

CHAPTER SEVEN

7. CROSS-CUTTING ISSUES AND CONCLUSION

“It is expected that country efforts will be enhanced and strengthened by the APRM process and that, after the first review, countries will sustain their efforts to achieve the shared objectives identified in the APRM and their Programmes of Action. This will require updating these Programmes of Action on a regular basis based on self-monitoring results of their own progress and lessons learnt from sharing with other countries, which will be facilitated actively by the APRM ...”

NEPAD/HSGIC-03-2003/APRM Guideline/OSCI, Section 6.5

7.1 Overview

884. The preceding four chapters of this Report have appraised South Africa in the four thematic areas of the APRM, namely Democracy and political governance; Economic governance and management; Corporate governance; and Socio-economic development, based on the Country Self-Assessment Report (CSAR), the background information prepared by the APR Secretariat and the findings of the Country Review Mission (CRM). The recommendations of the Panel in each of the thematic areas have also been elaborated on.

885. The main objective of this last chapter is to identify some of the cross-cutting issues that have run through the Report. They cut across all four thematic areas and accordingly deserve a holistic approach in the search for solutions because of the wider impact they have on the quality of governance in all areas of activity. The key cross-cutting issues are:

- Unemployment;
- Capacity constraints and poor service delivery;
- Poverty and inequality;
- Land reform;
- Violence against women;
- Violence against children;
- HIV and AIDS pandemic;
- Corruption;
- Crime;
- Racism and xenophobia; and
- Managing diversity.

7.1.1 Unemployment

886. At the root of poverty lies large-scale structural unemployment. The personal, social and political costs of unemployment are huge and the impact magnifies over time with the





duration of unemployment. While cyclical unemployment causes tremendous hardship, it is manageable as it is a short-run phenomenon. Structural unemployment, however, has a devastating impact in the long run and can lead to systemic collapse if allowed to get out of control. Consequences at household level include: severe financial hardship and deepening poverty; an unbearable level of indebtedness, homelessness and housing stress; the atrophying of work skills and ill-health; family tensions and breakdown; boredom; alienation; shame and stigma; increased social isolation; crime; and erosion of self-confidence and self-esteem. Without a doubt, structural unemployment is a danger to a nation. The potential to resort to crime, become infected with HIV and AIDS, or engage in violence, to name only a few consequences, is enormous.

887. Large armies of the unemployed pose a danger to political stability and democracy. This is why even the most developed countries are ultrasensitive to unemployment and will do anything to put their citizens to work once the threshold is reached. Poverty alleviation in the context of large-scale structural unemployment is an exercise in futility. It is too much of a burden for a poor, or even an emerging middle-income country to bear. It also does not address the loss of self esteem and persistent vulnerability of idle able-bodied men and women, boys and girls in their millions.
888. Despite government efforts to provide employment opportunities, South Africa still has an unsustainably high level of structural unemployment. Paradoxical as it may seem, there has been a steady increase in the levels of unemployment in South Africa despite a modest increase in job creation during the past decade. Unemployment has climbed inexorably, reaching 28.2 per cent of the country's economically active population by September 2005. The likelihood of being employed in South Africa is still heavily influenced by race, geographic location, gender and levels of skill.
889. Had unemployment been mainly cyclical in nature, macroeconomic policies would have provided relief during these past 13 years. Because it is structural, however, a totally different approach is required. As discussed in Chapters Four and Six, the Accelerated and Shared Growth Initiative for South Africa (AsgiSA) provides a way out as a start, provided of course that the Treasury and the South African Reserve Bank (SARB) put in place the necessary enabling environment for the effective and efficient operationalisation of the new paradigm. As AgsiSA's focus is on the micro-economy, it is imperative that the macroeconomic policy framework be orientated to provide the required enabling environment for its successful take-off.
890. Social security in South Africa is based on European post-World War II models, where unemployment is primarily short term and therefore cyclical. In South Africa, unemployment is not cyclical but structural. It constitutes a long-term challenge calling for deconstruction of the inherited apartheid economy and democratisation of the development process.
891. Poverty is the inevitable consequence of pervasive unemployment. Eliminating the current nexus of poverty and unemployment therefore requires refocusing on a holistic, human-

centred development paradigm. A country cannot become eligible to join the league of rich nations on the basis of having a monocultural economy and the capacity to do more of the same. Rather its qualification for eligibility must be its continuous move into ever higher value-added and diversified production systems that have high productivity, more competitiveness and engage all people, particularly the labour force, through the process of democratising the development process and popular participation.

