



AFRICAN FORUM AND NETWORK  
ON DEBT AND DEVELOPMENT



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# COMPARATIVE ANALYSIS OF NATIONAL PFM LEGISLATION AND SADC PFM MODEL LAW IN ZAMBIA, ZIMBABWE, AND MALAWI

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Research Paper



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## EXECUTIVE SUMMARY

In June 2024, the African Forum and Network on Debt and Development (AFRODAD) commissioned research on the gaps and weaknesses of public finance management in Zambia, Zimbabwe and Malawi, and how such gaps can be addressed by provisions in the SADC PF Model Law on Public Financial Management (the SADC Model Law).

The specific objectives of the assignment are as follows:

- i. To analyse the PFM legislation of Zambia, Zimbabwe and Malawi specifically provisions on debt, tax and IFFs and highlight its strengths and weaknesses.
- ii. To compare and contrast the national PFM legislation of the three countries to the SADC Model Law on PFM.
- iii. To propose policy and legal recommendations for the incorporation of identified gaps within the national PFM legislation.
- iv. To produce an annexure with proposed changes to the national PFM legislation.

In undertaking the research, a documentary review and doctrinal analysis of relevant pieces of legislation was undertaken. Table 1 presents three pieces of legislation for each country canvassed in this study.

**Table 1. Legislation for Comparative Analysis**

Country	Public Finance Management	Public Debt Management	Public Audit
Zimbabwe	Public Finance Management Act No 11 of 2009	Public Debt Management Act No 4 of 2015	Audit Office Act No 12 of 2009
Zambia	Public Finance Management Act No 1 of 2018	Public Debt Management Act No 15 of 2022	Public Audit Act No 29 of 2016
Malawi	Public Finance Management Act No 4 of 2022	Public Finance Management Act No 4 of 2022	Public Audit Act of 2014

To complement the legislative desk review, key informant interviews were undertaken with several respondents. In relation to Zambia and Malawi, respondents were drawn from civil society organisations and academia only. For Zimbabwe, respondents were drawn from civil society organisations, government officials, academia and members of parliament.

The draft findings of this research were further presented before members of the SADC PF on 22nd September 2024. The comments by members from the SADC PF session were considered and factored in the development of the final draft of this report. The major findings of the research are listed herein below.

### **Major Findings**

- The three selected states have adopted progressive legislation in public finance management, and such legislation is informed by global best practices. This notwithstanding, a primary feature of the three jurisdictions is the lack of effective implementation of the relevant public finance management laws.
- The three states adopted public finance management laws in the last decade, albeit long after they were already facing unsustainable debt ceilings. This reality militates against achievement of good public finance and public debt management targets.
- Parliament is given a progressive oversight role over contracting of public debt, and other public finance management issues in the three states under study. A significant finding made in relation to this is that Parliament's findings and recommendations are not legally binding, and thus difficult to enforce. This means that the oversight role of Parliament is compromised as Parliament lacks necessary teeth to exercise effective control over executive actions.
- The SADC Model Law highlights the key drivers of good public finance management and highlights good principles for effective public debt control and efficient taxation frameworks. The laws of the three states reflect most of the fundamental standards, frameworks and principles for good financial management found in the Model Law.
- SADC Model Law lacks a regional monitoring and evaluation system that can review domestic public finance systems and recommend changes or improvements.
- Finally, the public finance management frameworks in the three states do not adequately guard against unscrupulous lenders and debt vultures. There are no listed criteria in the relevant laws on lenders and creditors. This position exposes the public finance systems to massive risk from unscrupulous lenders and creditors.

In view of these critical findings, a list of recommendations is provided in this report. In this regard, the major recommendations are as follows:

- The institutional frameworks for public finance management in the three states must be strengthened to enhance their effectiveness, oversight role and ensure an efficient public finance management system.
- Clear provisions must be inserted in relevant legislation to guide debt contracting agencies against unscrupulous debt vultures, or multilateral and commercial debtors with unsustainable interest rates and other conditions.

- A regional system to monitor and evaluate the public finance management systems in SADC member states must be considered. This can go a long way towards ensuring harmonization, effective regulation and implementation of existing frameworks for public finance management.
- In the three states, recommendations from Parliament and the Auditor-General's Office must be made legally binding, enforceable and operative.

The specific provisions that must be reflected in the relevant legislative instruments of the three states are highlighted in Annex 1 to this report.



# 1.0 | COUNTRY CASE STUDY ON PUBLIC FINANCE MANAGEMENT LEGISLATIVE FRAMEWORKS

## 1.1 State of Public Finance Management in the three Selected Countries

Zimbabwe, Malawi and Zambia have developed and designed public finance management systems in response to global developments in public finance since the turn of the century. This part interrogates the PFM legislation of Zambia, Zimbabwe and Malawi, specifically focusing on provisions for debt, tax and illicit financial flows (IFFs). It will determine the strengths and weaknesses of the PFM systems of these three states in relation to addressing public debt, taxation challenges and illicit financial flows.

By 2022, when the SADC PF Model Law on Public Finance Management was adopted, the three countries already had comprehensive legislation on public finance and public debt management, taxation and public audits. Zimbabwe's public management law was adopted in 2016, whilst its public audit law and its public debt management law were adopted in 2009 and 2015 respectively. On its part, Malawi adopted its public audit law in 2014 and its public finance management law (which encapsulates public debt management regulation) in 2022. Zambia revised and adopted a new public audit law in 2016, passed the public finance management law in 2018 and adopted the public debt management law in 2022.

It must be asserted that the momentum to revise old frameworks and adopt new PFM systems was driven not only on what was happening in other jurisdictions, but also by inherent challenges that characterized the PFM systems in the three states. Interestingly, a glance at the economic and financial performance of the three states between 2012 and 2022 clearly highlights that the three states were already facing critical challenges in dealing with public debt, corruption, inefficient taxation frameworks that compromised resource mobilization, illicit financial flows and problematic wastage of public resources.

In specific terms, Zimbabwe adopted its Public Debt Management Act in 2015 despite it being in a debt crisis since a decade prior.<sup>1</sup> Zambia applied to restructure its sovereign external debt under the Common Framework for Debt Treatment in 2020, meaning that it began tussling with its debt crisis years prior adopting the 2022 public debt management law.<sup>2</sup> Malawi launched its debt restructuring strategy in 2022, a year which coincided with the passage of its public debt management law. In terms of a Malawi Debt Sustainability Report published in November 2023, the key features of Malawi's debt restructuring exercise are presented in the table below:

### Box 1: Malawi Debt Restructuring Strategy

**The debt restructuring strategy is designed to achieve debt sustainability and to close the financing gaps.**

The strategy relies on the following pillars to overcome current external debt challenges, including solvency and liquidity concerns:

- Bringing external public debt back to a moderate risk of debt distress in the medium term through a combination of policy adjustment and the necessary debt treatment. The debt strategy is designed to ensure all external DSA solvency and liquidity ratios move below their respective thresholds under the baseline over the medium term. As such, the present value of debt-to-GDP ratio falls below 30 percent, the present value of debt-to-exports ratio falls below 140 percent, the debt service-to-exports ratio falls below 10 percent, and the debt-to-revenue ratio falls below 14 percent in the medium term (see chart panel below).
- Mobilization of non-debt-creating flows to ensure that external and fiscal financing gaps are closed over the program period, including through the debt treatment and the mobilization of external grant support from development partners.
- The proposed debt treatment would result in a reduction in the NPV of Malawi's external debt of US\$592 million. This would be achieved via significant maturity extension and reprofiling of scheduled payments to provide important near-term liquidity relief and to bring Malawi's external debt servicing costs in the medium term to a sustainable level.

