

Chapter 4

Getting Systems Right: Governance and Capacity-Building

Summary

Effective states – those that can promote and protect human rights and can deliver services to their people and a climate for entrepreneurship and growth – are the foundation of development. Without progress in governance, all other reforms will have limited impact. While there have been improvements in many African countries, weakness in governance and capacity is the central cause of Africa's difficult experience over the last decades. Improvements in governance, including democracy, are first and foremost the responsibility of African countries and people, and they take time and commitment. But there are also actions that outsiders can take both to support and to avoid undermining good governance. Two areas are crucial: **capacity** (the ability to design and deliver policies) and **accountability** (how the state answers to its people). This chapter proposes:

- Providing strong political and financial support for the **pan-African and regional organisations**, particularly the African Union and its programme NEPAD;
- Making changes in **donor behaviour**, to get fully behind a comprehensive **national strategy** for capacity-building;
- Building up **professional skills and knowledge**, including by revitalising Africa's higher education, especially in science, engineering, and technology;
- Broadening participation and strengthening institutions that improve accountability, including **parliaments, local authorities, the media, and the justice system**;
- Increasing **transparency** of revenues and budgets, especially in countries rich in natural resources; this also makes a powerful contribution to conflict prevention;
- Tackling **corruption**, including **repatriation of stolen state assets**;
- Strengthening the quality and management of **data**.

A full list of the Commission's recommendations on Governance and Capacity-Building can be found at the end of this chapter.

1 Poor people in urban slums, forced to live with mountains of uncollected, disease-infested rubbish, open sewers and dirty and expensive water. Farmers who cannot sell their produce because the road to market is impassable in the rainy season. Clinics that have no drugs and schools that have no teachers. Investors, domestic and foreign, who choose to put their money – which could create jobs and growth – elsewhere. Monies that disappear from hard-pressed national budgets. Ordinary people, threatened by crime but unable to trust the police to help. Tensions and violent conflict between communities. These are some of the consequences that arise when governments fail to protect freedom and human rights, to provide effective public services that meet basic needs, and

to respond equitably to the requirements of every section of society. Recent research shows a strong link between improvements in the way states govern and better development results, whether in terms of income per capita, child mortality or illiteracy¹. We can see the implications of weak governance and conflict for economic decline, from Liberia to Côte d'Ivoire to Zimbabwe, and how strong the turnaround can be when governance improves and conflict is resolved, from Mali to Mozambique to Uganda.

2 Strengthening states, so they are effective and able to deliver is, therefore, the foundation of our report. Unless Africa makes a concerted effort to do so, we believe that all other reforms, in international trade, debt and aid – essential though these reforms are – will have only limited impact.

3 The environment for progress is demanding, challenged by HIV and AIDS. This epidemic may undermine the capacity for effective governance in the hardest-hit countries by affecting key workers, public officials, and armed forces. AIDS may also damage democratic progress through impacts on elected representatives, ministries and the electorate itself. Unless HIV and AIDS responses are mainstreamed into governance strategies and public awareness, much potential progress will be lost.

4 There are a number of practical measures that African governments, with support from the international community, must take to improve both political and economic governance. They must also avoid making policies that undermine the state, such as requiring unnecessary permits, which discourage investors and can allow individual officials to make personal gain from discretionary allocation. Improving the *capacity* of the state to design and deliver good policies and services, and to manage its development partners, along with better *accountability* for how the state answers to its entire people for its policies and actions, are central. Action in other areas will support these. For example, increasing *transparency* – openness about how policies are made and delivered – helps people to hold their governments to account and increases their ability to play a part in the decision-making process. Tackling *corruption*, including through increased transparency, will improve services by reducing diversion of resources. Improving the quality and availability of data will provide better evidence on which to base policies and will allow results to be monitored and measured. Building effective states requires strong progress in all these areas.

5 Evidence suggests that there have been some improvements. The forthcoming African Governance Report (AGR) – a major 28-country study pioneered by the Economic Commission for Africa (ECA) to measure progress towards good governance, both political and economic, in Africa – shows that governance overall is getting better and that the situation across the continent is markedly different from a decade ago². It highlights positive developments in four areas: the continent's growing transition to democracy; growing attempts to include in the political process many groups that have traditionally been excluded; better systems of accountability; and improvements in general levels of economic management.

6 However, there are significant variations and some countries have made much less progress than others. The poorest performance is found in countries in conflict. In some cases action lags behind rhetoric. For example, although most governments have signed major international treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its optional protocol³, many have yet to translate them into national law, to enable them to be implemented effectively. As the AGR also highlights, weaknesses remain in most countries in the efficiency of government services, the control of corruption, the transparency and accountability of the civil service, and the effective decentralisation of government structures⁴. Further improvements are also needed in management of budgets and public resources⁵ and strengthening the rule of law.

4.1 Pan-African organisations

7 African leaders have started to work more closely together to tackle these problems and to hold each other to account for performance. In 2002 they established the African Union (AU) to promote African economic, social and political integration as well as peace and security. When fully realised, the AU will have a number of organs and agencies, including the Pan-African Parliament (established in 2004, to debate continent-wide issues) and a Court of Human Rights.

8 One tangible outcome of AU/NEPAD's work is the African Peer Review Mechanism (APRM), adopted by the AU in July 2002, with the aim of promoting good governance⁶. The APRM reviews cover political and economic governance (including issues such as the independence of the judiciary and the transparency of the budget process), as well as corporate governance (including codes and standards) and socio-economic development. 24 countries, representing some 75 per cent of Africa's population, have so far signed up. Four countries are currently in the process of peer review⁷. A key outcome of the process is development of a country Programme of Action, to identify the country's priorities and the time-bound and costed steps needed to address the weaknesses, including capacity shortages, which have prevented progress. Peer pressure creates a strong incentive for participating countries to implement review findings: reports are discussed by Heads of State and Government of participating member countries, then formally and publicly tabled in key regional bodies; and follow-up reviews (every two to four years) will report on progress made.

9 All of these organisations and initiatives are relatively new; their finances (provided by participating governments) are limited, and human capacity stretched. In many areas it is too early to see strong results from their actions. However, interventions by the AU and Regional Economic Communities (RECs) in conflict in Africa (Chapter 5) do already provide an example of the practical value and potential of a strong pan-African and regional approach. **Recommendation: Developed countries should give strong support – both political and financial – to Africa's efforts to strengthen pan-African and regional bodies and programmes, including the African Peer Review Mechanism.** The precise nature of this support will vary by institution, but common elements will be: active engagement as partners in dialogue (as, for example, the Africa Partners Forum); building of institutional capacity, including for research and analysis, through funds (to complement those provided by member countries) for the AU's US\$50 million institutional transformation programme and the US\$15.5 million required by the APRM Trust Fund for 2005-07; exchange of experts; and provision of funding for operational programmes,⁸ in a way which enables the organisation to decide and manage its own priorities – in other words, aligned with the organisation's strategies, not donors' particular predilections, priorities and procedures, and co-ordinated among donors so as to avoid taking up the time of stretched officials. Where appropriate, the international community should support, at the national level, countries' responses to the work of these institutions. For example they should be prepared to help countries meet the costs of participating in APRM reviews and help finance the programmes of action that arise from their recommendations.

4.2 Capacity to deliver

10 Weak institutional capacity prevents the state from undertaking its responsibilities effectively, whether planning and budgeting, managing development assistance, providing services or monitoring and evaluating progress.

11 Weak capacity is a major problem in most African countries. All tiers of government are affected, and the problem is growing in urban areas, whose populations are already

doubling and will continue to double every ten to twenty years. Violent conflict has seriously undermined capacity in many countries, as has HIV and AIDS⁹.

12 Tackling the huge need for capacity strengthening will have major knock-on effects for all the other areas of our report, whether by increasing security and the rule of law, reducing corruption, improving service delivery and the operating environment for business, or reducing the constraints which have limited governments' ability to absorb higher levels of development assistance. Action to strengthen capacity should therefore be a high priority¹⁰.

