The Power of Experts: Why Non-Democracies Create Regional Parliaments



Densua Mumford
St Antony's College

Thesis submitted in partial fulfilment of the requirements for the degree of DPhil in International Relations in the Department of Politics and International Relations at the University of Oxford

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Abstract

Why do regional intergovernmental organisations composed of non-democratic member states create regional parliaments? In 2005, the League of Arab States established the Arab Parliament, a new legislative organ whose purpose is to represent the citizens of the member states of the Arab League. Since parliaments are the ultimate expression of democratic values, it is puzzling that states with some of the poorest record on political freedoms in the world would create them at the regional level while denying their citizens those same values at home. EU diffusion arguments, which are highly structuralist, ignore the role of agency and cannot account for persistent variation across different regions. Rational institutionalist theories struggle to explain this phenomenon because there is little evidence that regional parliaments lead to increased efficiency.

This thesis contributes an original theoretical argument that emphasises the agency of experts in determining treaty drafting processes under conditions of weak member state preferences. I argue that democratisation via non-state experts leads to the creation of regional parliaments in non-democratic regions. When member states have no preferences about the drafting of a treaty, they delegate the task to experts and give them high levels of discretion. These experts, in turn, apply their professional beliefs rather than the preferences of the member states, leading to otherwise unlikely outcomes.

Using process tracing of prominent African cases, I find that with the treaties of the African Economic Community (AEC) and the Economic Community of West African States (ECOWAS), member states revealed weak preferences because the regional organisations were of a low priority. They delegated the making of the treaties to experts, particularly those from the UN Economic Commission for Africa (UNECA). Experts then defined the problems and solutions of the organisation according to their belief that the participation of the people via regional parliaments was necessary for successful economic development. In the Southern African Development Community (SADC), member states did not delegate the making of the treaty because the regional organisation was of a high priority. Subsequently, their non-democratic preferences determined that no parliament should be established in the SADC treaty. Instead, civil society was left to create an independent SADC Parliamentary Forum, which has no formal relationship with the regional organisation.

Dedicated to Madam Hannah Akuokor Lartey, my ‘Auntie Granny’.

Contents

1 Introduction 1
1.1 Puzzle and Research Question 4
1.2 The Power of Experts in Institutional Design 8
1.3 Defining Regional Organisations 12
1.3.1 States 13
1.3.2 Geography 14
1.3.3 Formal Charter 15
1.3.4 Secretariat 16
1.3.5 Multiple purposes 16
1.4 Defining Regional Parliaments 17
1.4.1 Formal institution 18
1.4.2 Representing citizens 20
1.4.3 Elected 20
1.4.4 Political equality 21
1.4.5 Legislatures without legislative powers? 21
1.5 Research Design & Methods 25
1.5.1 Methods 26
1.5.2 Case Selection 28
1.5.3 Sampling of participants 30
1.6 Outline of Thesis 33

2 Institutional Design and Regional Parliaments: Taking Stock 37
2.1 Alternative Explanations 39
2.1.1 EU Diffusion 40
2.1.2 Liberal Democratic Values 46
2.1.3 Rational Choice Institutionalism 49
2.2 Research on International Parliamentary Institutions 53
2.2.1 Conceptualisations & Classifications 54
2.2.2 Assessing Effectiveness 57
2.3 Conclusion 61

3 Theorising the Power of Experts: Delegation and Institutional Design 64
3.1 Why States Delegate: Standard Explanations 66
3.2 How State Preferences Matter for Delegation 69
3.2.1 Preferences and State Action 69
3.2.2 Weak State Preferences and Delegation 73
3.2.3 Weak State Preferences and Discretion 76
3.2.4 Weak State Preferences and Choice of Experts 78
3.3 Experts' Role in Institutional Design 79
3.3.1 Defining Experts 79
3.3.2 Experts' Beliefs and Problem Definition 83
3.3.3 Experts' Anticipations 85
3.4 Conclusion 87

4 Experts and African Regional Integration 89
4.1 The Actors Driving Regional Integration in Africa 90
4.1.1 Intergovernmental Dimension 91
4.1.2 Supranational Dimension 92
4.1.3 Outsiders Dimension 93
4.2 The UNECA and Regional Integration in Africa: A Brief History 95
4.3 UNECA's Launching and Steering of Regional Integration 98

4.4 Factors empowering the UNECA in regional decision-making 104
4.4.1 Technocratic and resource advantage 105
4.4.2 Economic crises 106
4.4.3 Marginalisation of Africa 107
4.4.4 Low prioritisation of regional integration by member states 108
4.4.5 Leadership of the UNECA 109
4.5 Modes of Collaboration Between UNECA and OAU/AU 111
4.5.1 AU-ECA-ADB Joint Secretariat 112
4.5.2 Providing technical expertise 113
4.5.3 Formulating common strategies and positions for global negotiations 114
4.6 Conclusion 116

5 The Pan-African Parliament 120
5.1 History of the OAU/AEC/AU 122
5.2 Member States Delegate Treaty Making 129
5.2.1 Member States' Weak Preferences 129
5.2.2 Member States Delegate with High Discretion 134
5.3 Experts Design Regional Organisation 137
5.3.1 Experts' Beliefs and Problem Definition 137
5.3.2 Experts Propose Regional Parliament 146
5.4 Weakening the Regional Parliament to Address Member States' Concerns 154
5.5 Conclusion 160

6 The ECOWAS Parliament 162
6.1 History of the ECOWAS 164
6.2 Member States Delegate Treaty Making 170
6.2.1 Member States' Weak Preferences 170
6.2.2 Member States Delegate with High Discretion 176
6.3 Experts Design Regional Organisation 182
6.3.1 Experts' Beliefs and Problem Definition 182
6.3.2 Weakening the Regional Parliament to Address Member States' Concerns 187
6.4 Consideration of Alternative Arguments 189
6.5 Conclusion 192

7 The SADC Parliamentary Forum 195
7.1 History of SADC 196
7.2 Member States Control Drafting of Treaty 202
7.2.1 Member States' Strong Preferences 202
7.2.2 Member States Retain Control and Oversight 205
7.3 Member States Reject SADC Parliament 210
7.3.1 Preferences and problem definition 210
7.3.2 Solutions devised 211
7.4 Civil society campaigns for a SADC Parliament 216
7.4.1 First civil society campaign, 1993 – 1997 217
7.4.2 Further civil society campaigns, 2004 – 2015 222
7.5 Conclusion 227

8 Conclusion 230
8.1 Main Contributions 230
8.1.1 Theoretical contribution 230
8.1.2 Empirical contribution 234
8.2 Findings: The Cases in Comparative Perspective 236
8.2.1 Indifference and state action: weak preferences lead to delegation 236

8.2.2 Experts versus states: actor types matter in institutional design 238
8.2.3 Reflecting on Alternative Arguments 241
8.3 Outlook on the future of regional parliaments..... 243
8.3.1 Regional parliaments exist to democratise..... 244
8.3.2 Powerful non-state insiders are key to strengthening regional parliaments 245
8.3.3 Regional parliaments need democratising..... 246
8.4 Future Research 247
9 Bibliography 250

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List of Abbreviations

ADB	African Development Bank
AEC	African Economic Community
ASEAN	Association of Southeast Asian Nations
AU	African Union
AWEPA	Association of European Parliamentarians With Africa
COMESA	Common Market for Eastern and Southern Africa
EALA	East African Legislative Assembly
ECOWAS	Economic Community of West African States
EEC	European Economic Communities
EFTA	European Free Trade Association
EP	European Parliament
EU	European Union
IMF	International Monetary Fund
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NEPAD	New Partnership for Africa's Development
OAU	Organization of African Unity
PAP	Pan-African Parliament
PTA	Preferential Trade Area
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
SADC-CNGO	SADC Council of Non-Governmental Organisations
SADC-PF	SADC Parliamentary Forum
UN	United Nations
UNDP	United Nations Development Program
UNECA	United Nations Economic Commission for Africa
UNECOSOC	United Nations Economic and Social Council
UNRISD	United Nations Research Institute for Social Development

