



REPORT OF THE SADC OF STANDING COMMITTEE ON DEMOCRATISATION, GOVERNANCE AND HUMAN RIGHTS (DGHR) TO THE 51ST PLENARY ASSEMBLY SESSION HOSTED BY THE PARLIAMENT OF THE REPUBLIC OF MALAWI FROM 7TH TO 16TH JULY 2022

THEME: “TOWARDS STRENGTHENING THE ROLE OF PARLIAMENT IN CURBING CORRUPTION AND PROMOTING ACCOUNTABILITY IN THE SADC REGION: ENGAGING PARLIAMENTARIANS ON HOW TO USE PUBLIC FINANCE MANAGEMENT TO EXECUTE MEASURES TO FIGHT CORRUPTION.”

Mr. President, I beg to move that this Plenary Assembly do adopt the Report of the Standing Committee on Democratisation, Governance and Human Rights to the 51st Plenary Assembly Session of the SADC Parliamentary Forum, laid on the Table on 12th July 2022.

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1.0 COMPOSITION OF THE COMMITTEE

The Committee consisted of the following Members:

1. Hon. Jerónima Agostinho,	Mozambique
2. Hon. Darren Bergman	South Africa
3. Hon. Maria do Carmo do Nascimento proxy for Hon. Josefina Perpétua Diakité	Angola
4. Hon. Mduduzi Matsebula	Eswatini
5. Hon. Nts'alla Mafa (Vice Chairperson)	Lesotho
6. Hon. Tsiliva Diddiot Christophe	Madagascar
7. Hon. Leonard Mwalwanda	Malawi
8. Hon. Utaara Mootu	Namibia
9. Hon. Richard Labrosse	Seychelles
10. Hon. Selemani Jumanne Zedi	Tanzania
11. Hon. Victor Lumayi	Zambia
12. Hon. Dought Ndiweni (Chairperson)	Zimbabwe

2.0 TERMS OF REFERENCE

The Standing Committee on Democratisation, Governance and Human Rights (DGHR), guided by its mandate in terms of Rule 42 (d) of the SADC PF Rules of Procedure, convened its meeting for the 51st Plenary Assembly under the theme *“Towards Strengthening the Role of Parliament in Curbing Corruption and Promoting Accountability in the SADC Region: Engaging Parliamentarians on how to use Public Finance Management to Execute Measures to Fight Corruption.”* The Committee also considered various other matters including previous resolutions by the Committee and the Plenary Assembly and action taken; the DGHR Programme Annual Work Plan for 2022; SADC Elections Calendar for 2022 to 2026; Report SADC PF Diplomatic and Study Mission to the 2021 Regional and Municipal Elections of the Bolivarian Republic of Venezuela; review of the SADC PF Strategic Plan (2019 to 2023); and election of DGHR Chairperson and Vice Chairperson for 2022 to 2024.

3.0 BACKGROUND

The Committee held its statutory meeting at a time when the world was battling the COVID-19 pandemic and the Russia-Ukraine conflict was in full swing, both of which were having devastating effects on the global economy due to rise in fuel and food prices. These global challenges had not spared SADC Member States.

The theme for the meeting provided a timely opportunity for Parliamentarians to interrogate challenges related to curbing corruption and ensuring the entrenchment of transparency and accountability in the management of public finances in SADC Member States. The same applied to the development of the SADC Model Law on Public Financial Management (PFM) which was a comprehensive tool for benchmarking in plugging legislative, policy and implementation gaps by SADC Member States based on their respective national contexts.

Corruption was a threat to democracy as it eroded trust in public institutions and hampered economic development, thereby aggravating inequality, poverty, social division and environmental crises. Accordingly, Member States

had obligations to combat corruption as espoused the SADC Protocol Against Corruption which was adopted in August 2001 and entered into force in 2003. Similar obligations were also contained in the AU Convention on Preventing and Combating Corruption which was adopted in 2003 and entered into force in 2006 and the United Nations Convention Against Corruption.

Parliaments strengthened democratic accountability by ratifying regional and international instruments and enacting progressive laws that could help to curb corruption. Furthermore, legislatures should strengthen their respective anti-corruption legal frameworks particularly in critical areas such as prevention, criminalisation, international cooperation, extradition, and asset recovery. However, having good laws was not enough; there was an even greater need for monitoring and ensuring adequate enforcement of the laws.