Source: IMF Debt Sustainability Report (2023).

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- 1 In 2021, the Arrears Clearance, Debt Relief and Restructuring Strategy was crafted by the Ministry of Finance and Economic Development to address the debt crisis. This strategy led to the Government working to clear arrears and reschedule its debt, in partnership with international development partners, including the World Bank, the United Nations Development Programme, the International Monetary Fund and the European Union.
  - 2 Zambia's G20 package was based on the need to provide a mechanism for low-income countries to seek debt restructuring. Under this framework, an Official Creditor Committee for Zambia was formed, co-chaired by China and France, and this Committee pledged to negotiate with Zambia to restructure its public external debt. This process cleared the way for the IMF Board to consider and approve the assistance package for Zambia.

## 1.2 Comparative Assessment

In general, strong public finance management systems require certain pillars to be in place. These pillars are discussed below.

### 1.2.1 Public Finance Management in the three states

As highlighted above, the existence of effective laws and policies on public finance is inescapable. Law creates systems and frameworks that operationalize a public finance management framework. The lack of comprehensive and effective laws casts doubts on the organization and regulation of public finance in each country.

In this regard, the three states have clear primary legislation on public finance, public debt management and public audit. Zimbabwe and Zambia have three major pieces of legislation in each of these three areas. Malawi's public finance management law caters for both public finance and public debt management.

The primary law in public finance in the three states is the Public Finance Management Act.<sup>3</sup> The major thematic pillars underpinning the public finance law is the control, management and regulation of public funds in each the three states. Sections 6, section 7 and section 11 of Zimbabwe's PFM Act establishes the power of treasury to manage and control public resources and grants critical functions to treasury and to the Minister of finance to enable it to do so. In a similar vein, section 4 and section 5 of Zambia's PFM Act establishes the Treasury and grants it relevant powers and functions that enable it to raise, control and manage public resources. These provisions are complemented by section 28 and section 29 of the Act that provides for the generation and mobilization of revenue. Sections 5, 6 and 14 of Malawi's PFM Act are informed by the same spirit; these provisions establish treasury, grants treasury powers and functions relevant for public finance control and management and grants further powers to controlling officers to enable them to manage public funds.

Part from the above, the PFM laws establish other relevant institutional frameworks for public finance management. For instance, the powers of the Treasury, accounting officers, other government departments are clearly delineated. There are provisions on the budget process, on internal and external oversight and on the interaction between the executive and Parliament.

The law establishes a clear framework for the mobilization, control and regulation of revenue. Reporting frameworks for public finance are covered in the three Acts, and there is a clear system for criminal and civil sanctions against non-compliance and contravention of the law. The PFM Acts establishes systems for resource allocation, frameworks for control of provincial and local government public finance systems and procedures for the operationalization of the national public finance frameworks.

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3 Act Number 11 of 2009 (Zimbabwe); Act Number 1 of 2018 (Zambia), Act number 4 of 2022 (Malawi).

### 1.2.2 Public Debt Management (PDM)

In relation to public debt, both Zambia and Zimbabwe have stand-alone Public Debt Management Acts, whilst for Malawi, public debt management framework is covered in its PFM Act. In general, the PDM provisions in the three states have concrete mechanisms to control and manage public debt. The major pillars for public debt management in the three states includes frameworks for control of public debt contracting; establishment of relevant public debt institutions, clear public debt reporting system; the framework for the exercise of parliamentary oversight over public debt; control of public debt by local and provincial governments, including public entities, and provisions on debt resolution, through debt restructuring, rescheduling and other methods.

### 1.2.3 Regulation and Management of Public Audit

There are clear pieces of legislation on public audit, and the three primary legislation creates primary audit offices. For Zimbabwe, the Audit Office Act establishes a comprehensive framework for public audit centred on the powers and functions of the Auditor-General. For Malawi and Zambia, the public audit system is covered in the Public Audit Acts. The legislative frameworks for public audit in the three states cover critical issues such as the powers, functions of the auditor-general; the centrality of the audit office in PFM; nature and scope of findings and recommendations by the auditor-general, and the framework for the enforcement or operationalization of such findings and recommendations.

Importantly, the public audit framework in the three states highlights the relationship between government internal audit system and the national audit office system, and the role of the auditor-general in management of public resources and resource utilization.

A recurring theme in modern audit systems is the independence of the audit office from the government. This issue is directly addressed in the public audit legislation of the three states. For Zambia and Malawi, the audit office officials have immunity an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties.<sup>4</sup> For Zimbabwe, there are no specific provisions on independence or immunity, despite the fact that there is a general perception that the audit office is independent from the Executive, and has immunity for acts done in good faith.

## 1.3 Major Findings on the PFM Frameworks in the Three States

### 1.3.1 Institutional Framework

**Public Debt** – The three states have comprehensive institutional frameworks for debt regulation established in the stand-alone PDM law. Both states place Treasury and the Ministry of finance

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4 Section 5 of the Act.

at the centre of the public debt management system. Parliament has clear roles, meaning that there are clear provisions informing the relationship and interaction between Parliament and the executive in public debt contracting.

On a technical level, Zambia and Zimbabwe have a debt management office (DMO) with relevant functions, and clear advisory and reporting obligations to the Minister of Finance. In contrast, Malawi has a very weak debt management institutional system. For instance, Malawi's PFM system has no debt management office as is the case with Zambia and Zimbabwe. The Secretary to treasury undertakes duties that must be discharged by the DMO. This makes the Secretary to treasury a key player in public debt management, with very little delegation of this function to a specialized office.

**Public Finance** – The institutional frameworks for public finance management are also very clear in the three states. As with public debt, the ministry responsible for finance is central to this framework, and there are several entry points for parliamentary oversight. In the three states, there are clear roles for the Secretary to Treasury, the Accountant-General, accounting officers and internal audit institutions in government departments. Finally, there are clear roles for the Auditor-General, which are given effect by specific public audit legislation.

In addition to this, taxation systems in the three states are well addressed through stand-alone taxation legislation. It is stated that the taxation legislation in the three states derive their authority from the PFM law, which address resource mobilization, allocation and utilization. This is addressed in Part III of the Zambia PFM law, Part II of Zimbabwe's PFM law and Part II of Malawi's PFM law.