1 Introduction

On 19th January 2017, President Yahya Jammeh had less than twenty-four hours left to avert a cataclysmic war in his country. He had ruled the Gambia with relative stability for 22 years, and, since independence in 1965, the Gambian people had never seen a major war. Embraced almost entirely by Senegal on the Western coast of the African continent – effectively a country within a country – the Gambia had been sheltered from the conflicts that roiled within and across the borders of many neighbouring states. Refugees occasionally scrambled into Gambian territory to flee conflict between separatists and the Senegalese government in the Casamance region, but otherwise war within the Gambia was virtually unknown. Today was different. Senegalese military troops were marching across his borders, soon to be joined by troops from Ghana, Mali, Nigeria, and Togo. They had come to defend democracy with guns and heavy artillery. While they paused on their way to the capital Banjul, Jammeh contemplated their final request for peaceful negotiations.

Named Operation Restore Democracy, the military intervention in the Gambia was conducted under the banner of the Economic Community of West African States (ECOWAS), a regional intergovernmental organisation of 15 member states. It successfully removed President Jammeh within two days and bloodlessly set the country on a new democratic path. In his place, the ECOWAS instated the 51-year old real estate developer, Adama Barrow, who had won the Gambian elections in December 2016.

Why did the ECOWAS intervene so decisively to defend democracy when its member states are mostly non-democracies? Why intervene only after the election rather than during the many years President Jammeh spent terrorising his citizens? Jammeh, like most of his peers across the African continent over the decades, maintained his grip on power through

repression, corruption, and arbitrary displays of violence against his people and opponents.[1] Such behaviour, though contemptible, is hardly unique or grave enough to warrant military intervention. Moreover, neighbouring West African states can hardly boast about their own regimes: only four of them are considered free by Freedom House while the rest are partly free.[2]

The ECOWAS intervened not because Jammeh was a despot, but because *he broke the rules* on democratic elections. Particular institutional features enshrined in the ECOWAS' treaties and protocols decry unconstitutional changes in government and enable their reversal through the use of force.[3] The 2016 Gambian elections delivered a shock result in which the opponent Barrow deposed the long-standing dictator with a margin of just 3.7%. After initially admitting defeat, Jammeh promptly retracted his concession, alleging abnormalities in the election process that nullified the results. He put his country in a state of emergency and submitted a challenge to the constitutional court in the hopes of delaying Barrow's inauguration.[4] As a tactic, it was not only uninspired but entirely naïve. ECOWAS, a regional

[1] At the height of his despotism, he ordered witch hunts across the country, during which mysterious agents rounded up citizens and forced them to drink unidentified potions that led to severe illness and even death. See New York Times (2009): *Witch Hunts and Foul Potions Heighten Fear of Leader in Gambia.* 20th May 2009: http://www.nytimes.com/2009/05/21/world/africa/21gambia.html (accessed 15th December 2017)

[2] Freedom House (2017) *Freedom in the World 2017:* https://freedomhouse.org/report/freedom-world/freedom-world-2017 (accessed 19th December 2017) The Gambia is the only state deemed not free in the region. Ironically, the most powerful troop-contributing country in the region, Nigeria, had held its own elections in 2015 in which the incumbent was defeated by the opposition party for the first time. The newly elected Nigerian President, Muhammadu Buhari, had been head of state before several decades ago. In 1983, he came to power by instigating a coup, and ruled for two years before being himself overthrown by a coup. That he would return to power as a symbol of consolidated democracy thirty years later and help to remove dictators in the subregion is a remarkable development.

[3] See particularly Article 25 of ECOWAS (1999): *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security.* Abuja: ECOWAS, ref no A/P.1/12/99; Article 1 and 45 of ECOWAS (2001): *Protocol on Democracy and Good Governance*. Abuja: ECOWAS, ref no A/SP1/12/01. Also, ECOWAS is committed to the 'promotion and consolidation of a democratic system of governance in each Member State' according to Article 4(j) of its treaty. The African Union, of which all ECOWAS states are members, has similar provisions. See Articles 23-25 of AU (2007): *African Charter on Democracy, Elections and Good Governance*. Addis Ababa: African Union

[4] Reuters (2017): *Gambia's President Jammeh to challenge election loss at top court*. 11th December 2016: https://www.reuters.com/article/us-gambia-election/gambias-president-jammeh-to-challenge-election-loss-

organisation composed overwhelmingly of non-democracies, sent troops into the Gambia regardless, determined to remove Jammeh after 22 years of rule because his refusal to leave power broke its rules on elections.

Regional organisations today possess many institutional designs that go above and beyond the apparent values of their constituent member states.[5] Though paradoxical, these features can have independent powerful effects not only on the functioning of the regional organisations, but also the lives of their citizens. From 1975 to 1990, the ECOWAS oversaw a slew of coups, stolen elections, and human rights abuses but took no action. The regional organisation served as a club for dictators to gather and legitimise each other's atrocities. Citizens suffered the effects of such negligence. In recent years, however, the ECOWAS has developed robust mechanisms to defend and foster democracy with its utmost capabilities. As a result of the ECOWAS' institutional design in favour of democracy, the Gambian people have enjoyed their first change in government through an election and have regained democratic control of their country.[6]

This thesis explains why and how democratic institutional designs are adopted at the regional level despite member states being non-democracies. Considering the low democratic credentials of the member states, that they should follow rules already in existence is a

at-top-court-idUSKBN1400LN (accessed 19th December 2017); Al Jazeera (2017): Gambia's Yahya Jammeh declares state of emergency. 17th January 2017 https://www.aljazeera.com/news/2017/01/gambia-yahya-jammeh-declares-state-emergency-170117165356768.html (accessed 19th December 2017)

[5] It has in fact been noted that international organisations can foster the democratisation of member states. See Poast, Paul/Urpelainen, Johannes (2015): How international organizations support democratization: preventing authoritarian reversals or promoting consolidation? In: *World Politics*, 67 (1): 72 – 113; Pevehouse, Jon C. (2002): Democracy from the Outside-In? International Organizations and Democratization. In: *International Organization*, 56 (3): 515 – 549; Pevehouse, Jon C. (2005): *Democracy from Above: Regional Organizations and Democratization*. Cambridge: Cambridge University Press. What is puzzling to this thesis is how regional organisations that foster democratisation can be designed by member states who are themselves not democratic.

[6] While the Gambia has had many elections that have been deemed free and fair by observers, this is only the second time that the country has actually changed leaders. The first time was in 1994, when Jammeh deposed the former leader Dawda Jawara in a coup.

surprise. That these rules were created at all, given their potential to frustrate autocratic governments' interests, is utterly confounding and a puzzle in need of an explanatory theory.

1.1 Puzzle and Research Question

The thesis will focus specifically on an oft-ignored institutional feature with great potential to disrupt international relations in non-democratic regions: the regional parliament. Across many parts of the world, regional organisations composed of non-democratic states have established parliaments whose members are either directly or indirectly elected to represent the citizens of the region. Thus far, there are 28 regional organisations, of which 14 have regional parliaments. For example, in 2005, the League of Arab States established the Arab Parliament, a new legislative organ whose purpose is to represent the citizens of the member states. Since parliaments are the ultimate expression of democratic values, it is puzzling that member states with some of the poorest record on political freedoms in the world would create them at the regional level while denying their citizens those same values at home.