The Benchmarks for Democratic Legislatures in Southern Africa, developed by the SADC PF in 2010, was one of the critical resources available for use by Parliaments to strengthen their institutional capacity in curbing corruption.

4.0 CONSIDERATION OF THE SADC ELECTIONS CALENDAR FOR 2022 TO 2026

The Committee also considered the SADC Elections Calendar for 2022 to 2026 as per the table below.

COUNTRY	PRESIDENTIAL	NATIONAL ASSEMBLY
1. Angola	Aug 2022	Aug 2022
2. Botswana	2024 (by National Assembly)	2024
3. Democratic Republic of Congo	2023	2023
4. Eswatini		Primary elections: 2023; Secondary elections: 2023
5. Lesotho		2022
6. Madagascar	2023 (first round)	2024
7. Malawi	2025	2025
8. Mauritius	2024 (by National Assembly)	2024
9. Mozambique	2024	2024
10. Namibia	2024	2024
11. Seychelles	2025	2025
12. South Africa	2024 (by National Assembly)	2024
13. Tanzania	2025	2025
14. Zambia	2026	2026
15. Zimbabwe	2023	2023

In the ensuing deliberations, the Committee reiterated the need to ensure that elections continued to be observed as this would not only afford SADC PF the opportunity to raise awareness and advocate the domestication of the SADC

Model Law on Elections but also the chance to be seen in action by SADC citizens promoting democracy.

5.0 CONSIDERATION OF THE SADC PF DIPLOMATIC AND STUDY MISSION TO THE 2021 REGIONAL AND MUNICIPAL ELECTIONS OF THE BOLIVARIAN REPUBLIC OF VENEZUELA

5.1 Introduction

The Committee considered the Report by the SADC PF Diplomatic and Study Mission to Venezuela that had observed Venezuela's regional and municipal elections conducted on 21st November 2021. This followed an invitation extended to SADC PF in view of strengthening historical ties of solidarity between SADC and the Bolivarian Republic of Venezuela and promoting South-South cooperation. The Mission was in Venezuela from 17th to 23rd November 2021. The Head of Mission was the DGHR Chairperson, Hon. Jerónima Agostinho, a Member of Parliament from Mozambique and Member of the SADC PF Executive Committee. The Deputy Head of Mission was Hon. Dought Ndiweni, Member of the DGHR Committee, Member of SADC PF Executive Committee and Member of Parliament from Zimbabwe. It was supported by two members of staff from the Forum Secretariat and one member of staff from the Parliament of Mozambique.

In line with its mandate, the SADC PF Mission focused its work on understanding the electoral system and electoral processes up to the counting and declaration of results and drawing lessons. The Mission also anchored its work on the SADC PF's flagship election instrument, namely, the SADC Model Law on Elections adopted in 2018 to guide SADC Member States domesticate and implement electoral obligations contained in the revised SADC Principles and Guidelines Governing Democratic Elections. The Mission was also guided by the various regional and international election instruments. Furthermore, the Mission employed a multipronged approach to gather information, including engagements with various stakeholders such as La Alianza Bolivariana para los Pueblos de Nuestra América – Tratado de Comercio de los Pueblos (ALBA-TCP), Independent Electoral Commission (CNE), international observers, the President of the Republic, Minister of Foreign Affairs, political parties and civil society organisations, as well as attending campaign rallies by political parties and electoral activities in the regions.

5.2 Observations, Lessons and Recommendations

The Mission made several observations, drew lessons and submitted recommendations for the learning of SADC PF and its Member Parliaments, including the following:

5.2.1 Need to strengthen solidarity and cooperation between SADC PF and ALBA-TCP and the Bolivarian Republic of Venezuela

There was need to strengthen solidarity and cooperation between SADC PF and ALBA-TCP as well as with Venezuela within the context of promoting South-South cooperation. This was critical in view of the indication by the Secretary General of ALBA-TCP that the Latin American region was considering establishing a regional parliamentary institution and wished to

draw lessons from SADC PF's own experiences as a regional legislative institution.

