

Parliaments of the South newsletter

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Time to take stock of the SADC Parliamentary Forum

Established in 1997 in terms of section 9 (2) of the Treaty of the Southern African Development Community (SADC), the founding objective of the SADC Parliamentary Forum (SADCPF) was to provide a platform for parliaments and parliamentarians to promote regional integration in SADC.

The vision of the SADCPF is to achieve comprehensive, effective and sustainable regional integration and prosperity based on democratic governance and freedom in the SADC region; and to bring about a united SADC family conscious of its common identity and sense of dignity.

The mission of the SADCPF is to bring about convergence of economic, political and social values in SADC and help create an appropriate environment for deeper regional cooperation through popular participation.

The aims and objectives of the SADCPF are:

- Increased awareness and knowledge of SADC objectives, protocols, Summit declarations and programmes by SADC parliamentarians and staff of national parliaments
- Facilitating the implementation of SADC protocols through awareness and advocacy
- Advancing and defending the principles of democracy and human rights throughout the SADC region; promoting the implementation of multi-party democratic practice in institutions for democracy, including parliaments and political parties
- Encouraging and supporting inter-parliamentary co-operation in pursuit of regional integration
- Increasing advocacy for women's rights and gender equity and equality
- Developing the capacity for training and development of parliamentarians and staff of SADC national parliaments
- Promoting the establishment of a SADC Regional Assembly

The SADCPF designed its first Five Year Strategic Plan in 1999, with the second Strategic Plan approved at the 19th Plenary Assembly held in Gaborone Botswana in December 2005. Thus it is timely to evaluate



In This Issue:

- [SADC Parliamentary Forum - A Stock Take](#)
- [Malawi - A test of strength between party, legislature and executive](#)
- [Parliaments and HIV/ Aids - Progress in Mozambique](#)



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what the SADCPF has achieved during its nine years, to outline its current programmes and summarise its 2006-2010 Strategic Plan.

A success of the SADCPF has been to develop a credible track record of election monitoring in the region. More concretely, this translated into the drafting, formulation and adoption at the March 2001 Plenary Assembly in Windhoek, of the SADCPF Norms and Standards for Elections in the SADC Region. These were used as a regional benchmark for the Zimbabwe election in 2002. Notably the final SADCPF monitoring report concluded that the Zimbabwe election did not adequately comply with the Norms and Standards. The SADCPF electoral monitoring document also served as the forerunner of the SADC Principles and Guidelines adopted at the SADC Summit in Mauritius in August 2004. A question that the Principles and Guidelines raises, however, is how SADC responds to elections that fail to meet the adopted criteria. Here the major institutional shortcoming of the SADCPF is exposed in that, unlike a full-fledged Regional Assembly, the Forum has no legislative powers, nor powers to force compliance, or sanction. Nevertheless, in conjunction with organisations such as the Electoral Commission Forum (ECF) and Electoral Institute of Southern Africa (EISA), the SADCPF has an important role to play in harmonising SADC electoral standards and encouraging those countries falling short of the acceptable norms and standards to move rapidly towards compliance.

Gender sensitisation has been a second, if more qualified, success. Much activity has centred on gender sensitisation strategies, but progress in sensitisation is hard to measure. More concrete steps include the establishment of a database of women MPs and their spheres of expertise, as well as an MPs guide to gender and development. Workshops and training sessions for MPs on gender advocacy have been well received and supported. Progress has also been made in establishing women's parliamentary caucuses and a regional women's parliamentary caucus. The Forum claims to have had success in setting the 30% minimum female parliamentary representation threshold, yet only Mozambique (36%) and South Africa (32%) have met this target. Female representation in most SADC parliaments has improved, but remains below 15% in the majority of assemblies.

To its credit the SADCPF is also frank about its shortcomings. The financial position of the SADCPF is precarious. With an income of some R5 million, a little over R1 million is left for projects once administrative and personnel expenses have been deducted. Four countries, Malawi, Lesotho, Mozambique and Swaziland, are in arrears in their SADCPF subscriptions. Despite this, a decision was made in 2005 to increase subscription fees to R858,000 per country member. In addition, despite the SADCPF's threadbare finances, a decision was taken to sell the current SADCPF Secretary-General's residence, valued at R1,500,000, and acquire a new one 'at not more than R2,000,000'.