As President Jammeh of the Gambia discovered, institutional design choices can have momentous repercussions. Many potential drawbacks speak against the creation of regional parliaments, especially for non-democratic governments who are unused to being scrutinised or checked. First, regional parliaments are democratic features designed to introduce representation of the people in legislative processes. Where non-democracies deny such representation on the national stage, creating a parliament at the regional level merely offers citizens an obvious opportunity to bypass the national governments and institute their democratic will from above. Second, regional parliaments are a threat to the sovereignty of member states. As supranational organs, regional parliaments make decisions that will take

into account the interests of the whole regional community. Their resulting decisions can be potentially binding on the member states and force them into policies that may not reflect their national interests. Third, regional parliaments bring material costs that member states will need to bear. Sustaining a new organ whose members will be in the tens or hundreds and will require significant bureaucratic support is no small feat. For non-democracies, which are largely also low-to-middle income countries, that is a significant burden. In light of the great potential of regional parliaments to democratise global governance, thereby imposing significant material and sovereignty costs upon states, their creation is a remarkable puzzle.

This thesis, therefore, addresses the following research question:

'Why do regional intergovernmental organisations composed of non-democratic member states create regional parliaments?'

For scholars of international relations, the creation of regional parliaments as an institutional design choice not only requires explanation, but can provide ample leverage to innovate upon theories of international relations and conduct novel empirical investigations. This is particularly important because existing theories are inadequate for explaining the phenomenon. Three broad theoretical perspectives have been identified that constitute the dominant theories of institutional design in international relations.

EU diffusion arguments propose that institutional design outcomes are the result of structural pressures that can lead to systematic homogenisation among classes of institutions.[7] There

[7] Lenz, Tobias/Burilkov, Alexandr (2017): Institutional pioneers in world politics: Regional institution building and the influence of the European Union. In: *European Journal of International Relations*, 23 (3): 654 – 680; Lenz, Tobias (2012): Spurred Emulation: The EU and Regional Integration in Mercosur and SADC. In: *West European Politics*, 35 (1): 155 – 173; Jetschke, Anja/Lenz, Tobias (2013): Does Regionalism Diffuse? A New Research Agenda for the Study of Regional Organizations. In: *Journal of European Public Policy*, 20 (4): 626 – 637; Dri, Clarissa (2010): Limits of the Institutional Mimesis of the European Union: The Case of the Mercosur Parliament. In: *Latin American Policy*, 1 (1): 52 – 74

are various mechanisms proposed by diffusion, including coercion from powerful organisations, mimicry of more successful organisations, and the spread of norms through professional networks. Where regional organisations are concerned, the most dominant perspective argues that regional organisations across the world are significantly influenced by the institutional design choices of the European Union. Non-democracies create regional parliaments, according to this perspective, because the EU has a regional parliament. Therefore, it is seen as a legitimate institutional feature to possess. However, this highly structuralist account of institutional design leaves no room for agency. EU models are straightforwardly taken because of a pressure to be legitimate, but with no apparent politics or motivations of the actors involved. Even more importantly, there is a significant disparity between the implications of the theory – which suggest uniformity among regional organisations – and the actual persistent diversity that is seen in the world. While some non-democratic regions have parliaments, others have not.

Rational choice institutionalism, on the other hand, argues that institutional design follows the demand for more efficient cooperation.[8] States create international organisations to help them cooperate better. Primarily international organisations reduce the costs of cooperation and can also ameliorate the effects of anarchy in the international system. Their institutional features, therefore, are geared towards making them more efficient. However, this argument is difficult to apply to regional parliaments because they do not increase the efficiency of organisations. Regional parliaments introduce an additional principal to the organisation

[8] Abbott, Kenneth W./Snidal, Duncan (1998): Why States Act through Formal International Organizations. In: *The Journal of Conflict Resolution*, 42 (1): 10 – 23; Koremenos, Barbara/Lipson, Charles/Snidal, Duncan (2001): The Rational Design of International Institutions. In: *International Organization*, 55 (4): 761 – 799; Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (2006): Delegation under anarchy: states, international organizations, and principal-agent theory. In: Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (eds.) *Delegation and Agency in International Organizations*. Cambridge: Cambridge University Press, pg. 13 – 20

alongside the member state governments, which means an additional set of interests that need to be accommodated. Regional parliaments also have the potential of undermining the power of the member states rather than making cooperation among them more likely. Another strand of this argument may focus instead on the functionalist use of regional parliaments as signals to the international community of an inherent democratic value. According to this perspective, the creation of regional parliaments is supposed to lead to greater material or reputational rewards. Again, however, as signalling devices, regional parliaments are rather inept as they are barely known to exist by the citizens or the international community. A signal that is not seen is none at all.

Finally, arguments based on *democratic political values* point out that member states created regional parliaments according to their own democratic legitimating beliefs.[9] In this sense, regional organisations reflect the institutional type of their constituent member states. However, this perspective would in fact predict the opposite – that a regional organisation composed of non-democracies would not bring forth a regional parliament since democratic legitimating beliefs would not be present.

Having explicated the puzzle and given context to the research question in this section, the next section will summarise my original argument.

[9] Rittberger, Berthold (2005): *Building Europe's Parliament: Democratic Representation Beyond the Nation-State*. Oxford: Oxford University Press; Tallberg, Jonas/Sommerer, Thomas/Squatrito, Theresa (2016): Democratic memberships in international organizations: sources of institutional design. In: *Review of International Organizations*, 11 (1): 59 – 87

1.2 The Power of Experts in Institutional Design

My argument in this thesis is that democratisation via experts causes the creation of regional parliaments in non-democratic regions. Member states and their officials, in fact, are unlikely to be the source of important democratic institutional innovations at the regional level because they do not themselves hold democratic values.[10] On the other hand, experts located in international bureaucracies and other independent agencies are more likely to hold such democratic values. When they are delegated control over the drafting of treaties, they use this opportunity to institute their own professional beliefs, which include democratic beliefs. My main contribution is to provide a theory-driven explanation of why regional parliaments emerge as institutional design outcomes. In providing an original theoretical argument, I emphasise the agency of non-state actors – namely, experts – in the creation of regional parliaments. In my argument, experts have a professional motivation to improve the regional organisations and actively create regional parliaments as solutions to problems they identify. This differs from EU diffusion arguments, which are strongly structuralist by emphasising structural pressures present in the international environment, thereby ignoring the agency of local actors. It also differs from rational choice institutionalist arguments, which emphasise the state actors and their interest in making international organisations more efficient. Instead, I point out the power of non-state actors in determining institutional design outcomes.

Secondarily, I also make an original empirical contribution in that I bring to light fresh primary evidence about treaty drafting processes in African regional organisations. I completed 7.5

[10] One important exception is the East African Community, whose parliament was first introduced as part of a colonial project by the British Empire. East Africa's peculiar colonial heritage, in essence, makes the EAC an outlier. However, consolidated democratic beliefs were still the reason, albeit, ironically, carried by a democratic colonial power.

months of field research to gather archived documents and conduct interviews with officials. Specifically, the data covers two positive cases of regional parliaments being created – the African Economic Community (AEC) and the Economic Community of West African States (ECOWAS) – and one negative case in which a regional parliament was omitted – the Southern African Development Community (SADC). Using this data, I provide detailed, theory-driven accounts of treaty drafting processes in Africa and specifically the origins of their regional parliaments. To my knowledge, the politics behind the drafting of most treaties in Africa has largely been ignored in the field of International Relations, and thus this thesis represents an important step in building a greater stock of knowledge.