**Illicit Financial Flows** – There are several institutions in the three states tasked with obligations necessary to combat illicit financial flows. These include taxation authorities, anti-corruption agencies, fiscal and monetary authorities, law enforcement, and financial intelligence departments. Even though these institutions are scattered across the public finance value chain, they play a critical role in combating IFFs in the three states.

A clear example is the linkage between internal audit systems in government departments, with the national audit office and the Accountant-General. The three states make provision for a system of punishment for financial misconduct. This is covered in Part IX of Zimbabwe's PFM law, part XII of Malawi PFM law, and Part VIII of Zambia' PFM law.

### 1.3.2 Normative Framework

**Public Debt** –The legislative frameworks of the three states goes some distant in encapsulating best practises in public debt management in their systems. Importantly, the three systems directly regulate state loans, grants and guarantees and handling of treasury bills. Further, the three public debt systems make provision for a mid-term debt management strategy, borrowing by sub- national authorities and public entities and finally parliamentary oversight over public

debt. The fact that these key thematic issues are covered in legislation suggest that the public debt management frameworks are underpinned by best practises and good norms.

**Taxation** – There are comprehensive norms and principles for resource mobilization, allocation and utilization in the three states. As stated above, norms and principles underpinning resource mobilization and control of public resources are addressed in Part III of the Zambia PFM law, Part II of Zimbabwe’s PFM law and Part II and IV of Malawi’s PFM law. Additionally, Chapter

17 of the Zimbabwe Constitution makes provision for comprehensive principles of public finance and taxation. As with Zimbabwe, Zambia’s Constitution provides for good principles of public finance and taxation, which are complemented by principles in section 20 of the PFM Act.

**Budget Process** – The budget process is central to public finance, and the three states have clearly provided for the budget process in their legislative systems. For Zimbabwe, Part III of the PFM Act regulates the budget process, whilst for Malawi, this is in Part III and Part IV of the PFM Act. In contrast, Zambia has sought to comprehensively regulate the national budget in stand-alone legislation, namely the National Budget Planning Act, 2018.

### 1.3.3 Parliamentary Oversight

**Debt Management** – Zimbabwe and Zambia have very strong parliamentary oversight regimes in public debt management. Malawi’s regime has strong parliamentary involvement in the budget process only, and no parliamentary involvement in the public debt management. This means that Malawi’s system remains the weakest, with minimal parliamentary oversight over the executive in debt contraction. For Zimbabwe, loans and guarantees are not subject to parliamentary approval, and this is a massive gap.<sup>5</sup> In Zambia, there are certain exceptions against parliamentary oversight which are susceptible to abuse. For instance, under section 14 of the PDM Act, the requirement for parliamentary approval of loans may be suspended during an emergency.

5 See section 11 of the PDM Act.

**Public Audit** – In the three states, the Auditor-General submits annual reports to Parliament. For Zambia and Malawi, the Auditor-General also submits an annual report to the President – a position that is not the case with Zimbabwe. In Malawi, the Public Accounts Committee has a key role to play in guiding Parliament on the submitted reports. This means that for Malawi, there is a direct linkage between the Auditor-General, Parliament and the President. Zimbabwe’s law is more executive-minded than in the other two states. For instance, in Zimbabwe, the Auditor-General submits reports to the Minister of finance, and to any Minister who administers any public entity or body subject to audit by the Audit General. There is no such process in Zambia and Malawi.

It is also very clear that in Malawi and Zambia, the Auditor-General is more independent and more fortified than in Zimbabwe. In comparison, the Zimbabwe’s AG has lesser audit powers and a limited mandate than his/her counterparts in Zambia and Malawi.<sup>6</sup> For instance, there are no specific provisions on immunity of the Auditor-General in Zimbabwe, in contrast to the position in Zambia and Malawi where this is clearly provided for.

**Illicit Financial Flows (IFFs)** – In the three states, Parliament has not moved to promulgate stand-alone legislation on illicit financial flows. This means that Parliament can discuss IFFs in the context of other subject issues such as taxation or corruption.

Despite lack of specific legislation in IFFs, several mechanisms exist in current legislation to safeguard against IFFs. To exemplify this, the wide scope of powers and mandate of the Auditor-General in the three states gives him/her the power to interrogate financial activities, leakages or corrupt activities that are linked with IFFs. In particular, section 19 of the Zambia Public Audit Act grants the Auditor-General power to ‘conduct a forensic audit to establish fraud or other financial improprieties in a State organ, State institution or private institution.’ In a similar vein, the Malawi audit law provides that the Auditor-General can ‘pursue any concern that arises in respect of the management of public resources which, in the Auditor General’s opinion,



6 Comparison of section 6 and 7 of Malawi’s Public Audit Act, with section 14 to 22 of Zambia’s Public Act and section 5, 6, 7 and 8 of Zimbabwe’s Audit office Act.

justifies further investigation'.<sup>7</sup> Finally, the Zimbabwean audit law provides that the Auditor-General 'may carry out examinations into the economy, efficiency and effectiveness with which any Ministry, public entity, local authority, designated corporate body, statutory fund or other body has used public resources in discharging its functions'.<sup>8</sup>

From these wide-sweeping provisions, public audit legislation can be used as a weapon against IFFs in the three states, and this is a progressive feature.

### 1.3.4 Penalties and Sanctions for non-compliance

The three jurisdictions have made provisions for penalties and sanctions against non-compliance or other criminal activities in their PFM systems.

**Public Finance** – As was pointed above, the three states make provision for a system of punishment for financial misconduct in their main PFM law. Accordingly, punishment mechanisms for financial misconduct and indiscipline are covered in Part IX of Zimbabwe's PFM law, Part XII of Malawi PFM law, and Part VIII of Zambia' PFM law.

In relation to Malawi, sections 109 – 112 of the PFM Act creates a system for punishing breach of the Act by officers. Breach contemplated in these provisions leads to financial misconduct, punishable through both civil and criminal actions. This approach is similar to the Zimbabwean approach where civil sanctions are complemented by criminal penalties.<sup>9</sup> For Zambia, Part IV provides a comprehensive framework for civil and criminal sanctions, and these are complemented by other administrative remedies such as surcharges to recover lost public resources. Zambia's system is strengthened by the existence of Ministerial and Parliamentary Code of Conduct Act, that can be activated to proceed against ministers and parliamentarians in contravention of the Act.

## 1.4 Overview of Main Gaps and Recommendations

### 1.4.1 Absence of Specific Approaches to address IFFs

It has been discussed above that despite several cross-cutting laws and institutions converging to fight forms of Illicit Financial Flows, the three jurisdictions have no specific provisions in law to directly address the threat and reality of IFF in their public finance systems. IFFs require multi and cross-sectorial approaches involving several state and non-state actors in the financial

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7 See section 6(4)(f) of the Public Audit Act.

