

# The democratization of international organizations



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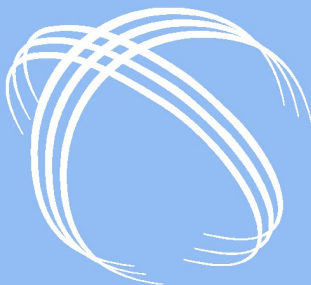
**CENTRE FOR STUDIES ON FEDERALISM**

**First International Democracy Report 2011**



**Southern African  
Development Community**

by  
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**CENTRE FOR STUDIES ON FEDERALISM**

## **I. Introduction**

Just like most other sub-regions, Southern Africa has experienced a trend of regionalism since the 1980s. The political economy of the region is gradually regionalising and development issues linked to HIV/AIDS, environmental degradation, poverty, unemployment, migration, peace and security don't stop at national borders. Above all, Southern Africa is greatly affected by the forces of globalisation. Realising the need for responding to the regional socioeconomic and political processes, making the region a prosperous place for people to live in, states have embarked on an ambitious regional project in terms of the Southern Africa Development Community (SADC). In fact, SADC is one of the oldest regional inter-state organisations in Africa with its almost 30 years of operation. However, in order for regional organisations like SADC to be a successful agent of regional development, benefitting from globalisation and create a just and peaceful regional order, they need to have strong governance structures based on democratic decision-making processes, which often necessitates a certain degree of supra-nationalism. This is often not the case. This chapter strives to deliver a comprehensive picture of the democratic state of SADC. Starting with a short account of the history of the organisation, from its predecessor SADCC up until the recent major organisational restructuring, the chapter will then account for its governance structures and end up with analysing how democratic SADC is today.

## **I. History of SADC**

### ***1.1. From SADCC to SADC***

Originally, regional co-operation in Southern Africa was greatly spurred by the vast South African dominance in the region. In fact, the level of integration in Southern Africa has historically been high in a number of areas, such as transport, migrant labour, mining and trade, due to British and Portuguese colonialism and later South African expansionism. After the 1920s a regional trade pattern emerged whereby present Botswana, Lesotho, Namibia and Swaziland became economic provinces of colonial South Africa, although this was never formalised. For decades, one can say that the regionalization process very much evolved around South African national

capital's manipulation of human and natural resources in the region. Besides economic exploitation, people in Southern Africa for a long period of time also suffered from political repression from the South African apartheid regime, culminating in a number of military operations in the 70-ies trying to destabilize the region in order to push back the various liberation movements (Odén 2001). In this context, the Front Line States (FLS) was formed, a regional loose coalition of newly independent states with the aim of uniting against South African expansionism and supporting further decolonialisation.

The Southern African Development Co-ordination Conference (SADCC) was born as further consolidation of the FLS. The SADCC was formed around four principle objectives:

- To reduce member states dependence, particularly but not only, on apartheid South Africa;
  - To implement projects and programmes with national and regional impact;
  - To mobilise member states' resources in the quest for collective self-reliance;
- and
- To secure international understanding and support.<sup>1</sup>

The development component of SADCC was clear, at least according to rhetoric's, and the determination that economic development of the region requires going beyond the national border. In SADCs own words the rationale for the creation of SADCC was that "...just having a national flag and a national anthem would not meet the needs of the people for improved living standards."<sup>2</sup> It was also clear from the beginning that the rationale for SADCC was not regional trade and market integration. On paper SADCC strived for state interventionist import substitution industrialisation together with the equal sharing of costs and benefits. However, this grand strategy never really took off in practice. Instead, SADCC became focused on mere project coordination and implementation schemes (Söderbaum 2002: 75), especially in the transport and communication sectors. A number of transport corridors in Southern Africa were modernized and interregional communication improved significantly (Odén 2001: 88), including a regional telecommunication system (Oosthuizen 2006).

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<sup>1</sup> [www.sadc.int](http://www.sadc.int)

<sup>2</sup> Ibid.

The leaders of the region's majority-ruled countries; Angola, Botswana, Mozambique, Tanzania, Zambia, Swaziland, Lesotho, Malawi and the newly liberated Zimbabwe signed the SADCC Memorandum of Understanding in Zambia 1981 providing for the organisation's institutions and rights and obligations. Gaborone in Botswana was chosen as the site for the headquarter. Also, the SADCC Programme of Action was adopted, spelling out the functional co-operation activities in various sectors including transport and communication, energy, mining, trade and food and agriculture. SADCC adopted a decentralised approach to regional co-operation (Oosthuizen 2006). Please note that the areas of security and defence, today making a gradually greater imprint on SADCs activities, was compellingly absent.

The decentralisation approach meant that SADCC became a rather loose form of co-operation built on concrete projects and programmes. Responsibility for project planning and implementation, as well as funding, was given to individual states; thereby the need for an expensive bureaucracy was downplayed. Besides individual project running, each member was given one of the above mentioned sectors to co-ordinate, and thus an equal stake in the organisation regardless of the degree of economic and political power. Therefore, SADCC in itself did not legally own a project or its assets and in fact did not even have a legal status (Le Pere and Tjønnealand 2005). The institutional set-up was heavily biased towards the member states making SADCC quite state-centred, which is still the case today. The administration of projects was done by so-called *Sector Co-ordinating Units*, based in one of the responsible member's ministries, the bulk of decision-making was carried out in the SADCC Summit, made up of member heads of state or government or Council of Ministers through consensus. The only institution with some kind of supra-national function, the Secretariat, was kept very weak and tasked with service provision, for example assisting in planning and marketing regional projects, and co-ordination of the various SADCC institutions (Oosthuizen 2006).

From the start, it became evident that SADCC was heavily donor dependent. The South Africa's long-running destabilisation was not in line with Western interests, which instead sought to stabilise the region. SADCC became one important instrument for the donors in that endeavour (Vale 2003: 71), albeit for different reasons depending on the donor country. The Nordic and likeminded countries saw

SADCC as an important tool in the antiapartheid struggle whereas for Britain and Germany development assistance served as an alibi for maintaining economic relations with South Africa despite wide-spread sanctions (Söderbaum 2002: 69). Other sources of SADCC's popularity among donors were the small bureaucracy of the organisation and the fact that donors could pick and choose among a wide range of projects, according to their aid preferences (Odén 2001: 87).

SADCC was neither a failure nor success. By 1991 the members were only slightly less economically dependent on South Africa than in the beginning of the 80s. Furthermore, as already indicated, SADCC did manage to attract large sums of donor funding, but mostly for national, and not regional, development projects, considering the overwhelming national economic and political focus of most members.

In the late 1980s regional policy-makers wanted to take SADCC one step further creating a more effective organisation as well as endowing it with legal status. They also realised that South Africa and Namibia strongly approached a democratic rule and had to be drawn into formal regional co-operation. Hence, the leaders of the region decided to formalise SADCC and transform it from mere project co-ordination to a much more ambitious regional agenda: SADC (Le Pere and Tjønneland 2005). Furthermore, in line with a world-wide neoliberal trend in the 80-ies, the SADCC countries started to pay more attention to promoting the private sector, foreign investment and trade. Within SADCC, members encouraged each other to reform their economies and liberalise trade in order to attract foreign investors. The creation of SADC should be seen in this light.

### ***1.2. The creation of SADC***

The Southern African Development Community was launched on the 17 August 1992 when the Windhoek Declaration and the SADC Treaty were signed by the SADCC-leaders, plus Namibia who gained its independence in 1990. Later, the original SADC-members were accompanied by South Africa (1994), Mauritius (1995), Seychelles (1998), the DRC (1998) and Madagascar (2005). With the establishment of SADC, the focus shifted from the co-ordination of, mostly, national affairs to regional integration and co-operation (Oosthuizen 2006: 70). SADC went from being a conference to a legally established and internationally acknowledged international organisation with, at

least on paper, a distinct identity. This was reinforced by the creation of a SADC flag, which was launched in 1995 at the South Africa Summit. According to the then SADC executive secretary Karie Mbuende, “the flag served to mark a formal transition from the development community's founding mandate as a loose co-ordinating conference to a community.”<sup>3</sup> The flag was later followed by a SADC anthem, adopted at the Mauritius Summit in 2004, injecting further regional pride into SADC.

In comparison with SADCC, SADC put more weight on consolidation of democracy, at least rhetorically. According to SADC themselves, one of the most important factors that influenced the creation of SADC was the spread of democracy in the region (SADC 1992), a trend which SADC sought to strengthen. For example, SADC was “mindful of the need to involve the people of the Region centrally in the process of development and integration, particularly through the guarantee of democratic rights, observance of human rights and the rule of law” (ibid).

It is not an overstatement to say that the SADC agenda is very ambitious. According to the SADC Treaty, the (quite diverse) objectives of SADC are to:

- a) achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;
- b) evolve common political values, systems and institutions;
- c) promote and defend peace and security;
- d) promote self-sustaining development on the basis of collective self-reliance, and the interdependence of Member States;
- e) achieve complementarity between national and regional strategies and programmes;
- f) promote and maximize productive employment and utilization of resources of the Region;
- g) achieve sustainable utilization of natural resources and effective protection of the environment;
- h) strengthen and consolidate the long standing historical, social and cultural affinities and links among the people of the Region (1992).

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<sup>3</sup> <http://flagspot.net/flags/int-sadc.html>

Also referred to as the SADC Common agenda, these objectives gave the new SADC a stronger focus on regional economic integration as well as opening up for new political areas like peace and security (more about the latter below) (Le Pere and Tjønneland 2005). However, achieving these goals was still in the hands of individual states. If the objectives marked a great shift from the SADCC agenda, the new organisational set up did not. SADC kept the decentralised nature and member states continued to have the responsibility for co-ordinating one or two sectors, reinforcing the state-centrism.

The SADC Treaty created six institutions, of which only one was new compared with the old organisation: the Tribunal. However, the old institutions were polished a bit and given extra powers and functions. The SADC institutions were: *The Summit of Heads of State or Government, the Council of Ministers, Commissions, the Standing Committee of Officials, the Secretariat and the Tribunal* (SADC 1992). Not all of these exist today. An account of the current institutions will be given below. Furthermore, the Sectoral Co-coordinating Units (SCUs) were reinforced by the SADC Treaty, and the responsibility for implantation of projects still lied with the member ministries. In fact, this structure was strengthened even further through setting out concrete areas in which the member states agreed to co-ordinate and harmonize their macro-economic and sectoral policies and strategies as well as programmes and projects. These areas were: trade, investment and finance; human resources development; science and technology and politics, diplomacy, international relations, peace and security (Oosthuizen 2005: 72). Up to 2001 there were 21 SCUs in 12 of the 14 SADC countries (le Pere and Tjønneland 2005: 11).