To explain the puzzle, I challenge standard assumptions in International Relations that member states are always at the helm of institutional design processes.[11] Instead, to understand institutional design outcomes, it can sometimes be helpful to observe the ideas held by non-state actors, specifically expert's external to the state. How can experts become so powerful in institutional design processes that they could implement something as potentially threatening to member state sovereignty as a parliament? Explaining this requires a distinction between states making decisions with strong preferences (the standard assumption) and states making decisions with weak preferences (my assumption).

The standard assumption is that decision-making proceeds according to strong state preferences regarding the potential outcomes of a task – that is they will prefer one outcome over another. Based on these preferences, states develop strategies and engage their ministries in the task to ensure their preferred outcome is realised. Scholars usually assume

[11] See Johnson, Tana (2014): *Organizational Progeny: Why Governments are Losing Control over the Proliferating Structures of Global Governance*. Oxford: Oxford University Press; Johnson, Tana (2013): Looking beyond States: Openings for international bureaucrats to enter the institutional design process. In: *Review of International Organization*, 8: 499 – 519

that they use expertise drawn from within their ministries, including key decision-makers such as ministers and high ranking civil servants to formulate a policy or design an organisation. Even if states lack in-house expertise, they will delegate a task to an agent and monitor them closely to ensure state preferences are the ones guiding the behaviour of the agents. The standard mechanism looks like this:

Strong state preferences → policy outcome

In contrast, my assumption is that many outcomes in international relations are the result of weak state preferences. This occurs when states consider a task as unimportant, meaning the outcomes of the task are assumed to be irrelevant to the state.[12] States will then express weak preferences as to the outcomes of the task. In such situations states will try to minimise the costs of doing a task. This means trying to use as few in-house resources and staff as possible. The solution is to delegate the task entirely to other actors with the relevant expertise. Since the outcomes are presumed to be unimportant and states have weak preferences, states do not expend much effort monitoring the delegated actor. And since the state has expressed weak preferences, the delegated actor uses their own ideas to guide their decisions. The mechanism now looks like this:

Weak state preferences → delegation to experts → policy outcome

There are thus two main steps to the mechanism. First, member states reveal weak preferences about the drafting of the treaty. This is because the outcomes of the treaty are deemed irrelevant to their national interests. Since the task is of such low priority but nevertheless must get done, member states will find means to do it with as minimal costs as possible. The more resources, expertise, and time are spent on a task that is irrelevant to their

[12] See Johnson, Tana (2014), pg. 27 – 50; Johnson, Tana (2013), pg. 505 – 507

national interests, the fewer they will have for tasks that are of high priority. Member states therefore delegate the drafting of the treaty to experts located in international bureaucracies or as private individuals. They represent the nearest available agents that have the capacity to complete the task but also are known entities. Furthermore, since states do not care about the outcome of the task, they will also expend as little of their resources to monitor the agents. Thus, delegation occurs with high discretion.

Second, experts that have been delegated the drafting of the treaty apply their own professional beliefs rather than the national interests of the member states. This follows since member states have revealed weak preferences, and therefore no guidance, to the experts about what they wish instituted in the treaty. Experts will apply their professional beliefs in order to define the problems of the organisation. Such problem definition is a vital step since it requires an interpretation of the world according to pre-existing beliefs. Such beliefs are a matter of their professional training and background.

Since experts are motivated to solve problems and improve conditions for the regional organisation at large, the outcomes of their propositions may therefore be detrimental to the national interests of individual member states. Where their propositions have clear implications for the sovereignty of member states – for example, with propositions for supranational features – experts anticipate resistance from member states and even rejection of their ideas. Therefore, in order to increase the likelihood of their proposals being accepted, experts weaken them on their own initiative but commit member states to strengthening the new institutional feature in the future.

Having detailed the novel theoretical argument in this section, the rest of this chapter will provide an important overview of the thesis. The next two sections will respectively define

the concepts of regional organisation and regional parliament. Following that, there will be a discussion on the research design and methods used in this research. Subsequently, the case selection method will be justified. Finally, I provide a summary of the remaining chapters of the thesis.

1.3 Defining Regional Organisations

When assessing regional organisations, previous scholarship has generally been ambiguous about what exactly is meant. Even in scholarship promoting a comparative approach, a fair few scholars proceed to theorise about regional organisations without defining precisely what their universe of cases looks like.[13] Regional organisations also seem implied in the concepts of regionalism and regionalisation, although they are not necessary to either. Thus, various formal and informal regional behaviours have come to be lumped together.[14]

Adding more complexity, previous work has noted a proliferation of what are termed international parliamentary institutions (IPIs).[15] This concept comprises a number of subsets, some of which indeed represent the kinds of parliaments I am interested in, and some of which do not. What this means is that a more precise approach that narrows the scope

[13] See Acharya, Amitav/Johnston, Iain Alistair (2007): *Crafting Cooperation: Regional International Institutions in Comparative Perspective.* Cambridge: Cambridge University Press; Börzel, Tanja A./Van Hüllen, Vera/Lohaus, Mathis (2013): Governance Transfer by Regional Organizations. Following a Global Script? In: *SFB-Governance Working Paper Series* No. 42; De Lombaerde, Philippe/Schulz, Michael (2009): *The EU and World Regionalism: The Makability of Regions in the 21st Century*. Farnham: Ashgate. An exception to this trend is Closa, Carlos/Casini, Lorenzo (2016): Comparative Regional Integration, pp. 8 – 9, who, uniquely, define regional organisations by their purpose i.e. having an integration of their member states as one of their objectives.

[14] See Farrell, Mary (2005): The Global Politics of Regionalism: An Introduction. In: Farrell, Mary/Hettne, Bjorn/Van Langenhove, Luk (eds.): *Global Politics of Regionalism. Theory and Practice*. London: Pluto Press, pp. 1 – 20; Acharya, Amitav/Johnston, Iain Alistair (2007): *Crafting Cooperation: Regional International Institutions in Comparative Perspective.* Cambridge: Cambridge University Press.

[15] Costa, Oliver/Dri, Clarissa/Stavridis, Stelios (2013): *Parliamentary dimensions of regionalization and globalization: the role of inter-parliamentary institutions.* Basingstoke: Palgrave Macmillan; Levi, Lucio/Finizio, Giovanni/Vallinoto, Nicola (2014): *The Democratization of International Institutions: First International Democracy Report.* London: Routledge

condition is deemed best for this thesis. In particular, this mattered for defining my population and, subsequently, the sample.

A regional organisation here is taken to mean an organisation composed of three or more geographically proximate states, founded upon a treaty binding under international law, and possessing a permanent bureaucracy i.e. a secretariat. In addition, the organisation must have a purpose beyond just creating a free trade area – that is, it must have aims to develop a regional community. I will elaborate upon each of these criteria.

1.3.1 States

The regional organisation must be intergovernmental. This means the members must primarily be states. While non-state actors may observe, may cooperate with the intergovernmental organisation, or may even participate in some of the activities of the organisation, they should not have equal status to member states by having equal voting rights, for example. Intergovernmental regional organisations can thus be contrasted with non-governmental organisations (NGOs), whose members will be individuals and civil society groups.

Furthermore, the number of member states must be three or more. It should be noted that, while scholarship seems to be drawing a consensus based upon the three-states rule,[16] this does not automatically make it the only viable definition. Earlier literature[17] argue that bilateral organisations, i.e. those with just two members, should also be considered international organisations.