About the South African Institute of International Affairs

Established in 1934, the South African Institute of International Affairs (SAIIA) is a non-governmental think tank based at the University of the Witwatersrand in Johannesburg,

Its principal aims are:

- To conduct and publish relevant and accessible research on South Africa, Africa and its international relations.
- To provide a non-partisan platform to enhance the public debate on South Africa, Africa and its international relations.
- To contribute to the improvement of public policy in the fields of governance, foreign affairs, trade and security.



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A self-assessment review of the first Five Year Strategic Plan indicates an at best mixed picture. Of ten self-assessment criteria, seven are less than satisfactory. The self-assessment acknowledges that the SADCPF operates in a particularly difficult socio-political environment; one marked by structural chronic poverty, fragile infrastructure, low Human Development Indices (HDIs) and many newly-democratised polities. In extreme cases democracy remains an elusive goal. In most cases, the institutions of democracy and governance in SADC countries are young and fragile and still undergoing consolidation. Furthermore, the founding reason for the Forum's establishment, to promote and galvanise SADC regional integration has been slow and far from complete.

For the period 2005-2010, the SADCPF has identified four strategic objectives:

1. To improve institutions of democratic governance in the SADC region
2. To facilitate the effective implementation of regional integration programmes
3. To improve the professional development capacity for parliaments, Members of Parliament and parliamentary staff.
4. To establish strategic partnerships and alliances for parliamentary co-operation.

Critical to the achievement of Objective One will be the domestication of electoral norms into national laws and electoral reform. Again, however, the challenge for the SADCPF is not with those member states that subscribe and support the Norms and Standards-Principles and Guidelines, but those that do not. Nothing is said about this in the Strategic Plan. Gender advocacy will be continued and strengthened through the adoption of SADC Protocols to accelerate gender equality, yet the SADCPF has now set a laudable, but unrealistic, target of 50% female representation within five years for SADC parliaments. With so few parliaments making significant progress in this regard and with only two parliaments meeting the 30% threshold, the practical implementation of this goal must be called into question. SADC parliaments will remain unrepresentative for as long as women remain marginal within national assemblies. Thus, rather than setting a new target having failed to achieve the more modest one, the SADCPF needs to develop concrete strategies, such as electoral reform, to achieve the 30% threshold in all national assemblies in the first instance. SADCPF will aim to strengthen institutions of democracy and good governance through co-operation with civil society, political parties and anti-corruption bureaux. Again this is laudable, but inter-institutional connectivity in SADC countries is generally poor. This has been demonstrated even in South Africa's African Peer Review Mechanism Country Report, where a key critique was the lack of policy consultation, input and co-ordination between government and civil society. The SADCPF Strategic Plan says little about how co-ordination between government and civil society can be enhanced and institutionalised.

In the next issue of Parliaments of the South we will examine the Second SADCPF Strategic Objective of facilitating the effective implementation of regional integration programmes.

Aluta continua!

Malawi: The erratic pulse of the 'Warm Heart of Africa'

Emerging from decades of autocracy, Malawi was welcomed into the fold of southern African parliamentary democracies in 1994, the same year as South Africa. Democracy heralded high hopes for the country's 11 million citizens, but far from throwing off the legacy of Kamuzu Banda, since 1994 Malawi has often 'flattered to deceive'. The two terms of Malawi's first democratically elected President, Bakili Muluzi, were marked by some progress in areas such as primary education and health. Yet at the level of governance, Muluzi's era was highly problematic.

On July 27th this year Muluzi was arrested and questioned by the country's Anti-Corruption Bureau. Corruption, profligate spending, the high turn-over of cabinet members, attempts at constitution tampering, a push towards a third term, donor community dissatisfaction and worst of all, a series of humanitarian crises, in part brought on through poor government planning and policy, (such as the premature and possibly corrupt sale of grain reserves) have left the country deeply entrenched in the Least Developed Country league. Furthermore, although the United Democratic Front of Bakili Muluzi failed to have the constitution altered to permit the incumbent to run for a third term, amidst widespread rumours of bribery of opposition MPs, questions about the long-term damage to parliament as an institution have intensified since Muluzi's chosen successor, Dr. Bingu Mutharika, took office in 2004. In this issue of Parliaments of the South we examine two perspectives on the parliamentary and governance crisis in Malawi in more detail.



Bakili Muluzi

In Search of a Legislative Majority – The Malawi National Assembly in Flux

By Danga K. Mughogho and Kimberly Smiddy

Since Malawi's 2004 general elections, the political scene has been dominated by the falling out between the former president, Bakili Muluzi, and his hand-picked successor, Dr. Bingu Mutharika. This contest has been manifest in relations between the executive and the legislature and within the legislature itself. Malawi's Parliament has become a political battleground as the president enters uncharted territory where the opposition has more seats than the "ruling" party. The President has struggled to build a legislative majority and had to deal with the consequences of not having one.