13 Many attempts have been made, with donor support, to reform the public sector and improve its capacity. More than a quarter of bilateral aid to Africa is channelled directly into capacity-building¹¹. However, a number of recent reviews have shown that results have often been poor¹².

14 There are many reasons for this. Reforms have often been piecemeal, and have not been made within an overarching strategy. They have not been seen as a key element in a broader political process and African governments have not been fully committed to them or given them strong leadership. They have not focused enough on behavioural issues, which can have a corrosive effect even within a formal structure. They have often had too short-term a focus. And not enough emphasis has been given to monitoring the impact of the reforms.

15 Moreover, many donors have supplied assistance in ways that undermined national capacity. Instead of building up the abilities of African government ministries, they have insisted on discrete Project Implementation Units (PIUs), which often poached the most qualified staff from government. Aid agencies have also overloaded governments¹³ with additional procedural, reporting, monitoring and accounting burdens, which bypassed national budgeting and accounting practices. Tied aid – insisting that development cash is spent on the products of the donor nation – has raised the cost of goods and services, and has not developed the ability of the private sector in African countries to compete in the provision of such goods and services themselves¹⁴. All this has left African governments feeling more accountable to donors than to representatives of national institutions and to citizens.

16 If capacity is to be strengthened, this must change. African governments have the lead responsibility. They should, in the context of their poverty reduction strategies, draw up an overarching capacity-building strategy that responds to the unique political economy of each country,¹⁵ includes all levels of government (including local authorities), and takes account of the indigenous knowledge base. It should identify the constraints (both internal and outside the public sector), the steps necessary to overcome them and the areas where external support can contribute. Once developed, Programmes of Action, arising from APRM reviews, could fulfil this function.

17 African governments should then manage donor support for their strategies. In South Africa, a Technical Assistance Unit has been set up in the National Treasury, staffed with South African nationals, to carry out capacity-building tasks. It is demand driven and focuses on building indigenous capacity, using local and international technical assistants and support. Recently the NEPAD secretariat has shown interest in replicating this model in other countries to help overcome co-ordination and quality control problems.

18 Regional programmes – such as the African Capacity-Building Foundation (ACBF)/Partnership for African Capacity-Building (PACT) and the African Regional Technical Assistance Centres (AFRITACS) – also have a strong role to play in providing regionally oriented technical assistance and capacity-building programmes.

19 Recommendation: African governments should draw up comprehensive capacity-building strategies. Donors should invest in these, making sure that their efforts are fully aligned with these strategies rather than with their own competing priorities and procedures. They must provide predictable and flexible long-term finance to

allow African governments to plan over a longer term than at present. For example, without a predictable flow of funds and ability to use development assistance for recurring expenditure, such as salaries, governments will be cautious about hiring teachers or nurses.

20 Within this framework, action in three specific areas would build on and enhance existing capacity: professional skills and leadership; incentives; and equipment and infrastructure, including Information and Communications Technology (ICT).

4.2.1 Professional skills and leadership

21 Qualified professional staff are essential to all forms of development. The delivery of health, education and other services depends on them. They are crucial for collecting and managing data, and debating and developing good policies, based on the evidence of what works and what does not. They are essential to implementing those policies and to monitoring how they are put into effect. Scientifically and technically proficient staff are needed to identify opportunities arising from innovation and scientific discoveries and to develop effective policy in areas such as science, trade and resource management. Especially in the private sector, these particular skills are key to performance and innovation. Africa has been lacking skilled men and women in all these spheres and fundamental to this shortage is the loss of much of Africa's pool of skills to the developed world. Around 70 per cent of Ghanaian medical officers trained in the 1990s have left¹⁶ and it has been estimated that there are more African scientists and engineers working in the USA than in the whole of Africa¹⁷.

22 This shortage starts with higher education, which ought to be the breeding ground for the skilled individuals whom the continent needs. Higher education and research institutes can also improve the accountability of governments and build participation and citizenship. As well as providing skilled staff, they also generate independent research and analysis that supports the vibrant debate that can greatly improve the effectiveness of government policy and other services.

23 But many of Africa's higher education institutions are still in a state of crisis. They lack physical infrastructure, such as internet access, libraries, textbooks, equipment, laboratories and classroom space. Senegal's Université Cheikh Ata Diop built for 13,000 students now houses over 23,000¹⁸. They lack human resources, such as teachers, lecturers, and administrative and managerial systems. Unattractive conditions, brain drain and HIV and AIDS are depleting capacity and faculties are ageing. (Chapter 6 also discusses responses to the current teacher shortages.) Yet demand for higher education is increasing: in 2000, Nigeria had the capacity to accept only 12 per cent of qualified candidates¹⁹. Hit by these pressures and a lack of funding, the research capacity of Africa's institutes has declined. The capacity that does exist is not being used efficiently, as there is limited collaboration, and human and financial resources are spread thinly.

24 The African diaspora have long contributed to developing capacity in their country of origin, through activities such as setting up facilities, institutions and conferences. However, it is crucial that better use is made of their enormous potential. One such example is making greater use of skilled expatriates to train African nationals as part of exchange processes, including through the UNDP's Transfer of Knowledge through Expatriate Networks (TOKTEN) project. Another is encouraging further links between businesses or universities in Africa and their country of residence.

25 The African Association of Universities (AAU), the South African Association of Vice Chancellors and the Association of Commonwealth Universities (ACU) have developed a ten-year partnership programme, 'Renewing the Universities,' which has pan-African scope, involves key African and international stakeholders, and has a nine-point programme addressing the major challenges to Africa's higher education system. Funding of US\$500

million per annum would be required to roll out the programme. **Recommendation: The international community should commit in 2005 to provide US\$500 million per annum over ten years to revitalise Africa's institutions of higher education.**

26 On top of this, specific action for strengthening science, engineering and technology capacity is an imperative for Africa. Scientific skills and knowledge enable countries to find their own solutions to their own problems, and bring about step-changes in areas from health, water supply, sanitation and energy to the new challenges of urbanisation and climate change. And, critically, they unlock the potential of innovation and technology to accelerate economic growth, and enter the global economy.

27 There is some scientific capacity in Africa. The African Economics Research Consortium (sub-Saharan Africa), the Biosciences Facility for Central and Eastern Africa (hosted in Kenya), CIDA City Campus (South Africa), the Kigali Institute of Science and Technology (Rwanda), and the University Sciences, Humanities and Engineering Partnership (Central and East Africa) are some examples of the excellent centres, institutes, universities and partnerships that there are. However, overall scientific capacity is limited and restricted to a few regions. In 2000, over 60 per cent of Africa's total expenditure on research was in South Africa²⁰ and there are areas, such as the greater Congo basin, where there is virtually no science at all. The science gap between Africa and the rest of the world is widening and under business-as-usual this gap will continue to grow.

28 Centres of scientific excellence can act as springboards for developing scientific capacity. For example, the Indian Institutes of Technology, which are now globally front-ranking institutions, have made a crucial contribution to India's scientific and industrial development²¹.

29 To be effective in Africa, centres of excellence must have several key characteristics. They can be both physical centres and virtual networks of research that are internationally competitive. They need to be regional, as carrying out research is beyond the resources of many single African countries; regional centres and networks concentrate capacity. They need to set up the public-private partnerships or 'innovation hubs' that are critical to fostering innovation, entrepreneurship and technology diffusion. They also need to engage with local communities, the government, the African diaspora and international partners to ensure that science extends beyond the laboratory into everyday life and that Africa participates in the global knowledge community.