5.2.2 The Use of Automated Voting Machines with Voter Verifiable Paper Audit Trail (VVPT) and other ICT Tools in Election Management

The Mission observed that the electoral process in Venezuela was remarkably smooth due to the use of Automated Voting Machines (AVMs) which made instant vote verification, counting and declaration of results possible. The Mission recognised that there existed an opportunity for SADC Member States to engage Venezuela regarding the possibility of supplying AVMs with VVPT capabilities. The Mission also recalled that Namibia had pioneered the use of electronic voting machines in SADC in 2014 but had since discontinued them and reverted to paper ballots due to their lack of VVPT capabilities, following a court ruling. The Mission thus reiterated the need for the region to explore the use of AVMs with VVPT capabilities during elections in order to harness the numerous advantages of using such technology, including the ability to instantly verify, count and declare election results.

5.2.3 Pre-Voting Audit and Post-Voting Audits

The Mission observed a good practice in the electoral legal framework requiring a mandatory pre-voting and immediate post-voting auditing of at least 30% of AVMs and elections results respectively, under the watchful eyes of representatives of political parties. The practice ensured transparency of the voting process and election results.

5.2.4 The Separation of the Citizen Branch and Electoral Branch from the other three branches of Government

The Mission observed with interest the fact that in Venezuela, in addition to the Legislative, Executive and Judicial branches of government, the Constitution uniquely provided for two other separate branches, namely the Citizen Branch and the Electoral Branch. The Citizen Branch was tasked with ensuring that all citizens and public officials abided by the laid down laws. The branch was made up of the Prosecutor General, the Ombudsperson and the Comptroller Private whose roles were those of the Republican Moral Council, tasked with investigating any criminal conduct, especially conduct pertaining to violation of the Constitution and human rights. The National Electoral Council, on the other hand, supervised all elections. The Council's functions included registering eligible voters, overseeing polling stations, counting votes, presiding over appeals brought forth by lower electoral boards and resolving conflicts among political parties. It was notable that the Constitution also barred any political party from having a majority in the Council. The establishment of two additional branches of government was not only unique but could also serve to enhance citizens' voices and rights, including the right to vote.

6.0 PRESENTATION ON REFLECTIONS ON THE PUBLIC FINANCIAL MANAGEMENT (PFM): HOW PARLIAMENTS CAN UTILISE PARLIAMENTARY CONTROL TO FOSTER DEMOCRATIC ACCOUNTABILITY AND CURBING CORRUPTION

The Committee received a presentation from Mr Jay Kruuse, Director, Public Service Accountability Monitor (PSAM), School of Journalism and Media Studies at Rhodes University in South Africa and Member of the Technical Working Group on the PFM Model Law. In the ensuing discussion the Committee reiterated the centrality of Parliament in ensuring democratic accountability and in curbing corruption throughout the budget cycle.*****

7.0 PRESENTATIONS AND DELIBERATIONS ON THE THEME: "TOWARDS STRENGTHENING THE ROLE OF PARLIAMENT IN CURBING CORRUPTION AND PROMOTING ACCOUNTABILITY IN THE SADC REGION: ENGAGING PARLIAMENTARIANS ON HOW TO USE PUBLIC FINANCE MANAGEMENT TO EXECUTE MEASURES TO FIGHT CORRUPTION"

7.1 Presentation by Adv. Ishara Bodasing, Managing Director IBodasing Governance Consultants, South Africa

The presentation by Adv. Bodasing provided an overview of the prevalence and cost of corruption in the SADC region; the conceptual framework for parliamentary action at national and regional levels, including the internal mechanism and strategies parliament can use to combat corruption; the linkages between SADC PFM Model Law and SADC Protocol against Corruption and other regional and international instruments on combating corruption; and recommendations on priority areas for action by Parliaments to strengthen their role in curbing corruption and promoting accountability, including collaborative actions.

On the prevalence and cost of corruption in the SADC region, it was indicated that corruption was largely linked to illicit financial flows (IFFs), weak systems of control on government hiring and procurement of services, weak government revenue collection and control systems, lack of mechanisms for whistle-blower protection, money laundering, trafficking in persons (TIP), and weak asset recovery mechanisms. Accordingly, there was need for enhanced inter-agency cooperation domestically and regionally in critical areas such as IFFs, TIP, extradition and asset recovery. In addition, there was need for capacity building, including in technical expertise, infrastructure and funding. There was also need for raising public awareness and strengthening legislative frameworks on curbing corruption and promoting democratic accountability.