7.1.2 Capacity Constraints and Poor Service Delivery

892. The term “skill” refers to a specific ability and is generally used where the ability is assumed to have been developed in some sense through training and experience.
893. South Africa suffers from a severe skills shortage. It is most acute at the provincial and local government levels, where delivery of basic goods and services is paramount. At a more general level, there is a shortage of versatile and experienced managers and professionals across all sectors of the economy.
894. Since 1994, a major new architecture of institutions for service delivery spanning the three spheres of government has been created. However, these state institutions need to be strengthened by addressing the skills constraint. It is generally agreed that the needs of local government are most critical, with most municipalities lacking the requisite capacity to perform their service-delivery functions.
895. There have been reported cases where certain provinces are unable to exhaust their budgets, yet continue to have housing backlogs. Sanitation and rural electrification are other areas where service delivery remains a challenge. In this context, Project Consolidate, initiated in 2004 as a national two-year programme of hands-on support and capacity building, has identified 136 municipalities in need of assistance. However, this cannot be a substitute for local capacity building.
896. As was argued in this Report, initiatives such as Project Consolidate should be temporary measures. The government should expedite action on the establishment of a single, unified public service to allow for the allocation of skills and human resources across the three spheres of government, in addition to intensifying other programmes on skills development.

7.1.3 Poverty and Inequality

897. With the demise of apartheid in 1994, expectations and aspirations for improvement in livelihoods among ordinary South Africans have been raised to phenomenal levels. Despite the status of a middle-income country, poverty and inequality are still widespread in South Africa and manifest themselves in high rates of unemployment, extreme land hunger and lack of access to basic human needs. In both urban and rural areas, the majority of the population continues to experience conditions of severe deprivation and squalor.





898. A significant number of South African households continue to be poor or vulnerable to being poor. Poor South Africans perceive poverty to include: alienation from the community; food insecurity; crowded homes; use of unsafe and inefficient forms of energy; lack of jobs that are adequately paid and/or secure; and fragmentation of the family. Women, children, the elderly and people with disabilities bear the brunt of poverty.
899. In addition, the distribution of income and wealth in South Africa is among the most unequal in the world. Many households still have unsatisfactory access to education, healthcare, energy and clean water despite concrete progress made in redressing the inherited backlog since 1994. Furthermore, fuelled by high levels of unemployment, poverty provides the bedrock for HIV and AIDS. It also poses a threat to democracy.
900. South Africa has a long distance to traverse on the transformation front, but the vision, will and resources are there to move the process forward. Poverty is not just about the income poor; it is also about people's lost creativity and potential to contribute to society. It is about the denial of access to opportunities and choices to lead a decent life; achieve a better standard of living; have more freedom, dignity and self-respect – things that matter most for human existence. While a great deal has been achieved in the first decade of freedom, the next decade should take the process to a much higher level that will bring about a significant difference in the quality of life of the country's majority.
901. Addressing the challenges posed by poverty alleviation and eradication goes beyond slogans and the expression of wishes through target dates being set nationally or internationally. It will only come about through concrete policies and programmes that are fully implemented. Such policies and programmes must be basically transformative and developmental. It is only these kinds of programmes that can ensure the elimination of the economic, political and social structures that reproduce poverty, and secure the fundamental objectives of the democratisation of the development process and the mobilisation of the people.

7.1.4 Land Reform

902. Land is crucial to the pursuit of development strategy in Africa. It can play a major role in addressing issues of unemployment and poverty. It is the single-most important factor in social, political and economic empowerment. Above all, it has a central role to play in wealth and income redistribution. While the assurance of stable access to land is clearly not a sufficient route out of poverty on its own, insufficient land to live on and cultivate, as well as insecure access or rights over land, are well-recognised factors in sustaining poverty and destabilising democracy. The links with conflict cannot be ignored – although curiously so, given the long history of land grievances in virtually every modern revolution.
903. Land in South Africa is an emotive and volatile issue. It is potentially explosive unless handled properly. Since coming to power in 1994, the government has pursued land reform in a considered, reasonable and largely market-oriented manner, firmly rooted in the constitutional settlement on property rights and in the recognition that the righting of past wrongs, while essential, should not be allowed to damage future prospects. In recent

months, however, this perspective has been under increasing pressure. The government has committed itself to redistributing 30 per cent of commercial agricultural land to black owners by 2014. By December 2004, it had only transferred an area equal to 4.3 per cent of commercial agricultural land. This figure includes the transfer of state land and, if excluded, the percentage drops to 3.4.

904. The government's land reform policy has three components: restitution (returning land or providing compensation to those who were dispossessed under apartheid), redistribution (increasing black ownership of rural land) and tenure reform (improving the security of tenure of dwellers on rural and peri-urban land). Thus far, delivery has averaged 0.38 million hectares a year. At the current pace, the 30 per cent target will be reached in 54 years' time or delivery will have to be increased fivefold to meet the 2014 target.
905. There are signs of growing impatience and the government is under considerable and probably increasing pressure from many quarters over a likely failure to deliver on its land reform commitment. It would be churlish to upbraid the government for the slowness with which this is being achieved. Nonetheless, the causes of the slowness need to be addressed. In particular, attention needs to be focused on the unresolved policy contradictions arising from the dominance of land market promotion objectives over and above mass securitisation of tenure. In this regard, the authorities may need to depart from entrenched norms already known to have limited results.
906. The CRM trusts that all stakeholders, in view of the strategic, political and economic importance of credible land reform to the country's transformation, particularly the economic and social empowerment of the poor in rural areas, will give their full support and cooperation to the full realisation of this target.