8 See section 6(1)(b) of the Audit Office Act.

9 See sections 85 – 88 of the PFM Act.

system. This means that a stand-alone law must exist to incorporate certain strategies and mechanisms to address IFFs. The absence of the stand-alone legislation on IFFs means that the states are constrained to develop specific policies and mechanisms against IFFs.

#### **1.4.2 Absence of cross sectorial and inter-agency collaborations**

There are no comprehensive provisions for cross-sectorial and inter-agency collaboration in the public finance management frameworks of the three states. By their nature, IFFs require the cooperation, collaboration and interaction between several agencies. These agencies include the anti-corruption institutions, law enforcement agencies, revenue collection bodies, anti-money laundering systems, and those agencies responsible for recovery of stolen assets or proceeds of crime. The lack of comprehensive provisions in relevant laws on inter-agency collaboration undermines the fight against IFFs. Currently informal frameworks for inter-agency collaboration and cooperation that exist in the three states are not sufficiently harmonised or integrated. This may be caused by lack of specific legislation on IFFs, or a specific state agency on IFFs.

#### **1.4.3 Weak PFM Enforcement Systems**

Institutions for progressive and active enforcement systems of PFM frameworks are not sufficiently strong to confront the challenges of PFM in the three states. This means that there is limited enforcement of laws and policies, and this militates against improved transparency, accountability in government spending. Enforcement of the law is driven through both criminal sanctions (for financial misconduct) and civil administrative remedies in the three states.

In Zambia, financial misconduct is addressed in Part VI of the PFM Act, whilst for Malawi, Part XII of the PFM Act deals with offences and discipline. For Zimbabwe, financial misconduct is addressed in Part IX of the PFM Act. A scrutiny of provisions in these laws suggest that there are certain penalties for low level personnel. There are very weak provisions in the three states to penalize senior government officials, such as the secretary to the Treasury, or to reprimand the Minister, or other senior officials for financial misconduct

Further, there are no robust systems to actively enforce findings and recommendations for good public finance management. For instance, there are no robust framework for the enforcement and monitoring of recommendations of the Public Accounts Committee, or those of the Auditor- General. Thus, whilst the legislative frameworks have gone some way in elevating the role of Parliament and the Auditor-General's role, the three pieces of legislation lack strong, comprehensive enforcement mechanisms and penalties for serious financial misconduct leading to wastage of national resources.

#### **1.4.4 Weak Structure for Parliamentary approval of government borrowing**

There are unsatisfactory provisions in the laws of the three states to ensure that the terms and conditions for government borrowing are reviewed, scrutinised, progressively considered and approved by Parliament. This can lead to unfettered borrowing by Government. Parliament need to consider several borrowing terms, such as those that relate to the nature of loan facility; purpose of government borrowing; condition of drawdowns; terms of interest payment and repayment, prepayment and cancellation, and other terms. This is critical in debt control and management, and Parliament must be empowered to exercise oversight on these issues.



## 2.0 | SADC PF MODEL LAW ON PUBLIC FINANCIAL MANAGEMENT

### 2.1 Introduction

The Southern African Development Community (SADC) is a regional economic community comprising 16 member states, including Zambia, Zimbabwe, and Malawi (SADC, 2022). Established in 1992, SADC's primary objective is to promote regional integration, economic growth, and socioeconomic development in Southern Africa (SADC, 2012). One of the key focus areas for SADC has been strengthening public financial management (PFM) systems across the region, with the aim of ensuring transparency, accountability, and efficient utilization of public resources (SADC, 2016). In this context, the SADC Parliamentary Forum (SADC PF), the regional inter-parliamentary body, has been at the forefront of developing a Model Law on Public Financial Management (SADC PF, 2018). This Model Law serves as a guiding framework for SADC member states to harmonize their national PFM legislation and practices, thereby promoting good governance and fiscal discipline within the region (SADC PF, 2018).

The socioeconomic landscape of the SADC region is characterized by persistent challenges, such as high levels of poverty, income inequality, and uneven development (World Bank, 2021; UNDP, 2020). These issues are further exacerbated by the region's susceptibility to external shocks, such as climate change, global economic fluctuations, and the recent COVID-19 pandemic (UNECA, 2020; OECD, 2020). Addressing these challenges requires a robust and transparent PFM system that can effectively mobilize, allocate, and utilize public resources to foster inclusive and sustainable development (IMF, 2018; OECD, 2017). Moreover, the political context of the SADC region has been marked by instances of democratic backsliding, corruption, and weak institutions in some member states (Transparency International, 2020). These factors can undermine the effectiveness of PFM systems and hinder the equitable distribution of public resources, perpetuating socioeconomic disparities within and across SADC countries (UNECA, 2019; Acemoglu & Robinson, 2012).

In this unit, we will undertake an analysis of the SADC PF Model Law on Public Financial Management. This analysis will shed light on the alignment between national frameworks and

the regional model, as well as identify gaps, challenges, and opportunities for improvement. Particular attention will be paid to the issues of inequality and the potential of the SADC PF Model Law to address these imbalances and promote more inclusive and sustainable development within the region.

## 2.2 An Overview of the Status of PFM systems in Zimbabwe, Malawi and Zambia

The call for more effective regulation of public finance systems has increasingly grown in the last two decades in Africa, and most countries in Southern Africa have sought to improve their legislative and institutional systems in response to the call. These efforts have led to more progressive public finance regulatory systems that seek to guard against wastage of public resources, contracting of unsustainable debt, unchecked and unnecessary borrowing, retrogressive taxation frameworks and illicit financial flows and other leakages.

The three countries selected for this study, namely Zimbabwe, Malawi and Zambia, have progressive legislative and institutional frameworks for public financial management. However, this has not been enough to guarantee good governance and efficiency in public finance management. Accordingly, these three states are saddled with massive debt, leading to debt distress.

At an international debt conference held on 23<sup>rd</sup> February 2023 in Zimbabwe, the President of the African Development Bank (AfDB) noted the following on Zimbabwe:

' Total consolidated debt for Zimbabwe stands at US\$17.5 billion. Debt owed to international creditors stands at US\$14.04 billion, while domestic debt stands at US\$3.4 billion. Debt owed to bilateral creditors is estimated at US\$5.75 billion, while debt to multilateral creditors is estimated at US\$2.5 billion. The country is in arrears for servicing its debt, with arrears to multilateral development banks, including the African Development Bank, the World Bank, and the European Investment Bank. While token payments are being made to service the debt, it is now time for a comprehensive arrears' clearance, debt resolution and debt restructuring for Zimbabwe.

Zimbabwe cannot run up a steep hill of economic recovery carrying a heavy backpack of debt on its back.'<sup>10</sup>

This stark reality was confirmed by the Zimbabwe Coalition for Debt and Development in its Public

10 See <https://www.afdb.org/en/news-and-events/speeches/speech-delivered-dr-akinwumi-adesina-president-african-development-bank-group-2nd-dialogue-platform-arrears-clearance-and-debt-resolution-process-zimbabwe-harare-zimbabwe-23-february-2023-59299>.