The presentation laid bare how the rule of law and constitutionalism were central pillars in curbing corruption by, among other things, ensuring separation of powers and the attendant transparency and accountability between and among the organs of state. Political corruption was also demonstrated to be on the rise, manifesting *inter alia*, in state capture by private interests which undermined law and policy making through illicit payments and ultimately eroded public trust in public institutions. This

brought into question the need to regulate political financing to safeguard the integrity of elections, politics and democracy itself.

Adv. Bodasing highlighted that a well-functioning Parliament was critical in ensuring transparency and accountability at all levels. In this regard, she emphasised the importance of the integrity of individual Parliamentarians as a pre-requisite for promoting and restoring public trust. In this regard MPs should be open about their sources of election funds as well as personal assets and income. It was, therefore, essential for Parliament to develop and implement integrity laws and codes of ethics, regulations on conflicts of interest and asset declarations rules. Parliaments should also enhance the effectiveness of the codes by involving MPs in their development and implementation. More critically, there should be effective enforcement with clear sanctions for violations. Parliament should also ensure training to raise awareness and build MPs' ethical skills.

In addition, the institution of Parliament should exercise the oversight function by raising questions to government, facilitating meaningful public participation in the legislative agenda, ensuring effective follow up on its recommendations and exercising scrutiny on the entire budget cycle. There was, therefore, need for Parliament to establish robust oversight committees, build capacity of Members and staff, allocate adequate resources to its committees and cooperate with other watchdog agencies.

The presenter also highlighted the importance of the SADC Protocol Against Corruption as the principal framework for regional cooperation in curbing corruption considering that corruption was a transnational organised crime. The linkage between the SADC Model Law on Public Financial Management and the SADC Protocol Against Corruption as well as other regional and international instruments against corruption was also demonstrated during the presentation.

7.2 Presentation by Titus Gwemende, Team Leader, Africa Regional Office – Open Society Foundation Africa

In his presentation Mr Gwemende explained the main trends of corruption prevalent in the SADC region including extractive industry corruption, state capture, land corruption, theft of Covid-19 and humanitarian relief, empty state coffers at inauguration and the fact that the African continent was losing over \$50 billion in illicit financial flows annually. He reiterated that Parliament had a critical role to play in curbing corruption and promoting democratic accountability.

On state capture, the presentation highlighted that this involved powerful individuals, institutions, companies or groups within or outside a country using corruption to influence a nation's policies, legal environment and economy to benefit their own private interests. Its main consequence was that interests of a specific group are prioritised over public interests in the operation of the state.

On opaque political financing the presenter emphasized that, according to a report by the International Institute for Democracy and Electoral Assistance, there was insufficient regulation of political funding and election campaigns in many African countries, making it easier for corrupt activities associated with political financing to go unchecked. It was underscored that undisclosed political funding would put political parties and actors at risk of capture as secret funders would require a “payback” once their funded candidates got into power.

Regarding land corruption, the presenter highlighted that land was the bedrock of social, economic and political life in Africa and yet it was heavily susceptible to corruption. Research in 2013 showed that one in every two people encountered corruption during land administration processes in Africa, compared to one in five persons for the rest of the world. Women were most affected by land corruption due to their strong dependency on land. According to a baseline study on women and land corruption by the Transparency International’s Land and Corruption in Africa Programme, women’s experienced everyday challenges in accessing land, and they were constantly exposed to bribery and sexual exploitation extortion by community leaders and land officials.

On corruption in the extractive industries, the presenter indicated that corruption was rampant at various stages including during licensing and bidding and through illicit financial flows.

The presenter also underscored that access to information was a key tool in fighting against corruption as it promoted openness and created a level playing field for both governments and markets. There was, therefore, need to harness ICTs’ full potential to push forward the anti-corruption agenda through revolutionising methods of corruption detection, prevention and analysis.