7.1.5 Violence Against Women

907. Violence against women is a serious human rights issue with significant social and economic implications for the fight against poverty. It continues to be one of the most prominent features of post-apartheid South Africa. In a country where racial and gender equality are enshrined in the Constitution, and women occupy premier positions in both government and business, there remains a tragically high level of violence against women. Extremely high rates of rape and other forms of violent abuse of women have been documented in South Africa.
908. Estimates of the extent of violence vary and statistics for women abuse are notoriously difficult to establish, largely because of underreporting. Statistics from the South African Police Service (SAPS) indicate that there were:
- 54 293 rapes in 2001/02;
 - 52 425 rapes in 2002/03;
 - 52 733 rapes in 2003/04;
 - 55 114 rapes in 2004/05; and
 - 54 926 rapes in 2005/06.





909. The range of abuses that women experience is wide and includes physical, sexual, psychological and economic abuse, as well as stalking, forced isolation in the home and other controlling behaviours. Violence against women is a major contributory factor to the HIV and AIDS crisis, according to numerous reports by the United Nations and other governments. Women who are beaten by their husbands or partners, or are emotionally or financially dominated, are much more likely to be infected by HIV than those living in a non-violent household. Abused women have limited abilities to negotiate their sexual activity or safe sex practices. They are vulnerable to even more abuse if they are the first to learn of their infection status and have to tell their partners.
910. The problem of violence against women in South Africa is a complex one. It is both an individual and a social problem. It is embedded within, and emerges from, South Africa's history and the current unequal social, economic and cultural relations.
911. The roots of abuse lie in the patriarchal nature of society, which essentially views women as inferior to men. They are often perceived as men's possessions, not quite full adults and in need of being led and controlled. Alcohol abuse plays a role, as it is a source of conflict in relationships, exacerbates poverty and results in loss of self-control. Furthermore, violence is sustained between generations through children witnessing abuse of their mother. This is an important risk factor that contributes to becoming an abusive partner or an abused woman in the future.
912. The South African Constitution, particularly the Bill of Rights, contains clauses that safeguard and promote women's rights as human rights. There is explicit reference to gender violence in section 12(1), protecting "the rights to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources". In addition, the constitutional commitment is translated through the establishment of various gender organisations and structures, such as the Commission on Gender Equality, and through new legislation that aims to ensure that those constitutional rights are not infringed. Yet, women in South Africa complained that they still continue to face a system that is often hostile to their efforts to seek redress.
913. While some new, and progressive laws have been passed to mitigate the situation, such as the Domestic Violence Act of 1998, their enforcement leaves much to be desired. Moreover, there is no strong effort to force society to address the problem and empower women to speak out about gender violence. Vigorous enforcement would help move the problem out from the shadows of private lives into the public realm, where the government must acknowledge violence against women for what it is: a serious human rights issue with significant social and economic implications for fighting poverty.
914. The South African government has expressed a commitment at policy level to eradicate gender violence. Since 1994, the state has increasingly intervened in the problem of violence against women.³⁶ The country is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and also the Southern African

³⁶ See, for example, Vetten, L. 2005. Addressing Domestic Violence in South Africa: Reflections on Strategy and Practice. Paper presented at the Expert Group Meeting on Violence against Women: Good Practices in Combating and Eliminating Violence Against Women. UN Division for the Advancement of Women in collaboration with the UN Office on Drugs and Crime, 17-20 May 2005, Vienna, Austria.

Development Community (SADC) Declaration on the Prevention and Eradication of Violence Against Women and Children.

915. The National Crime Prevention Strategy (NCPS) of 1996 established that the fight against crimes of violence against women and children is a national priority (a status such crimes have continued to enjoy in subsequent national policing strategy documents). A number of legislative reforms have also been instituted: mandatory minimum sentences for certain rapes (Criminal Law Amendment Act of 1997); tightening bail conditions for those charged with rape (Criminal Procedure Second Amendment Act of 2001); and the Domestic Violence Act of 1998. The National Policy Guidelines for the Handling of Victims of Sexual Offences were finalised in 1998, and the Policy Framework and Strategy for Shelters for Victims of Domestic Violence in South Africa in 2003. Specialist facilities have been set up, such as family courts, specialist sexual offences courts and Thuthuzela Care Centres for victims of rape and abuse.
916. While the Domestic Violence Act of 1998 contains many laudable elements that could be held up as examples of good practice, it remains difficult to evaluate the effectiveness of the Act when it has not been implemented effectively and thus cannot routinely meet its purpose to provide the maximum protection of the law to victims of domestic violence. Oversight and accountability mechanisms have also not functioned as they should.
917. Perhaps, a more proactive, coordinated and system-wide response is what is urgently needed. Ending gender violence will require national leadership and commitment at every layer of society.