Even though the inclusion of the politics-area signaled a shift in the emphasis SADC put on regional co-operation, it took the organization four years, however, to institutionalize the engagement in the peace and security sector. The ground for this sectoral expansion was laid in the Treaty and the inclusion of the third objective (see above). The SADC Summit of 1992 stressed the importance of creating regional peace and security arrangements and the subsequent Treaty provided for a SADC Organ on Politics, Defence and Security Co-operation (OPDSC). However, it was not set up until 1996, and the guidelines presented in a Communiqué from that year's Summit. Gaborone and the SADC headquarter was not an option for hosting the Organ,



instead this fell on Harare in Zimbabwe. In fact, from the beginning it was made clear that it should operate quite independently from the rest of SADC (Le Pere and Tjønneland 2005: 10). The objectives assigned to the OPDSC were quite wide-ranging. What is of most importance here, besides the objectives relating to creating stability in the region, co-operating in conflict-prevention, management and resolution, developing a defence pact and co-operating around policing, the Organ should facilitate and support the development of democratic institutions and practices within the member states and encourage the implementation of human rights throughout the region (Oosthuizen 2005: 85). The inclusion of the latter objective can be interpreted as SADC had developed a quite holistic understanding of peace and security, going from state security to human security. One scholar points to the fact that the SADC Protocol on Politics, Defence and Security co-operation is based on a broad understanding of security. Apart from “mainstream” security goals concerned with interstate military co-operation the protocol also emphasises a human security agenda promoting peace and human development within states. In fact, the protocol recognises that the most important threats facing the region are of a domestic, developmental nature that cannot be solved militarily (Hammerstad 2005). Lastly, the Communiqué establishing OPDSC was deliberately vague on one central point; whether the body was officially part of SADC or not. This vagueness can be seen as a compromise between, on the one side, South Africa and others who wanted the OPDSC and its chairperson to fall under the SADC Summit and, on the other hand, Zimbabwe and others who wanted an autonomous body with its own summit and only remotely part of SADC (Oosthuizen 2006).<sup>4</sup>

Approaching the millennium, SADC started to realize the vast gender inequalities in the region and put gender firmly on the SADC-agenda. Therefore, the SADC-leaders in 1997 signed the SADC Declaration on Gender and Development (SADC 1997). Also, a new institutional framework was developed. The Standing Committee of Ministers responsible for Gender affairs were to be established in the member governments backed up by an Advisory Committee made up of one representative from government and one from civil society. Also a Gender Unit was established in the

<sup>4</sup> On a deeper level, this conflict concerned the role of the state in conflict resolution and peace building. The South Africa camp, pushing for a peaceful approach to conflict resolution through multilateralism had to give way, at least partly, to the (realist) Zimbabwe group emphasizing national sovereignty, the centrality of states and military interventions.

SADC Secretariat 1996 with the task of ensuring, mainly through facilitation, co-ordination and monitoring, that gender is mainstreamed in all SADC policies, programmes and activities and that women participate in socioeconomic and political processes at the regional and national levels (Oosthuizen 2006:198).

### ***1.3. SADC recent history***

From 2001 and onwards SADC embarked on a major restructuring process. During the 90s it was felt that the decentralized approach made it very difficult for SADC to achieve its socio-economic and political objectives. The fact that each member state was responsible for a particular sector and charged with implementing projects in that sector made SADC highly vulnerable. The Secretariat proved to be rather powerless, only involved in policy coordination and project implementation. Most of the staff in Gaborone was seconded by member states, which became a great obstacle for creating a common regional identity as envisaged by SADC (Mulaudzi 2006: 11). In a 1997-report reviewing the SADC Programme of Action it was noted that the decentralization approach suffered from several problems, for example duplication of efforts, unclear lines of authority and accountability and uneven and inadequate provision of resources (Oosthuizen 2005). Also, the idea that member states were best suited for regionally coordinating specific sectors proved wrong (Mulaudzi 2006) considering the fact that the majority of SADCs projects were "...national projects dressed up as regional" (Söderbaum 2002: 98). Lastly, regarding actual implementation not much happened. Besides lack of funding, a factor playing against project implementation was that up until the end of 2001, only 9 of the 20 signed protocols had actually been ratified.

From all this, SADC concluded that regional co-operation in SADC was constrained by an inadequate management framework, as well as confusion about the strategies needed to achieve the objectives. There was no prioritization of areas of co-operation, the existing great number of sectors was unsustainable, and, most importantly, stakeholders (like CSOs) were not sufficiently involved in SADC's affairs (Oosthuizen 2005). The SADC-leaders therefore decided to fundamentally change the institutional set-up of SADC and speed up project implementation. An amended SADC Treaty was signed on the 14 August 2001, resulting in some new institutions and

broadened scope for some of the old ones. One important dimension of the new SADC Agenda was that civil society, worker's and employer's organizations and the private sector were considered, much more explicit than before, key stakeholders to be more involved in the regional project (Oosthuizen 2005: 103).

Perhaps the most profound novelty of the new SADC was that the 21 co-operation sectors were clustered into four Directorates centralized to the Secretariat. Even if the responsibility for implementing projects within these four areas still lied with the member state, the Secretariat via the Directorates would provide much more of overall co-ordination and monitor implementation of protocols and analysis of policies. *The TIFI Directorate* encompass the sectors of trade, industry and investment, *the IS Directorate* the infrastructure and services, *the FANR Directorate* encompass the food, agriculture and natural resources sectors, *the SHDSP Directorate* the social and human development and special programmes and *the Directorate of the Organ* peace, security and defense (Oosthuizen 2006). Besides the restructuring of the Secretariat, some new institutions were created (accounted for below): the so-called *Troika system*, *the Integrated Committee of Ministers* (very quickly replaced by the Ministerial Clusters, see below), and the *SADC National committees* (SADC 2001).

Most importantly, the Treaty objectives from 1992 were developed, putting more emphasis on democracy and development. For example, SADC saw the necessity to consolidate and maintain not only peace and security but also democracy and common political values, which should be promoted regionally through "...institutions which are democratic, legitimate and efficient" (ibid). Democracy was also highlighted in the 2001 Protocol on Politics, Defense and Security co-operation (OPDS Protocol), where SADC seek to "...promote the development of democratic institutions practices within the territories of State Parties and encourage the observance of universal human rights" (SADC 2001). The Organ was seen as important in this endeavor. The OPDS Protocol also formalized the structure, functions, powers and procedures set up by the Summit Communiqué from 1996. Not the least, the Organ formally became a SADC-body residing at the Secretariat (ibid).

Furthermore, realizing that HIV/AIDS had become real threats to widespread development, SADC took on the challenge to combat the pandemic, which were to be addressed in all SADC activities. The Declaration on HIV/AIDS from 2003 set out

priority areas for curbing HIV/AIDS in the region. It urges members states to develop strategies and promote programmes in relation to prevention and social mobilization as well as improve access to health care. The declaration also provided for a regional fund for the implementation of a particular SADC HIV/AIDS action programme (SADC 2003a).

At the time of the great restructuring process SADC also embarked on a major prioritization scheme regarding its programmes and activities. These were hectic times for SADC. It put considerable effort into developing strategic programmes to ensure a proper regional focus for its activities. The main programme in the social and economic field became the new Regional Indicative Strategic Development Plan (RISDP), often referred to as SADC's main socioeconomic development plan. The plan lists strategies and activities for each of the four intervention areas (le Pere and Tjønnealand 2006). The role of the RISDP was (is) to provide overall strategic direction with respect to the various SADC programmes and activities and to align the strategic objectives and priorities of SADC with the policies and strategies for achieving its long-term goals stated in the Treaty. The RISDP, "re-affirms the commitment of SADC Member States to good political, economic and corporate governance entrenched in a culture of democracy, full participation by civil society, transparency and respect for the rule of law", signalling the importance put on implementing the plan in a democratic way, involving non-state actors to a great extent. (SADC 2003b). Therefore, SADC decided to strengthen collaboration with the SADC Council of NGOs (SADC-CNGO), a regional network of national NGO Councils in Southern Africa, (after heavy lobbying by the latter), which it saw as the prime regional representative of civil society. A Memorandum of Understanding was signed in 2003, providing for a framework of co-operation between the two. It was agreed that SADC-CNGO should assist SADC in implementing the RISDP, providing services and policy advice (SADC-CNGO 2003).

In 2007, the Council reviewed the 12 intervention areas of RISDP and prioritised them according to their added value to regional economic integration and contribution to poverty reduction. Four priority programmes were approved:

- Peace and security co-operation as a pre-requisite for economic integration;
- Trade and economic liberalisation through progressive market integration;

- Infrastructure in support of regional integration; and
- Special programmes, for example HIV/AIDS, food security and gender equality.

SADC then held a Summit on Poverty and Development in 2008, calling for the establishment of regional mechanisms for monitoring the implementation of RISDPs poverty reduction objective. It remains to be seen what will come out of this initiative (Tjønneland 2008).

Furthermore, on the political side SADC developed a Strategic Indicative Plan for politics, defence and security co-operation (SIPO) for the Organ, equivalent to the RISDP, approved by the 2003 Summit in Tanzania. The SIPO provides a five-year strategic and activity guidelines for implementing the OPDS protocol (Oosthuizen 2005: 127). The core objective of SIPO is to create a peaceful and stable political and security environment (SADC 2004a).

The hectic days for SADC were not over. A few years ago, SADC embarked on *another*, yet to be completed, institutional reform process, strengthening the SADC institutional structures further. The reform focuses on strengthening SADC governance and decision making as well as management structures. In particular, the capacities and competencies of the SADC Secretariat, subsidiary organisations and SADC national institutional structures are in the process of improvement. Concretely, some major achievements have up to date been made in this regard. The decision-making structure of SADC has been more focused and its integration agenda is more prioritized. Key regional programmes are now centrally coordinated and managed by one body; the secretariat. Also, the Integrated Committee of Ministers, duplicating the role of the Council and not adding value, was replaced by six *Ministerial Clusters*. Lastly, a Secretariat Vision and Mission was developed and the core functions as think tank, principal regional coordinator of policies, support services provider and professional programme manager were clarified (Giuffrida and Muller-Glodde 2008). Here, it should be noted that the donor dependence of SADCC is partly reproduced with SADC. The European Commission is the biggest financial contributor to SADC, including individual member states, for example providing capacity building support to the Secretariat.<sup>5</sup>

The latest SADC-protocol of importance here is the SADC Protocol on Gender and Development, adopted at the South Africa Summit in 2008. The protocol is a

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<sup>5</sup> For more information on the role of donors in SADC, see Tjønneland (2008).

renewal and development of the Declaration on Gender and Development from 1997 and an attempt to scale up SADC's, and its member states, commitment to fighting gender inequality in the region and make it legally binding. The protocol ambitiously aims to "...provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and projects" (SADC 2008a). Member states are obliged to adopt the necessary policies, strategies and programmes to implement the protocol, such as affirmative action. The protocol is much more far-reaching in terms of objectives, and the measures to reach them, compared with the rather loose declaration from 1997. However, the protocol did not come naturally but followed an intense regional civil society campaign (see below).

