an increasing share to the economy. Similarly the Freeport sector (accounted for under Transport, Storage and Communication) and tourism remain growing pillars. The agricultural sector registered a real growth rate of 5.8% cent in 2004 compared to 1.9% in 2003. With favourable climatic conditions prevailing at the beginning of the crop year, the sugar sector grew by 6.5% in 2004 compared to 3.7% in 2003. The non-sugar agricultural sector expanded by 5.0% in 2004 compared to 0.1% in 2003.

Mauritius is facing a situation where the growing sectors such as the financial sector and trading through the Freeport are not major job creating ones. On the other hand, there is a serious mismatch between demand for skills by emerging sectors such as IT related activities and supply of skills on the labour market. Education and training have failed to keep pace with economic strategies.

#### **EQUITABILITY IN DISTRIBUTION OF RESOURCES SUCH AS LAND, INCOME**

Early government recognition for relatively equitable distribution of economic gains is reflected through the early development of a social welfare system which has been maintained by all governments, and which has had high priority accounting for more than 30% of the government budget. This combined with increases in the per capita income, the population has enjoyed a higher quality of life with the average life expectancy reaching 71.9 years, a primary enrolment ratio at 105% and the Gini coefficient, a measure of inequality reduced from 0.5 to 0.37 in 1992, although deteriorating slightly to 0.387 in 1996/97. There has since been an improvement to 0.371 in 2001/2002. The country now has an adult literacy rate of 84.3%, home ownership level of

86% with 98% having piped water and 99% electricity, and a real per capita income of PPP\$10,810.

Inequality is most felt on the issues of accessibility to middle and higher level jobs in the private sector and for all levels in the public sector, access to land and to capital. Accessibility to land is a debate which has recently come back to the forefront of political debate after a high pitch in the seventies. However the debate must be placed in perspective. Land for housing is not an issue. A handful of commercial farmers and families own the major part of land under cultivation. 35,000 small planters own small parcels of land planted in sugar or other food crops for domestic consumption. The land debate in Mauritius is not about land as a resource for agricultural production for survival, but more as an asset for speculative real estate development, as a source for accumulation, or as collateral for the mobilisation of capital through banks. The real issue therefore is access to capital in a situation where the financial institutions still operate on the basis of seeking property as collateral for lending.

#### **THE ROLE OF THE PRIVATE SECTOR IN DEVELOPMENT**

The private sector in Mauritius is predominantly local in nature, a resultant of settler colonial history. The colonial construct was such that at independence Mauritius had a fairly well-established nationalistic bourgeoisie, a well-developed and entrenched political and economic institutional set-up, an entrepreneurial class made up of smaller, medium and major merchants, and small industrialists, and a good and locally controlled private banking and financial system. One of the notable facts is that the number one bank in the country is entirely constituted of local shareholding and dates back to 1832. The second biggest bank is also local, with government being the major shareholder. The ownership structure remains dominated by the descendants of the French settlers who accumulated from the plantation economy and

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subsequently invested in the financial sector, tourism and major trading houses. The private sector has its own institutions to assist its members. The most important of these is the Mauritius Chamber of Commerce and Industry, which is more than 100 years old. With a membership of over 400 representing a wide spectrum of economic sectors from commerce and industry to tourism and transport, it promotes the interest of its members through fostering closer links between its members and government and with international organisations. The private sector is also organised through the Mauritius Employers Federation and the Joint Economic Council (J.E.C.) that act as cross-sectoral umbrella institutions. The J.E.C. is the main representative of the private sector for dialogue with the public sector.

The private sector is a privileged partner in policy making and in the development process. This affirmation is confirmed by the findings of the expert survey. Almost two-thirds of the experts believe that the public and the private sectors work together in promoting development. Dialogue and interaction between the private sector and government has been and remains a permanent feature in Mauritius. The private sector is closely associated with government on the formulation of positions relative to bilateral, regional and international trade and economic relations, and features in delegations for negotiating with external partners. Through its organisations, namely the Joint Economic Council, the Mauritius Chamber of Commerce and Industry, the Mauritius Sugar Planters Association and the Mauritius Export Processing Zone Association, the private sector develops policy positions both on a reactive and proactive basis.