7.1.6 Violence Against Children

918. Levels of violence against children in South Africa are relatively high. The available evidence indicates that the majority of black South African children suffer from numerous socio-economic problems that negatively affect their growth and development. Children mostly suffer from poverty, hunger, lack of decent shelter, destitution, illiteracy and exposure to numerous epidemics. They also suffer many forms of abuse, including: economic exploitation, especially child labour; drug abuse; child sale, trafficking and abduction; sexual exploitation and sexual abuse.
919. The situation of children has been aggravated by the HIV and AIDS pandemic, which both infects and affects children. Nearly 90 000 children in South Africa are infected with HIV, but their plight so far has received only limited attention. The link between HIV and AIDS and poverty has worsened the problem, especially as it relates to orphans. Despite scanty data, the available evidence shows that the scale of the problem of orphans and vulnerable children in South Africa is reaching crisis proportions. It is estimated that over 1 million children in South Africa are orphans. These children are extremely vulnerable. Many suffer severe deprivation, quit school, fail to access training, fall prey to abuse and exploitation, and risk HIV infection more than other children. This is especially the case among street children.





920. Violence against children, especially girls, is of concern in South African schools. South African girls continue to be raped, sexually abused, sexually harassed and assaulted at school by male classmates and teachers. They are confronted with levels of sexual violence and harassment in schools that impede their access to education on equal terms with male learners. Although some schools try hard to respond to the problem of violence, too often school officials have concealed incidents of sexual violence and delayed disciplinary action against perpetrators of such violence at great cost to the victims.
921. The situation of children in South Africa has been worsened by the apparent decline of social support institutions such as the family. The pervasive violent behaviour of adults has aggravated violence among children and youth. Not only has parental leadership failed, the overall societal leadership is also far from being inspiring to children. Through interactions with stakeholders, the CRM noted that social support institutions for children were under severe stress, with serious consequences for the proper development of young people. The CRM was informed that many families were increasingly characterised by the inability of parents to fend for their children, which often leads to various psychological pressures and, increasingly, domestic violence, drunkenness and child abuse.
922. Even the composition of households and families in many parts of South Africa seems to be changing as a result of rising adult mortality and morbidity due to the HIV and AIDS pandemic in a context of high poverty levels. This is reflected in the growing number of child-headed households. Children living without adult caregivers are extremely vulnerable to abuse and exploitation and lead lives of absolute poverty.
923. At present, it appears that little or nothing is being done to replace disintegrating social support institutions in South Africa, including the family, school, kinship structures and public institutions, with new forms of effective socialisation and social control. In the absence of such control, children and young people are generally alienated from mainstream society and frequently end up in the streets where they create their own social worlds and fashion new social orders and identities. This situation points to the growing problematic transition of children and youth in South Africa, an indication of their poor socialisation.
924. The issues of children and youth are complex and dealt with in different focus areas by a multiplicity of government institutions, non-governmental organisations (NGOs), faith-based organisations, and cooperating partners. The government has recognised the need to develop a comprehensive legislative and regulatory framework so that all institutions dealing with child and youth issues can relate their programmes and activities to the government's overall intentions on child and youth development as contained in the policy documents.
925. As noted in Chapter Six, South Africa has ratified the United Nations Convention on the Rights of the Child, as well as the African Charter on the Rights and Welfare of the Child (ACRWC). The former provides an opportunity for South Africa to review and enact legislation in line with today's economic, social and cultural challenges. One of the advantages of a

Convention is that it provides a high degree of uniformity of law among the states adhering to it. Unfortunately this Report reveals that, in the last 12 years, there has been no serious attempt to review and enact laws that are in conformity with the Convention.

926. At present there is a lack of comprehensive and disaggregated data on children in South Africa, making it difficult to design appropriate interventions. Moreover, some legal and policy gaps still exist.