30 The development of up to thirty regional centres of excellence in the environmental, physical, medical and social sciences is needed, building on existing centres where it is possible, and creating new capacity where it is not. Developing institutes of technology to sit at the apex of the educational and research system in each region of sub-Saharan Africa should be a core part of the programme. Funding would need to be rolled out on a sliding scale, with a five-year rolling budget. The programme will need to involve public-private partnerships and bring together governments and research institutions in Africa and industrialised countries. **Recommendation: The international community should commit in 2005 to provide up to US\$3 billion²² over 10 years to develop centres of excellence in science and technology, including African institutes of technology.**

31 UNESCO and AU/NEPAD should set up a high-level working group to complete a detailed programme for implementation by December 2005, building on the AU/NEPAD mapping of science and technology capacity. International donors, partners from southern nations such as India and Brazil, the World Bank, and other national and regional stakeholders should be involved. Improved co-ordination in Africa should be matched by co-ordination amongst international donors. The programme needs to be rolled out to capitalise on existing strengths, to address gaps and ensure that investments in physical and human capital are sequenced. A strategic and coherent approach is absolutely crucial.

32 These initiatives should be closely linked with the ideas proposed in Chapter 7 to expand agricultural research, innovation and extension, and promote the participation of the poor in growth.

33 In addition to qualified professional staff, Africa needs leaders. Strong leadership, committed to change, is one of the key drivers of progress. Developing the capabilities of leaders at all levels and in all spheres – political, the public sector, business and civil society – is critical to African-led sustainable development. Our proposals to strengthen tertiary education will contribute to developing leaders. Short training programmes, seminars and workshops, facilitated networking and learning exchanges, mentoring and coaching also play a part, as do south-south and north-south partnering with universities, and civil society more generally²³.

4.2.2 Incentives

34 Africa spends an estimated US\$4 billion annually on recruiting some 100,000 skilled expatriates²⁴ to replace the many African professionals or managers with internationally marketable skills who have found the lure of emigration too strong. A study by the World Bank reported that some 70,000 highly qualified African scholars and experts leave their home countries every year to work abroad, often in more developed countries²⁵. The problem of recruiting, retaining and motivating qualified staff is especially acute in the public sector.

35 Finding and retaining staff to work in remote or difficult areas is a particular problem. A survey in Malawi showed that 25 per cent of teachers who started work in rural areas in January 1999 had left by October that same year²⁶. Gender dynamics have an impact: in Africa it is generally accepted that women teachers should not be separated from their husbands/partners. Also, even if single, posting young female teachers in remote places isolates them socially and is not the best way to motivate women to remain in the profession.

36 So what is the answer? Better pay scales, which reward performance, may improve status and motivation and so begin to trigger change. Financial and other motivational incentives such as accelerated promotion and participation in regular training workshops, especially for those working in remote areas or urban slums (which have the most serious staff retention and recruitment problems) would help, as would steps that make it easier to get the job done (such as improvements in infrastructure). They could encourage the diaspora to bring their skills back to Africa. However, all of this will have a significant impact on public finances, which are already stretched. They will have to be built up. Until then, such steps will only be taken if they have external support. For the next five to seven years donors, working closely with African governments, should shift technical assistance funding towards salary enhancement programmes²⁷, particularly for priority skills which are difficult to recruit or retain, whether the successful employee is local or expatriate, including members of the diaspora. Programmes could be linked to a number of principles, such as a full day's work for a full day's pay; accountability to local communities; and zero tolerance of corruption. Donor support must be predictable, though limited in time and with a phased exit, so that African governments can take over as other reforms produce the necessary increases in growth.

37 Pressure from local communities is another means of improving services. This can come from individuals, informal groups such as parents acting together, or from formal organisations, either in civil society, the private sector or traditional tribal structures. This can improve the motivation of those who provide the services, by attaching greater perceived value to their jobs or by increasing their sense that they are answerable for what they provide.

38 Public services are also provided at the local level by organisations that operate outside the state system, most particularly religious networks and faith groups. Often these have a wider reach than the state and there is a persuasive case for making use of them, provided they complement the state (for example by adhering to similar standards) rather than compete with it.

39 This approach is especially relevant in fragile states – such as those in conflict or emerging from it – where government is so weak that it is not possible to work with it. Donors should work at community level, with faith groups and other private providers, and with local government, to provide basic services such as education. These projects must help to build capacity and be accountable to the local population so that they can be integrated into state systems in the future. Wider issues of assistance to weak and failing states are discussed in Chapter 9.

4.2.3 Equipment and infrastructure, including ICT

40 Basic equipment, such as the tools of keeping records, files, accounting and personnel systems, is essential for public servants to do their work properly and efficiently. Provision is at present very variable. Many do not even have functioning telephone systems. That needs to change if computers are to be used to their full potential.

41 E-governance²⁸ has a particularly powerful role to play in improving administrative efficiency, driving technical innovation and making the governance process more transparent, accountable and open to participation by everyone. Strategic programmes for e-governance have been established recently in countries such as Egypt, Kenya, Senegal, Mozambique and South Africa and there is a wide range of relatively successful African e-governance projects, such as a tax portal in Cameroon. This site contains tax-related data and guidance, providing instant information on payment and refund procedures to citizens and businesses, to limit opportunities for corrupt officials to charge for such information.

42 However, not all African e-governance projects have been success stories. The transition to e-governance is rarely smooth in any country but African e-governance faces two additional barriers: the lack of ICT infrastructure (see Chapter 7) and mass connectivity to the Internet, and under-resourced and unaccountable bureaucracies. A good start could be for a number of African governments to pilot development of e-governance strategies, and then spread good practice developed through them to a second group of countries. The international community should support this work and consolidate and expand e-governance training for African civil servants.

4.2.4 Monitoring of capacity-building

43 What is measured and monitored usually gets results. Establishment of an explicit framework for monitoring results of well-defined activities will be crucial for enhancing effectiveness of capacity development. Some instruments to do so are already in place. HIPC tracking surveys deal with effectiveness of public financial management. Client service charters, which entail scorecard type assessments of delivery of public services, have been developed in Tanzania. Development of coherent national frameworks to monitor state effectiveness will be important for the success of the APRM as a peer pressure instrument. There is also a need for mutual review by donors and African governments, for assessing the appropriateness of programme instruments and setting criteria for measuring impact. Mutual review is discussed further in Chapter 10.

4.3 Accountability

44 Accountability is our second area of focus. It is fundamental to the legitimacy of a state and to the freedom and human rights of its people. The African Charter for Human and Peoples' Rights, which provides the framework for promoting and protecting human rights, states that every citizen shall have the right of equal access to the public services of the country²⁹. Governments must answer to all their people, including the poorest and most vulnerable, and must not respond only to the interests of elites or particular groups (including donors), parties or tribes. Accountability to all citizens is also a prerequisite for political stability and effective development. Good intentions are not enough. Mechanisms are needed to make sure that the voices of all citizens are heard; to monitor how governments respond to what they hear; and to enforce the rights of ordinary citizens. In this section we discuss participation, then consider key mechanisms of accountability: constitutional structures, parliaments and political processes; the media; the justice system; local government, traditional leaders, business, civil society and trades unions.

4.3.1 Participation

45 Policies often fail because they are created without a full understanding of the local situation, people or history. As we saw in Chapter 3, Africa's diversity makes this point particularly pertinent. The term 'participation' holds a variety of meanings, but in essence is about people expressing their views and taking part in the decisions that affect their lives. It is common sense that people have a clearer idea of the problems and opportunities affecting their own communities than outsiders do. Although in the past participation has been associated with community development projects, African participation is required broadly, from the project to the national or international level. Creating opportunities for people to be heard can lead to unpredictable and often contradictory messages but has the potential to inform policies, improve accountability and improve service provision.

46 Participation in decision-making has long been a feature of many African societies. However, African voices often fail to be heard within the development sector, including in international processes. This is partly due to an arrogance that expert outsiders or domestic elites 'know best' and partly due to institutional pressures for quick, consensual and anticipated results.

47 Within participatory approaches, the more powerful often have a vested interest in maintaining the status quo and the education and influence to ensure that their voices are heard. Meaningful participation is a political phenomenon and requires those who traditionally make decisions to relinquish some of their control and to hear voices they may not agree with or may not usually listen to, including those of women and youth.