The great strength of Mauritius has been and remains the nationalistic perspective of its bourgeoisie which has systematically reinvested in the country and its broad entrepreneurial class of traders and manufacturers which in spite of natural class contradictions with the state and other classes, remains committed to doing business in Mauritius. Thus at all times, local

private investment has always been more important than FDI for the country's development. Investment in 2004 was Rs 38.0 billion, up by 6.9% on 2003. FDI on the contrary has not been impressive either although it increased from Rs 1.8 billion in 2004 to reach Rs 2.4 billion in 2005. The results of the expert survey reveal that substantial majorities of the experts believe that the business environment in Mauritius is conducive to private sector operation and trade and FDI.

The trend in investment as a ratio of GDP has been falling since 2000 to reach 21% in 2005, with private sector investment as a ratio of GDP declining from 18% in 2000 to around 15% in 2005.

#### **THE INFORMAL SECTOR**

There is a long tradition of an informal sector in Mauritius, with self-employed and small backyard service and production activities. These informal activities were only normal income generation activities. It is also acknowledged that an undefined but not negligible number of mostly male civil servants<sup>42</sup> engage in secondary informal work selling vegetables, operating unregistered taxis or selling products door to door, both during and after normal working time or by taking leave of absence. This was an avenue to raise income of faster and greater capacity for personal accumulation for investment into family assets such as housing and education.

The last two decades has seen a major surge in informal street vending activities. Furthermore, Mauritians of Islamic confession moved into informal activities, following perceptions of discriminatory treatment in recruitment both by the public and private sector towards this community in the 1980s. During that same period the informal sector attracted a lot of young people to street vending as they found that they could earn more in one day than they could earn in a month working in a factory.

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Just over two thirds of the experts interviewed believe that government provides an enabling environment for the informal sector.

#### THE ROLE OF THE STATE IN ECONOMIC MANAGEMENT

The state has never been a dominant economic operator. The Mauritian state has since independence been a real developmental state in the sense that Castells<sup>43</sup> gives to this idea. Successive governments have consistently established their legitimacy on their will and ability to promote sustained development, understanding by development the steady high rates of economic growth and structural change in the productive system. This ideology has been supported by state institutional, technical and administrative capacity to implement economic policies effectively. The economic environment in Mauritius has been generally market-oriented and competitive, although more or less managed and steered by the state. A broad framework of regulations and financial and fiscal measures has been introduced over the years to support the private sector.

In recent years however, the country has seen a serious erosion of institutional efficiency. It is a recognised fact that one of the factors that gave Mauritius its development capacity is the efficiency of its institutions built from the heritage of the British system of administration which had been well preserved and further strengthened. The old advantage has actually run out, showed its limitations and, further undermined by clientelism, is now turning into an obstacle. This may explain the fact that opinions of experts are quite negative when it comes to evaluate the management of the economy. Indeed, although a substantial minority believe that the national economy is well managed, just over half of the experts believe the contrary. This weakening of institutional efficiency is proving to be a constraint for a new phase of development, and therefore needs thorough reform for it to be responsive to the imperatives of service delivery and the needs of business

entrepreneurship. In the World Bank Ease of Doing Business Report 2006, Mauritius is noted as having a 46 days period required to start a business, and 132 days required for securing all statutory licenses.

#### **ROLE OF CIVIL SOCIETY ORGANISATIONS (CSOS) IN THE DEVELOPMENT PROCESS**

The major actors of the civil society in Mauritius are socio-cultural/religious associations, the media, trade unions, professional and women's organisations.

The media undoubtedly plays the most important role in questioning, debating and, to a lesser extent, making proposals for policy making and development particularly on the economic front. The written media have open columns for expression by civil society, and a number of civil society individuals do contribute seriously to debates. Academics and the University of Mauritius are noticeably absent from such debates. More recently however, students have revived students' organisations that used to be quite vocal in the seventies and eighties.

Trade unions and professional organisations operate mostly on a corporate interest reactive mode, while socio-cultural organisations operate in a less visible but quite effective lobby mode. The Catholic Church often expresses views about policies. Women's organisations are probably the most active in expressing claims that engage governments. The National Economic and Social Council which is an institution dominated by civil society representatives has been incapable of acting as a civil society think tank to influence development policies.

During the preparation of the budget, the government holds pre-budget consultations with representatives of civil society organisations. There is also

a long-standing tradition of tripartite meetings with the trade unions and the private sector. Several Ministries consult the CSOs before embarking on major reforms.

However, CSOs have limited means and opportunities to really influence the policy making process.