7.1.7 HIV and AIDS Pandemic

927. As has been repeatedly indicated in the Report, South Africa is currently experiencing one of the severest HIV epidemics in the world. According to UNAIDS estimates, by the end of 2005 there were 5.3 million people living with HIV and AIDS in South Africa and almost 1000 AIDS deaths every day. This means that South Africa has the second highest number of people infected with HIV in the world after India. The epidemic in South Africa is also considered unstable, meaning it is still growing.
928. There are, however, conflicting statistics on the mortality rate due to the pandemic. It is estimated that around 336 000 South Africans died from AIDS between mid-2005 and mid-2006. The 2002 ASSA model of the Actuarial Society of South Africa calculates that 311 000 people died due to AIDS in 2004, comprising 44 per cent of all deaths. Among adults aged 15 to 49 years, 70 per cent of deaths were due to AIDS. UNAIDS/WHO estimated that AIDS claimed 320 000 lives in 2005, which is more than 800 every day.
929. South Africa has had a turbulent past and this history is relevant to the explosive spread of HIV. The most rapid increase in HIV prevalence in the country took place between 1993 and 2000, a period characterised by major political changes. Many people argue that the response to HIV and AIDS in South Africa has been hampered by “Aids denialism” – a minority scientific movement that refutes the orthodox idea that HIV causes AIDS. Other factors include stigmatisation and violence against women.
930. The high prevalence of HIV and AIDS in South Africa poses major challenges for both the government and civil society groups, which are doing their utmost to curb the spread of the disease and help those affected by it. An estimated 6 million South Africans are expected to die from AIDS-related diseases over the next ten years if the business-as-usual scenario prevails. Young people are the age group most severely affected by AIDS in South Africa, with the largest proportion of HIV infections in the country occurring among people between the ages of 25 and 29. Prevalence rates are up to 40 per cent among pregnant women in this age group.
931. Treatment is a key issue in managing the HIV and AIDS pandemic. The government approved plans to provide public access to antiretroviral drugs in November 2003, in the form of the Operational Plan for Comprehensive Care and Treatment for People Living with HIV and AIDS. Although the government aimed to place 381 177 people on state-





funded antiretroviral drugs by 2005-2006, only 85 000 people were receiving treatment by September 2005. By end March 2006, a cumulative 130 000 patients were, or had been, under treatment under this programme. Given complementary efforts by the private sector, it is estimated that coverage of the public programme would have to increase to 250 000 patients to provide universal access to antiretroviral drugs.

932. Further, it is estimated that 50 000 children in South Africa were in need of antiretroviral drugs at the beginning of 2006, but that only around 10 000 were receiving them. UNAIDS estimated that at the end of 2005, children accounted for 8 per cent of those receiving antiretroviral drugs in South Africa.
933. Many children are infected with HIV in South Africa, but many more are suffering from the loss of their parents and family members due to AIDS. UNAIDS estimated that 1.2 million South African children were orphaned due to AIDS in 2005, compared with 780 000 in 2003. These children are likely to face poverty, poor health and lack of access to education.
934. Much of the reporting on AIDS in South Africa has centred on the perceived ambivalent attitude of politicians towards the pandemic. Far less has been said about the tremendous efforts being made by local, provincial and national government agencies, as well as a myriad NGOs, to combat AIDS by creating awareness around the disease, promoting behavioural change and providing medical, social and economic assistance to those affected and/or infected by the epidemic.
935. The HIV pandemic is no longer the sole problem of the individual countries concerned; it has become a global concern. Every affected country must move in tandem with the international community while, by the same token, the latter should recognise and respect the peculiarities and uniqueness of each country. Be that as it may, all efforts must be mobilised for South Africa to reduce significantly the population affected by HIV and AIDS as required under the Millennium Development Goals (MDGs).
936. It is welcome news that appropriate steps are being taken to bring about a change in the response to HIV and AIDS prevention and treatment in South Africa by redressing prevailing dysfunctions and scaling up the national response. The government, in partnership with civil society, has begun to send out uniform messages concerning the proper treatment of the disease. No one now denies that HIV and AIDS deserves to be a higher national priority and needs to be tackled with more high-level commitment and adequate resources.
937. In the meeting with the Deputy President, the CRM was assured that as part of enhanced government policy:
- Antiretroviral drugs will henceforth constitute the centrepiece of the government's treatment response to HIV and AIDS.
 - Targets will be set for dramatically expanding the availability of the drug through the public health system.
 - The cooperation between the government and AIDS activist groups will be strengthened.

938. This shift will no doubt reassure not only South Africans generally, but also the international community. The APR Panel welcomes this development and hopes it will be extended to cover expansion in HIV testing and cutting the rate of new infections. Efforts to mitigate the impact of this pandemic should also reinforce other health initiatives, such as the curtailment of malaria and the spread of other infectious diseases. Paramount among these should be efforts to tackle the drug-resistant tuberculosis that is linked to HIV and AIDS and is prevalent in the coastal provinces with a relatively higher humidity.