## **2. SADC's governance structure<sup>6</sup>**

The 8 institutions comprising SADC's governance structure today are *the Summit of Heads of State or Government, the Council of Ministers, the Ministerial Clusters, the Standing Committee of Officials, the Secretariat, the SADC National Committees, the Tribunal and Organ on Politics, Defence and Security Co-operation*. Each of these will now be accounted for shortly in order to provide the reader with an overview of the organisation before going into greater depth in the democratic assessment.

### **2.1. The Summit**

The Summit is SADC's supreme policy-making institution. It consists of the Heads of State or Government of all members states, meeting at least once a year. The Summit is responsible for the overall policy direction and control of the organisation, which includes, for example, reviewing the RISDP and adopting SADC Treaties, as well as appointing the Secretariat's Executive General and the judges of the Tribunal. The Summit elects a Chairperson and a Deputy Chairperson from its members for one year on the basis of rotation. The latter ascends to the Chair the coming year. Together with the previous chair they make up the Summit Troika, which functions as a steering committee which makes and implements decisions and provide policy directions between meetings. The current Chairperson (2009-2010), elected at the

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<sup>6</sup> If not otherwise stated, this section draws from SADC (2001a).

SADC Summit in DRC 2009, is the Congolese president Joseph Kabila with President Hifikepunye Pohamba of Namibia as Deputy Chairperson. Together with the outgoing chairperson Jacob Zuma, president of South Africa, they form the current Summit Troika.

## **2.2. The Council of Ministers (COM)**

The COM consists of one minister from each member state, normally the one responsible for foreign affairs, meeting at least four times a year. The Troika system applies to COM as well. COM reports and is responsible to the Summit, advising the latter on policy issues and further development of the organisation, for example recommending the Summit the approval of protocols and Treaties. It oversees the functioning of SADC and implementation of the policies and execution of programmes, including the RISDP and SIPO. The Chairperson and Deputy Chairperson are appointed by the member states holding the Chairpersonship and Deputy Chairpersonship respectively and rotate on an annual basis.

## **2.3. The Ministerial Clusters**

The six clusters on *trade, industry, finance and investment; infrastructure and services; food, agriculture, natural resources and environment, social human development and special programmes, organ of politics, defence and security co-operation and cross-cutting issues like science and technology and gender* are constituted by the respective ministers connected to the theme of each cluster. The role of the Clusters is to provide policy guidance to and review the progress of the directorates and ensure synergy effects among the various sectors, in order to accelerate the regional integration process (Giuffrida and Muller-Glodde 2008).

## **2.4. The Standing Committee of Officials**

Consisting of one permanent secretary for each member state, preferably from the Ministry of Finance, this committee acts as a technical advisory committee to the COM, for example processing documentation from the latter. The Chairperson and Vice-Chairperson of the Standing Committee are appointed from the Member States

holding the Chairpersonship and Deputy Chairpersonship of the Council. The Troika system is applied here as well.

### **2.5. The Secretariat**

The Secretariat is SADC's principal administrative and executive institution, situated at Gaborone, Botswana. Among its chief tasks are strategic planning and policy analysis, monitoring, coordinating and supporting the implementation of SADC programmes, implementation of decisions of supreme decision making bodies and promotion of SADC. The Secretariat is headed by the Executive Secretary, appointed by the Summit for a once renewable four-year term. The current Executive Secretary is Dr Tomaz Augusto Salomao from Mozambique. Under him are two Deputy Executive Secretaries responsible for regional integration, i.e. the various directorates, and finance and administration. As already mentioned the directorates are the TIFI, FANR, IS, SHDSP and the Directorate of the Organ.

### **2.6. The SADC National Committees (SNC)**

In theory, each member should establish a SNC involving key stakeholders including government, private sector and civil society. Its composition must correspond to the clusters of sectors manifested by the directorates. The SNCs have the responsibility to provide input at national level in the SADC policy making and formulation of programmes, nationally coordinate and oversee project implementation and initiate new projects according to the RISDP. It meets at least four times a year. Linked to the SNCs are national steering committees, comprised of the chairpersons of the SNC and various sub-committees responsible for speedy implementation of programmes, and national contact points, i.e. the ministries responsible for communication with SADC.

### **2.7. The Tribunal**

Based in Windhoek, Namibia, the Tribunal is SADC's supreme judicial body, made up of ten judges, of which five are regular, appointed by the Summit. The current (2009) President of the Tribunal is Luis Antonio Mondlane from Mozambique. The "law" that the Tribunal is supposed to apply is the aggregation of all SADCs legal instruments. The prime task of the Tribunal is to make sure that the Treaty and corresponding



protocols, are adhered to and deal with disputes related to their interpretation. However, the Tribunal also has a broader mandate to protect the interests and rights of SADC member states as well as their citizens and adjudicate disputes between states, natural and legal persons. The Tribunal may also give non-binding opinions on matters referred by the Summit or COM. The implementation of decisions is subordinated to the member states through The Summit.

### **2.8. The Organ on Politics, Defence and Security Co-operation**

The Organ is the SADC institution responsible for promoting peace and security in SADC. Some of its objectives are to develop common foreign policy, promote political co-operation in the region and prevent, contain and resolve conflict within and between states. At the executive level, its work is coordinated by the Directorate of the Organ at the SADC Secretariat. The Organ is responsible and reports to the Summit (SADC 2001b). The leader of the Organ is always a head of state or government and the current Chairperson of the Organ is President Armando Guebuza of Mozambique and President Banda of Zambia is Deputy Chairperson. The Troika system applies to the Organ as well and together with the outgoing Chairperson Robert Mugabe, the above form the current Troika.

Lastly, a few works have to be said about decision-making within SADC. The highest policy-making institutions within SADC, i.e. the Summit and COM, in general use the consensus rule for taking decisions. Each country has one vote which means that the members have equal power in the decision-making process. Thereby, in principle, each state has the right to veto any decision, giving individual members supreme power over all decision-making. The sovereign equality principle is highly entrenched in SADC political culture. However, there are some exceptions to the consensus rule. For example, when amending the SADC Treaty weighted voting is practised. Three quarters of all members have to approve the amendment. Also, decisions regarding admittance of new members are based on unanimity.

### 3. Democracy at national level in Southern Africa

It is widely acknowledged that the development of common democratic values and institutions is crucial for regional integration (Kersting 2007), a fact that is recognised by SADC itself (SADC 2001a, 2001b, 2004b). Democratic governments are a prerequisite for regional democracy. As seen earlier, SADC champions the idea of democratisation, at least on paper. In order to be able to assess the democratic state of SADC then, one has to say something about the extent to which its members are democratic. This section will make a modest attempt in this regard.

The democratic scene in Southern Africa is very diverse and it is difficult to make validated claims about “more” or “less” democratic states as well as the overall democratic state of the region. One authoritative voice belongs to the Freedom House,<sup>7</sup> which claims that what they refer to as “free” political systems, in terms of the level of political rights and civil liberties in a certain country, is applicable to Mauritius, South Africa, Botswana, Namibia and Lesotho. Zambia, Tanzania, Madagascar, Mozambique and Malawi are partly-free countries and Swaziland, Zimbabwe, Angola and DRC are not-free-countries (Breytenbach 2007).

In line with Freedom House above, another important indicator of democracy is what the World Bank calls “voice and accountability,” measuring the extent to which a country’s citizens are able to participate in selecting their government, for example in terms of free media, freedom of expression and freedom of association. According to a WB study of Southern African countries, between 1996 and 2005 the “voice and accountability” of most countries was strengthened. However, the group is very mixed with high scores for, once again, Mauritius, South Africa and Botswana and low scores for Angola, Swaziland, DRC and Zimbabwe (Kersting 2007). These results are verified by the so-called *Afro Barometer*, measuring people’s satisfaction with democracy, which was highest in Botswana, South Africa, Mozambique and Namibia and lowest in Zimbabwe and Zambia (ibid).

Furthermore, besides political rights and civil liberties, another useful indicator for the level of democracy in a country is the type of political system. In Southern Africa,

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<sup>7</sup> Freedom House, a non-profit organization, is a voice for democracy and freedom around the world. Through its various international programs and publications, Freedom House is working to advance the worldwide expansion of political and economic freedom. Since its founding in 1941 Freedom House has been a proponent of democratic values and an opponent of dictatorships ([www.freedomhouse.org](http://www.freedomhouse.org))

multiparty systems have made a major comeback. Most countries have moved away from authoritarian rule and have in recent time had regular and free and fair elections, for example South Africa, Malawi, Botswana, Namibia and Mozambique in 2004 and Zambia in 2006 (ibid). However, only two countries can be classified as *long-enduring stable* liberal democracies in terms of an institutionalised multiparty-system; Botswana and Mauritius. Since the early 90s South Africa, Namibia and Mozambique can be added to that list. On the other hand, Angola, Swaziland and DRC have not yet undergone a fundamental democratic transition and embraced multipartyism (Matlosa 2006). However, in most of the democratic countries ruling parties win by margins bigger than two-thirds making them one-party systems in practice (Breytenbach 2007), consolidating a dominant party syndrome that entrenches the political hegemony of ruling parties. In fact, “the mere existence of multiplicity of parties is one thing, while the levelling of the playing field to ensure that parties contribute to democratisation freely and fairly is quite another” (Matlosa 2006: 13). For example, the abuse of state resources by the ruling parties at the expense of opposition parties is a common feature of the Southern African political landscape (ibid).

The latter fact has made some scholars to really question the depth of Southern African democracies, pointing to a deeper problem of neo-patrimonial, rent-seeking political elites using the “democratic” state for enriching themselves. According to one scholar, the political ruling elites are “... a kleptocratic and predatory crowd who have concentrated on deploying public office for purposes of individual private accumulation” (Ajulu 2007: 36). Being informalised, as often the case in Southern Africa, political power is less about legitimately running the state and more about control of state resources, often through patronage (Söderbaum and Taylor 2008: 22). Perhaps this is the reason why many young people all over the region become politically apathetic and refuse to vote in elections (Kersting 2007: 83).