It has therefore been left mainly to government and big corporations to determine policy in the economic realm. However, small sugar planters' organisations have been quite active in putting across their views to impact on policy, and in recent years, small entrepreneurs associations have become more active and more militant in influencing policy decisions.

#### **BUSINESS ENVIRONMENT AND CORPORATE GOVERNANCE**

With a strong, relatively diversified economy and a stable democracy, Mauritius has provided stability for business. As a 2003 survey of Corporate Governance in Africa by the London Business School in 2003 commented: "Overall, the improved Companies Act, the efficiency of the legal system and the government's keenness to attract foreign investment have created one of the most benevolent investment climates for stock market investors. Mauritius also outranks most other emerging markets on quality of institutional efficiency and property rights protection."<sup>44</sup> Most companies in Mauritius are private and more family or close relatives owned, although this is slowly changing. However a limited number are public and listed on the Stock Exchange of Mauritius. Stock Exchange listing and major scandals in two major public companies prompted government to introduce a Code on Corporate Governance which became effective from 2005 and has brought in stricter reporting procedures for companies, both local and offshore. Recent assessments by the international financial institutions have found that Mauritius' regulatory frameworks are in line with international standards.

The Joint Economic Commission says that: "The ownership structure of Mauritius companies is dominated by a small group of family-owned companies. Many family-owned companies listed their stock in response to tax and other incentives provided by the Mauritius government. Despite the stock market listings, many of the listed companies are still controlled by a family holding company or a partnership acting as the holding company. These holding companies often control a range of diverse enterprises and typically own vast landholdings that have failed to produce satisfactory earnings".<sup>45</sup>

The continued dominance of one auditing firm in the market is notable, as Nganga et al. note, "the incestuous cum ethnic relationship between companies and service providers [i.e. auditors]."<sup>46</sup> (Government has proposed setting up a supervisory body for auditing but has ignored calls to rotate auditors, as many in the profession desired).

#### **THE SOCIAL DIMENSION OF ECONOMIC DEVELOPMENT POLICY**

Mauritius' GDP has increased steadily since 1970 and the country is ranked 64th out of 177 countries on the UNDP's 2004 Human Development Index (HDI). Mauritius had a GDP per capita of \$4,609, one of the highest in Africa. It is the third highest ranked African country on the UNDP's Human Development Index.

Data shows clearly that Mauritians have seen an improved standard of living as the economy has been growing. This is confirmed by about three-quarters of the experts surveyed. As already stated 86.5% of households own their house. From 1990 to 2000, the average number of persons per housing unit has decreased from 1.10 to 1.07, average number of persons per room from 1.2 to 0.9, percentage of households that has shifted to using gas as fuel for cooking from 50.3% to 91.5%. Gini coefficient has improved from 0.379 in 1990

to 0.371 and number of income earners per household has increased from 1.6 to 1.9.

Mauritius has undoubtedly been a rare case of sustaining a welfare state with successful economic development. Mauritius has a long history of welfare services, dating back to the 1950s. Education and healthcare is free, the country has made great strides in eradicating communicable diseases and 90% of children are immunised. All citizens above the age of 60 receive a non-contributory basic retirement pension of a minimum of USD 100 per month.

Notwithstanding the above successes, pockets of poverty continue to persist in Mauritius. There is no official poverty line in Mauritius, however the Central Statistical Office computes the half median monthly income and the percentage of household living under the lone is now at 13.1%, a slight reduction from 13.7% in 1991/1992.

Pockets of poverty and the feminisation of poverty challenge the country for more focused and more clearly determined policies and action. The perceived creeping of poverty in the ranks of the elderly, the handicapped and the abandoned children should be researched right away and monitored. The concept of poverty needs to be more clearly defined with a view to achieve shared understanding and co-ordinated actions by stakeholders.

Mauritius has a well developed healthcare system and the government allots roughly 7.6% of total government expenditure or 3.4% of GDP on this sector. The country has eradicated common communicable diseases such as malaria, tuberculosis and yellow fever. Immunisation programmes have been covering 90% of children for the past four decades. However, the health care system is now under pressure to deal with growing prevalence of non-communicable diseases such as diabetes and circulatory affections now representing 21% and 38% of deaths respectively.

Mauritius has 1,200 known cases of HIV/AIDS but, using UN AIDS projection models, the Ministry of Health and Quality of Life estimates that the real figure is between 3,500 and 4,500 people living with HIV/AIDS.