[16] Pevehouse, Jon/Nordstrom, Timothy/Warnke, Kevin (2004): The Correlates of War 2 International Governmental Organizations Data Version 2.0. In: *Conflict Management and Peace Science*, 21: 104

[17] Wallace, Michael/Singer, J. David (1970): Intergovernmental Organization in the Global System, 1815-1964: A Quantitative Description. In: *International Organization*, 24 (2): 239 – 287; Archer, Clive (1992): *International Organizations. 2nd ed*. London and New York: Routledge

Certainly, states can form an intergovernmental organisation with just a membership of two. The two-states definition would quite simply capture the whole universe of possible intergovernmental organisations while insisting on three states may lead to a significant loss of data and thus to a potential bias in the results. On the other hand, using the two-states definition may blur the distinction between intergovernmental organisations and the plethora of bilateral agreements in the world. Disentangling these two entities would prove difficult at best and impossible at worst.

The three-states definition is preferable for its clarity, but only if there is minimal loss in data. In fact, in a large-n quantitative study of intergovernmental organisations meeting the previous two categories, Pevehouse et al find that the number of potential organisations lost when two-member versions are omitted from the dataset is tiny.[18] This means the benefits of a neater concept outweigh the costs of loss in information.

1.3.2 Geography

The geographical proximity of the states has been taken into account in order to capture the 'region' in regional organisation. This is the only criteria in this conception that separates regional organisations from universal intergovernmental organisations such as the United Nations (UN) or International Monetary Fund (IMF). By proximate states, I mean that the member states should be contiguous (share borders) or exist on the same continent.

While this has become a standard in the literature, geography is by no means the only way to delineate regions. Geography can be arbitrary and tell us little about the substantive ties and political, economic, or cultural dynamics between member states.[19] Regions can alternatively

[18] Pevehouse, Jon/Nordstrom, Timothy/Warnke, Kevin (2004): The Correlates of War 2 International Governmental Organizations Data Version 2.0. In: *Conflict Management and Peace Science*, 21: 104

[19] Fawn, Rick (2009): 'Regions' and their study: where from, what for and where to? In: *Review of International Studies*, 35: 16 – 17

be defined by the socio-cultural commonalities such as the language and shared history of the states rather than their physical locations. This would capture the meaningful relationships missing with the geographical approach.

To illustrate how this might change the categorisation, the Organisation of Islamic States (OIS) would fail to qualify as a regional organisation under the geographical definition because its member states span several continents and are not contiguous. It would, however, qualify under the socio-cultural definition because membership is based upon an adherence to Islam.[20]

I chose to adopt the geographical definition because the socio-cultural one has more crippling flaws. Socio-cultural groupings can change in relatively short periods of time. This means that the regions cannot be determined a priori, but must always be inductively ascertained. Consider former Soviet states that have now turned to the West by joining the European Union. While they may be closer to Russia in socio-cultural terms, their moves to adopt Western norms and governance practices as part of their accession could quickly change that affiliation. On the other hand, the comparative durability of state borders means that a geographical region can be determined by simply looking at a map.

1.3.3 Formal Charter

This study is also interested in regional organisations that are formal in nature. This means they are founded upon a charter or treaty that gives them legal status under international law. The charter defines clearly the common interests of the member states and their shared aims. Formal organisations can be contrasted with informal ones, which are usually founded

[20] For an interesting discussion on this see Russett, Bruce M. (1967): *International Regions and the International System: A Study in Political Ecology.* Chicago: Rand McNally & Company; Hemmer, Christopher/Katzenstein, Peter J. (2002): Why is there no NATO in Asia? Collective identity, regionalism, and the origins of multilateralism. In: *International Organization*, 56 (3): 575 - 607

upon non-legal texts like declarations or have no basic texts at all.[21] The reason for focusing upon formal rather than informal organisations is that informal organisations are often designed to be institutionally minimalist. Their likelihood of having parliaments when they often do not even have a secretariat is negligible at best. There are regional organisations that have developed from an informal to a formal character, chief among them the Association of Southeast Asian Nations (ASEAN). ASEAN was founded through a non-legal declaration in 1967 and only adopted a charter in 2008. In such situations, the organisations were not counted in the universe of cases until the treaty date. However, pertinent empirics from the organisation's informal history were nonetheless considered in this project's evaluation.

1.3.4 Secretariat

A regional organisation must possess a secretariat, a permanent bureaucratic structure responsible for its day-to-day work. This continuous secretariat should be autonomous and neutral towards the member states. That is, it should not serve the interests of just one of the states, but treat all of them equally. Without this permanent organ, the joint and cooperative activities of the member states could be considered just a sequence of conferences.

1.3.5 Multiple purposes

In my conception of a regional organisation, the distinction between low levels of economic integration and more extensive forms is relevant.[22] It is unlikely that a regional

[21] Vabulas, Felicity/Snidal, Duncan (2013): Organization without delegation: Informal intergovernmental organizations (IIGOs) and the spectrum of intergovernmental arrangements. In: *The Review of International Organizations*, 8 (2): 193 – 220

[22] That there are continuous stages of integration, ranging from free trade to an economic community has been theorised since very early scholarship on regional integration. See Balassa, Bela (1961): Towards a Theory of Economic Integration. In: *Kyklos*, 14 (1): 1 – 17. Recently, scholars have theorised that there may be systematic differences between international organisations that have a general purpose and those that are geared towards specific tasks. Although there may be overlaps, this is a meaningfully different classification to mine. For example, there may be organisations that have general purposes but are not at all geared towards economic integration of the member states e.g. the UN, which would not make them of interest to my study.

intergovernmental institution founded purely for the purpose of opening trade will have a parliament because its institutional structure will be limited and of a very technical nature. To include such purely technical organisations in the analysis might lead to the conclusion that the key driving factor behind the existence of a parliament is the existence of political integration, which would lead to an uninteresting deterministic argument. For that reason, in order to qualify for this study, the organisation must have aims beyond pure trade liberalisation. The organisation must aim to create a community of sorts through a common market or cooperation on services and the like. My final list, therefore, excludes purely free trade arrangements such as NAFTA or EFTA.

1.4 Defining Regional Parliaments

A regional parliament is a legislature belonging to the regional organisation as defined above. It must a) be established in the organisation's founding treaty or a legally-binding protocol amending the treaty; b) be tasked with representing the citizens (as opposed to interest groups or governments); c) have members who are directly or indirectly elected; d) be composed of members who are politically equal (i.e. no hierarchy among the members).