7.1.8 Corruption

939. Compared with other African countries, South Africa is relatively at a lower rung of the corruption ladder. There is, however, growing concern about the increasing levels of corruption and the debilitating effects on service delivery and poverty, especially in the provinces and municipalities. Moreover, Transparency International's 2006 Bribe Payers Index (BPI), the most comprehensive survey of its kind which looks at the propensity of companies from 30 leading exporting countries to bribe abroad, ranked South Africa 24th or the seventh most corrupt. In this survey, more than 11 000 businesspeople in 125 countries were asked to share their perceptions of how companies headquartered in 30 of the world's leading exporting countries conduct their businesses overseas.

940. The preceding chapters of this report have pointed out the following areas that require attention if the fight against corruption is to achieve maximum success:

- Private funding of political parties;
- Lack of legislation to regulate the transition of public sector employees to the private sector in areas where there could be a conflict of interest regulation;
- Bribery of foreign public officials by South African businesspeople;
- Improving the coordination and roles of the different anticorruption bodies;
- Strengthening the capacity and independence of the anticorruption bodies; and
- Promotion of the knowledge and application of key legislation in the anticorruption framework, particularly access to information and protection of whistleblowers.

941. South Africa has developed an advanced framework of law, strategy and institutions with a mandate to combat corruption. The country has enacted various pieces of legislation for preventing and combating corrupt practices. It has also adopted various international audit standards, signed protocols against corruption and ratified various international conventions on preventing and combating corruption.

942. Some of the pieces of legislation introduced and promoted include: the Protected Disclosures Act of 2000; Promotion of Access to Information Act of 2000; Financial Intelligence Centre Act of 2001; Promotion of Administrative Justice Act of 2000; and Prevention and Combating of Corrupt Activities Act of 2004. The latter Act is based on actual life experiences of corruption and seeks to address the systemic lapses that make it possible.³⁷

³⁷ South Africa formally acceded to the OECD Convention on Combating Bribery of Foreign Officials in International Transactions in April 2007.



943. The CSAR notes that in response to the problem of corruption in the public sector, the government has initiated a variety of anticorruption measures, culminating in the adoption of a comprehensive Public Service Anticorruption Strategy and the establishment of partnerships between the government, civil society and private sector. These partnerships have resulted in two National Anticorruption Summits (1999 and 2005) and the launch of a tri-partite National Anticorruption Forum in 2001. More recently (2007), the National Anticorruption Forum has set aside R3 million to launch an educational and awareness campaign that will target the business sector and bribery of foreign officials.
944. In addition to the National Anticorruption Forum, South Africa has 11 other organisations that have anticorruption as part of their mandate. The country has created institutional capacity at the national and provincial levels to complement the work of the police. These include the Public Protector, National Prosecuting Authority (NPA), Special Investigating Unit, Public Service Commission, Financial Intelligence Centre, and the Auditor-General. Specialised commercial courts have been established to prosecute and try corrupt offenders. In addition, an Asset Register has also been created for accounting officers to disclose their financial assets and interests.
945. Unlike several countries, the country lacks one supreme, independent corruption-fighting body, relying instead on improved coordination between several anticorruption institutions. National-level bodies are relatively effective compared with provincial and local oversight systems. Most provinces have experienced major corruption allegations and scandals, and there is weak reporting of corruption at municipal level by community and media organisations.
946. While the presence in South Africa of no less than 12 agencies that have anticorruption as part of their mandate is proof of the strong political will to tackle corruption, the sheer number of agencies makes an integrated national approach to the problem difficult. Top anticorruption bodies such as the Public Protector, Auditor-General and NPA are perceived by some stakeholders as not being impartial and independent. Many anticorruption bodies also face capacity constraints. These include the Public Protector, Commercial Crime Unit and the Parliament's Ethics Committee, which is saddled with critical oversight and anticorruption roles.
947. As recommended in the chapter on corporate governance, the authorities may consider requiring South African companies operating elsewhere on the continent to observe South Africa's corporate governance standards in their operations. They should, in addition, be encouraged to undertake socially responsible investment programmes.

7.1.9 Crime

948. Crime is a major problem in South Africa. According to a survey for the period 1998-2000 compiled by the United Nations Office on Drugs and Crime, South Africa ranked second for assault and murder (by all means) per capita. Other data rank South Africa second in

the world for murders per capita, and first for assaults and rapes. Nonetheless, according to official statistics, violent crimes such as murder and robberies have decreased in recent years, with the year 2004 seeing a drop of 4.6 per cent and 5.3 per cent for these two offences, respectively. As noted above, the rape rate has shown no signs of decreasing.