Since the very first case was declared in 1987, the Mauritian government reacted and has been providing free anti-retrovirals since 2001. As at September 2005, 134 Mauritians are known to have died from the disease, according to the Ministry of Health<sup>47</sup>. A number of measures have been taken. Blood transfusion safety has been reinforced through an upgraded Central Blood Bank, backed by the virology laboratory. A National Day Care Centre for the Immuno-Suppressed has been set up along with gradual extension of Voluntary Counselling and Testing Services.

Anti-retroviral drugs have been made available free of users cost since 1999 for the Prevention of Mother to Child Transmission Project and for accidental injuries. The first national multi-sectoral HIV/AIDS Strategic Five-year Plan (2001-2005) which integrated various stakeholders such as governmental and non-governmental organisations, civil society and private sector has been re-evaluated for the purpose of elaborating an upgraded National Strategic Plan for 2006-2010.

The transmission of the disease by injecting drug users since 2002 has become a cause of serious concern in Mauritius. In this context, in 2003, a five-year Action Plan (2003-2008) for injecting drug users has been elaborated in order to halt the spread of the epidemic.

Indeed 90% of new infections are related to intravenous drug use. 2% of the island's population (2,400 people) are injecting drug users. A 2000 UN report on Mauritius found that: "Drug abuse and alcoholism are serious problems in Mauritius which can be seen as linked to issues such as poverty, social exclusion and lack of adaptation to the social environment. Although

different ministries such as Health, Education and Youth and Sports have programmes for the education of the population on alcohol and drug abuse, it is felt that not enough work is being done at a grassroots level".<sup>48</sup>

#### THE GENDER DIMENSIONS OF THE CURRENT DEVELOPMENT STRATEGY

The unemployment rate among women is 16.5% compared to 5.8% for men. The estimated earned income of women amounts to less than 40% of men's earnings. The significant job losses in the Textile and Clothing Sector where women accounted for more than 85% and the shedding of jobs in the sugar sector are examples of the vulnerability of women to the globalisation process. These underline the low ranking of Mauritius in the Gender Development Index of the UNDP in 2005 despite the good record on gender issues in education, health and other social areas.

Mauritius has however introduced some far-reaching reforms for the advancement of women, including a Domestic Violence Act and a Sex Discrimination Act. The Sex Discrimination Act passed in December 2002 protects women particularly from work-related discrimination.

Women have been able to sit as jurors since 1990 and in 1995 the Constitution and the Mauritian Citizenship Act were changed to grant women marrying foreigners equal rights to men in the same situation. But women are under-represented in positions of power and authority across Mauritian society. In the previous parliament only four out of the seventy MPs were women. In the 2005 election this number increased to twelve but this still represents only 17%.

The U.N.'s 2000 country assessment of Mauritius says that in the male-dominated society of Mauritius: "Women seem to carry a greater share of the burden of poverty than men... In deprived areas, there is a significant

proportion of women who have either been abandoned by their husbands or have to bear the 'tyranny' or brutality of an alcoholic husband, whose pay-packet never reaches home at the end of the month. Women often have to resort to multiple jobs or to severe cuts in expenditure as survival strategies. In the worst cases, the lack of employment opportunities drives a small proportion of these women, especially young single mothers, to commercial sexual activities".

The Human Development Report 2005 provides eloquent indicators about the gender situation in Mauritius. While the country is ranked 65th in terms of HDI for year 2003, the report pointed out that the Gender Empowerment Measure could not be calculated because of missing data (percentage of female administrators and managers as well as percentage of female professional and technical workers), it did rank 54th in Gender Development Index. Such are the contradictions of Mauritius. Thus Mauritius ranked 50th in terms of estimated female earned income in PPP US\$, but 134 out of 154 on the ratio of female earned income to male earned income.

Mauritius fares extremely well in gender parity in education, with girls clearly achieving better in terms of enrolment ratio through higher secondary and tertiary education. Similarly, women have been very well taken care of by the health system, which explains the high life expectancy of 75.7 years, and a maternal mortality rate of 0.16 per 1,000 live births.

#### **EFFECTIVENESS OF ANTI-CORRUPTION STRATEGIES**

The only survey on perception of corruption in Mauritius was commissioned by the Independent Commission against Corruption in 2003. This national survey revealed that over 70% of respondents felt that the executive is either fairly or somewhat corrupt. In a National Survey on Corruption Perception in 2004, 70.6% of people believed that high-level corruption had increased in the

previous two years, 82.7% said that petty corruption was on the rise, and 90% wished to see more efforts on the part of ICAC to combat grand corruption.<sup>49</sup> The public opinion survey for the current study indicates that the great majority of respondents (92.5%) consider corruption as a problem, and 67.5% are pessimistic about the government's effectiveness in dealing with it.

