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Accentuating River Border Conflicts and Water Privatization: The Southern African Development Community

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Abstract: The Southern African Development Community (SADC) is an international organization that has been in existence since 1980. Previously known as the Southern African Development Coordination Conference (SADCC), its primary aim was to coordinate development projects in order to lessen economic dependence on the then apartheid South Africa. Over the years, the coordination of such developmental projects has increasingly demanded a collective utilization of resources, such as energy, health and water sectors, among others. However, national borders have also been pivotal in not only conflict management aspects, but also as protocolly agreed-upon component defining SADC's contemporary international relations and legal regime. In the context of the accessibility and insufficiency of resources, our findings show that water as a resource has not only sparked inter-boarder issues, but also internal resistance from non-governmental organizations and major labor organizations in the SADC region. Policy formulation and implementation (under the international law umbrella) remain a greatest challenge in addressing the pressing issues of water privatization through political means.

Key words: International law, southern African development community, water conflict, national borders, protocol

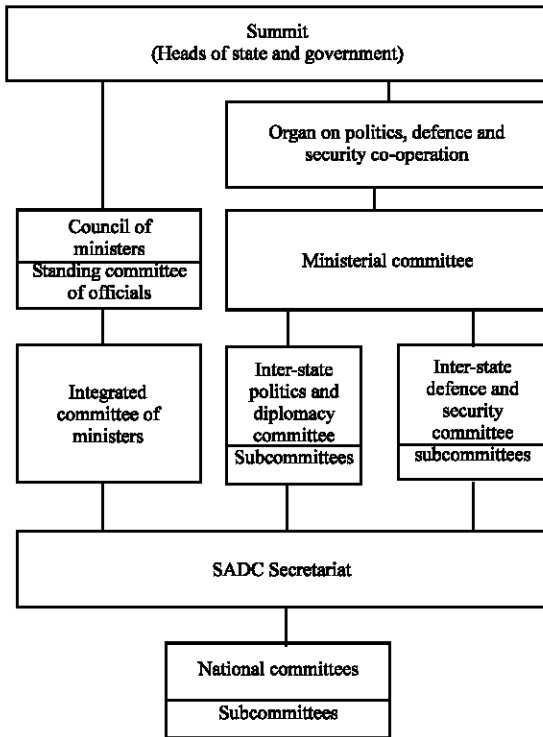
INTRODUCTION

The Southern African Development Community (SADC) is an international organization with diverse membership, limited only to Southern African countries. The Southern African Development Community (SADC) has been in existence since 1980, when it was formed as a loose alliance of nine majority-ruled States in Southern Africa known as the Southern African Development Coordination Conference (SADCC), with the main aim of coordinating development projects in order to lessen economic dependence on the then apartheid South Africa. The founding Member States are: Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

SADCC was formed in Lusaka, Zambia on April 1, 1980, following the adoption of the Lusaka Declaration-Southern Africa: Towards Economic Liberation. The transformation of the organization from a Coordinating Conference into a Development Community (SADC) took place on August 17, 1992 in Windhoek, Namibia when the Declaration and Treaty was signed at the Summit of Heads of State and Government thereby giving the organization a legal character.

The structure of the southern African development community (SADC): Since the formation of the SADCC in 1980, there has been a growing concern of the developments within the structure of the Organization. These mounting concerns have been largely affiliated toward capacity-building and transformation of not only the different bodies within the structure, but most importantly the SADC region's overall policy framework innovations. The following structure tersely outlines the general formation of the SADC governing structure:

The interdependence of the structure is what has promoted consultations which, as some may argue, need to be made more public through the inclusion of society, environmental organizations, government and business. This is a strategic web on which SADC states have come to realize as a governing principle defining its future challenges and thus, developments. As regards to membership, SADC includes Mozambique, Zimbabwe, Malawi, Lesotho, Swaziland, Uganda, Angola, the Democratic Republic of Congo, Zambia, South Africa, Madagascar, Tanzania, Namibia and Botswana. The formation of sub-committees within the SADC restructuring program, has beard little significance with in the water industry. More and more involvement by the private sector has mitigated the necessary socially-based water governance within the region.



Source: (Isakson and Tjorneland, 2001)

SADC aims and objectives: The major aims and objectives of the organization's *Treaty* include the following key pointers,

- Achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa and support the socially disadvantaged through regional integration;
- Evolve common political values, systems and institutions;
- Promote and defend peace and security;
- Promote self-sustaining development on the basis of collective self-reliance and the inter-dependence of member States;
- Achieve complementarily between national and regional strategies and programs;
- Promote and maximize productive employment and utilization of resources in the region;
- Achieve sustainable utilization of natural resources and effective protection of the environment and
- Strengthen and consolidate the long-standing historical, social and cultural affinities and links among the people of the region.

The focus of this research is largely based on the seventh objectives, namely, ...achieving sustainable utilization of natural resources and effective protection of the environment.