Immediately after the elections the ruling United Democratic Front (UDF) courted the Republican Party and the National Democratic Alliance to increase its legislative strength. When the dust had settled, the new government and its allies had a bare majority with 82 seats (57%) of the total. All of these alliances were negotiated by the former President, making him both the dealmaker and deal breaker. The legislative majority lasted only a few months.

Tensions between Muluzi, who had retained the chairmanship of the UDF, and Mutharika came into the open with arrests of prominent UDF officials on corruption charges. Mutharika's campaign against corruption brought him domestic and international acclaim but meant he was to all intents and purposes exiled from the UDF. When the UDF began to use Parliament as a forum to chastise him, Mutharika's response was to assert executive authority over the legislature. For example, key appointments such as the Director of Public Prosecutions and the Inspector-General of the Police Service were initially made without the required parliamentary approval. Parliamentary assertion of its constitutional role has been upheld by the judiciary, and the President has accepted the court's ruling after exhausting appeal options.

Of the 187 MPs that took their seats at the first sitting, 130 (70%), are new, suggesting a steep learning curve of socialisation into house procedures. Parliamentary business was thrown into disarray when the President made the New State House, which had housed Parliament since 1999, his official residence in December 2004. A new Parliament is slowly being built, and the President allows Parliament to meet in the presidential palace for plenary, yet Parliament remains without permanent offices.

In February 2005, Mutharika resigned from the UDF and soon afterwards announced the formation of the Democratic People's Party (DPP), creating a unique situation where the executive had no parliamentary presence. After recent by-elections, the DPP now has seats in Parliament, but cabinet ministers are officially "independents," due to the crossing-the-floor prohibitions in the Constitution.

In June 2005, the Speaker Hon. Rodwell Munyenembe collapsed trying to quell a heated debate on impeachment procedures for the President and subsequently died. The loss of a well-respected speaker shocked legislators, but the impeachment issue re-emerged as soon as Parliament reconvened in July. When Parliament next met in October 2005, 80 MPs signed a motion ordering Mutharika to appear in parliament to answer eight charges of misconduct. The High Court issued an interdict halting Parliament pending a review of the new standing orders. Calmer heads prevailed as the motion was withdrawn in January 2006. The procedures for impeachment will continue to be legally contested, but the opposition does not have the necessary supermajority to impeach the President due to the divisions within it and the President's efforts to woo MPs to the DPP. Despite these efforts, the President's focus on building his DPP rather than

alliances with any of the major parties has resulted in between 70 and 80 MPs who are willing to vote with Government on government bills, still short of the 97 needed to reach 50 percent. Therefore, the scenario where last year's budget passed only after riots and donor pressure is likely to continue.

Malawi's political drama continues as Mutharika unsuccessfully tried to get rid of his Vice President Dr. Cassim Chilumpha, who remains loyal to the UDF. Bingu's "constructive resignation" claim against Chilumpha had popular but little legal appeal. Although impeachment is the constitutional mechanism to remove the VP, the President does not come close to having 2/3s in Parliament to do so. The current allegations by Government against the Vice President of treason and conspiracy to murder Mutharika have once again heightened an already charged political environment. Against this backdrop, it is not surprising that Malawi's Parliament rarely meets, accomplishes very little in terms of legislation, and the game of numbers continues.

Danga Mughogho is a research assistant in the African Legislatures Project and Kimberly Smiddy is Principal Research Officer. Both work in the Democracy in Africa Research Unit (DARU) at the University of Cape Town.

Deepening representative democracy - cause for optimism for Malawi Parliament?

By Mustafa Hussein

The 39th Parliamentary session, which opened on 4th April 2006 at the New Sate House in Lilongwe, raised public expectation. Parliament had adjourned in 2005 amid tension and flaring tempers among members of parliament. The tension was aggravated by the opposition's demand that the speaker should declare vacant seats of members of parliament who resigned from their parties to join the Democratic Progressive Party (DPP). President Bingu wa Mutharika formed the DPP after dumping the United Democratic Front (UDF) on whose ticket he contested and won the presidency. The opposition's demand is in line with section 65 (1) of the Malawi constitution. It empowers the speaker to declare vacant the seat of any member of the national assembly elected as a member of one party who voluntarily leaves his or her party and joins another political party represented in the national assembly. The speaker could not enforce the section because the president asked the High Court for its interpretation. The public is anxious about the ruling since it raises matters of accountability and relationships between members of parliament and constituents. There are fears that permitting 'floor crossing' without seeking fresh mandate from constituents may weaken the opposition and undermine representative democracy.