The real commitment of governments to fight corruption has been put into question as different governments over the last thirty years have passed a number of laws and created several institutions to combat graft, with the Independent Commission Against Corruption (ICAC) established in 2002 as the most recent corruption-fighting body. Previous institutions included the Anti Corruption Tribunal (1984 -1998) and the Economic Crimes Office (ECO) (dismantled in 2001). None has really given results or secured any serious convictions, and were perceived to be subject to political manipulation. The ECO was dismantled abruptly just as it closed in on powerful political and business leaders.

The Parliamentary Oversight Committee, set up to oversee the Independent Commission Against Corruption (ICAC), has ten members, five chosen by the ruling side and five by the opposition, with the chair going to the former. In the previous legislature most of its time has been taken up by infighting, political manoeuvring and point-scoring, which have ultimately hamstrung the ICAC's activities.

On the other hand the ICAC has often crippled itself by its own internal problems, caught up in inter-institutional battles and contradictions for example with the police and the Director of Public Prosecutions, lost cases in court on technical grounds giving the perception of amateurism or over zealousness, and has been attacked cheerfully by lobbies of vested interest with the help of some lawyers and some elements of the media. Although

private sector and civil society were represented on committees in ICAC, they remained eloquently silent.

Whether ICAC will finally perform under the new government elected in June 2005 remains to be seen.

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**CONCLUSIONS AND RECOMMENDATIONS**

This is the second study of the state of good governance in Mauritius since the first ever was commissioned by UNECA in 2001 and conducted through a process of wide conscientisation and participation of all stakeholders. The current study, commissioned by EISA, can be assimilated as an update of the first in as much as it enables us to evaluate evolution and progress. It is however a sad state of affairs that reports such as this tend to be used more in political point scoring by opposing political parties, rather than taken up by civil society for debate and activism for change as necessary. The stalled APRM process in Mauritius is testimony of the weakness of civil society in playing a real role, notwithstanding the democratic space that it enjoys.

Mauritius is living through a transition period. On the one hand the comfort of past economic success is under severe challenge from international trade conditions, and on the other the socio economic transformation resulting from the affluent years has raised internal challenges. The strong and wide spectrum of past achievements in the state of good governance has been sustained. Mauritius once again changed government in the June 2005 general elections which were free and fair, well managed by the electoral commission, with results accepted by all parties concerned. There have been legal challenges to the election, in a few cases. The due process of law is still ongoing. Once again it is one alliance of parties that won the elections against another. This has become a constant, stabilising feature, which testifies to the consociational nature of Mauritian politics where various elites seek to share benefits rather than engage with disruption of the system.

However political parties have yet to reflect with equal intensity the democratic nature of the system in their internal governance. The inclusive nature of the main political parties is not questionable, but women's

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representation remains very low, responsibility here lying squarely at the doorstep of political parties.

The economic success of Mauritius, founded on a combination of both internal and external favourable factors which have transformed an agro-based industry into an export-oriented manufacturing economy with a strong tourism sector, is now seriously shaken. Response to the negative implications of exogenous factors concerning international trading conditions for sugar and textiles and clothing has been weaker and very slow, as a result of the populist style of governance and decreasing institutional effectiveness on both public and private sector sides.

Economic governance has been weaker in the recent past resulting in growing deficits. Politically expedient decisions have often taken the upper hand and difficult decisions have been postponed, such as imperative reforms in certain parastatals. Fiscal policy reforms have remained unattended. Mauritius has slowly drifted into serious balance of trade and balance of payment deficit.

Institutions for mediating labour and capital relations are well established, credible and functioning. On the other hand, rigidity in labour laws and corporatist behaviour of trade unionists are posing serious constraints to institutional reform of state structures and parastatals.

Improvement in the overall level of social development in Mauritius has continued, with a rise in the Human Development Index from 0.772 in 2000 to 0.791 in the 2005 Human Development Report. Social welfare has remained very high on the agenda and absorbs about 30% of national budget allocation. Various sectoral policies have targeted vulnerable groups with the aim of alleviating poverty and avoiding social marginalisation, although the productivity of the policies, the results and effectiveness of service delivery are still not commensurate with the investment.