48 Social disenfranchisement, lack of confidence and respect for social and gender norms will disproportionately restrict some people from being heard. Logistical problems will also prevent the poorest people from being able to participate and hinder the involvement of inaccessible or mobile people, such as indigenous peoples, pastoralists and refugees.

49 Addressing the obstacles to full inclusion will require more than simply ensuring quotas of certain groups are physically present at discussions. International institutions, policy makers and elites will need to question the ways they work. They should explore different means of expression, including through African languages, traditional media such as community radio, and new forms of ICT. Practical, logistical and cultural considerations are necessary.

50 African governments and the international community should base policy change on broad participatory research. Participation should occur at all levels and stages of policy-making, including during monitoring and evaluation. Local authorities are a good entry point for democratic debate. Local or regional expertise should be invested in, in preference to bringing-in external experts. Decision makers should allow long timeframes for participation and ensure that the least powerful are able to express themselves. Facilitators should be trained in negotiations and communication, and informed of local gender norms and power relations.

4.3.2 Constitutional structures, parliaments and political processes

51 A strong state derives from and depends on a legitimate constitution that balances the interests of all its citizens and separates the powers of the judiciary and legislature from the executive. In many cases this balance was lost at independence and power was consolidated in the executive³⁰. As settling the constitution did not involve the people, it lacks popular legitimacy in many countries.

52 Constitutions are weakened further when leaders seek to stay in office beyond the constitutionally prescribed term. Several factors can contribute to a decision to seek to extend tenure, ranging from a belief that there is no suitable successor to a fear that immunity will be removed, to concerns about 'what next' and sources of finance. One answer could be to establish pension provision and clearly defined roles for retiring presidents – a 'presidential legacy' – to address these problems. These pressures on constitutions would be reduced in a system where leaders depended on the electorate to determine their stay in office.

53 The African Union should address these issues in its current efforts to promote good governance and resolve conflict. African governments should revisit constitutions, and the international community should be prepared to support this work with funds and technical assistance.

54 Democracy has been growing in Africa. A key element in the democratic process is the election, in many cases involving parliaments which are independent of the executive and whose remit is to make laws in the interests of the people, exercise power over the budget and oversee public institutions. According to the AGR, fewer than half of the respondents in 15 out of 28 African countries considered their legislature to be free from external control and only about a quarter of respondents rated the performance of their parliaments as good³¹. The low levels of education or training of legislators in many countries limits their ability to perform efficiently. The position of women in government is poor. Many African governments have made concerted efforts to raise awareness of the importance of women's involvement – South Africa, Uganda, Rwanda³² and Mozambique have levels of women's representation in parliament ahead of most developed countries. But most countries fall well short of gender equality at all levels of political decision-making. This is despite evidence that corruption falls as the proportion of parliamentary seats held by women rises³³ and the fact that many Africans believe women MPs are more likely to listen and attend to basic community needs³⁴. Whether men or women, parliamentarians need better knowledge and capacity to address gender concerns – such as review of inheritance and property tax rights and of laws or customary practices that discriminate against women – and to mainstream gender into sector policies and budget processes. **Recommendation: Parliaments in both developed and other developing countries should establish partnerships to strengthen parliaments in Africa, including the Pan-African Parliament.** For maximum value, these should go beyond short exchanges, conferences and study visits to become longer term, practically focused

partnerships, based on mutual learning, for example in areas such as consultation with all their constituents³⁵. Partnerships could include training in the effective use of parliamentary processes, provision of ICT resources and skills, and sharing of practical experience. We also recommend that developed country parliaments consider whether their own institutional structures facilitate their international work.

4.3.3 Media

55 The right to receive information and to the freedom of expression is set out in the African Charter for Human and Peoples' Rights³⁶. This must be respected. The media is an educator and key information source that can help deliver the MDGs, promote transparent governance³⁷ and, through balanced reporting, help prevent conflicts. The wide benefits from plural media means it acts as a public good in development.

56 Information flows in Africa through a variety of media, including established media such as radio, traditional communication such as song and story-telling, and new technologies including mobile phones. Private media outlets and liberalised airwaves are increasing. For example, Mali now has 30 private newspapers, 147 independent local radio stations, seven state radio stations and one television station³⁸. In Uganda, those villages that in 1985 had ten community broadcasting stations have 300 or more now³⁹. This rapid expansion has generated some problems, including inadequately trained journalists, poor professional standards and weak self-regulation. Moreover, much of African media remains government owned or controlled. The monopolisation of media by any one group, including the government, undermines media freedom and popular trust, and creates space for distortion and rumour.

57 African journalists should maintain strong self-regulation and professional ethics in order to allow the media to fulfil its role as a public watchdog and generator of change. In addition, the political environment must be supportive of diverse, plural and free media, with a balance of public service, private, community and local media⁴⁰. AU/NEPAD should encourage African governments to eliminate any current restrictions on mass media, promote competitive frameworks that enable investment in diverse broadcasting infrastructure, and develop transparent and flexible regulatory environments and legal frameworks in co-operation with civil society. They should strengthen their relationship with civil society and independent media institutions.

58 African media would benefit from a regional or continental media reference point⁴¹. Although some regional media bodies exist, they are few in number and tend to cover only particular aspects of the media. The Media Institute of Southern Africa (MISA) for example does good work, but is focused primarily on promoting free media. A pan-African approach could increase the scale of funding and ensure co-ordination and a holistic approach to include the various aspects of media. **Recommendation: Independent media institutions, public service broadcasters, civil society and the private sector, with support from governments, should form a consortium of partners, in Africa and outside, to provide funds and expertise to create an African media development facility.** Support for this is already evident from some media organisations⁴². The consortium should work with African government ministries, independent institutions and civil society in order to provide long-term support for the strengthening of media capacity⁴³ and programme-making through supporting regulatory reform, training⁴⁴ and the generation of market and audience research⁴⁵.

59 Donors have tended to see support for the media as an 'add-on' to other development programmes, such as health initiatives. Whilst this is important, the media sector also requires support. We urge donors to increase substantially their funding to African independent media institutions and those governments promoting free media. Communications infrastructure must also be strengthened, and is addressed in Chapter 7.

60 A more effective African media will contribute to informed perceptions of the continent in the rest of the world. Currently much of the media in developed countries offers low and unbalanced coverage of Africa. We challenge the media sector to do more to ensure that audiences in developed countries understand what is happening in Africa, including through monitoring their coverage of Africa and increasing programme co-production with African professionals⁴⁶. The Internet gives people the control to find their own information and is demonstrating a growing appetite for news of Africa in developed countries. African media should be supported to serve audiences outside the continent via the Internet.

4.3.4 The justice system

61 The role of the justice system, including judges and lawyers, police and prison officers, is to guarantee rights and uphold the law equally for all sections of society. It is what keeps a state together as a dispenser of justice and a custodian of peace and security for all. Without effective policing, ordinary people suffer violence, crime and insecurity; without a functioning court system investors cannot be sure their contracts will be enforced⁴⁷. To fulfil their role, all sections of the justice system need to be impartial, adequately funded and independent of government. Yet this is not the case: too little money and too few professionally trained people continue to hamper performance, as does political intimidation and corruption. For example, Sierra Leone (with a population of almost six million) has only 125 lawyers, 95 per cent based in Freetown⁴⁸. Cases are slow to come to court, taking three to four years in some cases⁴⁹.

62 Access to justice can be difficult, especially for poor people, who do not have means of financial support or access to legislative proceedings and major reports in local languages. The establishment of legal aid councils can help address these gaps as can resources to translate laws and proceedings into simple terms for average citizens. Our proposals on higher education can help build capacity in the justice sector. Training for court officials, police and prison officers will also be required. In addition to funding and training, African governments should take steps to guarantee the tenure of judges, introduce computerised case management systems and strengthen judicial oversight commissions.