Debt Report that studied trends and patterns of debt in Zimbabwe during the 2023 financial year.<sup>11</sup> By June 2024, total debt stock for public debt had risen to US\$21 billion, represented by US\$8 billion domestic debt and US\$12 billion foreign debt as reported by Zimbabwe's Treasury's debt management office<sup>12</sup>.

For Malawi, public debt rose by 38% between 2022 to 2023 from K6,84 trillion (being 63% of GDP) to K9,4 trillion (75% of GDP). In US\$ terms, the public debt was US\$9,17 billion by March 2023, up from US\$8,37 billion the previous year. In the 2024-2025 national budget policy statement, delivered in February 2024, the Minister of Finance and Economic Affairs updated these figures as follows:

'As of December 2023, public debt stood at K12.56 trillion, representing 84.8 percent of GDP, of which total external debt reached K6.62 trillion, while domestic debt amounted to K5.94 trillion'.

In 2020, Zambia became the first African country to default on its sovereign debt during the COVID-19 pandemic (Munyati, 2020). After missing a US\$42.5 million Eurobond coupon payment in November 2020, Zambia entered a protracted debt restructuring process (Dzirutwe, 2020). The country's debt burden had been steadily rising in the years prior, reaching around US\$12 billion by 2020, equivalent to over 100% of its GDP (World Bank, 2021a). The COVID-

19 crisis exacerbated Zambia's fiscal challenges, as the pandemic led to a sharp decline in government revenues, a rise in public spending, and a collapse in copper prices—Zambia's main export commodity (AFDB, 2021). This, combined with a history of high budget deficits, off-budget spending, and lack of transparency in debt management, made Zambia's debt unsustainable (Mpundu, 2022; Munyati, 2020).

11 In November 2024, the Zimbabwe Public Debt Management Office published the 2023 Public Debt Report with concerning highlights. As quoted by Zimbabwe Coalition for Debt and Development. According to the ZIMCDD report '... total public and publicly guaranteed (PPG) debt was marginally up by 0.6%, in annual terms, to US\$17.7 billion as of the end of September 2023 from US\$17.6 billion as of the end of September 2022. Of the September 2023 total PPG debt stock, 72% (US\$12.7 billion) was contracted externally, while 28% (US\$5 billion) was contracted from the domestic market. The external PPG debt comprises bilateral debt (US\$6 billion), multilateral debt (US\$3.1 billion), and Reserve Bank of Zimbabwe (RBZ) debt (US\$3.6 billion). In the same vein, the total domestic PPG debt consists of compensation to Former Farm Owners (FFOs) (69.7%), government securities (29.2%), and arrears to service providers (1.1%). Further analysis shows that the September 2023 total debt stock is 1.8% lower than the US\$18.02 billion recorded in December 2022. This decline is mainly attributable to a decrease in external debt due to the Treasury's takeover of US\$684.8 million liabilities on the RBZ balance sheet; see <https://zimcodd.org/storage/2024/02/Analysis-of-the-2023-Public-Debt-Report-.pdf>.

12 [JUNE-2024-QUARTERLY-PUBLIC-DEBT-BULLETIN-.pdf](#)

In response to the default, Zambia applied for debt relief under the G20 Common Framework in early 2021 (IMF, 2021). The Common Framework is a debt restructuring process launched by the G20 and Paris Club in 2020, aimed at providing a coordinated approach to addressing the debt challenges faced by low-income countries (G20, 2020). However, the process has been criticized for its slow pace and lack of participation from private creditors (Odera & Munevar, 2021). As of 2023, Zambia's debt restructuring process under the Common Framework was still ongoing, with negotiations between the government and its creditors yet to be concluded (World Bank, 2023). The successful implementation of this debt relief initiative is crucial for Zambia to regain fiscal sustainability and pave the way for economic recovery and development (IMF, 2021). Consequently, in 2023, the Zambia Parliamentary Planning and Budget Committee reported the following.

'...as at June 2023, Zambia's total public sector debt amounted to US\$ 27.7 billion. Within this total, the central Government's external debt stood at US\$ 14.1 billion, while the domestic debt amounted to US\$ 12.2 billion. Additionally, the central Government's guaranteed external debt was US\$ 1.4 billion, while external non-guaranteed debt amounted to US\$ 8.4 million. Total arrears as at June, 2023, stood at US\$ 10.4 billion.'

These facts portray a devastating picture of public debt in the three countries. In fact, these facts remain true for most Sub-Saharan African countries that are experiencing unsustainable debt crises. In 2023, the International Monetary Fund (IMF) made the following findings:

'The average debt ratio in sub-Saharan Africa has almost doubled in just a decade—from 30 percent of GDP at the end of 2013 to almost 60 percent of GDP by end-2022. Repaying this debt has also become much costlier.

The region's ratio of interest payments to revenue, a key metric to assess debt servicing capacity and predict the risk of a fiscal crisis, has more than doubled since the early 2010s and is now close to four times the ratio in advanced economies. As of 2022, more than half of the low-income countries in sub-Saharan Africa were assessed by the IMF to be at high risk or already in debt distress.'

### 2.3 Revenue Losses and Leakages in SADC

Apart from debt, revenue losses and leakages have raised concern about the public finance management frameworks in SADC member states. This means that, despite its vast natural resources and potential for economic growth, SADC member states face persistent challenges in public finance management and these challenges undermine economic growth, stability and development. The loss or diversion of public funds means that public resources fail to reach intended public purposes, thus undermining the ability of SADC countries to achieve sustainable development and deliver essential public services to their citizens.

The problem of revenue losses and leakages in SADC is due to many drivers, which include weak governance structures, corruption, and a lack of transparency and accountability. Recent statistics paint a stark picture of the problem of revenue losses and leakages in SADC. A study by the African Development Bank in 2019 highlighted that the SADC region loses an estimated US\$50 billion in revenue annually due to tax evasion, illicit financial flows, and other forms of leakages. In addition, a 2021 report by the Tax Justice Network estimated that SADC countries lose an estimated US\$60 billion annually due to illicit financial flows. Further, an UNCTAD's Economic Development in Africa Report published in 2020 reported that every year, an estimated US\$88.6 billion, equivalent to 3.7% of Africa's GDP, leaves the continent as illicit capital flight. It is therefore apparent that the SADC region and Africa at large faces a significant problem of revenue losses and leakages due to IFFs which are very significant. Again, this paints a bad picture about the effectiveness of public finance management in SADC member states. The question that emerges is how SADC has responded to this stark reality in member states.

## 2.4 SADC and the SADC PF Model Law

Good public finance management is a major concern for the Southern African Development Community (SADC). In terms of Article 5 of the SADC Treaty, one of the fundamental objectives of the organisation is to:

' ... promote sustainable and equitable economic growth and socio-economic development that will ensure poverty alleviation with the ultimate objective of its eradication, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;'

In simpler terms, SADC targets sustainable socio-economic development in member states for the alleviation of poverty. Progressive public finance management frameworks, that is, characterised by several key features that promote transparency, accountability, and efficient utilisation of public resources, can achieve this by ensuring that resources are not wasted, corruption is addressed and that leakages and illicit financial flows are effectively dealt with.