Past success in increasing life expectancy is now leading to an ageing population, with an increase in elderly-specific diseases. The pensioner support ratio, defined as the number of persons of working age for every old-age pensioner, is expected to drop drastically from 7.5 to 1 in July 1998 to 4.5 to 1 in 2018. Growing affluence of the eighties and nineties resulting in changing lifestyle has created new patterns of disease, with an increase in non-communicable diseases such as diabetes and cardio-vascular affections.

Organised civil society remains weak and ineffective in influencing policy orientation or in providing civil watchdog organisations. The diversity of the audio media has greatly contributed to adding value to its information function and to its role in promoting accountability, although competition has sometimes caused an unsavoury levelling down in the quality of content. The vibrancy of the other components of civil society organisations is still not commensurate with their numbers and the degree of independence they enjoy.

Alternance has brought all political parties to agree that the electoral system is not fair in terms of return of seats relative to proportion of votes, and the present government has shown willingness to reform the system by setting up the Sachs Commission to propose avenues for such reform.

Although captains of the private sector have awakened and been called upon to improve corporate governance, many are moving into it at a snail's pace. The ownership structure whereby a dozen families control the main and most strategic companies, including those listed on the stock exchange, and the perceived incestuous business relations between them, create a situation where share values are locked and under-remunerated. Corporate governance that will really unleash real performance from parastatals remains to be established and developed.

Finally it is safe to affirm that Mauritius has built up over the last decades a relatively high level of good governance. The main challenges that the

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different stakeholders need to address at this present juncture are the change in the electoral system, improvement in the delivery of the justice system, the reform of public sector institutions for improved effectiveness, the democratisation of the economy, determination for a convincing struggle against corruption, improved women's representation at elective and corporate level, and the building up of civil society's capacity to play its rightful and meaningful role in strengthening and sustaining governance.

The need to reform the First-Past-The-Post electoral system has been well established and a very wide road has been cleared for reform by the Sachs Report. Unfortunately the decisive move to translate this into the appropriate regulatory framework could not be achieved since the minority partner of the previous government refused to support the move. The present ruling Labour Party and alliance of smaller parties have committed themselves in their electoral manifestos to change the electoral system, but the exact configuration of what they propose is still unclear, although it is known that the Deputy Prime Minister and Minister of Finance of the present cabinet is strongly in favour of the Sachs proposal for mixed FPTP and PR system.

The question of women's under-representation in parliament will be addressed if the Sachs Report is indeed implemented. However the crux of the question also impacting on this issue is that of internal party democracy, which is yet to become a full reality. Women's organisations still have to struggle for better representation on the corporate front.

The democratisation of the economy has now come to the forefront of the socio- economic questions that government and the corporate sector must address. Local private sector is dominated in ownership and management by a small white minority. This private sector has overwhelming control over the key sectors of the economy - sugar plantation and milling, tourism, banking and non-banking financial institutions and the main trading activities and

services. Politicians of various parties have on more than one occasion expressed the resentment of the present set up of control of the economy by a handful of families, the biased recruitment and promotion practice, and the lack of access of others to finance capital and land as an asset to access such capital. Some believe in favouring foreign capital as a means to placate the local private sector. Others advocate more state control. Others talk in terms of the need to democratise the economy, a euphemism meaning democratisation of ownership. The present government is already engaged into putting up means for better access to finance capital and has promised regulatory measures to ensure equality of opportunity in employment.

The issue of capacity building for non-state actors is often raised by the concerned, but no forceful steps has yet been taken in that direction. There is serious confusion and lack of transparency about the CSO sector itself, in particular regarding which of the organisations really are CSOs, the reality of their existence, their programmes and their effectiveness.

There is need for the reform of the public sector institutions to ensure their improved effectiveness. The capacity of the state and of the country to continue past success in economic and social development requires that the serious erosion of institutional effectiveness be urgently addressed. This cannot be achieved when only a minority believe that appointment in the civil service is based on merit, and when the population is divided as to whether the senior civil service is a representative cross section of society.

The system where survival and promotion are considered to be more relationship than performance based has seriously undermined the delivery of services to citizens and the conditions of doing business, impacting more dramatically on small entrepreneurs. Law enforcement agencies are inadequately trained, undermined by clientelism and ethnicity, and thereby rendered ineffective in their role for the maintenance of civil security.