949. It must be noted, however, that the distinctive feature of crime in South Africa is not its volume, but its level of violence. Crime has had a pronounced effect on South African society. Beyond the pain and loss suffered by victims, crime also has direct costs, such as protection efforts and health costs, and generally creates an environment not conducive to productive activity. Moreover, the widespread emigration of South African professionals in recent years is partly attributable to their desire to escape a high crime environment. All these effects are likely to discourage investment and stifle long-term growth in South Africa.
950. There are several explanations for the high levels of crime, especially violent crime. Worldwide, crime is associated with urbanisation due to overcrowding, unemployment, inequality and increased consumer demands and expectations. In South Africa, there is also a causal link between the crime rate and the country's political history. The strategy of the liberation movement to use ungovernability against the apartheid regime to meet its objectives has had unintended consequences. The massive violence that was unleashed in black communities bred a culture of violent lawlessness and a distrust of authority. Since 1994, not much has been done to draw young South Africans back into a society governed by the rule of law.
951. For decades, families suffered from institutional violence through the disruption of their lives by mass removals and migrant labour policies. Political violence compounded the disruption of family life and the resultant weakening of the family unit, and thus parental control, which may have exacerbated crime especially among the youth. The effects of apartheid, coupled with years of political violence and continued exposure to violence in the home and in the neighbourhood, have produced a destructive culture such that some people quickly resort to violence as a means of resolving conflicts, whether in the domestic, social or work environment.
952. A major contributory factor to violent crime is the proliferation of firearms. South Africa is a heavily armed society. According to the SAPS Central Firearms Registry, 3.5 million South Africans legally possess some 4.2 million firearms, of which slightly more than half are handguns. It is estimated that an equal quantity of illegal firearms are circulating in the country despite the recent amnesty.
953. The government's recent widely publicised gun amnesty programme aimed at reducing the number of weapons in circulation. In addition, it adopted the National Crime Prevention Strategy (NCPS) in 1996, which sought to prevent crime through reinforcing community structures and helping individuals back into work. However, the government has been criticised for doing too little to stop crime. Some question the effectiveness of the SAPS.





954. The problem of crime demands an integrated approach that tackles the criminal justice system and economic and human development simultaneously. There is a need for the formulation of plans for short, medium and long-term solutions; a specific focus on crime in the spheres of development, education and social welfare; and integration and coordination of the activities of all the various state departments – criminal justice, education, health and social welfare, home affairs and the police.

7.1.10 Racism and Xenophobia

955. Without a doubt, racism was the hallmark of the system of governance and the defining feature in the social relationships that evolved between the government of the day and the people, as well as among the people themselves, during the apartheid era. Twelve years on, South Africans are reminded virtually on a daily basis, of both the legacy of that past, as well as the ongoing manifestation of thoughts and deeds premised on the belief that one race is inherently superior to another.

956. The search for a better life in the region has spawned new patterns of migration to South Africa. Despite the solidarity and comradeship between black South Africans and the rest of the people of sub-Saharan Africa during the decades of struggle against apartheid and for liberation, foreigners, mostly of African descent, are being subjected to brutality and detention. Xenophobia against other Africans is currently on the rise and should be nipped in the bud.

957. The authorities may wish to reconsider the current strategy of handling undocumented migrants. The Lindela Repatriation Centre outside Krugersdorp is not achieving its objectives of discouraging illegal migrants, as these people find their way back into the country soon after they have been deported. More so, a UN working group on arbitrary detention visited the centre in September 2005 at the invitation of the authorities. The group reminded South Africa of its international obligations to make provision for detainees' valid contestation of their detention.

958. The perceived devaluation of labour that comes as a result of migrant workers entering the South African market in unfair competition with South African workers accentuates conflict and xenophobia. The government should address this issue in policy and law.

959. To South Africa's credit, it must be stated that much effort has gone into fighting racism and making good on the constitutional guarantee of equality for all. In the realm of the criminal justice system, there is acceptance that just as the system was pivotal in maintaining apartheid, so too it must now become pivotal in attempts at transforming and reconstructing society. While much attention, including media attention, has focused on racism within the justice system, the focus has largely remained on the courts and police. The penal system has rarely been a focus – perhaps consistent with the current thinking that once a person has been incarcerated, the adage “out of sight, out of mind” tends to apply.

960. Given the history of the penal system, a history of separateness, isolation, abuse and denial of the humanity of millions of citizens, it was important that measures be taken to transform it into an institution worthy of taking its place in a democratic landscape. Much work and effort have gone into that process and much success has been achieved under difficult circumstances. However, a great deal remains to be done.