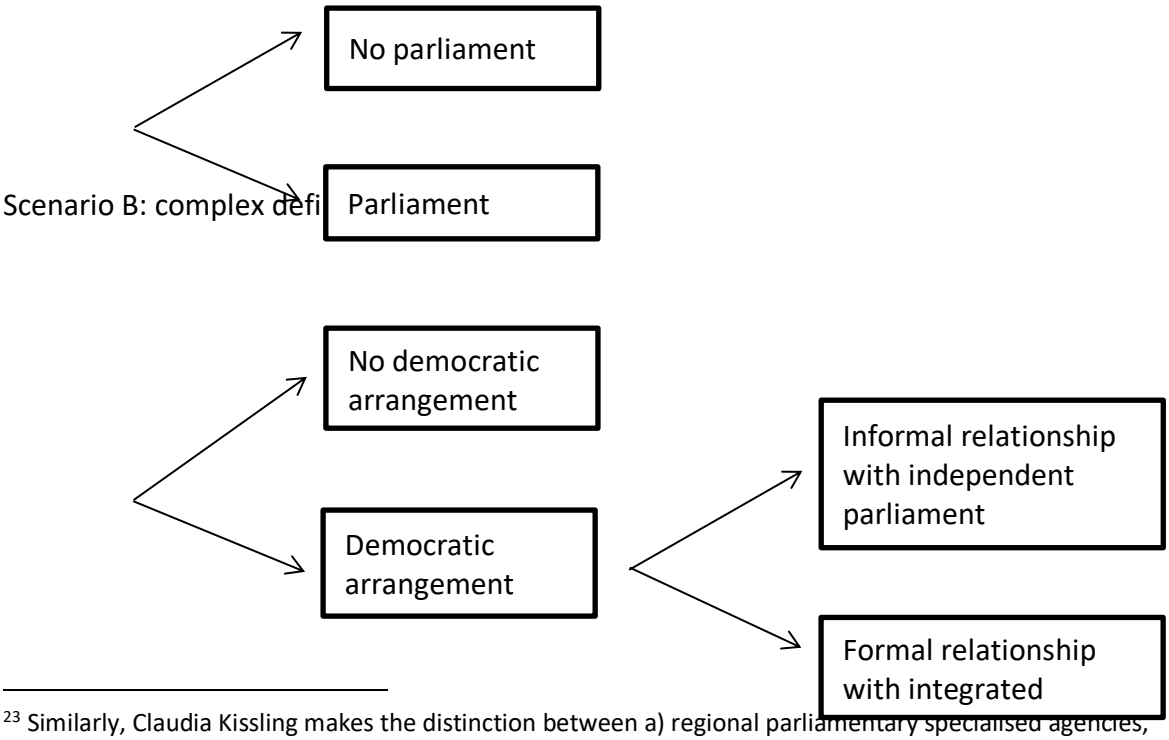
These criteria are based partly upon definitions used for national parliaments and partly upon inductively derived commonalities among prominent existing regional parliaments such as the European and Pan-African Parliaments.

See Lenz, Tobias/Bezuijen, Jeanine/Hooghe, Liesbet/Marks, Gary (2015): Patterns of International Organization: Task Specific vs. General Purpose. In: *Politische Vierteljahresschrift*, Sonderheft 49: 131 – 156

1.4.1 Formal institution

Regional parliaments are created as integral organs of the regional organisations through the founding treaty or a protocol amending that treaty. Primarily, this criterion helps distinguish regional parliaments from other kinds of legislatures. Furthermore, this requirement comes from an observation that some regional organisations have informal relationships with inter-parliamentary fora.[23] For example, the SADC and the SADC Parliamentary Forum (SADC-PF) consult with each other but the latter is not formally a part of the former. In a sense, there are two ways of conceptualising the proliferation of parliaments with respect to regional organisations (see diagram below).

Figure 1: Classification of Cases



[23] Similarly, Claudia Kissling makes the distinction between a) regional parliamentary specialised agencies, which have informal relationships with related regional organisations, and b) parliamentary organs of regional organisations, which are established in the legal founding documents of the organisations. See Kissling, Claudia (2014): The legal and political status of international parliamentary institutions. In: Levi, Lucio/Finizio, Giovanni/Vallinoto, Nicola (eds.) *The Democratization of International Institutions*. London and New York: Routledge, pp. 27 – 31

In Scenario A, which is the strict view, we envision that a regional organisation decides whether or not to have a parliament. This is an all-or-nothing view. One set of regional organisations will have parliaments that are established in their treaty as an official organ. The other set will include all other kinds of arrangements, from not having any kind of parliamentary relationship to having an informal relationship. Subtler differences are thus ignored.

In the alternative, complex conception (Scenario B), we envision that the decision is a two-step process. First, regional organisations must decide whether or not to have some form of democratic arrangement so as to open their decision-making to civil society and citizens. Deciding to not open up the process leads to one terminal outcome. If the decision is to open up the process, then there is still a range of options to choose from regarding precisely what the institutional arrangement should be. In the second step, regional organisations may then choose formal mechanisms such as integrated parliaments or informal mechanisms that lead to loose relationships with independent parliamentary bodies. Scenario B thus sees the establishment of a formal parliament as one of a range of options.

I have decided to adopt the strict Scenario A in which any regional organisation without a formally integrated parliament via a treaty is defined as not possessing one. The primary reason is that it is irrelevant from a theory perspective that an informal association may develop between a regional organisation and an independent international parliamentary institution. My research aim is to explain why regional organisations develop parliaments as integrated organs, not why they form relationships with other international institutions. The

latter is conceptually different from the former, where the parliamentary organ is intended to be part of the internal decision-making of the regional organisation. Another reason is practicability: operationalisation of a simplified population will lead to greater consistency and more valid theoretical propositions.

1.4.2 Representing citizens

The institution must be tasked with representing the citizens as opposed to governments or the private sector. This can often be derived by looking at the article in the founding charter or protocols that describes the purpose of the legislature. The importance of this criteria lies in the fact that the parliament is often the only means in which individual citizens can impact upon the decision-making of the regional organisation. This criterion thus distinguishes parliaments from councils of ministers, for example, or economic and social councils, which are designed to represent national governments and private corporate interests respectively.

While the emphasis here is on the institution representing the citizens, in practice, the line between representing citizens and governments can be blurred. Most regional parliaments are composed of members who were elected from among national parliaments rather than by the citizens. In most parts of the world, national parliaments are weak and dominated by their executives. Domestic politics is likely to influence their selection, thus putting in doubt the extent to which they are independent from national governments. Nevertheless, as long as the purpose of the parliament is to represent citizens, the actual practise will not be taken into account.

1.4.3 Elected

The members of the institution should be elected to their positions. Elections, however, can be direct or indirect. Most states in the world have a low capacity for organising national

elections, with the result that they sometimes fail to adhere to the 'free and fair' mantra often associated with electoral democracy. It is likely that they find themselves in no position to coordinate elections on a regional scale in order to place members into a regional parliament. Many have opted to get their national parliaments to elect individuals from among themselves who then take on the role of regional parliamentarians. An institution will qualify as a regional parliament if its members are directly elected by the citizens of the member states or are elected by the national parliaments of the member states.

1.4.4 Political equality

Legislatures are also distinguishable by the lack of hierarchy. All members are politically equal. Parliamentarians represent citizens, who are politically equal. Thus, it makes sense that their representatives, as political extensions of the citizens, are also equal. To organise parliamentarians into some hierarchy would be to favour the preferences of some constituents over others. In contrast to parliaments, the members of an executive will have a strict hierarchy. For instance, a president and her ministers will not be political equals – the president's decisions supersede any decisions taken by the ministers and often create the scope within which ministers can act. In a parliament, although specific individuals may hold additional ceremonial roles (for example, as speakers), all members of a parliament should have the same broad powers, rights, and duties.

1.4.5 Legislatures without legislative powers?

The above four criteria together constitute a regional parliament. They lead to a deliberately low threshold for an institution to be called a parliament. Critically, despite referring to

parliaments as legislatures, the definition nowhere mentions 'legislative powers'. There are three reasons for this.

First, taking a cue from scholars of national legislatures, it appears defining an entire universe of parliaments by the functions such institutions perform is a fruitless exercise. It has been noted that, 'Although parliament can be defined structurally, it cannot be identified by the particular functions it performs in political systems, for these have varied too widely to have any common denominator.'[24] Almost every state in the world has some form of a legislature, and where there are no legislatures, they tend to not stay without one for very long.[25] However, with every state possessing its own peculiar history, cultural context, and political realities, these parliaments have developed in highly divergent ways. This leaves any researcher trying to derive useful criteria based upon function such as whether or not they have legislative powers with little to work with. Only researchers interested in subsets of like cases, for example the legislatures of Western democracies, can delve into definitions based upon functions.[26]

The tradition of boundless diversity continues on the international level. While no regional parliament has full legislative powers, rare cases such as the European Parliament (EP) have managed to become influential actors alongside other institutions in their regional organisation, while others such as the Andean Parliament remain mere debating chambers mostly ignored in any binding decision-making processes. The specific combination of powers (if any) to check the executive or legislate on regional policy is unique to every parliament.