Lastly, another important aspect of a democratic country is the existence of a vibrant civil society in a position to amplify and organise citizens’ demands vis-à-vis the state. This requires a conducive legal environment for the operation of civil society organisations and ability to access and affect public policies enacted by government. This in turn depends on the willingness of the state to commit itself to the rule of law and basic democratic processes (Balule 2008). However, a number of SADC member

states do not welcome collaboration with CSOs since they are generally reluctant to open up space for civil society (ibid).<sup>8</sup> Some governments have even gone so far as to propose laws to limit the space for civil society to operate, which especially applies to human rights and democracy oriented CSOs. Zimbabwe is but one tragic example (ibid). In the words of one civil society authority; Southern African leaders have an “inherent distrust of civil society and will use all means at their disposal to bring these organisations into disrepute” (Dithlake 2005: 2 quoted in Khan 2006: 7). Other scholars note how CSOs in Southern Africa have been suppressed, manipulated and co-opted by authoritarian states for many years (van Schalkwyk and Cilliers 2004: 125).

#### **4. SADC and input legitimacy**

Through SADC, states are joining forces regionally to deal with economic, political and social issues that are regional in character. Does such regionalisation also apply to civil society? The first part of this section is devoted to the organization of civil society at the SADC-level. To what extent are political demands articulated regionally and how do SADC and civil society co-operate (if at all)? The second part will address the role of parties at the regional level.

##### **4.1 Regional civil society**

SADC frequently and strongly proclaims the need to involve civil society in regional integration. The need to forge partnerships with CSOs is addressed in the SADC Treaty:

SADC shall seek to involve fully, the people of the Region and non-governmental organisations in the process of regional integration. [...] SADC shall co-operate with, and support the initiatives of the peoples of the Region and non-governmental organisations, contributing to the objectives of this Treaty in the areas of co-operation in order to foster closer relations among the communities, associations and people of the Region (1992: §23).

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<sup>8</sup> C.f. interview with David Barnard, The Southern African NGO Network, ( SANGONET), 26 November 2008.

From a first glance, the legal environment for SADC-civil society interaction seems to be quite enabling. Besides the overall framework envisaged under paragraph 23, the Treaty also makes provision for the establishment of National Committees in member states to facilitate civil society engagement with SADC nationally. Also, as already indicated, SADC has signed Memorandum of Understandings with a (limited) number of regional CSOs, formalising interaction (Balule 2008). Furthermore, the SIPO provides a formal basis for the involvement of civil society in SADC's political and security affairs. For example, the region's research and academic institutions and organisations are meant to participate in a foreign policy forum. Also, the SIPO aims to "[e]ncourage the contribution of civil society in conflict prevention, management and resolution" (SADC 2004a). Lastly, regarding civil society involvement in the drafting of the RISDP, according to the Guidelines for internal consultations on the RISDP (and by extension also the SIPO), NGOs and research institutions should be involved (Balule 2008). However, taking a closer look at some of the legal framework, it appears as if SADC has failed to evolve concrete modalities and mechanisms for collaboration with civil society. For example, the Treaty fails to define exactly what status civil society has in the envisaged partnership (Balule 2008).

Despite the shortcomings of the legal framework, civil society has, to a certain extent, managed to organise at a SADC level, albeit with mixed results. In fact, civil society can play at least two different roles vis-à-vis SADC, as *partners* and *resistors*.<sup>9</sup> Even though the latter are fewer they are nevertheless an important part of the Southern African regional dynamics.

Partner CSOs engage with SADC on a partnership and consultative basis, mainly in order to solve joint problems. Being rather content with the SADC-type regionalism, even if believing that some policies and programs need to be modified and implementation accelerated, they play a monitoring role as well as providing social services. Partner CSOs have a relatively formalised interaction with SADC. One example is The Wildlife and Environment Society of South Africa (WESSA), a South African environmental NGO dealing with education and advocacy. WESSA is the implementing agency of the SADC Regional Environmental Education Programme,

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<sup>9</sup> For a more comprehensive and nuanced account of regional civil society in Southern Africa see Godsäter and Söderbaum 2009.

which is co-ordinated by the FANR Directorate at the SADC Secretariat.<sup>10</sup> Furthermore, the Southern African Research and Development Centre (SARDC), a resource centre based in Zimbabwe produces and disseminates information about development processes in the SADC region, partly based on its own research. It works closely with the SADC Secretariat. The relationship is formalised in a Memorandum of Understanding, entitling SARDC to have a seat in various SADC forums in order to influence policy-making and monitor the implementation of SADC's programmes.<sup>11</sup> The Southern African Trade Unions Co-ordinating Council (SATUCC) is a membership-based regional organisation based in Botswana, formed and constituted by national labour unions throughout the region. The Council coordinates trade union coalitions in the region and serves an advocacy role vis-à-vis SADC, trying to reform regional socio-economic policy-making and incorporate labour issues.<sup>12</sup> For example, together with employers' organisations and Ministries of Labour in SADC states, they form part of a regional tripartite structure. Also, SATUCC interacts directly with the SHDSP Directorate and related Ministerial Cluster. SATUCC was successful in pushing for the adoption of a SADC Social Charter (see below) (Osei-Hwedie 2008). The SADC Council of Non-Governmental Organisations (SADC-CNGO) is a regional umbrella organisation uniting national civil society coalitions in the SADC region. The regional secretariat is based in Gaborone, Botswana. SADC-CNGO seeks to influence development policies in SADC, accelerate implementation and put forward NGO interests and perspectives (SADC-CNGO 2004). As already mentioned, SADC and SADC-CNGO have entered a Memorandum of Understanding on general co-operation. The Council engages with SADC on multiple levels including the COM, Executive Secretary, Ministerial Clusters on education, labour and health, the Organ and not the least SHDSP Directory using several strategies such as arranging workshops with SADC-officials and staff, monitoring programme implementation, networking, presenting communiqués and informal interaction with ministers (Osei-Hwedie 2008). Also, SADC-CNGO has arranged a number of SADC Civil Society Forums parallel to the official Summits, where the delegates discuss, and hope to influence the processes within SADC. In fact, SADC-CNGO portrays itself as

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<sup>10</sup> <http://www.wessa.org.za/index.php/Education/SADC-Regional-EE-Program.html>.

<sup>11</sup> Interview with Bayano Valy, SARDC, 21 November 2008.

<sup>12</sup> Interview with Moses Katchima, SATUCC, 8 December 2008.

the formal body through which civil society in the region interacts with SADC (Balule 2008). Lastly, Gender Links (GL) is a South African NGO that promotes gender equality and justice through research, capacity-building and advocacy across the fourteen countries of the region. GL has a Francophone office in Mauritius and regional advocacy office in Botswana. The interaction with SADC is well-established and GL was instrumental in the creation of the SADC Gender Unit, which they even manned for a period of time. In turn, GL hosts the Southern Africa Gender Protocol Alliance (SAGPA), a collective of over 40 national and regional gender NGOs in Southern Africa. The alliance evolved around the SADC Gender Protocol Campaign Programme, which seeks to monitor state delivery on the targets linked to the SADC Protocol on Gender and Development (see below). In fact, SAGPA and GL were instrumental in the making of the Protocol, pushing policy-makers and SADC-officials for the final adoption.<sup>13</sup>

Civil society as resisting SADC-led regionalism seeks to achieve structural change of the current regionalist regimes. These CSOs question the use of problem-solving activities and resist SADC and its partners pushing for an alternative regionalism from below through popular mobilisation. The interaction with SADC and state actors is therefore contentious. One example is the Southern African Peoples Solidarity Network (SAPSN), based in Harare, Zimbabwe. The SAPSN network involves a broad range of civil society organisations and institutions, including trade unions, development NGOs, church-based social organisations and community-based movements. Its strategies are to share experiences, develop capacity, exchange information and to contribute to the mobilisation and building of regional mass movements partly in order to radically change the SADC-agenda. SAPSN regularly holds Peoples Summits parallel to SADC Summits (Godsäter and Söderbaum 2010). At the 2006 summit a Peoples Declaration was written, criticising SADC and reclaiming regionalism for the people, which was delivered via a popular march to the Ministerial meeting.<sup>14</sup> Another example is the Anti-Privatisation Forum (APF), an activist platform for 30 community-based organizations and social movements in South Africa contesting privatization of water, electricity, housing, education and health through direct action. They refuse to participate in states-led regional schemes

<sup>13</sup> [http://www.genderlinks.org.za/page.php?p\\_id=265](http://www.genderlinks.org.za/page.php?p_id=265).

<sup>14</sup> <http://www.osisa.org/node/3717>.

like SADC, which are claimed to bring in civil society only as a means to gain (artificial) public legitimacy. Therefore, the view on SADC NGO Council, addressed above, is very critical and the latter is seen as an example of institutionalized co-option by SADC. Even if primarily operating on a national level, APF is also active on the regional arena and for example instrumental in developing the Social Forum process in the region together with SAPSN, bringing together national and local CSOs from all around the region. They have been part of arranging several Southern African Social Forums as well as participants in Peoples Summits.<sup>15</sup>

It is highly questionable if civil society at a SADC-level is autonomous from public actors, as well as donors, and free from control and intrusion. Vocally critical CSOs threaten the basis of (neopatrimonial) power, so many Southern Africa regimes have shown a propensity to buy them off, own them, stifle them or simply crush them, which was confirmed above by APF, SAPSN as well as the more conventional SADC-CNGO. As discussed in the previous section, in some African states where neopatrimonialism is strong it is difficult to distinguish between the state and civil society. Political elites and governments may be using and abusing civil society in order to raise accountability and legitimacy for their own regimes. Many NGOs in Southern Africa are staffed by relatives or close associates of the ruling political elites, using civil society as a platform for gaining personal political influence (Godsäter and Söderbaum 2010). In fact, many CSOs in Africa, partners as well as resisters, constitute obstacles for development and regional integration, serving the needs of not only political and economic elites but also donors rather than local communities. The significant inflow of donor money into civil society in Africa has turned it into a place where money can be made (Hearn 2007), generating so-called 'briefcase NGOs' foremost driven by economic self-interest (Dicklitch 1998). These are seen merely as an extension of the dominant donor agenda and agents of Western interests to, through delivering social services, divert attention to the root causes of poverty. In fact, many NGOs have become local managers of foreign aid, not managers of local development processes (Hearn 2007: 1107). These dynamics also apply to regional civil society in Southern Africa, albeit in subtle and complex ways.