In response to intense calls and advocacy by multilateral organisations such as the IMF, AfDB, and the World Bank for a sub-regional position to the public finance management crises pervading most African states, SADC moved to promulgate and adopt a model law in public finance management, through its parliamentary forum. The SADC Model Law on Public Financial Management was adopted in July 2022. The model law contains certain fundamental principles that are core to public finance management and most of its vital norms are reflected in the PFM legislation of the three states. As will be demonstrated, the main thematic pillars of the SADC Model Law are reflected in the PFM legislative frameworks of most SADC member states. This means that SADC member states' legislatures can domesticate the Model Law after interrogating their own legislative and institutional frameworks since the provisions of the Model Law are derived from common public finance problems encountered by SADC member countries.

In general, the SADC Model Law reflects the key drivers of effective public finance management, which include a robust budget planning process; performance-based budgeting, balanced budget allocation, among other key themes. Critically, the Model Law admits to the essential oversight role of Parliament in public financial management since Parliament interfaces with public financial management at several levels. However, this notwithstanding, the Model Law is alive to the principle of separation of powers, and respects the balance between parliamentary oversight and the need for government to undertake its executive functions.

## **2.5 SADC Model Law: General Objectives**

One of the primary objectives of the SADC PF Model Law on Public Financial Management (MLPFM) is the strengthening of parliamentary oversight over public finance management processes. As reiterated above, the target is to ensure transparency, accountability, efficiency and effective resource governance in member states. In this regard, the Model Law contains provisions related to tax (fiscal policy), public debt (government borrowing), and management of Illicit Financial Flows (IFFs). Accordingly, the Model Law contains provisions to guide taxation frameworks, public debt management and addressing illicit financial flows.

Prominently, the SADC Model Law emphasizes a robust, transparent and sustainable tax system as the cornerstone of sound public finance, and as a necessary part of fiscal policy. It advocates for comprehensive tax and fiscal policy. It also recognises the importance of tax policy formulation based on clear principles, objectives, and strategies aligned with national development goals. In addition, the Model Law highlights the relevance of accurate tax revenue forecasting to ensure realistic budgeting and resource allocation. Further, the Model Law advocates for the establishment of a tax expenditure management system to track and monitor tax exemptions, expenditures, incentives, and other revenue concessions. This system is geared at ensuring transparency and accountability in the use of tax revenue.

Regarding government borrowing and public debt, the SADC Model Law recommends that member states adopt responsible debt management practices. It emphasizes the need for clear debt limits and ceilings, transparent debt reporting, and a comprehensive debt management strategy aligned with fiscal sustainability. The model law also highlights the importance of managing and mitigating risks associated with public debt, including currency fluctuations and interest rate changes. Furthermore, the model law addresses illicit financial flows (IFFs), recognizing their detrimental impact on public revenue and economic development. It encourages member states to adopt measures to prevent and combat IFFs, including implementing international standards and best practices for combating money laundering and tax evasion. In this regard, it emphasizes the importance of international cooperation in addressing IFFs, encouraging collaboration between member states and regional and international organizations.

## 2.6 SADC Model Law and Taxation Frameworks

The SADC PF Model Law acknowledges the importance of taxation in effective public finance management systems. The provisions of the model law provide for well-structured tax systems that ensure adequate revenue collection, minimize distortions in the economy, and promote compliance. In essence, the spirit of the Model Law urges governments to carefully consider the impact of tax policies on different sectors and income groups to ensure equitable outcomes and achieve their desired economic objectives.

Taxation is addressed under provisions that deal with the budget process in Part 7 of the Model Law. In particular, in terms of Article 65, the Model Law requires sustainable fiscal policy to be part of the documents that accompany the national budget. In specific terms, the Minister of Finance must make a fiscal sustainability statement, and such statement shall include:

- i. an explanation of how the practice and procedure of tax incentives, as required or permitted by relevant fiscal laws, contributes to prudent fiscal policy and the maintenance of fiscal balances and levels of public debt;
- ii. an explanation of how the practice and procedure of extra-statutory concessions, as required or permitted by relevant fiscal laws, contributes to prudent fiscal policy and the maintenance of the fiscal balances and public debt; and
- iii. a report on the operation of double tax avoidance treaties and an explanation of how they contribute to prudent fiscal policy.

These provisions are aimed at ensuring sustainable tax policies as part of a robust national PFM legal framework. The requirement for Parliamentary scrutiny and discussion of the national budgets means that Parliament can debate the fiscal sustainability statement, and in particular, the practices and procedures for determining and awarding tax incentives in the statement. These provisions are in line with Article 11(1) of the Model Law which recognizes the principle of fiscal transparency.

Tax expenditure reporting is addressed in Article 113. In terms of this provision, tax expenditure reporting requirements form part of the other accounts to be prepared and presented by the Minister for public scrutiny. The Article highlights the need to address a common gap in PFM laws, especially in relation to tax laws by stipulating the reporting requirements on tax expenditure by the Minister responsible for finance. Tax expenditure reports are crucial for effective Public Finance Management as they illuminate the hidden costs of tax policies and promote transparency and accountability in the use of public resources.

In essence, tax expenditure reports should adequately reveal the foregone tax revenue due to exemptions, deductions, and incentives, providing a comprehensive picture of government spending beyond direct budgetary allocations. This transparency enables citizens to understand the true cost of tax policies and their impact on the budget, thereby fostering informed policy decisions and promoting efficient allocation of resources. By bringing these hidden costs to

light, tax expenditure reports empower citizens and policymakers to hold their governments accountable for their fiscal choices and ensure that public funds are used effectively and efficiently.

## **2.7 Public Debt Regulation**

One of the primary aims of the SADC PF Model Law is to promote responsible debt management practices and ensure fiscal sustainability. In this regard, the Model Law advocates for clear debt limits and ceilings, transparent debt reporting, and a comprehensive debt management strategy aligned with national economic objectives. The Model Law emphasizes the importance of managing and mitigating risks associated with public debt, including currency fluctuations and interest rate changes. It also encourages the use of debt for productive investments that contribute to long-term economic growth and development.

Furthermore, the Model Law demands a robust framework for debt sustainability analysis to assess the potential impact of debt on the economy. This analysis should consider factors such as the level of public debt, debt servicing costs, and the country's ability to generate revenue. The model law also encourages the establishment of independent debt management institutions to ensure transparency and accountability in debt management practices. This is in addition to providing guidance on the apt incurrence, management and repayment of government borrowing (public debt). These fundamental thematic issues are addressed in Part 8 of the Model Law under government borrowing.