4.3.5 Local government, traditional leaders, business, civil society and trade unions

63 Devolving power and the provision of public services to local units and layers of government has potential as an effective means of bringing politicians and policy makers closer to clients and making services more effective⁵⁰. It can strengthen the ability of all citizens, particularly excluded groups, to participate in decision-making. However, at the local level, institutions and participatory development mechanisms are often weak, resulting in poor service delivery, particularly when financial management systems and regulatory oversight structures are underdeveloped. This calls for increased capacity-building of local authority officials in transparent and democratic management. Moreover, reformers should not assume that it is always the best way to effect change in the short and medium term. Alternative strategies for strengthening accountability should be considered, such as partnerships for service delivery with the private sector and civil society.

64 Traditional leaders may, in some cases, provide a link between people and government. As we have shown in Chapter 3, there are forms of effective governance in Africa that are hybrids of traditional and more western-influenced forms of government. These can offer a form of accountability that attract loyalty and can deliver forms of governance that people need.

65 Business groups, trades unions and other non-governmental organisations (NGOs) can often speak for a community, especially where individuals can find it difficult to make their voice heard or are unwilling to speak out. The number of these civil society organisations has risen dramatically over the last decade or so, in response to removal of restrictions. In Tanzania, for example, there were over 9,000 registered civic organisations in 1999, compared to 168 in 1990⁵¹. Civil society organisations are increasingly viewed as credible partners, but may still suffer from weak capacity, poor transparency and lack of accountability, particularly where their work becomes influenced by the agenda of their funders. Support should be provided, including by their counterparts outside Africa, to develop their human resources and institutional capacity.

66 Trades unions in Africa have a particularly important role to play in both helping those in work and seeking work to access their rights and in creating a thriving civil society in which citizens are able to take part in decisions about economic life. People in Africa aspire to decent jobs in the same way as do people everywhere, with fair rates of pay and good health and safety. Core labour standards can help to achieve this.

4.4 Transparency

67 Transparency is a vital component of governance. Openness about policies and decisions makes it easier to hold governments to account for their actions. It makes it more likely that existing resources and capacity will be better used. It reduces the scope for inequitable allocation of resources, which could stoke ethnic tensions and increase the risk of violent conflict, or leave the poor and the marginalised inadequately provided for. It makes it more difficult to divert money into corrupt pockets. And greater access to information about the government's activities strengthens the public's ability to participate in the policy-making process by making their voices heard. This increases the commitment and ownership which citizens feel.

68 Budget transparency is one of the most critical areas where transparency can promote better governance. Citizens have a right to information about how budgets are spent⁵². Without budget transparency, inefficiency, inequity and corruption go undetected. Budget transparency is particularly important when it comes to large revenue items, such as the enormous amounts of income generated in some African countries from their natural resources sectors. The next section looks in more detail at some of the governance problems that mark this sector.

4.4.1 Natural resources revenue management: the extractive industries

69 Many countries in Africa are blessed with abundant natural resources, which sustain millions of people. They also have the potential to drive economic growth and human development – but this potential is often not realised. As Table 4.1 illustrates, many of the most resource-dependent countries in Africa have a poor record in human development.

70 This is due at least in part⁵³ to mismanagement and misappropriation of revenues and corruption, made possible by a lack of openness about how natural resource revenues are used. There is strong evidence, for example, that in many developing countries rich in oil, this wealth enriches only the ruling elite. For the vast majority of the population it often appears merely to increase poverty, corruption, environmental degradation and attendant political instability⁵⁴. A lack of transparency on the part of all actors – governments, domestic and foreign extractive companies and investors – can contribute to the problem.

Table 4.1 **Natural Resource Dependence and HDI Ranking***

Country or region	% Share of primary commodities in:		HDI ranking* (2002)
	exports (2000)	GDP (2000)	
Equatorial Guinea	91.8	89.0	109 (out of 177)
Angola	92.6	81.6	166
Congo	97.5	79.1	168
Gabon	86.6	62.4	122
Guinea-Bissau	99.7	50.9	172
Nigeria	98.1	50.1	151
Africa (average)	78.6	21.2	
All developing countries	30.6	9.6	
Developed countries	15.8	2.6	
World	21.4	4.3	

*The UNDP ranks countries from 1 (highest) to 177 based on an aggregate of three indicators: life expectancy, education as measured by literacy and school enrolment rates, and standard of living as measured by per capita GDP and purchasing power. 2000 HDI rankings are not available.

Source: UNCTAD Commodity Yearbook, 2003; UNDP Human Development Report, 2003

71 Clearly, the responsibility for managing resources lies with the state. But the international community also has a role to play in maintaining high standards of governance. If it does so in its own activities – and demands it in the activities of private sector agents, like the multinational companies active in developing countries – then it will be better positioned to encourage similar high standards in the way African countries manage the cash from their natural resources.

72 Developed country governments are already making strong efforts in this field. The G8 countries and European Union are giving high priority to the need for increased transparency in the extractives sector. This is evident in the G8 Declaration on Fighting Corruption and Improving Transparency, issued in Evian in 2003⁵⁵; the Transparency Directive adopted by the EU late in 2004⁵⁶; and the Transparency Compacts between the G8 and four developing countries, agreed at the Sea Island Summit in 2004⁵⁷. Commitments in principle should now be translated into action.

73 Developed country governments should take strong steps to promote revenue disclosure among all companies operating from their territories. Many of these companies already disclose a lot of detailed information about their operations in developing countries; others should follow suit. Where there are no laws to govern the actions of multinational extractive companies, codes and norms should be used to set standards for behaviour. There is also much that 'ordinary people' like shareholders and consumers in developed countries can do to persuade companies to maintain high standards of social and economic governance. Shareholders have a direct say in corporate policy and there are numerous examples where civil society campaigning and consumer action such as boycotts have succeeded in effecting changes in practice⁵⁸. Again, access to reliable information about companies' activities makes scrutiny possible and increases the scope for good governance. **Recommendation: Developed country governments, company shareholders and consumers should put**

pressure on companies to be more transparent in their activities in developing countries, and to adhere to international codes and standards for behaviour.

74 One promising initiative in this field is the Extractive Industries Transparency Initiative (EITI). EITI is a multi-stakeholder agreement under which oil, gas and mining companies agree publicly to disclose all payments they make to developing country governments and governments agree to publish what they receive. Published information is audited independently, and there is a clear role for civil society, who participate actively in the design, implementation and overview of the disclosure process. EITI is currently being implemented in nine countries, four of which are in Africa (Nigeria, Ghana, Republic of Congo and São Tomé e Príncipe)⁵⁹. Several other African nations have expressed an interest in implementing it in the near future⁶⁰.

75 EITI is a relatively young initiative – it was introduced in 2002 – and still lacks clear implementation guidelines (these are being developed), and a way to validate whether it has been fully implemented. It does, however, have the potential to be a firm first step towards greater accountability and better management of valuable natural resources. Among its strong points are its participative nature and the fact that it makes revenue disclosure mandatory for all companies active in a country whose government has signed up to EITI, including those owned by the state, thus levelling the corporate playing field.

76 It is therefore recommended that as many resource-rich countries as possible sign up to EITI, and that they take full ownership of the process to ensure its longer-term sustainability. The international community should support this by promoting EITI as a global framework for resource revenue transparency with African governments, with the continent's regional organisations, and with the AU/NEPAD, which could potentially absorb the principles encapsulated in EITI into the transparency criteria of the APRM. Particular attention should be given to resource-rich countries that are emerging from conflict, where transparency measures should be built into the process of restoring the state's ability to capture revenues.

77 It is also important that the necessary capacity is created for each of the parties to participate in the process as intended. In most countries, the need is particularly great among civil society, where capacity is needed to interpret and respond to disclosed information⁶¹. All this will happen faster if such schemes are backed by developed countries, both politically and with cash.