[24] Loewenberg, Gerhard (1971): *Modern Parliaments: Change or Decline?* Chicago and New York: Aldine Atherton
[25] Blondel, Jean (1973): *Comparative Legislatures.* Englewood Cliffs: Prentice-Hall
[26] Olson, David M. (1994) *Democratic Legislative Institutions: A Comparative View*. Armonk, NY and London: M.E. Sharpe

The second consideration for such a low threshold is that these institutions are almost all young and still evolving. While certain abstract normative arguments can be made about how these parliaments should be structured, in fact, it is premature to determine exactly what regional parliaments *ought* to do on a day-to-day basis. Regional parliaments cannot be reasonably seen as national parliaments writ large. They may share similar superficial features, but they are fundamentally rooted in very different political structures.

A national parliament and a regional parliament belong to different kinds of organisations – one is in many cases the sovereign body of a state (though, in practise, this rarely translates into proportionate power). With respect to regional organisations, the concept of sovereignty does not make sense. Thus, a regional parliament is often a weak, potentially democratic, feature of an international organisation presiding over a narrow set of transnational policies. Their scope for decision-making will be different, their loyalties will be different, and thus their functions will also likely be different. Making strict definitions that rely on functions or make complex demands about the structure of the parliament would serve no purpose in this study.

The final consideration is that to raise the threshold any higher would eliminate virtually the whole universe of cases – that is, it would be to deny that there is a phenomenon of regional parliaments at all. For example, although the official name of the European Union's (EU) legislature changed from the Common Assembly to the European Parliament in 1958, it was not until 1979 that the first members were directly elected by the citizens. Some might require an institution to have elected members before it can be called a parliament, thus excluding the European Parliament before 1979. However, that would also eliminate almost all similar institutions in existence today. Apart from the EP, only the Mercosur Parliament

has partly elected members (in 2008 members from Paraguay were directly elected, while the remaining member states are yet to hold elections to the regional parliament). Other regional organisations, such as the East African Community (EAC) and the ECOWAS have determined to transform their parliaments into fully elected and legislative institutions at future dates. When and how these transformations will occur is unknowable.

This study accepts the EP as a parliament from its inception as the Common Assembly in 1952 and, by extension, other similar institutions with similarly minimal powers. I believe that these legislatures can belong to the same class while accepting that there may be diversity among them in terms of degrees of institutionalisation.[27] The main question here, however, is why these institutions exist in the first place. It is precisely the fact that they are often weak that makes their proliferation interesting and relevant to scholarly debates about institutional design.

The table below summarises the qualifying regional organisations, and distinguishes between those that do and do not have parliaments according to my definition.[28] The dates refer to the signing of the treaties and not their ratification.

Table 1: Regional Organisations with and Without Parliaments

ROs *with* Parliaments	**ROs *without* Parliaments**
African Economic Community (1991)	Association of Southeast Asian Nations (2008)
African Union (1999)	Central American Common Market (1960)
Andean Community (1969)	CEN-SAD (1998)

[27] Cofelice, Andrea (2012): International Parliamentary Institutions: Some Preliminary Findings and Setting a Research Agenda. In: *UNU-CRIS Working Papers*, W-2012/3

[28] This is not an exhaustive list of all regional intergovernmental organisations through time as many have been created but died at infancy or were never fully set up, such that no records of their treaties or operations could be found. This is especially pertinent to Africa where arguably more regional organisations have been established (and died) than there are states.

Arab Maghreb Union (1989)	Common Market for Eastern and Southern Africa (1994)
Caribbean Community (1973)	Commonwealth of Independent States (1991)
Council of Europe (1949)	Eurasian Economic Union (2015)
East African Community (1967)	GUAM (2001)
East African Community (1999)	Gulf Cooperation Council (1981)
Economic Community of Central African States (1983)	Organization of African Unity (1963)
Economic Community of West African States (1993)	Organization of American States (1948)
European Union (1952)	Pacific Islands Forum (2005)
League of Arab States (1945)	Shanghai Cooperation Organisation (2002)
Mercosur (1991)	Southern African Development Community (1992)
UNASUR (2008)	South Asian Association for Regional Cooperation (1985)

In this section, I defined the concept of regional parliament. The following section will now detail the research design and methods applied for this research.

1.5 Research Design & Methods

Having clarified the main concepts and classification of cases in the previous section, this section will justify the research design and methods used. To explain why regional organisations composed of non-democracies create regional parliaments, I use small-n comparative process tracing case studies with a primarily inductive approach. Data gathering involved 7.5 months of field research across four sites on the African continent (Nigeria, Botswana/South Africa, Ethiopia, and Zambia). Data was sourced from the archives of the regional organisations located in the aforementioned countries, interviews with a few

participants that were involved in the drafting of the respective treaties, and to a lesser extent from third party sources such as newspapers and published books.

1.5.1 Methods

While a deductive approach to research was first attempted, it quickly became apparent within the first case that many of the propositions of the theories outlined in previous sections did not hold. Furthermore, there had been significant gaps in knowledge about the cases prior to the onset of fieldwork that only became apparent once data gathering had begun. Specifically, the expectation had been that documents archived at the regional organisations would reveal the negotiation positions of member states on the treaty. When instead I found mostly studies by experts and consultants and records of their meetings, it became clear that member states had little to do with the substantive thinking behind the founding documents. A deductive approach was simply not tenable. The solution was to switch as early as possible to an inductive approach, thereby making the lack of assumptions a strength in order to guide research to possible revisions of existing theory or even the development of entirely new theory.

Process tracing was chosen because of its usefulness in situations where there is a need to 'identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of the dependent variable'.[29] Since the purpose of this research is to clarify the mechanism that links the existence of a regional parliament to an as yet unidentified causal variable, process tracing was deemed the most appropriate tool.

[29] George, Alexander L./Bennett Andrew (2005): *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press, pp. 206

There are weaknesses to process-tracing, namely that it is highly sensitive to the availability of data. In order to establish a causal chain, ideally the sequence of evidence should have no gaps. Where a key event cannot be linked as a cause to the next event in the explanation or where an intervening step goes against the theory being tested, the theory cannot be said to hold in that case. This was addressed in the following manner. Where the missing data left a gap in knowledge that was crucial to developing the theory, effort was made to find additional data to help draw inferences. In many cases, however, the correlation of one event and a subsequent one was compelling enough because of timing and alternative explanations could not account for it. Where notable ambiguity existed in archived documents, for example, further evidence was sought via interviews or secondary literature.

The data used for the study included both primary and secondary sources. Some sources were more relevant at some stages of the research than others. Table 2 shows the data and their purposes in the research, and also where they were appropriated.

Table 2: Data Sources

Data	**Official documents**	**First-hand accounts**	**Second-hand accounts**
Type	Negotiation statements, minutes/summaries of meetings, official reports, policy documents	Interviews, autobiographies, memoirs	Newspaper articles, academic articles and theses, reports not from the regional organisation
Purpose and timing	These data were gathered in the initial phases of the field	These data were gathered in the second phase of the	Such data were gathered primarily to corroborate

	research. Their purpose was to help identify the key phases of the constitutional design of the regional organisation and also who the individuals involved were.	field research. Once key actors had been identified, a bibliographic search for potential memoirs was made. Interviews were also requested and held, particularly to fill data gaps in the official documents.	information gained from the other two groups of data. Its secondary purpose was to fill gaps in the causal chain that persisted after gathering the other two forms of data.
Location	Archives located at headquarters of the regional organisation; websites of regional organisations; archives located at headquarters of the parliaments; national government archives.	University libraries and research institutes. Interviewees, being primarily elites, were located mainly in their home regions but some were also outside of their regions.	Newspaper archives, websites and archives of other international organisations.