The region (SADC) is constituted with a number of resources which are mostly used for commercial reasons. However, understanding the dynamics of regional goals and objectives and those of states demands the betterment of the rules that govern the behavior of member-states in that regard. Water has been one of the mostly disputed issues in the region, with specific focus mainly on the relations between Namibia and Botswana. Water disputes are not only a SADC phenomenon, but go across the rest of the world, including among others, Egypt and Ethiopia over the Nile Rive, China and the South China Sea (with neighbouring countries such as Vietnam and the Philippines).

The issue: The fundamental nature of resource wars:

Resource wars are armed conflicts where the money generated from the sale of natural resources-such as diamonds, oil and timber-finances and therefore prolongs, armed conflict. As Le Billon (2001) natural resources can contribute to the likelihood of armed conflicts as well as influence the duration, course and impact of the conflict upon populations. This influence is articulated through the financial and political interests generated by resource exploitation, the criminalization of the conflict and the effect on civilian populations.

The resource wars theme is complex, because natural resources connect civilians, governments and corporations around the world. There are a lot of important questions to consider. What are the roles and responsibilities of: The multinational corporations that purchase the conflict resources? The national governments that import and export these resources and the products they create? (The Human Knot, 1999). Noteworthy, is the fact that cases include the appropriation of irrigated lands on the Senegal/Mauritania border, scarce forest and agricultural lands in the Philippines or Mexico, grazing areas in Sudan associated with a displacement of local populations to marginal lands.

These distributional conflicts take place when societies in environments with scarce or depleted resources are unable to innovate and mobilize sufficient capital in order to generate sufficient wealth. Grievances by the powerless against resource allocation and the inability of the government to address such problems can undermine the legitimacy of authorities and social structures, resulting in open conflict. As a resource, water, its problems and their relationship with security may need to be viewed with other capricious components such as population, culture, values, total nature of relations between states, national and regional value systems.

Water as a conflict component: With the decline of ideological conflict after the end of the Cold War some scholars, like Klare (2001), argue that competition for access to vital resources increasingly drives international relations. According to Klare, the danger of international competition for adequate water resources will grow inevitably. By 2050, the increased demand for water could produce intense competition for this essential substance in all but a few well-watered areas of the planet (Klare, 2001). International disputes of this kind appear to be mounting more intensely as global warming accelerates. Klare joins a wide circle of writers who have expressed strong fears about the effects of the competition for scarce resources. This view is concomitant to Homer-Dixon (1994), who argues that environmental scarcity grounds violent conflict.

Water is an essential resource for human existence. Water is used for consumption, for maintaining public health, for agriculture, for industry and for transportation. Serious scarcities of water will affect virtually every aspect of human life. Given its importance, water might be expected to be among those commodities which people will be especially concerned to preserve and protect, even to the point of fighting for them. For a country heavily dependent on river water for its economic development, the threat of having its water supply severely constrained by an upstream user may seem extremely threatening (Furlong and Gleditsch, 2003).

Gleick (1993) stresses this argument further as saying that where water is scarce, competition for limited supplies can lead nations to see access to water as a matter of national security, an increasingly salient element of interstate politics, including violent conflict.

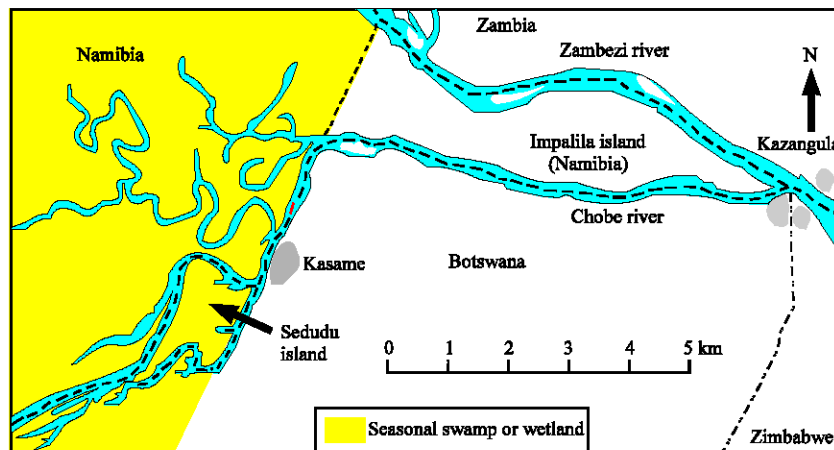
The SADC case in brief: Southern Africa is largely an arid to semi-arid region where the basins of most of the

larger perennial rivers are shared-by between three and eight countries (SARDC, 1994). Supplies of fresh water are finite and the existing demands for water in some parts of the region are fast approaching the limits of exploitation that conventional technologies can provide.

Our combined consciousness or awareness of the social, economic, political and ecological causes and implications of water conflicts has improved gradually with time as more and more information has become available and shared within the SADC. Available examples of such kind of developments include the water sharing disputes between Namibia and Botswana. In the case of Namibia's north-eastern Caprivi border with Botswana along the Chobe River and the adjacent section of its border with Zambia along the Zambezi River (Hangula, 1993; Fisch, 1999).