The presentation also emphasised the role of Parliament in ensuring public participation which helped in fostering active citizenship and enhancing people agency. This was critical because graft could not be fully challenged without the active involvement of citizens. Legislators, therefore, should engage and mobilise their constituents in order to catalyse a shift in power relations through the power of numbers.

8.0 DELIBERATIONS AND RECOMMENDATIONS

8.1 Recommendations on the SADC Elections Calendar for the period 2022 to 2026

With regard to the SADC elections calendar for 2022 to 2026, the Committee recommends that the 51st Plenary Assembly:

- (i) **Resolves** to continue entrenching gender equality as part of its election observation methodology in order to ensure the promotion of inclusive electoral processes and outcomes in the region.

- (ii) **Resolves** to ensure that elections continue to be observed in order to afford the Forum the opportunity to raise awareness and advocate the domestication of the SADC Model Law on Elections and to be seen by SADC citizens in action promoting democracy.
- (iii) **Direct** the Secretariat to employ its best endeavours to mobilise more resources to sustain domestication meetings on the SADC Model Law on Elections based on the SADC Elections Calendar.

8.2 Resolutions on the SADC PF Diplomatic and Study Mission to the 2021 Regional and Municipal Elections of the Bolivarian Republic of Venezuela

Following its deliberations on the SADC PF Diplomatic and Study Mission to the 2021 Regional and Municipal Elections of the Bolivarian Republic of Venezuela, the Committee:

Reiterated the need to strengthen solidarity and cooperation between SADC PF, La Alianza Bolivariana para los Pueblos de Nuestra América – Tratado de Comercio de los Pueblos (ALBA-TCP) and the Bolivarian Republic of Venezuela within the context of promoting South-South cooperation;

Acknowledged the value of using Automated Voting Machines with Voter Verifiable Paper Audit Trail (VVPT) in election administration, including smooth voting process as well as instant vote verification, counting and declaration of results.

And therefore, the Committee recommends to the 51st Plenary Assembly to:

- i) **Urge** SADC Member States to draw lessons from the provision in the Venezuela electoral legal framework requiring a mandatory pre-voting and immediate post-voting auditing of at least 30% of AVMs and elections results in order to ensure transparency in the voting process and election results.
- ii) **Encourage** SADC Member States to engage Venezuela to learn more about AVMs with VVPT capabilities in view of harnessing the numerous advantages of using such technology in election management, including the ability to instantly verify, count and declare election results.

8.3 Resolutions on the Theme

Following its deliberations on the theme, the Committee:

Reaffirmed the central role of Parliament in curbing corruption and promoting accountability in the SADC region at national and regional level;

Concerned by the prevalence and cost of corruption in the SADC region which was largely linked to illicit financial flows (IFFs), weak systems of control on government hiring and procurement of services, weak government revenue collection and control systems, lack of mechanisms for whistle-

blower protection, money laundering, trafficking in persons (TIP), and weak asset recovery mechanisms;

Aware of the need for enhanced inter-agency cooperation domestically and regionally in critical areas of fighting corruption such as IFFs, TIP, extradition and asset recovery;

Reiterated that the rule of law and constitutionalism were central pillars in curbing corruption by among other things, ensuring separation of powers and the attendant transparency and accountability between and among the organs of state;

Alarmed by the rise in political corruption, manifesting *inter alia*, in state capture by private interests which undermined law and policy making through illicit payments and ultimately eroded public trust in public institutions.

And therefore, the Committee recommends to the 51st Plenary Assembly to:

- i) **Implore** state institutions, including Parliaments to resist capture by being transparent and accountable and setting an example of incorruptibility to society as a whole through implementing and enforcing their own codes of conduct so as to be able to withstand corruption and permit the rapid exposure of corruption.
- ii) **Urge** SADC Member States to ensure the development of a robust, clear and fair legal framework to promote transparency and accountability, deter corruption, prevent undue influence of money in politics (state capture) and curb the misuse of public resources including through:
 - (a) regular and public disclosure of financial assets and business interests of Parliamentarians and public officials;
 - (b) regulation of political financing including disclosure of sources of funding and expenditure and effective enforcement of the regulations in order to deter vote buying, and other forms of electoral fraud, ensure equity and fairness in the financial resources available to candidates and parties, promote fair competition between parties and candidates, limit overall spending on election campaigns and political activity, and encourage transparency and public access to information about campaign financing by setting financial reporting requirements;
 - (c) developing and implementing integrity laws, codes of ethics, regulations on conflicts of interest and asset declarations rules for Members of Parliament in a consultative manner;
 - (d) effective enforcement and monitoring of integrity laws, codes of ethics, regulations on conflicts of interest and asset declarations rules with clear sanctions for violations with Parliament;
 - (e) enhanced inter-agency cooperation domestically and regionally critical areas such as IFFs, TIP, extradition and asset recovery;
 - (f) training to raise awareness and build MPs' ethical skills;