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<sup>15</sup> Interview with Dale McKinley, APF, 1 December 2008.



#### **4.2. Political parties and regional integration**

For political parties in Southern Africa, especially opposition parties, regional integration is generally not high on the political agenda. They confine their political programmes to national issues and do not really conceptualise political issues beyond borders. This is one reason why the direct role of political parties in the regional integration process is weak. Another, and more alarming one, is the state strategy to try to sideline political opposition (Matlosa 2006).

SADC does not have a parliamentary body like the European Parliament. However, there is a forum for regional political party co-operation in Southern Africa; the SADC Parliamentary Forum (SADCPF), based in Windhoek, Namibia. SADCPF aspires to become a regional parliamentary structure. Established in 1996 as an autonomous institution of SADC, it does not officially belong to SADC. According to its constitution it is a Parliamentary Consultative Assembly, albeit legally an international organisation, striving to involve people and parties in the regional integration process. Among other things, it aims to strengthen SADC's implementation capacity by involving parliamentarians, their parties and also NGOs in SADC activities and promote the principles of human rights and democracy. In more detail, SADCPF makes recommendations to SADC how to improve its operation, gives policy advice and scrutinizes the SADC budget. It has the right to send observers to the SADC Summits (Oosthuizen 2006). SADCPF is considered one of the most important structures in the region that brings national parliaments and political parties together (Matlosa 2006, 17). However, as will be elaborated upon below, the relation with SADC is far from smooth.

### **5. Popular participation in SADC**

One central aspect of democracy is popular influence on political decision-making, which in essence means, direct or indirect, participation in those processes where decisions are made. As a starting-point it should be noted that the most important political decisions are still taken nationally in Southern Africa, considering the predominance of individual states and “national interests” in the SADC-architecture. The level of supranationalism is low and little decision-making in “hard” political areas of importance for states, like security and trade, is transferred to the regional level, i.e.

SADC. This will be discussed further in a later section. Therefore, influencing national policy-makers is vital. Nevertheless, SADC still takes decisions in areas like development, HIV/AIDS, infrastructure, education etc. of great importance to the peoples of Southern Africa, which requires warrants public engagement on a regional level.

How consulted, then, is the “common man” when a new important programme will be decided on, or when a core strategic plan is to be drafted? Not much, it seems. For example, despite the promised public consultation in the making of key SADC-steering documents like RISDP and SIPO, this never materialised. In terms of RISDP, the consultation was limited and uneven across countries. Regarding the SIPO, consultations were claimed to be even more limited and few non-state actors were able to effectively engage SADC (van Schalkwyk and Cilliers 2004). Also, as pointed out, there is no regional parliament for people to vote for.

In fact, SADC is often perceived as an “elite club” where decisions are made and policies adopted by a privileged few without taking into consideration the views of the citizens they are accountable to. Most efforts towards regional integration on behalf of SADC have been highly elite-driven (Khan 2006). Therefore, SADC seems to be a rather closed institution isolated from ordinary people. It is therefore concluded that “...SADC...becomes an organisation situated above the citizens and removed from the people” (Khan 2006: 4) making “...the SADC system...not very democratic.”<sup>16</sup> Since it is very difficult for people to influence SADC directly, people have to put their hopes in civil society organisations.

### **5.1. Civil society participation in SADC**

Civil society organisations, as well as political parties, are important instruments for citizens to have some sort of a say in SADC-led development. However, the involvement of CSOs and parliamentarians in SADC affairs has been “...ad hoc, unsystematic and limited” (Oosthuizen 2005: 166). This is contrary to the apparent great civil society interest in regional integration issues. In a SADC-wide survey on the perceptions of non-state actors about regional integration it was concluded that there is a wide-spread belief within civil society that CSOs can contribute more to regional

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<sup>16</sup> Interview with Garth le Pere, Institute for Global Dialogue (IGD), 27 November, 2008.

integration *if given the opportunity*. According to the survey 68.7% of all responding CSOs claim that they have internal discussions about regional integration within their organisations and 47.9% claim that they have attended workshops and conferences on regional integration. However, at the same time actual civil society participation in regional policy-making is limited. For example, over 70% claim that they never receive invitation to SNC-meetings and 73.4% that they are not involved in SADC policy design (Chipeta and Schade 2007).

Much of civil society, regardless of their collaborative pretensions, seems to be excluded and marginalized from the SADC framework, especially in terms of Summit- and COM meetings, a fact acknowledged by both researchers and civil society actors (Landsberg 2002; Osei-Hwedie 2008; van Schalkwyk and Cilliers 2004; SADC-CNGO 2006). Therefore, civil society participation in SADC meetings has generally been ad hoc and limited. The official accreditation procedures are weak and invitations to CSOs are often based on personal relations (van Schalkwyk and Cilliers 2004). In fact, civil society participation in SADC seems to be limited in a *structural* way since it is not part of member states' and SADC's political culture to interact with non-state actors.<sup>17</sup> One scholar goes as far as making the conclusion that SADC is "...a protectionist club for incumbent leaders" (Kornegay 2006: 43).

This picture is not totally denied by SADC itself. According to one official SADC has little interest of interacting with researchers or civil society. It is very difficult to have access to the SADC institutions since SADC in reality has not prioritised collaboration with civil society, regardless of various documents stating otherwise.<sup>18</sup>

Going into more depth into the interaction between SADC and civil society, SADC leaders have shown collaboration interest only for those sections within civil society that remain compliant with and uncritical of their governments. These are largely CSOs that are somehow reliant on governments and the SADC and vice versa, for example in terms of service-provision and fine-tuning policy (Godsäter and Söderbaum 2010) like WESSA, SARDC and to a certain extent SADC-CNGO discussed above. In the words of one prominent scholar, SADC only provides for co-operation with those CSOs that "...do not produce too much noise and rock the boat, aligning themselves

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<sup>17</sup> Interview with Garth le Pere, IGD, 27 November, 2008 and interview with David Barnard, SANGONET, 26 November 2008.

<sup>18</sup> Interview with Janah Ncube, SADC, 8 December 2008.

with the interests of SADC.”<sup>19</sup> In terms of the Secretariat in particular, “...it avoids any but the most non-threatening and token relationships” with civil society (van Schalkwyk and Cilliers 2004: 126). In fact, the occasional (superficial) interaction with actors like the SADC-CNGO<sup>20</sup> gives SADC much-needed legitimacy. By some, SADC-CNGO is seen as the civil society face of SADC.<sup>21</sup>

But even the interaction between SADC and SADC-friendly CSOs like SADC-CNGO is quite problematic. As already indicated, the MoU between SADC and SADC-CNGO seems to give the latter a consultative status in SADC structures, according to article 4. However, the concrete collaboration between the two is hindered by article 3 of the same MoU stating that the parties first have to determine the areas of co-operation before they can engage each other. So far, this has not been materialised (Balule 2008). Even when trying to influence SADC policy-making in a partnership and non-threatening spirit, SADC-CNGO has not been so successful in their effort, albeit (or rather despite) the formalised measures for collaboration. In practice there is little functioning cooperation between the two. One good example is the SADC-CNGO-led SADC Civil Society Forum and SADC Summit, which are two parallel processes with little interaction (Godsäter and Söderbaum 2010). The Secretary-general of the SADC-CNGO, Abie Dithlake, has noted about SADC: “in practice, they don’t consult us.”<sup>22</sup>

All in all, the participation of CSOs in SADC is superficial, very problematic and not a manifestation of a deeper engagement with civil society as a whole as called for in the SADC Treaty. In fact, SADC falls short of meeting the objectives of the SADC Treaty. However, civil society itself is also to be blamed for its exclusion and marginalisation. Many CSOs, mainly but not only the resisting ones, are accused of having too much of an aggressive approach and thereby disqualified as worth listening to. According to one SADC official, referring to the critical advocacy pursued at Peoples Summits, “if you come to insult the Heads of State in the meeting, do you think they are going to listen? Of course not. Ultimately there is an individual who wants respect sitting at the table...

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<sup>19</sup> Interview with Garth le Pere, IGD, 27 November, 2008.

<sup>20</sup> For example, it was considered a great success for civil society when the Executive Secretary and the Minister of Finance of Lesotho attended the second Civil Society Forum in Lesotho 2006 and SADC allowed SADC-CNGO to present a position paper at the SADC International Consultative Conference on Poverty and Development in 2008 in Mauritius (Osei-Hwedie 2008).

<sup>21</sup> Interview with Garth le Pere, Institute for Global Dialogue (IGD), 27 November, 2008.

<sup>22</sup> Quoted in Inter Press Service, Mogyiga Nduru, 16 August, 2006.

[therefore]...they need to refine their tactics.”<sup>23</sup> Furthermore, the elitism characteristic of SADC applies to civil society as well. By many commentators, including representatives of SADC, NGOs are not considered representative of the people in the region and their needs, which gives them low credibility.<sup>24</sup> In fact, many CSOs in Southern Africa suffer from a democratic deficit (van Schalkwyk and Cilliers 2004). SADC-CNGO, for example, is not seen as a legitimate voice of civil society in the region and one scholar claims that “as far as I am concerned, they [only] represent themselves.”<sup>25</sup> Also, the frequently proclaimed links to the grass roots by resisting CSOs like SAPSN has to be scrutinised and debated. Sections of resisting civil society are an elite-led process, dominated by a relatively small number of NGO representatives and activists.<sup>26</sup> Lastly, another aspect of civil society’s democratic deficit is the weak link between political claims made by CSOs and the real experiences of their “constituencies.” Being good in rhetoric’s their arguments are rarely evidence-based.<sup>27</sup>

Nationally, an important arena for civil society participation in SADC is the SADC National Committees (SNCs). However, only some member states have established fully functional and effective SNCs while others have failed to do so (Balule 2008). Angola and Mozambique have set up robust units but not countries like South Africa, Botswana and Malawi. Furthermore, most existing SNCs seem to be rather ineffective because of the weak interaction with the SADC Secretariat and lack of dedicated staff and budgets. For example, the SNCs coordinators, being ministerial officers with other more pressing national tasks, only have a part-time and ad-hoc commitment to SADC (Kaunda 2007: 80). Most importantly, the representation of civil society in SNCs is low. According to the above survey only 20% of all responding non-state actors claimed that they are part of a SNC and 11% say that participate regularly in SNC-meetings. Furthermore, employers organisations are heavily overrepresented vis-à-vis labour organisations and other CSOs (Chipeta and Schade 2007).

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<sup>23</sup> Interview with Janah Ncube, SADC, 8 December, 2008.