On attaining independence in 1990, Namibia adopted the principles laid down in Article iii, paragraph 3, of the Charter of the Organization for African Unity (OAU) and now African Union, signed by Heads of States and Governments in 1964, wherein all (OAU) Member States pledged themselves to recognize and respect the national boundaries defined by earlier colonial administrations (Hangula, 1993). Despite this ratification, border disputes continue to persist in the Caprivi region of Namibia (Hangula, 1993; Fisch, 1999). The judgement handed down by the International Court of Justice finds that Sedudu/Kasikili Island forms part of the sovereign territory of Botswana (ICJ, 1999). The table below demonstrates the rivers which bind Namibia and Botswana. These rivers do, however, respectively stretch to Zimbabwe and South Africa.

The Fig. 1 shows the position of Sedudu/Kasikili Island in relation to the Chobe and Zambezi rivers and the locations of the northern and southern channels of the Chobe River flowing around Sedudu/Kasikili Island (Ashton, 2000).



Source: (Ashton, 2000)

Fig. 1: Map of study area

In advancing the interests of these states within the SADC parameters, Member States signed the Protocol on Shared Watercourse Systems (SWS) whose Article 2 (7) stipulates that the following General Principles under-which states involved in river borders should include factors and circumstances such as:

- Geographical, hydro graphical, hydrological, climatical and other factors of a natural character;
- The social and economic needs of the member States concerned;
- The effects of the use of a shared watercourse system in one watercourse state on another watercourse state;
- Existing and potential uses of the shared watercourse system and
- Guidelines and agreed standards to be adopted (SADC Shared Watercourse Systems, 1995).

Important to note is that the Governments of Namibia, Botswana, South Africa and Zimbabwe have implemented time-bound environmental plans and investment programs to curb water pollution in both basins, including urban wastewater treatment, industry re-adjustment, industry emission control, watershed management, sewerage collection, water supply, urban waste treatment, ecosystem rehabilitation, dredging, non-point source pollution control and capacity building within their river boarders. These developments are pursuant to the binding principles articulated in Article 2 of the SADC SWS.

Decision-making in the SADC public water policy environment: Most of the SADC countries (with the exception of Zambia and to a certain extent Zimbabwe) have moved towards a new phase of privatization development. This phase involves the privatization of the water industry, mainly through and by government institutions in a form of tax and in most cases through multinational corporations who have an interest of delivering. However, this desperate development is not only a distinguishment of Southern Africa. Countries such as Britain, the Philippines, China and Argentina are among some, to name a few.

In the Southern African case, Namibia, South Africa and Botswana, are among the biggest proponents of such moves. Theories of against privatization vary in their approach. As argued by Hall *et al.* (2005) those in favour of privatization argue that governments are corrupt, unaccountable, unimaginative and financially strapped and unable to expand and upgrade water services on their own in a reliable and cost-effective

manner. The private sector and its operating principles, they argue, must be a central component of water delivery strategies.

Those opposed to privatization argue that private companies are only interested in the bottom line, charging the poor more than they can afford to pay (and cutting them off when they cannot pay), laying off workers or paying them less for the same work, cutting corners to save costs, creating health and safety risks for the public and 'redlining' some low income communities altogether. It is also argued that private companies use bribes and corruption to obtain contracts, or simply low-ball bids to get their foot in the door and then rapidly raise rates once entrenched.

Public-private partnerships in the SADC water sector: The Public-Private Partnerships are occurring in all SADC countries and are influencing all societies. As Naff (1993), therefore, any attempt to categorize water as a conflict issue must employ a multi-dimensional typology or a combination of typologies.

The biggest watercourse in SADC is the Zambezi river basin, shared by eight riparian countries. These are Angola, Botswana, Malawi, Mozambique, Namibia, Tanzania, Zambia and Zimbabwe. The river is utilized differently by people living along it. The joint political impact of the campaigns in opposition to privatization is significant. Buresch (2003) suggests that, globally, It is getting harder to find political leaders that are willing to truly champion privatization for reasons other than to generate cash proceeds'.

It is also unavoidable to conceive that without private sector involvement within the water sector, there would be any advancement in the delivery systems attached to the development of the people in general. Most of the underdeveloped communities in the SADC region are clustered in the villages where the basic daily necessities have not reached an acceptable level of delivery. In such cases, it becomes a duty of the government departments within SADC's member-states, to ensure that necessary measures are put in place to achieve such delivery. However, as conflict of interest still exists between government objectives and the general communities' position, better consultations need to take place in order to harness the collective objectives on the public good (i.e., water).

CONCLUSIONS

Resource wars and water boarders in particular, have not only proven to be devastating for SADC, but also restricting for the general development of people and

promoting an immense assortment of differences between public interest, government interest and corporate interest. As highlighted by Isaksen and Tjonneland (2001), SADC should not be expected to make rapid progress in implementation and delivery in the short run. Progress will rather be an incremental process that will require time and astute management. South Africa is among the steering countries aiming at promoting speeded advancement of awareness about the potential water wars that might be looming within the region. Experience from Namibia, Botswana, among others is exemplary so such kind of aims.

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