78 Recommendation: The international community should give strong political and financial support to schemes such as the Extractive Industries Transparency Initiative (EITI) to increase the transparency of payments made to, and received by, governments, and should encourage its acceptance by all resource-rich African countries. It should support the development of criteria and a means of validating EITI implementation. Donor countries should also support and fund capacity-building among public servants as well as civil society, by contributing to the EITI Multi-donor Trust Fund.

4.4.2 Other natural resource sectors

79 There are many countries that are heavily dependent on natural resources even though they do not have large oil or mining reserves⁶². As shown in Table 4.1, on average, African economies derive over 21 per cent of their GDP from primary commodities, compared to an estimated five per cent for South and East Asia⁶³. **Recommendation: Principles of transparency such as those in EITI should be extended to other natural resource sectors, including forestry and fisheries.**

Forestry

80 Forests play a central role in the lives of millions of Africans, and their sustainable management is crucial for protection of livelihoods, preservation of biodiversity and fighting desertification⁶⁴. African nations have already indicated that they see this as a priority and have made political commitments to strengthen capacity to enforce forest law, particularly in relation to illegal logging and the trade in illicit timber and wildlife resources⁶⁵.

81 It is now more necessary than ever for rich countries to support this process, both to ensure that forests are protected and that developing country governments receive the tax revenues generated by commercial logging which they are entitled to and which are essential to fund investments in health, education, infrastructure and the like.

Recommendation: Timber importing countries should ensure they do not trade in illegally acquired forest products and should procure only legally sourced timber and products. To provide evidence of legality, certification or licence schemes (perhaps along the lines of those being developed under the EU Forest Law Enforcement, Governance and Trade voluntary partnership scheme) should be used.

82 Whereas legality should be a minimum requirement for all traded forest products, sustainable management of forests is another objective of great importance. Here, too, certification schemes can help to ensure that timber sourced from sustainable forests is given preference in international markets. In Africa, very few forests are certified as being sustainable as yet, but some governments are working hard to change this. There is much that the international community and the private sector can do to support the process. Importers should give preference to contractors who demonstrate their logging is sustainable and the international community should work with African partners to increase the area of certified forest. In order that countries working towards sustainable forest management should not be excluded from international trade, a step-by-step approach to evidence of sustainability should be adopted, with legality as a minimum requirement⁶⁶.

83 Companies also have an important role to play. Timber companies from the developed world should work with partners in African countries to make their operations more transparent, promote sustainable forest management, be of greater benefit to local communities and reduce poverty through more investment in the processing of forest products. They should develop responsible policies for their purchasing, aligned with government procurement policies. All interested parties, particularly local populations, must be able to influence the management of forests. This will require the production and ready dissemination of accessible information on legislation, policies and the allocation of concessions. It will mean independent monitoring of forest law development and enforcement. It will also mean protecting the rights of vulnerable groups, such as indigenous peoples, who need access to information about their rights to water, land and forests as sources of livelihood and to compensation should this access be threatened by commercial activity or environmental concerns. It must also recognise the wider role of forests as reservoirs of biodiversity, sources of food and fuel and protectors of watersheds⁶⁷.

Fisheries

84 Fisheries is another sector of great importance to many African countries and one that is plagued by serious problems, including a lack of policy coherence among international players, the damaging impact of subsidies on local fishing industries⁶⁸ and the loss of substantial revenues and livelihoods through illegal, unreported and unregulated ('IUU') fishing⁶⁹. A lack of information about the value of fish stocks, the rights of access to them and the revenues generated from them compounds the problems of managing this sector. Another cause for concern is the lack of openness about the terms on which African countries allow international fleets to fish in their

waters. Royalty agreements represent a major source of revenue in a number of coastal countries⁷⁰, but the negotiation process is highly non-transparent and frequently results in terms that are seen as unfavourable to African countries. Issues of sustainable fishing and fish stocks management are clearly of concern here but so is the significant lost revenue, which could have been spent on development goals.

85 There is scope for African coastal states to extract much greater benefit from these royalty agreements⁷¹, and they could benefit significantly from greater transparency in the process of negotiating royalty agreements with third parties. The international community, for their part, could take steps to ensure negotiations are transparent and accessible. Developed countries should promote transparency and accountability in natural resource sectors such as fisheries, including in the negotiation of international fishing licences and sustainable management of fishing stocks. The rights of local fishermen should be taken into account specifically.

4.4.3 The role of the International Financial Institutions

86 International Financial Institutions (IFIs) can play an invaluable role in promoting good governance in natural resource revenue management. They can set an example through maintaining high standards of governance and transparency in their own activities. But they are also in a strong position to persuade developing country governments, and the companies that operate in their territories, to adopt similar high standards. The value of IFI involvement in large-scale projects is usually not purely financial; in fact, their financial contribution is often quite modest. Rather, their endorsement confers credibility on a project and clears the way for private sector investors to take up the main burden of financing. This critical influence gives IFIs a lot of leverage with which to encourage all parties involved in large-scale natural resource projects to manage the revenues from the project in a transparent and accountable way, and to demand high standards of social, environmental and economic governance.

87 IFIs also contribute to improved governance by setting standards and creating benchmarks for the private sector in their engagement with developing countries. For example, the Equator Principles, a set of norms to "promote responsible environmental stewardship and socially responsible development" that were collectively adopted by a group of ten private banks in 2003⁷², were modelled on World Bank and IFC guidelines for good environmental and social governance. Both the World Bank and the IMF have taken firm steps in recent times to promote transparency in large-scale natural resource projects. The World Bank's response to the Extractive Industries Review⁷³ and the IMF's current development of a Guide on Resource Revenue Transparency⁷⁴ both place strong emphasis on the need for transparency of revenues and good fiscal practice. Donor countries should press for all multilateral banking institutions and regional development banks active in Africa to require high standards of transparency in all their lending, development and technical assistance for natural resources projects in developing countries.

4.5 Corruption

88 Corruption is a by-product of weak governance. It manifests itself in many ways, some of which have been described in the previous section. Much of it takes place at the grassroots level and affects people's daily lives, for example through bribes paid to bureaucrats, or non-delivery of services to poor people. The corrosive effect of corruption undermines all efforts to improve governance and foster development. Major increases in financing for infrastructure, which we recommend in Chapter 7, must be accompanied by strong improvements in governance. Numerous conventions

and initiatives exist to curb corruption. These include the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999) (the 'OECD bribery convention'); the UN Declaration against Corruption and Bribery in International Commercial Transactions (1998); and the UN Convention Against Corruption (2003). But the persistence of the problem suggests that these are not always being efficiently enforced. It is time the international community turned words into action.

89 While greater transparency about budgets and revenues will go a long way to limiting the opportunities for corrupt practices, this alone will not be enough. African governments, together with their development partners, should broaden their investigation of means to address corruption at all levels. This should include the use of coalitions for change and the involvement of non-state actors. The initial focus should be on tackling corruption in those sectors where it is most pervasive, such as in the lucrative natural resource sector, which we have discussed already, and in the area of procurement.

4.5.1 Corruption: procurement

90 Procurement – the way that governments buy in goods and services – suffers particularly severely from corruption. Abuse of this system takes many forms. Though public sector contracts are widely put out to sealed tender, bribes – known by euphemisms such as 'signature bonuses' – can be requested or offered which result in the accepted bid not being the best available. Quotations can be doctored to build in false costs. It is not only the politicians and public officials who create the problem: it is also the bankers, the lawyers and the accountants, and the engineers working on public contracts.