Of greater significance, however is the fact that the



Dr Bingu Mutharika

April 2006 session was held against a backdrop of the Constitutional Review Conference organised by the Law Commission in Lilongwe from 28th to 31st March 2006. The president re-ignited debate when he asked delegates to remove section 65 at the conference. It is argued that the section is inconsistent with section 32, which provides for freedom of association. However, the opposition views the proposal to remove section 65

as a ploy meant to protect members who have joined the DPP. This became evident during the April 2006 session where the speaker registered 74 members to sit on the government (DPP) side (and yet the DPP only won six seats during the December 6, 2005 by-elections). This situation has generated political tension since the DPP has forced the UDF to occupy the opposition benches of parliament. There are still lingering questions whether or not the members of parliament who have moved to the government (DPP) side have crossed the floor thereby losing their seats.

Nonetheless, the public hopes for an effective opposition since it enjoys a majority representation in the House (UDF has 30 and MCP has 60). Furthermore, civil society has commended parliamentarians for substantive debates and good conduct during the April 2006 sitting. The need for deepening representative democracy was reflected by calls from civil society during the conference. e.g. to reinstate the Senate, provide for a recall of incompetent members of parliament and reconsider their tenure and minimum qualifications. Furthermore, unlike the 2005 sitting, where the opposition booed the president, the opposition remained silent throughout the two hour speech during the April 2006 session. Is there any cause for optimism for Malawi parliament in this regard?

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The Mozambican Parliament Confronts the HIV/Aids Pandemic

By Carlos Shenga

“One of the key lessons we have learned from our HIV/Aids experience is that leadership must recognize the devastating scale of the pandemic and be willing to discuss openly the enormity of the HIV/Aids problem (1)”. In Mozambique, the recognition of the threat of HIV/Aids is penetrating not only people experiencing the effects of the pandemic, but has now been recognised by parliament.

To respond to the HIV/Aids pandemic, in May 2000 the Mozambican government established the Multisectorial National HIV/Aids Council chaired by the Prime Minister. This was followed by the National Strategic Plan to





Combat HIV/Aids (2001-2003) and a new plan developed for 2005-2010. In December 2005 a parliamentary focal point for HIV/Aids was established, denominated Gabinete Parlamentar de Prevenção e Combate ao HIV/Aids. This focal point strengthens the existing Parliamentary Committee for Social Issues, Gender and Environment.

With the support of UNICEF and AWEPA, the Mozambican parliament also recently held a regional seminar on Scaling up Parliamentary Efforts for Children and Aids. The seminar hosted MP's from the Portuguese Speaking Countries Community, representatives of 33 Municipalities of Mozambique, AWEPA, UNICEF, and NGO's. Luminaries such as South African Archbishop Desmond Tutu and Graça Machel were also in attendance. During the seminar, the speaker of Mozambican parliament pointed out that HIV/Aids problem in the country was worsened by the ineffectiveness of the methodologies currently applied towards public education and civic action. The Speaker noted that it is fundamental that the messages be disseminated in a way that is understood and well-received by the community.

But what in reality can MP's do to help? MPs must promote health budgets that protect the most vulnerable. Budgets must promote HIV/Aids preventive measures, particularly with the youth. At the constituency level Mozambican MP's resolved to assume a leadership role in fighting HIV/Aids, including activities that promote effective changes of attitude and behaviour. MPs are encouraged to establish partnerships that create chains of solidarity and support, discourage un-safe health practices and dispel taboos that propagate the virus that causes Aids.

In the parliamentary seminar, Graça Machel commented that it is not enough to guarantee schooling without food and basic health care. Each MP must get to know how many orphans and vulnerable children exist in their constituency and to ensure that their welfare is taken care of. She went on to note, "What happens is that when parents pass away the close family takes advantage of goods left by their parents, without pity".

This seminar suggests signs of strengthening of the role of the Mozambican parliament, especially with the creation of a parliamentary focal point on fighting HIV/Aids, as well as the decision of MP's to assume leadership in fighting HIV/Aids in their constituencies. This is a cause for optimism and one that can be emulated by other SADC parliaments. The important issue is that policies and budgets reflect HIV/Aids as a priority. If not, many development gains will be imperilled as will national security and political stability, leaving the Millennium Development Goal a distant dream.

1. Pitak Intrawityanut, former Deputy prime minister of Thailand.

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