<sup>24</sup> Interview with Janah Ncube, SADC, 8 December, 2008 and Osei-Hwedie (2008).

<sup>25</sup> Interview with Garth le Pere, IGD, 27 November, 2008.

<sup>26</sup> However, one important exception is GenderLinks. According to researchers and SADC-officials, despite its somewhat critical approach towards SADC, the organisation is considered the most successful, effective and influential civil society group engaging with SADC, being well-articulated, well-informed and well-represented of women in the whole region (Interview with Janah Ncube, SADC, 8 December, 2008 and Osei-Hwedie 2008).

<sup>27</sup> Interview with Neville Gabriel, Southern Africa Trust, 2 December, 2008.

## **5.2. SADC and gender**

Women as a social group are particularly left out in decision-making in SADC, even though things are improving. According to the already mentioned Gender Protocol, member states are obliged to make sure that at least 50% of decision-making positions in the public and private sectors are held by women by 2015. Also, women should have the same opportunities as men to participate in electoral processes. Member states are required to adopt specific legislative measures like affirmative action schemes to reach these goals (SADC 2008a).

How far, then, is SADC and its members from meeting these ambitious objectives? The question is partly answered by the equally ambitious SADC Gender Protocol Baseline Barometer, which is a major regional study of the implementation of the Protocol and draws on empirical data from 15 SADC-countries, conducted by the already mentioned Southern African Gender Protocol Alliance. Having 1997 as the baseline year when the Gender Declaration was signed, the authors make the conclusion that while progress in attending gender equality can be seen, for example in political decision-making, there is still a long way to go to achieve the targets of the protocol (Morna and Walter 2009).

In more detail, the barometer shows that no country so far has reached gender parity in the various public decision-making bodies. Women's representation in parliament ranges from 42% in South Africa to only 7,7% in the DR Congo. Even though there has been a steady overall increase in the regional average from 17,5% in 1997 to 24,7% in 2009, SADC is only half-way to the goal of 50% representation. Furthermore, in terms of women in government, the average representation has increased from 12% in 1997 to 21,4% in 2009. However, the gap between the top (South Africa and Lesotho with 41% and 31% respectively) and bottom (Zimbabwe 9% and Mauritius 10%) is quite telling. What is even more telling is that among all ministers responsible for the politically "soft" gender and women affairs, only one was male in 2008 whereas the opposite was true for the prestigious foreign affairs. Local governments in the region are more gender-equal than their national counterparts. In fact, in Lesotho more women than men participate in the local running of the country (58%), even if the figure for Angola is 1.2%. The average for the region is almost 30%. All in all, there

are broad discrepancies between countries in terms of female political representation on various levels. However, compared with other world regions, SADC fares well. In fact, in terms of representation of women in national parliaments, SADC is second to the Nordic countries (40.8%) and ahead of the Americas (20.5%) and Europe as a whole (19.3%) (ibid). Lastly, the barometer shows that women are missing from top decision-making positions. It has already been showed that women are least represented in the highest decision-making body; the cabinet. Also, among all the heads of governments and presidents none is a woman. On top of these meagre figures, out of 15 Speakers of Parliament, only one is female. However, in electoral processes, women outnumber men as voters. This shows that despite largely excluded in political decision-making women are still keen to participate in public life (ibid).

Another important study argues that women's equal participation in decision-making is not just a democratic right but critical to more accountable and responsive governance. Combined with other factors, in countries with a significant presence of women in decision-making, for example South Africa, Mozambique and Seychelles, there is a marked positive impact on institutional culture, attitudes, laws, policies and service delivery compared to less gender equal states. Some examples are changing attitudes of men towards gender equality, greater depth and breadth of gender justice reforms and improved gender consciousness in policy-making in areas like mining and agriculture (Morna 2004).

In terms of female involvement in SADCs various institutions and bodies, this is more uncertain. Regarding the Secretariat, data on the share of male and female officials on different levels and in different departments has not been found. However, the Gender Unit has embarked on a major gender mainstreaming initiative at the Secretariat, including capacity building workshops for staff, gender mainstreaming of policies, programmes and projects and development of a Workplace Gender Policy and Gender Mainstreaming Toolkit (SADC 2008b). Even though this could not be confirmed, it appears as if no Executive Secretary so far has been a woman. Moving on to the Tribunal, when judges are nominated and appointed consideration must be given to equal gender representation, according to its statute. However, so far there has only been one female member of the Tribunal and she is not among the five permanent ones (Oosthuizen 2006). The current Council of Ministers is chaired by a woman, i.e.

the South African Foreign Minister, but its gender composition reflects the overall average representation of women in cabinet in the region, which is strongly male-biased. Lastly, as for the Summit, the most powerful institution of SADC, since no Head of State in the region so far has been a woman, it is always 100% male dominated.

## **6. Popular control of SADC**

We have seen so far that citizen and civil society participation in SADC policy-making is weak, which is worrisome. However, besides actual participation, in order for ordinary people to have some kind of influence on SADC also requires control of SADC's political authority. In essence this means the ability of citizens and CSOs to hold SADC policy-makers accountable for delivering what they have promised, which in turn requires access to different sorts of SADC-documentation. Ultimately, this boils down to the issue of transparency.

Some scholars claim that SADC's general approach to public information sharing is "overly cautious" (van Schalkwyk and Cilliers 2004: 122). Regarding the prime decision-making body, the Summit, civil society actors complain about the secrecy around Summit-meetings. Heads of State or Government pretty much meet in isolation and there is very limited access to documentation of the Summit. Communiqués issued after various SADC meetings, including the Summit and COM, are rather superficial accounts of the discussions. This makes it difficult for CSOs to be acquainted with SADC policy making (Khan 2006: 6). Furthermore, there is no regular civil society presence in the SADC Secretariat to foresee that protocols, development programmes etc. are actually implemented (ibid). The mode of contact between SADC-CNGO and the secretariat is still very unclear. As shown above, neither the SADC Treaty nor the MoU spell out the nature of the collaboration, resulting in an ad-hoc observer role for civil society (Osei-Hwedie 2008). This relates to the weakness of the SADC secretariat, which for all practical purposes lacks the capacity to fully include civil society organisations within its remits. According to one civil society representative, "the SADC Secretariat has this tendency to make things harder rather than to facilitate...We are not managing to get the information we need from them."<sup>28</sup>

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<sup>28</sup> Interview with Bayano Valy, SARDC, 21 November, 2008.



The lack of transparency makes it very hard for citizens and civil society organisations to exercise any sustained form of control.

Furthermore, even if not a fully fledged regional parliament, the SADCPF could be a potential platform for exercising effective public control on SADC's various bodies. At the time of its inception, the forum was deemed important to enable regional integration and provide a regulatory, legislative and democratic environment. It was observed that without adequate information and knowledge on SADC issues, both on a national and regional level, parliamentarians and national parliaments could not effectively exercise their influence and legislative roles for the benefit of the people of the region. In theory, the forum is therefore a powerful platform for parliamentarians to acquire information, exchange knowledge and monitor the SADC-process (Karuuombe 2008: 13-14).

In reality, because of the fact that many SADC-members are not interested in involving non-state actors in SADC decision-making, the relationship with SADCPF is strained. Formally SADC is not obliged to, and often do not, consult the forum on any matter, allow it to observe its meetings or consider any of its suggestions. Therefore, in many ways SADCPF is sidelined by SADC and cannot behave as an effective control mechanism. Also, SADCPF put fuel on the fire when notoriously commenting on various national elections, which is not appreciated by some of its members (Oosthuizen 2005: 190). Through its election observation programme it has monitored, and often criticised, more than 10 elections since 1999 and its Norms and Standards for Elections from 2001 is widely considered a very important and comprehensive policy instrument for promoting good governance in the region (Karuuombe 2008). Another source of conflict between SADC and the forum is divergent opinions on the transformation of the forum into a regional parliament, which could imply less political power for member states (Oosthuizen 2005: 190).

Lastly, another way of publicly controlling SADC is via national parliaments. Protocols, declarations and other legal documents that govern SADC have to be ratified by parliaments in order to be legally binding. However, most of the times bills are passed through and not *passed by* parliaments. In some instances, SADC protocols and declarations do not even require approval of national parliaments (Karuuombe 2008). Furthermore, parliaments are in general not properly involved in the activities

of SNCs, where many important SADC policies and documents are discussed. SNCs, where operational, are centralised to government. In fact, parliaments are often marginalised in regional affairs, which tend to be dominated by the executive branch of the state (Matlosa 2008: 129). At the 18<sup>th</sup> Plenary Assembly Session of the SADCPF it was noted that parliamentarians rarely even knew which SADC Protocols their governments had ratified, or had not ratified (Karuombe 2008: 5). The end result is that national parliaments hardly exercise any control over the regional integration process.

## **7. How supranational is SADC?**

SADC is a rather traditional, state-centric international organisation in many regards. Its members retain ultimate control over almost every facet of the SADC-affairs. Despite the restructuring of SADC, for example giving more supranational powers to the Secretariat, the member states still seem to be more committed to achieving national goals and reluctant to give up national sovereignty and transfer policy-making to the regional level (le Pere and Tjønnealand 2005; Mulaudzi 2006). Even though members, at least formally, have ceded decision-making powers to some SADC institutions like the Secretariat, it is more correct to speak of “[...]change in the locus and context of exercising sovereignty, rather than a loss of sovereignty” (Oosthuizen 2005: 162). The consistent reference to national sovereignty in all SADC policy documents plays against deeper political integration (Matlosa 2006).

Other scholars go even further, claiming that Southern African regimes use SADC regionalism as an instrument to enhance the reproduction and legitimisation of the state/regime and strengthen national sovereignty (Söderbaum 2002). It is claimed that the national rationale for regional integration is obvious: “...planning and budgeting of key regional integration programmes are an imminent political, interest-led process of negotiating and agreeing in order to add value and visible benefits to the ongoing national plans and programmes” (Giuffrida and Muller-Glodde 2008: 21). It is not a coincidence, then, that the weakest states in Southern Africa are members of many more African inter-governmental regional organisations than relatively stronger states like South Africa and Namibia. Furthermore, a good way to officially uphold the rhetoric’s of regionalism, is the activity of signing treaties and protocols (Söderbaum

2002: 98). The latter seldom make any real demands on the signatories. In 2006 only 14 out of 23 SADC Protocols had been ratified and entered into force. On top of this, members are reluctant to align their national laws with the protocols they actually have ratified (Mulaudzi 2006: 12). The reluctance to transfer supranational power will now be illustrated by discussing the Summit, Secretariat, Tribunal and SADCPF. Also, the Southern African Regional Police Chiefs co-operation organisation (SARPCCO), another SADC subsidiary regional organisation, will be addressed briefly.