Although the large majority of Mauritians believe that the judiciary to be immune from undue political influence by the executive branch of government, yet many consider that some individuals or groups are above the law and that the ordinary citizen does not get fair justice. Magistrates and judges are sometimes insufficiently trained and badly managed judicial services cause very long delays in the delivery of justice. The implementation of the Mackay Report for reform has remained largely unfulfilled.

More than the practice it is the culture of corruption that is pervasive in the Mauritian society. A large majority of citizens consider that some elements of the police and government officials are corrupt. They believe similarly of NGO leadership, as well as of teachers and religious leaders, and even the judiciary is not spared by this perception, albeit to a lesser extent.

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**NOTES**

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<sup>1</sup> Mauritius Chamber of Agriculture, Statistical Bulletin, 2004

<sup>2</sup> StraConsult, Monitoring Progress towards Good Governance – Assessing the State of Good Governance in Mauritius, 2002 p.27

<sup>3</sup> Competitiveness Foresight: What Orientation for Mauritius? A Discussion Paper, National Productivity and Competitiveness Council, January 2005, p.14

<sup>4</sup> StraConsult, Monitoring Progress towards Good Governance – Assessing the state of Good Governance in Mauritius, 2002 p.23

<sup>5</sup> Darga & Joomun, Strengthening Parliamentary Democracy in SADC Region, Mauritius Country Report, p.31

<sup>6</sup> Sachs A, Tandon B B & Ahnee R, Report of the Commission on Constitutional and Electoral Reform 2001/2002, p.17

<sup>7</sup> Good Governance for Africa, October 1998 as published on website of Third World Network:

<sup>8</sup> Akokpari J, The AU, NEPAD and the Promotion of Good Governance in Africa as published on website.

<sup>9</sup> Tandon, Y, (ed) (1996), African Conceptions of Democracy and Good Governance. Basic Document Series. Harare: International South Group Network

<sup>10</sup> Daniel Kaufmann and Aart Kraay, Governance and Growth: Causality Which Way? – Evidence for the World in Brief, World Bank, February 2003.

<sup>11</sup> Arvind Subramanian and Devesh Roy, Who can explain the Mauritian Miracle: Meade, Romer, Sachs or Rodrik? IMF Working paper, August 2001.

<sup>12</sup> StraConsult. Assessing the State of Good Governance in Mauritius 2002, p.141

<sup>13</sup> StraConsult, Assessing the State of Good Governance in Mauritius 2002, p.68

<sup>14</sup> Dukhira C., 2002, p. 287

<sup>15</sup> H. Mathur (1991), Parliament in Mauritius, Editions de L’Ocean Indien, p.32

<sup>16</sup> Community here refers to ethnic groups

<sup>17</sup> In the ensuing census held every ten years, the declaration of ethnic identity has been omitted.

<sup>18</sup> For the Speaker - Chapter V Part 1 Section 32. For the Attorney General - Chapter VI Section 69.

<sup>19</sup> Information obtained from a correspondence dated 27 January 2006 from Mrs. S. Lotun for the Clerk of the National Assembly.

<sup>20</sup> <http://ncb.intnet.mu/assembly/soc.htm>

<sup>21</sup> Fax received from Mr. A. Pompon, Clerk of the National Assembly, 12 July 2004.

<sup>22</sup> Standing Orders 66

<sup>23</sup> Fax received from Mr. A. Pompon, Clerk of the National Assembly, 12 July 2004.

<sup>24</sup> Strengthening Parliamentary Democracy in the SADC Region – Mauritius Country Report.

<sup>25</sup> Hon. A.S. Jeewah, MP, Minister of Civil Service Affairs and Administrative Reforms, appearing in Towards the Modernization of the Public Service, Action Plan 2001 - 2003, Ministry of Civil Service Affairs and Administrative Reforms, 2001.

<sup>26</sup> Ibid, Ministry of Civil Service Affairs, 2001.

<sup>27</sup> National Human Rights Commission, Final Annual Report 2004, *Chapter II Complaints Against Police*.

<sup>28</sup> Report of the Presidential Commission to Examine and Report upon the Structure and Operation of the Judicial System and Legal Professions of Mauritius (Lord Mackay Report), 1997.

<sup>29</sup> Mauritius – The Big Issues, Southern African Institute of International Affairs, July 2005.