91 One of the sectors where bribery is most prominent is the international construction and engineering sector. Public Works and Construction came top in the Bribe Payers Survey published in 2002 by the corruption watchdog Transparency International, with business leaders in 15 emerging markets suggesting this industry to be the most corrupt⁷⁵. Experts estimate that systemic corruption can add as much as 25 per cent to the costs of government procurement, frequently resulting in inferior quality construction and unnecessary purchases. Transparency International's most recent Corruption Perception Index suggests that, of the US\$4 trillion spent worldwide on government public contracts every year, some US\$400 billion is lost to bribery⁷⁶ (Corporate Social Responsibility is discussed further in Chapter 7). Since this money comes out of the public purse this means a major loss of resources that could otherwise be spent on education, healthcare and the reduction of poverty. Of course, the problem of corruption in public procurement is by no means unique to Africa. But in countries with very limited resources, it has particularly damaging consequences for the population at large.

92 **Recommendation: The international community should encourage more transparent procurement policies in both Africa and the developed world particularly in the areas of construction and engineering.** It should also strengthen existing international instruments aimed at curbing corruption. This includes ratifying the UN Convention Against Corruption, as recommended below, and wider accession to the 1999 OECD bribery convention by countries engaged in commercial activity on Africa. Governments should also take strong action to encourage companies registered in their territories to adhere to the various international guidelines, such as the OECD Guidelines on Multinational Enterprises,⁷⁷ that exist, among other things, to prevent corrupt commercial practices in developing countries.

93 Technology can also help in the fight against corrupt and inefficient procurement policies. Online bidding processes can be designed to be more open and easier to scrutinise than the traditional 'sealed envelope' – this makes it much more difficult to award

contracts to non-competitive or unscrupulous bidders. This kind of 'e-procurement' also has other benefits: it cuts out red tape, and tends to be cheaper and easier to use, thus making it more feasible for small businesses to participate in the process as well.

4.5.2 Export Credit Agencies

94 Export Credit Agencies (ECAs) are government-backed bodies which provide loans, guarantees, credits and insurance to private companies registered in their territories who invest or engage in trade with developing countries – particularly those marked by high political and financial risk. Collectively, ECAs are now the largest source of public finance for private sector projects in the world⁷⁸. They play a crucial role in supporting foreign direct investment into developing countries. Like IFIs, ECAs tend to become involved at the early stages of large-scale projects; and many projects would not go ahead without their support.

95 ECAs are therefore in a strong position to demand high standards of governance from projects in which they become involved. However, in the past they have had a poor record of using their unique position to encourage better governance; generally, they were not required to ensure that the projects they financed met minimum developmental, environmental or social standards⁷⁹. ECAs themselves also tend to function in highly non-transparent ways⁸⁰. Some progress has been made in establishing common standards and promoting best practice, such as the OECD Common Approaches on Environment and Officially Supported Export Credits⁸¹, but there is still substantial scope for improvement. ECAs are competitive organisations; thus any measures to improve governance in the sector will have to apply equally to all of them, or else it will merely serve to create a competitive advantage for those who do not comply with higher standards.

Recommendation: Developed countries should encourage their ECAs to be more transparent, and to require higher standards of transparency in their support for projects in developing countries. Developed countries should also fully implement the Action Statement on Bribery and Officially Supported Export Credits⁸² agreed by the OECD⁸³. The Action Statement requires the implementation of measures to deter bribery. These include inviting exporters applying for export credits to declare that neither they, nor their agents, will engage in bribery. It also requires credit applications to be refused where bribery is established and appropriate action to be taken if bribery comes to light later.

96 Following on from the OECD's Action Statement, a subsequent Best Practices Paper sets out even higher standards for officially supported export credits. If bribery is to be seriously confronted, members of the OECD should adopt and implement this paper as well. In addition, we would like to see the OECD Working Party on Export Credits and Credit Guarantees⁸⁴ publish figures on the number of applications turned down on grounds of bribery so that the international community can determine whether these voluntary measures are working sufficiently well.

4.5.3 Stolen assets

97 One specific problem affecting Africa particularly severely is the illicit acquisition of public assets. The scale of the problem is huge: an EC report estimates that stolen African assets equivalent to more than half of the continent's external debt are held in foreign bank accounts⁸⁵. In the most egregious cases, amounts held in individual foreign accounts run into billions of dollars. Rich countries have recognised the importance of the issue, and have made commitments, such as that made by G8 countries at Kananaskis in June 2002⁸⁶, but the amount of stolen money returned to African countries is still relatively small. **Recommendation: Countries and territories with significant financial centres should take, as a matter of urgency, all necessary legal**

and administrative measures to repatriate illicitly acquired state funds and assets. We call on G8 countries to make specific commitments in 2005 and to report back on progress, including sums repatriated, in 2006. We now turn our attention to the obstacles that are usually raised to meeting this responsibility.

98 The underlying difficulty is that the legal systems to effect recovery and repatriation are essentially designed to deal with claims from one developed country to another. African judicial systems are often unable to meet the requirements for the amount and quality of evidence. The challenge is for developed nations to help African countries develop the capacity, and show the political will, to overcome the blockages.

99 Good progress has been made recently through the work of international bodies and regulators, particularly after the recognition that some laundered money was being used to finance terrorist activities, such as those of 11 September 2001. Many countries now have controls built into their legal systems. But implementation is not always effective, especially where many different parts of the administration – finance and justice ministries, financial regulators, law enforcement agencies etc. are involved. The same vigour as was exercised in developing controls against terrorist financing – which resulted in the preparation of international guidelines⁸⁷, model legislation, and technical assistance programmes – should be applied to tracking and returning stolen state assets. The theft of billions of dollars from an African country undermines standards and leads to a collapse of public services that can have as devastating an effect as a terrorist incident there.

100 Positive action would not only ensure that significant sums were returned to the budgets of several African countries, but would also send a strong deterrent signal to potential corrupt figures that crime does not pay. The action is needed in a series of linked areas: introducing measures to *prevent* the theft of assets at source; improving systems to *identify* funds that have been acquired illicitly; facilitating the authorities' power to *freeze and confiscate* assets while further investigations are carried out; and creating instruments to *hand back* funds to the jurisdiction from which they were looted. Failure by African governments to recover stolen assets has resulted from obstacles in each of these areas, so all need to be addressed. There are actions here both for countries where the financial centres are located and African countries, which must be able to assist in identifying the theft.

Prevention

101 A recent report estimates around US\$18 billion was laundered in eastern and southern Africa in 1999 alone.⁸⁸ This figure covers the laundered proceeds of drug trafficking and other crime, not just corruption. Some could have been linked to financing terrorism. To combat this, and to respond to requests for financial intelligence about stolen assets, African states need appropriate legislation and robust financial institutions. The international community should give priority to helping build these, by providing expert advice. This could include training courses for financial investigators, providing mentors, and strengthening or creating African regional bodies associated with the Financial Action Task Force.⁸⁹

Freezing and Confiscation

102 Most large financial centres have appropriate legislation and regulations to permit freezing and confiscation of assets in criminal investigations, but often assets cannot be frozen until criminal proceedings are well advanced, allowing time for corrupt individuals to move stolen money. To reduce this risk, amendments to legislation should be made to allow assets to be frozen at a much earlier stage in a criminal investigation⁹⁰.

103 It is also likely that states with advanced money laundering controls will notice financial irregularities in a foreign customer's account that the home country might have failed to recognise. All countries should exchange information with African state authorities on suspicious transactions in bank accounts of African individuals (and their family members and close associates) who are, or have been, entrusted with prominent public functions. They should assist them to put together a Mutual Legal Assistance⁹¹ request, which is usually needed before further legal progress can be made.

104 The need to rely on criminal proceedings is a further major obstacle. Most developed countries apply the principle of Dual Criminality, which means they can only investigate activities that are recognised as a crime in both countries. Also, no conviction can be brought if the accused is dead (often the case with African leaders in these situations). One way to address this problem is to take action against the proceeds of crime rather than the individual (non-conviction based forfeiture). Some countries have recently passed legislation making this possible, and have used it successfully to recover stolen assets. All financial centres that have not done so should introduce and implement legislation to allow confiscation without needing a criminal conviction.