## **2.8 SADC Model Law and Illicit Financial Flows (IFFs)**

The SADC PF Model Law on Public Finance Management (MLPFM) acknowledges the damaging impact of illicit financial flows (IFFs) on public revenue and economic development within the region. It encourages member states to implement robust measures to prevent and combat IFFs, including adopting international standards for combating money laundering and tax evasion, strengthening domestic financial regulations and law enforcement, and fostering international cooperation to share information and coordinate enforcement efforts. This comprehensive approach aims to protect public finances from illicit activities and promote a more equitable and sustainable economic landscape within the SADC region.

To achieve the above, the Model Law has certain provisions clearly emphasizing the importance of having the PFM legal framework that safeguards public finance from IFFs. The following provisions are key:

- Article 10(1)(b) urges states to contribute to the prevention of illicit financial flows. It is therefore important for PFM laws to contain objectives that emphasise the commitment towards preventing IFFs. This includes IFFs emanating from tax evasion by public sector entities as well as ensuring that public procurement is not used as a conduct to facilitate IFFs through corruption in procurement.

- Article 50(5)(h)(iii)–highlights the functions of the Public Accounts Committee as including monitoring and supporting action to prevent illicit financial flows. In this vein, Parliament and its various committees including the PAC also play an important role in support activities that ensure no IFFs are tolerated by officials in the public sector at all levels. The PAC is therefore expected to undertake its oversight role including in areas that are prone to IFFs. It is therefore important for the PAC and its other related committees to ensure adequate monitoring.
- Article 67 also relates to IFFs in that it requires certain accompanying documents of a national budget statement to focus on IFFs. In terms of this Article, the national budget must be accompanied by statement on IFFs, which statement must include—
  - i. an assessment of the current nature and extent of illicit financial flows.
  - ii. an assessment of progress in preventing illicit financial flows; and
  - iii. proposals for action to be taken to prevent illicit financial flows.

### 2.8.1 Enforcement Mechanisms

The SADC Model law requires the Minister responsible for finance to make regulations for the recovery of public funds in cases where an offense under the misuse of public funds section has been committed or suspected. This represents civil action against officials who would be found guilty of misconduct, and this reflects a good approach since it leads to recovery of public resources. These regulations must be read together with laws related to bribery, corruption, and recovery of proceeds of crime.

A second mechanism is that the Model Law empowers Parliament to disqualify public officials identified as having committed financial maladministration from specified offices or appointments within Parliament's purview. This sanctioning mechanism may result in persons that have a financial misconduct of maladministration suffering some prejudice in as far as their careers progression is concerned. This is a deterrent measure, and is a welcome approach, especially against senior public officials who would be ready to stand for higher public offices in the government.

Finally, the Model Law mandates the Minister to make Enforcement Regulations designed to enforce the provisions of the PFM Act and its accompanying regulations. These regulations may require the provision of information, enable the giving and acceptance of undertakings, and create additional criminal offenses. In terms of the penalties, jurisdictions have the liberty to align these to their national scales of penalties prescribed by their penal codes.

## 2.9 Overview

The SADC PFM Model Law is comprehensive and presents the major pillars of public finance management that must guide state legislative frameworks. It places Parliament at the centre of legislative oversight over public finance frameworks, and highlights the complementary role played by the Auditor-General in doing so. The mechanisms to address IFFs, inefficient taxation frameworks, public debt and corruption are progressive.

It has been noted that several mechanisms, procedures and institutional systems in the SADC PFM Model Law are reflected in most SADC states, in particular, Zimbabwe, Zambia and Malawi. This means that the principles in the Model Law are not foreign to SADC PFM frameworks, but can serve to strengthen existing national PFM legislative and institutional systems.



## 3.0 | RECOMMENDATIONS

### 3.1 Policy and Legal Recommendations for Incorporation into PFM Frameworks of the Three States

#### 3.1.1 Implement Governance and Structural Reforms to enhance debt transparency

To improve frameworks for public finance management, debt control and combating of illicit financial flows, there is need for policy shift that would see adoption of governance and structural reforms to achieve greater transparency in public finance management, improved public debt management systems, and enhanced taxation frameworks. Such approach can also strengthen initiatives to combat illicit financial flows (IFFs). In this vein, some of the reforms relate to strategies of domestic resource mobilization, formalization of informal sectors, and tax reforms that leverage new technologies to modernize tax collection systems.

#### 3.1.2 Strengthen Parliamentary oversight in PFM

SADC member states must strengthen the oversight role of Parliament over public finance. There are four major ways of doing this. Firstly, recommendations by Parliament's Budget and Finance Committee and those of the Public Accounts Committee must be binding on the Executive. The implementation of such recommendations must be tracked, monitored and reported for the sake of progress. Secondly, Parliamentary approval must be required where Government contracts loans from international creditors, especially where such loans have huge interest rates, and penalties on arrears. Thirdly, Parliament must be involved in enforcing penalties for non-compliance by Government officials when such non-compliance leads to increased debt, illicit financial flows, leakages and wastage of public resources. Finally, must be involved in constant monitoring of public finance frameworks so that it can track implementation dynamics, challenges and success stories of all PFM frameworks.

#### 3.1.3 Strengthening of Oversight Institutions in Public Finance Management

Apart from Parliament, SADC member states must strengthen the power and mandate of other oversight institutions in public finance management, such as the Auditor-General's Office, the Debt Management Office and anti-corruption agencies. The recommendations of these

institutions must be legally binding, and thus must be implemented. Further, there must be a monitoring and evaluation system to track implementation. Finally, the powers and mandate of anti-corruption agencies, law enforcement agencies, anti-money laundering and revenue management agencies must be strengthened to improve financial discipline, transparency, accountability and efficiency.

#### **3.1.4 Establish cross sectorial inter-agency collaboration and cooperation frameworks**

In the age of IFFs, the effectiveness and efficiency of public finance management systems hinges on multi and cross-sectorial inter-agency collaboration. Legislative and institutional frameworks in SADC must be strengthened to enable anti-corruption agencies to work with other agencies in fighting corruption. All institutions and agencies must thus cooperate and collaborate to study, detect and prevent, react and address illicit financial flows. Critical agencies that must work together in fighting corruption and IFFs include those responsible for revenue collection, law and order, anti-money laundering, stolen asset recovery, anti-corruption, financial intelligence, customs and border control, exchange control, mineral extraction and trade regulators. Provisions must be introduced in relevant laws and regulations to mainstream inter-agency collaboration across different relevant sectors.

#### **3.1.5 Introduce adequate safeguards against debt vultures and unscrupulous lenders in debt contracting**

Specific provisions must be inserted in law to guard against contracting debt based on high interest rates and unsustainable penalties and conditions for arrears payments. SADC Governments must be constrained by these provisions. These provisions can also guard against the emerging 'debt vultures' who are a more serious class of unscrupulous lenders.

#### **3.1.6 Develop functional penalties for misconduct and non-compliance**

Civil remedies for misconduct and non-compliance must be accompanied by criminal penalties to shape and influence behaviour in public finance space. Both forms of penalties must be sufficiently deterrent to discourage criminal behaviour and other serious misconduct. To this end, adequate penalties and administrative measures must be inserted in PFM legislation and relevant regulations of SADC Member states. The Ministry of Finance reports to Parliament must include a section on the enforcement of penalties and sanctions against non-complaint institutions, entities and government departments.