### **7.1. Supranational bodies within SADC**

*The Summit*, as already explained, is the prime decision-making body of SADC. However, the decisions taken often reflect the member states' individual needs and are less of a manifestation of supranational policy-making. Therefore, the Summit is more of a "talking club," where political leaders meet and exchange views and try to mobilise support for particular agendas, than a collective actor the region's best (Le Pere and Tjønneland 2005).

Furthermore, on paper *the Secretariat* is the principle executive institution of SADC. However, its powers and competencies cannot be compared with, for example, the far-reaching powers of the EU Commission. Formally, and in practice, every Secretariat function is subject to extensive oversight and control by the COM and Ministerial Clusters (Oosthuizen 2005: 162-163). In principle, the Secretariat is "politically disempowered" (Kaunda 2007: 81). Therefore, the regional mandate of the Secretariat is severely restricted and it is more of an administrative unit (Le Pere and Tjønneland 2005.) Even if some improvements were made during the restructuring process in terms of making the Secretariat more powerful, such as the development of a more functional organisational structure with clearer mandate, there are still many administrative challenges (Giuffrida and Muller-Glodde 2008). However, ultimately the creation of a strong and independent Secretariat boils down to the political will of the member states and so far, relatively limited human and financial resources have been provided.

Partly due to resource constraints, *the Tribunal* became operational as late as 2005, 13 years after its establishment, when the first judges were appointed. So far, only a few cases have been tried. Therefore, the Tribunal as SADCs jurisdictional dispute-

settlement body is still in its infancy (Ruppel and Bangamwabo 2008). Furthermore, even though its rulings are, on paper, binding and final, the Tribunal has no powers to enforce and execute its decisions; this is in the hands of the member states via the Summit. The Tribunal only monitors that members comply with its decisions and report to the Summit if this is not the case. If refusing to comply, the Summit can take action, for example in the form of sanctions, against the culprit (ibid). However, this is a potential Achilles heel of the SADC judicial system. Compliance with the Tribunal's decisions, and possible sanctions, ultimately depends on the collective political will of the Summit, whose decisions are taken on the basis of consensus. This means that a member that has not conformed to the Tribunal judgment can easily obstruct any collective efforts to punish it (Ruppel and Bangamwabo 2008: 37).

Lastly, *the SADC Parliamentary Forum*, as already discussed, suffers from a number of shortcomings. SADC seems to be very reluctant to transform the Forum into a proper regional parliament with powers to scrutinize the decisions taken by the Summit and hold it accountable (Matlosa 2006: 22), even if this is not “confessed” publicly. Today, the forum only acts as an observer without any legislative powers to approve or reject what the Summit has decided. The official SADC rationale for not establishing a SADC Parliament is twofold: resource constraints on the members and the ceding of sovereignty by national parliaments (Karuuombe 2008). These worries are in fact acknowledged by the SADCPF which nevertheless believes that the financial problems could be solved by the secondment of staff from national parliaments and donor funding and making the new regional parliament perform its legislative functions in full consultation with SADC authorities without infringing on national legislation power (ibid). Lastly, the Forum has not managed to establish a formal relationship with “the Executive,” i.e. Secretariat. Instead, informal links are reproduced. This goes against the fact that as a parliamentary institution, even though not a formal parliament, the SADCPF should be distinct from an executive institution like the Secretariat (ibid). In conclusion, the great difficulty of creating a regional parliament is a strong indication that Southern Africa is very far from supranational political integration (Matlosa 2006).

Lastly, even though there is no supranational police force in Southern Africa to assist SADC with regional law enforcement there is indeed a burgeoning regional co-operation between police forces in the member states. The Southern African Regional

Police Chiefs co-operation organisation (SARPCCO), based in Harare, Zimbabwe, was established already in 1995 and comprises the police chiefs of all SADC members except for the DRC and Madagascar. SARPCCO tries to promote and strengthen co-operation on managing cross-border crime, disseminate and exchange crime prevention information and make recommendations to governments on policing matters.<sup>29</sup> SARPCCO has become the main regional anti-crime co-operation body and is highly acknowledged by SADC. For example, SARPCCO was involved in drafting the SADC Firearms Protocol and has been mandated to implement the connected programmes on combating small arms and light weapons (Oosthuizen 2006). However, the relations between SARPCCO and SADC are nevertheless rather strained and SARPCCO and its logical counterpart, the Organ, have not managed to create a working relationship (Le Pere and Tjønneand 2005: 38).

### **7.2. Power limitations of SADC-bodies**

As should be obvious by now, the power balance between SADC as a (potential) supranational body and its member states is highly skewed towards the latter. The supreme power within SADC is in the hands of member states, who in practice are both the prime decision-makers and executives of SADC. It is only the governments represented in the Summit who can deliberate and approve treaties, protocols, policies and regulations. Even if it should be the task of the Secretariat to execute decisions, in reality that is really not the case. SADC has indeed a strong executive element (the Summit), but only a very weak jurisdictional (the Tribunal) and legislative one (SADCPF). In essence, the Summit and its member states have both legislative and executive powers. Therefore, it is not relevant to talk about separation of powers, in the true sense of the word, since most power is in the hand of the executive. The SADCPF, if transformed into a parliament, could possibly become a counterweight to the Summit resulting in a platform for checks and balances of power within SADC. However, as for now it has remained an advisory body whose voice SADC is not obliged to listen to. According to one scholar, this gives "...the impression of an organization that does not want to be exposed to legislative oversight and does not want to exist in parallel with other agencies of significance" (Maudeni 2007: 61).

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<sup>29</sup> <http://www.interpol.int/public/Region/Africa/Committees/SARPCCO.asp>.

Furthermore, in theory, the Secretariat as the de-jure prime Executive body of SADC can be submitted to the control of the Tribunal. In fact, the Tribunal has already exercised that control through resolving a labour dispute between the Secretariat and one of its employees, even if ruling in favour of the former. However, even if its court rulings are said to be binding, in practice the Tribunal's decisions are more of advisory opinions (Ruppel and Bangamwabo 2008).

## **8. SADC and the promotion of democracy and human rights**

The prime SADC institution for promoting democratic and human rights is the Organ. According to the OPDS Protocol the Organ should promote the development of democratic institutions and practices in the region and encourage the observance of universal human rights (SADC 2001). The SIPO develops these commitments further, compelling SADC to establish common electoral standards in the region, promote the principles of democracy and good governance and encourage political parties to accept the outcome of elections held in accordance with both the African Union and the SADC Electoral Standards (SADC 2004: 20).

Besides the rather abstract OPDS, SIPO and of course Treaty, a number of important and far-reaching protocols, charters and guidelines address specific aspects of democratic and human rights. It should be noted, though, that a comprehensive human rights charter is conspicuous by its absence. Some of these legal documents will now be discussed.

### **8.1. SADC legal documents dealing with HR and democracy**

The Protocol on Gender and Development and its implementation has already been analysed. It is enough here to add that gender equality is seen as a fundamental human right. The protocol urges states to protect and promote the rights of women and children, reproductive rights of women and women's access to and control over productive resources (SADC 2008).

Furthermore, the Social Charter from 2003 are said to “embod[y] the recognition by governments, employers and workers in the Region of the universality and indivisibility of basic human rights proclaimed in instruments such as the United Nations Universal Declaration of Human Rights” (SADC 2003). Focusing on the

situation of workers in the region, the charter commits member states to create a conducive environment for promotion of workers rights in terms of for example freedom of association, right to organise and collective bargaining. These rights are also specified in the charter. In addition, the charter highlights a number of organisational rights for representatives of unions (ibid).

Lastly, in 2004 the SADC Principles and Guidelines Governing Democratic Elections were adopted. The guidelines focus on electoral principles in terms of full participation of citizens in the political process, freedom of association and assembly, political tolerance of opposing views, regular intervals for elections, equal opportunity for all political parties to access the media, opportunity to exercise the right to vote, independence of the judiciary, voter education and the role of the new SADC Electoral Observation Group. Regarding the latter, the guidelines specify mandate and composition of the observer missions, guidelines for the observation of elections, code of conduct, rights and responsibilities for election observers and responsibilities of member states holding elections (SADC 2004c).<sup>30</sup>

Strictly speaking the SADC Guidelines for elections and Social charter are not legally binding, in contrast to the Gender Protocol, which leaves governments with the power to interpreting and applying these as they see fit. There is no SADC structure authorised to ensure that the principles and guidelines embodied by these important documents are fully implemented (Maundeni 2007: 43; Molomo 2007: 73). Instead, SADC and the Organ resort to internal mechanisms to ensure compliance in terms of so-called Reviews of the Implementation of SADC Decisions. The mechanism, on paper, ensures that members voluntarily report on different challenges facing them in relation to the above documents, make undertakings to address them and are required to report on problems and progress. According to SADC, these mechanisms are sufficient to ensure that the various guidelines and principles are implemented (ibid).

However, the effectiveness of these reviews is highly questioned. Since there is no SADC Parliament to monitor the implementation of these democratic norms and

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<sup>30</sup> However, the SADC election principles are not as clear and comprehensive as the SADCPF's Norms and Standards for Elections in the SADC Region. Contrary to the latter, little attention is given to elements that actually determine whether elections are democratic, free, fair and legitimate, such as the general constitutional frameworks, transparent candidate registration process and parliamentary oversight of electoral bodies. The SADC election guidelines primarily focus on the conduct of elections on polling day and not the context in which the elections takes place (Oosthuizen 2005: 306).

principles means that “...their effect would remain marginal, at best, a pipe dream” (Molomo 2007: 73). Therefore, the SADC commitment to facilitating and supporting democratization in the region is mainly manifested in rhetoric’s. It is true that multiparty democracy is on the rise in the region and elections have been held in most countries, marking an end to authoritarianism. However, many of the elections that have appeared to follow democratic principle from a first glance have in fact suffered from many shortcomings, for example in terms of the periods preceding and immediately following the polls and also the actual conduct of polls. Zimbabwe is but one example. SADC has repeatedly failed to acknowledge this and instead praise most elections as a sign of consolidation of democracy, respect for the rule of law and human rights in the region (Oosthuizen 2006).