7.1.11 Managing Diversity

961. An enduring characteristic of South African society is its ethnic and racial diversity. Diversity offers both challenges and opportunities for South Africa's development process. Vibrant economies such as the USA have thrived on the diverse racial and cultural strengths and capacities of its immigrants. However, diversity can also be a source of racial and ethnic tensions which, if not appropriately managed, can explode into conflict, social unrest, political instability and economic decline.
962. Exploiting the full potential of diversity requires effective management at several levels. Managing diversity at the political level is required to ensure that various racial and ethnic groups are capable of articulating and expressing their political rights, including the right to vote. At the economic level, diversity must be managed to ensure equitable access to productive assets, credit and employment. At the social level, diversity management must aim to facilitate and create space for the expression of diverse sociocultural practices and norms of behaviour and for social interaction.
963. The Constitution of South Africa provides a comprehensive legal framework for securing and protecting the political, economic and sociocultural rights of its diverse citizenry. It is on this framework that institutions for promoting and safeguarding diversity must be built. These institutions must be anchored on the goal of nurturing and celebrating diversity, while at the same time attenuating and pre-empting the antagonisms and conflicts that tend to follow in its wake.
964. In this vein, institution building and development at all levels of interaction (political, economic and social) must be guided by the principle of diversity management. At the political level, South Africa has been fairly successful, through the practice of proportional representation, in allowing diverse groups space to exercise their political rights. However, more needs to be done at the economic and social levels of interaction. At the economic level, policies of broad-based economic empowerment have empowered only a small minority of non-white South Africans. Similarly, at the social level, disparate access to education, health and other social services by black people creates fertile ground for race-based tensions that could reverse the gains achieved in the post apartheid era.
965. The widespread acceptance of the results of the 1994 elections and the Constitution in 1996 are two instances where the country has successfully managed diversity. South Africa must accord high priority to improving race and ethnic relations by shaping the attitudes and values of its citizenry, especially through its educational system. Beyond this,





existing measures for addressing inequalities in access to social services and economic assets, particularly land, must be underpinned by the overriding objective of securing and sustaining the peaceful cohabitation of diverse races and ethnic groups.

7.2 The Way Forward

966. South Africans can be proud of the gains and advances recorded since 1994. A great deal has been achieved and the country is rightly viewed as a success story and a sign of hope in Africa. This, however, should not lead to the premature conclusion that the country's process of democratic consolidation has been accomplished. The socio-economic and democratic future of the country depends on addressing a number of issues raised in this Report.
967. The APRM exercise has made an important contribution in identifying best practices and some of the challenges contemporary South Africa faces within the context of the objectives and programmes of the New Partnership for Africa's Development (NEPAD). The extensive work done in South Africa to promote the APRM's ideals, the programme for sensitising the people, the self-assessment process, the drafting of the NPOA, workshops and conferences have already provided a new initiative and inspired many people to work together to achieve the NEPAD/AU objectives. It is hoped that this momentum and enthusiasm will be retained in the ongoing process of implementation.
968. There is a need to institutionalise and internalise the peer review culture. The forum it provides all stakeholders to engage among themselves periodically on the state of South African union and its future directors can become a major catalyst for building the development state that the country seeks. The parliament is already setting the pace in this regard.
969. It must be realised that democracy and political governance, economic governance and management, corporate governance and socio-economic development are not a series of compartmentalised "shot-in-the-arm" affairs. The cross-cutting issues are also important. For these issues to advance in tandem, they require a holistic package of strategies, stratagems, policies and programmes centred on human development, providing more and more space to the people while safeguarding the integrity of the polity. The package must have the overarching objective of demonstrating that the people matter because they collectively embody national sovereignty.

7.3 South Africa's Programme of Action

970. The National Programme of Action (NPOA) is central to the African Peer Review Mechanism. It is a major output of the review process which, in itself, brings out the value-added elements of the APRM process in a country.
971. As indicted in the "Guidelines for Countries to Prepare for and Participate in the African Peer Review Mechanism": "The primary purpose of the National Programme of Action

is to guide and mobilise the country's efforts in implementing the necessary changes to improve its state of governance and socio-economic development. In addition, the National Programme of Action is the key input delivered by the country into the peer review and it therefore serves to present and clarify the country's priorities; the activities undertaken to prepare and participate in the APRM; the nature of the national consultations; as well as explicitly explain the responsibilities of various stakeholders in government, civil society and the private sector in implementing the Programme".³⁸

972. In interactions with South Africa during the CRM, including follow-up meetings with the Focal Point and South African APRM National Governing Council (NGC), the Panel reiterated that the NPOA has to meet the required conditions, namely:
- It has been designed by all stakeholders in South Africa.
 - It covers the major gaps and deficiencies identified in the extensive APRM process.
 - It provides satisfactory indications of costs and time-frames.
 - It elaborates on monitoring and implementation responsibilities.
 - It represents a firm commitment from all stakeholders.
 - It is fully endorsed by the government, which unreservedly accepts its share of responsibility for implementing the programme.
973. The attached NPOA is the result of the exercise. There is a firm commitment from the government to proceed with its implementation. The Panel reiterates and underscores that the responsibility for implementing the NPOA remains vested in South Africa and its entire people. All stakeholders in the country, under the leadership of the APRM's NGC, must share in the responsibility for implementing the ultimate programme of action that is born from this exercise.

³⁸ NEPAD/APRM/Panel3/guidelines/11-2003/Doc. 8,p. 10.