#### **3.1.7 Adopt Realistic, Inclusive Debt Restructuring Strategies for Accumulated Debt**

Due to the reality of massive, accumulated debt in the three states, the three governments must adopt sustainable and realistic Debt Restructuring Strategies. The debt management laws must have clear provisions that mandate the debt management authorities to develop these strategies for consideration and adoption by Parliament and Cabinet. In the implementation of these strategies, political commitment of the highest level must be demonstrated by the

government, especially in meeting its international obligations and implementing key economic, financial and governance reforms.

### **3.1.8 Innovative measures for Resource Mobilisation through the Informal Sector**

SADC governments must develop clear policy directions on the taxation of the informal sector as a means of resource mobilisation. Raising resources from the informal sector can go a long way towards meeting the gap of resources lost through IFFs. It will also provide funds for debt repayments and arrears clearance. The three states need such policies since the informal sector is generally exempt from most of the taxation framework which targets the formal sector.

### **3.1.9 SADC states must adopt stand-alone Regulations on Illicit Financial Flows**

The Public Finance management laws in SADC states must enable the development of regulations by the Minister responsible for Finance to address IFFs in the PFM system. These regulations must mainstream other approaches stated above, such as inter-agency collaboration in investigation, detection, prevention and prosecution of criminal entrepreneurial activities in the financial system.

### **3.1.10 Reform Tax policies to encourage compliance and improved tax performance.**

There is need for SADC Governments to ensure that tax policies support and improve tax compliance. These taxpayers are usually regarded hard-to-tax if the policies are not tailored to their operations. This is in view of the need of these countries to rely more on domestic resources mobilization and revenue sources. The tax policies should be aligned to the PFM strategies such as the debt levels where the SADC Model law recommends a cap of 60 percent of national GDP. This is important for countries such as Zambia where the PFM legislations recommend a higher debt ceiling of 65 percent.

### **3.1.11 Develop a Model Law Tracker for SADC PFM Model Law**

A monitoring and evaluation approach to implementation of regional treaties must be developed to ensure that country assessments are done. This means that a Model Law Tracker needs to be developed and publicised to SADC governments so that they acknowledge its existence. A Model Law tracker motivates implementation and incentivises states to go beyond the bar set in the law.

## **3.2 Conclusions**

The SADC Model Law on PFM is a regional code for good standards and practises on public finance management. Having been adopted in 2022, the Model Law responds to the growing concern about mismanagement of resources, corruption, wastage of resources, shrinking revenue generation, compromised taxation frameworks and rising debt.

This paper has focused on the key provisions in the SADC Model Law on debt, tax and illicit financial flows. Whilst there are comprehensive mechanisms proposed to address these three thematic issues, member states have a choice of strengthening their systems in the interests of good public finance management systems. The major findings for the research have been flagged above and inform the recommendations and action-plan in the recommendations. Parliamentary oversight needs to be enhanced in the three states. Stronger enforcement penalties must be innovated to ensure compliance and breach. Further, despite very progressive legislative frameworks on public finance, public debt, public procurement and audit, implementation remain very weak. Political will and commitment are needed from the three governments to ensure that the PFM frameworks can proactively address mismanagement, corruption, illicit financial flows, massive debt accumulation and revenue leakages.

The key recommendations relate to strengthening parliamentary oversight, buttressing existing institutions and establishing effective institutions. The recommendations by relevant committees of

Parliament and those of the Auditor-General must be legally binding and be enforced and implemented effectively.

In the final analysis, the SADC Model Law is a comprehensive and progressive source of norms, principles and approaches to good public finance management in SADC. Member states must consider incorporating the suggested approaches and enrich their systems. What possibly remains at the SADC level is an inter-governmental monitoring and evaluation framework, or a comprehensive peer review mechanism to enhance compliance, domestication and implementation of the SADC Model Law on Public Financial Management.

## ANNEXURE 1: Recommendations for PFM Legislation in the three states

PFM Subject Matter	Recommended Legislative Provisions	Applicable Legislation
<b>Parliamentary Oversight</b>	<p><b>Oversight of Parliament</b></p> <p>Subject to the Constitution, Parliament shall provide oversight in respect of.</p> <ol style="list-style-type: none"> <li>matters relating to budget and finance;</li> <li>government expenditure, loans and guarantees</li> <li>performance reporting;</li> <li>post-legislative scrutiny; and</li> <li>impact of financial policy measures on the economy.</li> </ol> <p>The recommendations of Parliament in relation in respect of the above shall be binding, unless justifications have been provided for exceptions.</p>	Public Finance Management Act
Inter-agency collaboration & cooperation	<p>Notwithstanding any other law, crime and law enforcement agencies, anti-corruption bodies, revenue authorities, anti-money laundering and asset forfeiture and recovery agencies, and any other investigative security services shall collaborate and cooperate in combating public financial management related crimes.</p> <p>(2) All Departments of State must render such assistance as may be reasonably required in the exercise, performance or carrying out of the powers, functions and duties conferred upon, assigned to or imposed upon the Director by or under this Act</p>	Public Finance Management Act
Enforcement of	<p>The national prosecuting authority, the anti-corruption agency and the police shall, on an annual basis, submit a report on the status of any action commenced on behalf of the Government to the Minister, Auditor-General and Parliament following findings of the</p>	Public Finance





Implementation of Audit Recommendations and Findings	<p><b>Audit Report Findings Implementation</b></p> <ol style="list-style-type: none"> <li>1). An institution, body or organisation which is subject to auditing by the Auditor- General shall establish an Audit Report Implementation Committee comprising of relevant members.</li> <li>2). It shall be the duty of the Audit Report Implementation Committee to ensure that the head of an institution, body or organisation to which subsection (1) applies: <ol style="list-style-type: none"> <li>a). pursues the implementation of matters in all audit reports as well as the Auditor- General's reports endorsed by Parliament and financial matters raised in the reports of internal monitoring units in the institution, body or organisation; and</li> <li>b). annually prepares a statement showing the status of implementation of recommendation made in all audit reports as well as the Auditor- General's reports which have been accepted by Parliament and any other related directives of Parliament.</li> </ol> </li> <li>3). The statement shall show remedial action taken or proposed to be taken to avoid or minimise the recurrence of undesirable features in the accounts and operations of the institution, body or organisation and the time frame for action to be completed.</li> <li>4). The status of implementation statement shall be endorsed by the relevant Minister and forwarded to Parliament, Office of the President and the Auditor-General within six months after Parliamentary decisions on the Auditor-General's report.</li> </ol>	<p>Audit Office Act</p> <p>Public Audit Act</p>
Resource- Backed Policies	The State may guarantee repayment of debts and loans based on contractual agreements through the granting of mining concessions or concessions for other natural resources to creditors and lenders if repayment of such debts and loans due to fail to meet the repayments needed.	



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