### **8.2. Regional juridical mechanisms for human rights protection**

The prime juridical mechanisms for human rights protection in SADC is the Tribunal. Although being rather state-centric in practice and foremost set up to resolve conflicts between member states stemming from economic and political co-operation, the Tribunal can also be called upon to consider state violations of human rights, as regulated by legally binding documents like the Treaty and Gender Protocol. In fact, the first cases dealt with by Tribunal concerned human rights issues and were brought up by private parties (Ruppel and Bangamwabo 2008). However, African regional courts like the Tribunal are faced with some serious shortcomings, hampering its ability to properly deal with HR-issues. Some examples are the absence of mandated mechanisms to enforce its judgements, the tendency to be elite-driven, lack of adequate funding and the overwhelming lack of knowledge about its existence among ordinary citizens (Akokpari 2008). The latter is especially alarming. In general, very few Africans are sufficiently well acquainted with their legal rights to pursue claims in local or national courts, not to mention the regional ones. Nor do they have the resources necessary to do that. This very much applies to the SADC Tribunal as well. Also, and most importantly, states must approve the charges brought against them by individuals, otherwise human rights cases will not be tried at regional courts (Zimble 2008: 291). Lastly, for the Tribunal to take up human rights issues, all other local and national jurisdictional options must have been exhausted (Ruppel and



Bangamwabo 2008: 11). This means that an individual must go a long way before his or her complaints about human rights violations can be filed at the Tribunal.

Furthermore, it should be pointed out that SADC has not really explained how it understands the often called-upon principles of good governance, human rights and rule of law. Detailed plans and policies in these areas are absent, as is a clear and detailed mandate to promote and defend them. Also, the consensus decision-making principle is a severe obstacle towards the promotion and defence of human rights and democracy. Member states that want SADC to push for the latter are easily held back by those with bad human rights and democracy track records who prefer business as usual (Oosthuizen 2006: 307). Therefore, since the Tribunal is left without such power, it is very difficult for SADC to collectively punish human rights violations by individual members.

### **8.3. Regionalisation of citizenship?**

Common passport and common regional citizenship for SADC citizens are yet to come. In fact, considering the top-down nature of the SADC project and the weak public dimension of regional integration, common citizenship is utopian. However, steps have been taken to facilitate the free movement of persons in the region. The SADC-leaders today accept that regional cross-border migration is important for regional development and integration and has to be dealt with by the states in a co-operative manner. It is acknowledged that the countries in the region need to develop regional policies to govern and manage regional migration (Williams 2006: 3). Therefore, a draft protocol on the facilitation of movement of persons was adopted in 2005 with the overall objective to develop regional policies eliminating the obstacles to such movement (SADC 2005b).<sup>31</sup> However, up until today (August 2009), the required number of nine governments have not yet signed and ratified the draft protocol. Also, it can be accused of not really providing for the actual movement of people, in a deeper and broader sense of the word. For example, there is no reference to steps taken to abolish border controls between member states. In fact, it seems that the

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<sup>31</sup> In more detail, the draft protocol aims at facilitating a person's entry into the territory of another state without a visa for a maximum period of 90 days and permanent and temporary residence as well as establishment and working in other states. The draft protocol also states that a citizen of a certain state who acquires residence or establishment in another state shall enjoy the rights and privileges in that country (SADC 2005b).

protocol simply formalises regionally what is already agreed upon bilaterally by many of the members, for example visa agreements between South Africa and its neighbouring states (Williams 2006: 11). One scholar concludes that “[...]there does not appear to be any consciously articulated policy momentum toward nurturing an environment favourable to free movement of people” (Kornegay 2006: 46). The latter relates to the fact that for a free movement of people to really occur in Southern Africa, it has to be based on a wide-spread notion of regional citizenship and identity, both at a political and grassroots level. On neither level this seems to be the case. Regarding the political level, the political leadership invest little time in developing a broader regional consciousness, promoting a sense of regional identity from the top (Williams 2006: Kornegay 2006). Also, according to a major survey about popular attitudes towards migration in the region, the Southern African Migration Project, the majority of the people interviewed tended to see the migration of people as a problem, which results in the absence of a sense of solidarity with other SADC-countries and a regional consciousness (Williams 2006: 12).

## **9. Output legitimacy**

In order for SADC and any other international organisation to gain the legitimacy of its member states and citizens, even if very important, being viewed as democratic is not enough. It also has to deliver concrete results. In a major review of SADCs work 2005, celebrating its 25<sup>th</sup> anniversary, SADC lists a number of achievements in various sectors. Some examples are as follows. In the trade, industry, finance and investment-sector, SADC notes that the intra-SADC trade has increased from 5% in 1980 to 25% 2005. Regarding infrastructure and service, achievements have been made in the building and rehabilitation of transport links between member states, one example being the Maputo Corridor toll road between Maputo in Mozambique and Witbank in South Africa. Furthermore, in the energy sector several regional power generation and transmission projects have been developed, much thanks to the creation of the Southern African Power Pool in 1995. In the food, agriculture and natural resources-sector, SADC highlights the harmonization of policies, rules and regulations of member states, in particular through the development and implementation of the Protocol of Fisheries, Wildlife and Forestry, the enhanced preparedness of the region to deal with

natural disasters affecting agriculture and the establishment of the SADC Seed Security Network, increasing farmers' access to seeds in the region. In the education, health and social development sector, SADC notes that most SADC states have achieved universal access to primary education, partly through the implementation of the Protocol on Education and Training, which has contributed to education and skills development in the region by harmonization of educational structures and processes. Also, significant progress has been made in controlling Malaria in the region and in terms of HIV/AIDS SADC has adopted a multi-sectoral HIV/AIDS Strategic Framework and Programme of Action. Only being in operation for a few years (by 2005), some success has already been recorded in the areas of mainstreaming HIV/AIDS in SADCs development agenda and building regional and national capacity for an effective response to the pandemic by the SADC Trust Fund. In the politics, defence and security-sector, the Organ has successfully organised missions to member states to monitor elections and SADC has established a Standby Force and a Regional Early Warning Centre for conflict resolution and prevention. Finally, regarding gender SADC puts forward the gradual increase in the proportion of women in parliaments and cabinets (SADC 2005b).

It is obvious that SADC has achieved a lot, often with little resources at hand. However, the above achievements have to be problematised and contextualised. For example, in terms of politics, defence and security co-operation, SADC is accused of military obsession, using a great share of their limited resources for the SADC Standby Forces and other regional military projects, at the expense of a human development. Also, the ability of the Organ to act as a democratic force in the region has been questioned, exemplified by the inability to deal with political crisis in Angola, Zimbabwe, Swaziland and the DRC (Van Nieuwkerk 2007). Furthermore, in the area of regional economic integration, intra-SADC trade is undoubtedly increasing. However, one country, South Africa, accounts for a substantial share of total intra-regional trade. Also, the Trade Protocol has failed to ensure elimination of non-trade barriers and some members continue to introduce them. SADC integration moves at a very uneven speed, with some countries moving fast towards realising the goals and others lag behind. Also, macroeconomic convergence has evolved unevenly (Le Pere and Tjønnealand 2007).

Other scholars deliver a more serious critique of what SADC has really achieved, questioning the developmental foundations of the SADC-led regional project (Söderbaum 2002; Ajulu 2007). “In rhetoric...there appears to be some degree of commitment to the idea of taming the market and embracing developmentalism. In practice, the evidence seems to point in a different direction” (Ajulu 2007: 37). In fact, the type of regionalism SADC supports today is of a rather conventional, neo-liberal market-led type where market integration has become the most high-profile component. The yet to come launch of the Free Trade Area is the most important event (Söderbaum 2002: 75). The dominating paradigm of regionalism in Southern Africa today is based on two main components; firstly, reduction of the state in order to boost the private sector and second, the ambition to synchronise regional integration with economic globalisation (so-called “open regionalism”). The latter requires that SADC focuses on macro-economic stability, pushing states to meet macroeconomic benchmarks such as low inflation, fiscal deficit and current account of the balance of payments, in order to be competitive on the regional and global markets (ibid). However, the ideas of macroeconomic stability and free trade go against SADC goals of poverty eradication and regional equity. With the focus on market-integration SADC facilitates the interests of the private sector and, relatively speaking, puts little emphasis on social issues. It seems as if SADC has moved away from the original “win-win solidarity-based integration”, i.e. fair distribution of benefits from regional integration (Kanyenze et al 2006).

## **10. Conclusions**

The record of development of democracy in SADC is rather mixed. From a policy point of view, SADC certainly takes democratisation seriously. Through the most important steering documents, SADC creates an image of an organisation that puts consolidation of democracy in Southern Africa on the top of the agenda. The importance of involving the grassroots in regional integration, create a regional culture of democracy and protect democratic rights is frequently proclaimed. This should be achieved by ensuring full participation of civil society in SADC affairs, actively promote democracy in the member states and create transparent, efficient and legitimate

national and regional institutions. An impressive gender protocol and social charter have also been adopted, guaranteeing women and labour rights. So far so good.

In reality, however, the democratic picture of SADC changes. Regarding popular participation, it is true that civil society has indeed managed to, somewhat, organise on a SADC-level, putting forward political demands and providing services, but SADC stubbornly close the door to most policy-making arenas. Of course, civil society itself, being rather elitist and uninformed on local development conditions, is to be blamed for this marginalisation. Women as a social group are particularly left out in political decision-making in the region. For example, only one of four parliamentarians is a woman. These numbers are steadily improving though and the fact is that in a global context SADC is only second to the Nordic countries in terms of female representation in national parliaments. Furthermore, regarding citizen control, the lack of transparency within SADC is alarming. It is difficult for CSOs to obtain important information, which is related to the weak capacity of the Secretariat and the isolation of key policy-making SADC-bodies. Also, parliamentarians, through the SADCPF, have great difficulties in performing its monitoring role of SADC, being regularly sidelined in the policy-making processes. In fact, national parliaments exercise little control over SADC since few SADC-related bills are debated and rooted in the former. Lastly, the SADC commitment to promoting democratisation in the region is mainly a rhetorical exercise. SADC repeatedly avoids to criticise national elections that do not follow the democratic principles spelled out by SADC itself in the Guidelines for elections. It should be pointed out, though, that most countries in the region have moved away from authoritarian rule and perform more or less regular, free and fair elections.

All these democratic challenges ultimately boil down to the fact that SADC is a very state-centric organisation dependent on strong political leaders, far from the supranational pretensions. The Summit, i.e. the heads of state and governments, has supreme legislative and executive power and is very reluctant to transfer any of this to supranational institutions beyond their control. One example is the great difficulties of establishing a regional parliament. In SADC, political authority is foremost connected to the interests of the member states, or more exactly the political elites, not the general interests of citizens in the region. All in all, it is uncertain if SADC can be a

powerful instrument for deep democratisation in Southern Africa, or is merely a tool for state regimes' consolidation of national sovereignty.

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