<sup>30</sup> Report of the Presidential Commission to Examine and Report upon the Structure and Operation of the Judicial System and Legal Professions of Mauritius (Lord Mackay Report), 1997 Section 5.23, p 82.

<sup>31</sup> The Public Security Act 2000.

<sup>32</sup> The Commission on Constitutional and Electoral Reform, 2000.

<sup>33</sup> Idem

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- <sup>34</sup>The Constitution of Mauritius section 38 (2).
- <sup>35</sup> The Electoral Boundaries Commission Regulations 1976.
- <sup>36</sup> The Constitution of Mauritius Section 38(1).
- <sup>37</sup> SADC Regional Human Development Report 2000, p.73 -79.
- <sup>38</sup> Declaration accessed on Internet:  
[http://www.sadc.int/index.php?action=a1001&page\\_id=declarations\\_gender&media=print](http://www.sadc.int/index.php?action=a1001&page_id=declarations_gender&media=print)
- <sup>39</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, p. 5 accessed on Internet: <http://www.idlo.int/texts/leg7957.pdf>
- <sup>40</sup> The World Bank's Country Partnership Strategy for Mauritius, 2005.
- <sup>41</sup> Includes contribution by Public Administration, Health, Education and other services.
- <sup>42</sup> The Deputy Prime Minister and Minister of Finance officially acknowledged this fact. See *Le Mauricien* 7 Dec 2002.
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## ABOUT EISA

EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance field throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values and practices and to enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes: electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA was formerly the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is currently the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

### **VISION**

Promoting credible elections and democratic governance in Africa.

### **MISSION**

EISA's mission is to strengthen electoral processes, good governance, human rights and democratic values through research, capacity building, advocacy

and other targeted interventions. The organisation services governments, electoral commissions, political parties, civil society organisations and other institutions operating in the democracy and governance fields throughout Africa.

#### **VALUES AND PRINCIPLES**

Key values and principles of governance that EISA believes in include:

- Regular free and fair elections
- Promoting democratic values
- Respect for fundamental human rights
- Due process of law/rule of law
- Constructive management of conflict
- Political tolerance
- Inclusive multiparty democracy
- Popular participation
- Transparency
- Gender equality
- Accountability
- Promoting electoral norms and standards

#### **OBJECTIVES**

- To nurture and consolidate democratic governance
- To build institutional capacity of regional and local actors through research, education, training, information and technical advice
- To ensure representation and participation of minorities in the governance process
- To strive for gender equality in the governance process
- To strengthen civil society organisations in the interest of sustainable democratic practice, and
- To build collaborative partnerships with relevant stakeholders in the governance process.

**CORE ACTIVITIES**

- Research
- Conferences, seminars and workshops
- Publishing
- Conducting elections and ballots
- Technical advice
- Capacity building
- Election observation
- Election evaluation
- Networking
- Voter/civic education
- Conflict management
- Educator and learner resource packs

**PROGRAMMES**

EISA's core business revolves around three main programmes namely: Conflict Management, Democracy and Electoral Education; Electoral and Political Processes; and Balloting and Electoral Services.

**CONFLICT MANAGEMENT, DEMOCRACY AND ELECTORAL EDUCATION**

This programme comprises various projects including voter education, democracy and human rights education; electoral observation; electoral staff training; electoral conflict management; capacity building; course design and citizen participation.

**ELECTORAL AND POLITICAL PROCESSES**

This programme addresses areas such as technical assistance for electoral commissions, civil society organisations and political parties; coordination of election observation and monitoring missions; working towards the

establishment of electoral norms and standards for the SADC region and providing technical support to both the SADC-ECF and the SADC-ESN.

#### **BALLOTING AND ELECTORAL SERVICES**

The programme enhances the credibility and legitimacy of organisational elections by providing independent and impartial electoral administration, management and consultancy services. The key activities include managing elections for political parties, trade unions, pension funds, medical aid societies, etc.

#### **EISA'S SPECIAL PROJECTS INCLUDE:**

- Local Government, which aims to promote community participation in governance; and
- Political Parties, which aims to promote party development at strategic, organisational and structural levels through youth empowerment, leadership development and development of party coalitions.

#### **EISA'S SUPPORT SERVICES INCLUDE:**

- Research
- Publications
- Library
- Information and Communication Technology (ICT).

#### **EISA PRODUCTS**

- Books
- CD-ROMS
- Conference proceedings
- Election handbooks
- Occasional papers
- Election observer reports
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- Country profiles
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