105 Family members of the accused frequently appeal against confiscation and repatriation of illicitly acquired funds. This can severely hold up the process, and is sometimes used as a deliberate delaying tactic. It is of course important to ensure a citizen's right to appeal against a conviction. However, there are rights to consider on both sides; and the existing balance is so distorted as to be ineffective. Developed states should consider ways to reduce the number of appeals allowed in a given case⁹². Another serious obstacle is the application of political immunity for serving leaders and their families⁹³. African states should restrict the application of immunity⁹⁴, and pursue criminal cases against those shown to be corrupt.

Repatriation

106 There is a distinction to be drawn between embezzled funds and the proceeds of other crime (including corruption). Embezzled funds must be repatriated to the state of origin, as maintained in the UN Convention Against Corruption. In other cases, it is difficult to establish to whom funds should be returned, as the crime is often regarded as 'victimless'. Concerns therefore exist about how funds are utilised: several mechanisms have been used to ensure transparency in the deployment of returned funds. These include a mutually agreed contract and a designated trust fund⁹⁵. A further possibility is to establish a fund managed by a third party. The most suitable mechanism will vary from case to case; the key point is to reach mutual agreement before funds are repatriated. Financial centres should agree a mutually acceptable mechanism for returning and monitoring the use of funds.

107 Momentum is building to address these problems. But the first step is to ratify the UN Convention Against Corruption (UNCAC). Signed in December 2003 this is the first international legal instrument to recognise the need for all states to commit to asset repatriation (see Article 57)⁹⁶. For UNCAC to come into force 30 states must ratify it. By the end of 2004, only one OECD state had ratified the Convention.

Recommendation: All states should ratify and implement the UN Convention Against Corruption during 2005⁹⁷.

4.6 Strengthening the quality and use of data

108 One thing that has emerged from all our considerations on issues of governance and capacity is the importance of good information and communication. In so many areas information can be a valuable driver for change. It is also necessary for monitoring and measuring performance and results. It is the lifeblood of transparent, informed and open societies, able to debate, decide and implement successful reforms, measure their impact and hold their governments to account.

109 Many countries have recognised the need for better data to guide policies for poverty reduction and human and economic development. As a result, more and better data are available than five years ago and, to understand better the dimensions of poverty, some indicators are now disaggregated by location and gender. But despite improvements the quality of national data systems in many sub-Saharan African countries remains inadequate. Only about a third of countries have a strategy for national statistical development, and few if any have the ability to disaggregate urban and rural development statistics. Important social, economic and environmental data – including, for example, data on gender or ethnic groups – are too often not available or of inadequate quality. Even where data do exist they are often poorly disseminated and used. Rarely do African governments and local authorities have access to or use modern planning tools like Geographical Information Systems (GIS).

110 Donors have recognised the importance of supporting development of data systems, and a number of initiatives exist⁹⁸. An action plan for statistics⁹⁹ was endorsed at the World Bank Roundtable on 'Managing for Results' in Marrakech in February 2004. This proposes a six-point plan for addressing statistical capacity-building issues, with actions at national and international level¹⁰⁰. Two vital elements are helping countries to develop national strategies for statistical development (which would analyse current strengths and weaknesses and set out the country's own needs and priorities for data, taking account of all the main producers and users) and increasing financing for statistical capacity-building. **Recommendation: Good information is essential to informed policy making and effective delivery. Donors should provide the additional amount required to help Africa improve systems to collect and analyse statistics, to meet criteria normally regarded as an acceptable minimum (estimated at about an additional US\$60million per year).** They should also support capacity-building in the use of modern information systems like GIS.

111 Even where data are available they are often not used in decision-making, which can lead to poor decisions. Governments need to promote a culture of evidence-based decision-making, where those with responsibility actively seek data and analysis on the impact of policy options. Poverty and Social Impact Analysis and Strategic Environment Assessments, increasingly being used to assess the impact of major policy decisions on poor people and other vulnerable groups before final decisions are taken, are useful tools in this respect.

4.7 Conclusion

112 As this chapter has shown, good governance underlies all development, and its impact is felt in every sphere. It is an area where African countries must be firmly in the lead. There are, nonetheless, a number of practical and effective actions that the international community can take to support them. These have been highlighted throughout the chapter. Some of these require resources. Others are about changes in policies, behaviour and practices. Only by taking action in both areas will the international community be able to help African countries bring about the changes needed to achieve stability, growth and poverty reduction.

Recommendations on Governance and Capacity-Building

Weak governance has blighted the development of many parts of Africa to date. Weak governance can include bad government policies and an economic and political climate which discourages people from investing. It can also include corruption and bureaucratic systems that are not open to scrutiny and therefore are not answerable to the public. And it includes a lack of accountability and weakness in mechanisms to ensure that people's voices are heard and their rights upheld, such as parliaments, the media and the justice system.

At the core of the governance problem in many parts of Africa is the sheer lack of capacity of national and local government ministries, and the problems of recruiting and keeping skilled staff, equipped and motivated to do their job. The continent's regional and pan-African organisations, including the African Union and its NEPAD programme, which are so important to Africa's future, also need strengthening.

Investing in capacity-building

- Developed countries should give strong support – both political and financial – to Africa's efforts to strengthen pan-African and regional bodies and programmes, including the African Peer Review Mechanism.
- African governments should draw up comprehensive capacity-building strategies. Donors should invest in these, making sure that their efforts are fully aligned with these strategies rather than with their own competing priorities and procedures.
- Skilled professionals are key to building improvements in the administration and technical ability which Africa so gravely lacks. The international community should commit in 2005 to provide US\$500 million a year, over 10 years, to revitalise Africa's institutions of higher education and up to US\$3 billion over 10 years to develop centres of excellence in science and technology, including African institutes of technology.

Increasing accountability and transparency

- Parliaments in both developed and other developing countries should establish partnerships to strengthen parliaments in Africa, including the pan-African parliament.
- Independent media institutions, public service broadcasters, civil society and the private sector, with support from governments, should form a consortium of partners, in Africa and outside, to provide funds and expertise to create an African media development facility.
- Developed country governments, company shareholders and consumers should put pressure on companies to be more transparent in their activities in developing countries and to adhere to international codes and standards for behaviour.
- The international community should give strong political and financial support to schemes such as the Extractive Industries Transparency Initiative (EITI) to increase the transparency of payments made to, and received by, governments and should encourage its acceptance by all resource-rich African countries. It should support the development of criteria and a means of validating EITI implementation; and support and fund capacity-building among public servants as well as civil society, by contributing to the EITI Multi-donor Trust Fund.

- Principles of transparency such as those in EITI should be extended to other natural resource sectors, including forestry and fisheries.
- Timber importing countries should ensure they do not trade in illegally acquired forest products and should procure only legally sourced timber and products.

Corruption

Corruption is a systemic challenge facing many African leaders. They must demonstrate renewed political will to fight it at all levels in the economy and society. Many African nations have begun this task. Increased transparency by African governments will assist this. But fighting corruption involves tackling those who offer bribes as well as those who take them.

- Developed countries should encourage their Export Credit Agencies (ECAs) to be more transparent, and to require higher standards of transparency in their support for projects in developing countries. Developed countries should also fully implement the Action Statement on Bribery and Officially Supported Export Credits agreed by members of the industrialised nations group, the OECD.
- Countries and territories with significant financial centres should take, as a matter of urgency, all necessary legal and administrative measures to repatriate illicitly acquired state funds and assets. We call on G8 countries to make specific commitments in 2005 and to report back on progress, including sums repatriated, in 2006.
- All states should ratify and implement the UN Convention against Corruption during 2005 and should encourage more transparent procurement policies in both Africa and the developed world, particularly in the areas of construction and engineering.

Strengthen information systems

- Good information is essential to informed policy-making and effective delivery. Donors should provide the additional amount required to help Africa improve systems to collect and analyse statistics, to meet criteria normally regarded as an acceptable minimum (estimated at about an additional US\$60million per year).