- (g) prioritising safeguarding and protection of whistle-blowers; and
 - (h) simplifying regulations, permits and administrative procedures.
- iii) **Call** on SADC member States to promote and protect the independence of judiciary and media as key players in ensuring accountability and combating of corruption.
 - iv) **Urge** SADC national Parliaments to make use of their law making and financial appropriation roles to enhance the mandate and independence of oversight bodies.
 - v) **Encourage** civil society and media to partner with Parliaments in curbing corruption through provision of research and evidence for effective policy and legislation making by MPs and in disseminating information to the citizens and communities.
 - vi) **Call** on Parliaments to advocate for economic models and policies that address inequalities and vulnerabilities especially among women, young people and those in the informal and rural economies.
 - vii) **Urge** Member States to maximise opportunities presented by the Fourth Industrial Revolution to fight corruption, including embracing revolutionised methods of corruption detection, prevention and analysis.
 - viii) **Call** on Parliaments to foster active citizenship and enhance people agency in governance which heightens checks and balances and accountability necessary in curbing corruption.

9.0 ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON FOR 2022 TO 2024

The DGHR Committees elected Hon. Dought Ndiweni from Zimbabwe (Male) and Hon. Ntasalla P. Mafa, Lesotho (Female) as its Chairperson and Vice Chairperson for 2022 to 2024. The Committee placed on record its gratitude for the sterling leadership provided by the outgoing office bearers and pledged to support the incoming Chairperson and Vice Chairperson in their work.

10.0 CONCLUSION

In conclusion, the Committee reiterated that Parliaments should take advantage of the SADC Model Law on Elections and the SADC Model Law on PFM to strengthen democratic accountability and curb corruption by adopting and adapting their provisions based on each country's context. Parliaments should also ensure inter-agency collaboration in the fight against corruption.

The Committee extended its appreciation to the resource persons and cooperating partners for their support which served to advance the work of the Committee in promoting democratic accountability and curbing corruption. The Committee further placed on record its appreciation for the support received from the Office of the Secretary General in the execution of its work.

APPENDICES

APPENDIX I – OBSERVERS

Mr Jay Kruise, Director, Public Service Accountability Monitor (PSAM), School of Journalism and Media Studies at Rhodes University in South Africa and Member of the Technical Working Group on the PFM Model Law;

Adv. Ishara Bodasing, Managing Director IBodasing Governance Consultants, South Africa;

Mr Titus Gwemende, Team Leader, Africa Regional Office – Open Society Foundation Africa.

Dr. Adane Ghebremeskel, Executive Manager - GIZ Peace, Security and Governance Project.

APPENDIX II – LIST OF OFFICIALS

SADC Parliamentary Forum Secretariat

Boemo Sekgoma	Secretary General
Joseph Manzi	Director Programmes and Parliamentary Business
Sheuneni Kurasha	Committee Secretary & Programme Manager
	Democracy, Governance and Human Rights
Paulina Kanguatjivi	Assistant Procedural Officer and Coordinator
Samueline Kauvee	Human Resources and Administrative Officer
Agnes M. Lilungwe	Executive Assistant to the Secretary General
Ronald Wandwaai	ICT Officer
Bernadette Lumingu	ICT Intern

National Parliaments

Veronica Ribeiro, staff	Angola
Soatsara M. D. Benandrasana	Madagascar
Bao Tsamina Bénédicte, Ratahirisoa	Madagascar
Lantonirina Randriamampionontsoa	Madagascar
Liva Norohanta H. Raharison	Madagascar
Jaime Ezequiel Numaio, staff	Mozambique
Cleopas Gwakwara, staff	Zimbabwe