1.5.2 Case Selection

The cases chosen for this research represent 'typical cases' and also 'deviant cases' from the perspective of the dominant school of EU diffusion.[30] All three cases (AEC, ECOWAS, SADC) comprise member states that are closely tied to the EU via formal relationships (e.g. Lomé IV agreements) and are highly dependent on and open to the international economic and political system.[31] They are thus equally likely to mimic institutional features diffused from the EU. The typical cases are the AEC and ECOWAS, which created parliaments as might be

[30] Seawright, Jason/Gerring, John (2008): Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options. In: *Political Research Quarterly*, 61 (2): 299 – 300; 302 – 303

[31] In fact, it is very difficult to find cases of regional organisations that do not have relations with the EU or are at least unaware of the EU.

expected according to the diffusion theory. By choosing such cases, it was possible to explore whether diffusion theory as postulated could explain the puzzle, while also keeping in mind the alternative arguments. If diffusion theory failed in such typical cases, then the evidence against it would be stronger. On the other hand, the deviant case is represented by SADC, which did not create a regional parliament. These allow for a comparative and more explorative understanding of what alternative causal mechanisms might be at play.

The decision to use three cases instead of just one or two was in order to maximise the validity of the argument being made while not compromising the feasibility of the research methods. More importantly, the value of having two typical cases and one deviant case was primarily in creating a 'most similar' comparative situation,[32] which could help bolster the validity of any causal mechanism identified. It was also with this in mind that all cases chosen were African; this ensured as much similarity as is possible given the boundless diversity across regions of the world. For instance, the wave of democratisation in the early 1990s struck African states at the same time, their member states have comparable colonial experiences, they are similarly dependent on external funding and aid, and are at similarly low levels of development. Such similarities allowed for further potential elimination of extraneous variables.

[32] Seawright, Jason/Gerring, John (2008): Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options. In: *Political Research Quarterly*, 61 (2): 304 – 305

1.5.3 Sampling of participants

Sampling was via the snowballing method, which intends to find new participants through the contacts of earlier participants.[33] This was the most apt sampling method as the population of individuals involved in the decision-making could not be identified and delimited before research had begun. There were rarely any convenient lists of individuals involved in the processes and most had no publicly available contact details. Due to the significant time lapse between the event under study and the research project (20+ years for all cases at the time of writing), some key actors were difficult to find or access, and many of the participants had lost touch with their former colleagues. Thus, the snowballing process often ended up stalling or leading to dead ends. Nevertheless, the most prominent and senior actors in the treaty drafting processes also happened to be those most easily identifiable and reachable. As a result, enough interviews were held to build a firm bedrock of data.

The second and equally important feature of this sampling method is that there is an inherent bias in the selection, and thus the accounts, of the participants.[34] Rather than being randomly drawn from a population, they are individuals who know each other well, formed dense professional and personal networks with each other, and often experienced events from similar perspectives. However, this is in fact a necessary element of the choice in participants. The events under study were driven by a relatively small network of people – often a handful or less – and in a highly political context; only the privileged few had any knowledge of the decisions and justifications involved, with virtually no scrutiny from the media or civil society groups unless they were invited to participate in rare, isolated, and highly controlled

[33] Henry, Gary T. (2009) Practical sampling. In: Bickman, L. & Rog, Debra. J: *The SAGE handbook of applied social research methods*. Thousand Oaks, CA: SAGE Publications Ltd, pg. 81 – 83, doi: 10.4135/9781483348858.n3

[34] Henry, Gary T. (2009), pg. 85 – 88

supplementary consultations for the treaty drafting process. Furthermore, since the processes of treaty making under study occurred in non-democratic states and in remote international fora, information about what occurred in decision-making meetings is in fact concentrated only amongst that select group.

The greatest difficulty, in fact, was identifying and finding the relevant actors. In most cases, decisions were made by a very small cadre of individuals, who alone could explain the logic behind their actions and thinking. Participants were spread across various geographical contexts on the African continent. Most individuals were simply untraceable given the resources and time limitations. Moreover, as with any accounts dependent on memory, theirs could sometimes be unreliable due to the significant time lapse. Efforts were made to verify important statements made in interviews with other sources such as archived materials and publicly available data – where such verification was not possible, the assertions made were omitted from the analysis or in rare cases used but clearly indicated in the footnotes.

The below provides a list of all the interviews conducted. In total 26 participants agreed to be interviewed, of which 23 were recorded. The sessions ranged from as little as 17 minutes to as much as 156 minutes. All participants have been anonymised. They were not necessarily interviewed in the order in which they were assigned numbers as appointments were sometimes postponed.

Table 3: Interviews Held for Research

Participant ID	Role / Position	Date	Length of Interview
Participant 1	Member, Committee of Eminent Persons, ECOWAS	17th April 2015	74 minutes
Participant 2	Former official, ECOWAS	8th June 2015	87 minutes

Participant 3	Member, Committee of Eminent Persons, ECOWAS	16th April 2015	69 minutes
Participant 4	Member, Committee of Eminent Persons, ECOWAS	18th May 2015, 29th March 2016, 9th August 2016	147 minutes & 22 minutes & 10 minutes
Participant 5	Official, ECOWAS	26th May 2015	21 minutes
Participant 6	Former official, ECOWAS	23rd June 2015	26 minutes
Participant 7	Member, Committee of Eminent Persons, ECOWAS	27th June 2015 & 12th October 2015	127 minutes & 105 minutes
Participant 9	Former senior official, ECOWAS	5th May 2017	52 minutes
Participant 8	Senior official, ECOWAS	28th May 2015	47 minutes
Participant 10	Senior official, Botswanan Ministry of Foreign Affairs & International Cooperation	15th August 2015	Unrecorded
Participant 11	Senior official, SADC	4th August 2015	156 minutes
Participant 12	Official, SADC-CNGO	8th August 2015	137 minutes
Participant 13	Former senior official, SADC	19th August 2015	135 minutes
Participant 14	Former senior official, SADC	21st August 2015	65 minutes
Participant 15	Former official at SADC-PF	24th & 28th August 2015	19 minutes & 46 minutes
Participant 16	Former senior official, UNECA	25th March 2016	59 minutes
Participant 17	Former official, UNECA	18th April 2016	72 minutes
Participant 18	Official, UNECA	7th & 27th July 2016	Unrecorded & 56 minutes

Participant 19	Official, UNECA	13th July 2016	Unrecorded
Participant 20	Senior official, AU	25th & 26th July 2016	30 minutes & 17 minutes
Participant 21	Official, AU	19th July 2016	32 minutes
Participant 22	Official, UNECA	21st & 28th July 2016	47 minutes & 37 minutes
Participant 23	Official, AU	22nd July 2016	36 minutes
Participant 24	Senior official, AU	25th July 2016	Unrecorded
Participant 25	Official, AU	26th July 2016	43 minutes
Participant 26	Official, AU	28th July 2016	34 minutes

This section provided a justification for the research design and methods applied in this research. The next section will summarise this entire chapter and provide an overview of the subsequent chapters that constitute the thesis.

1.6 Outline of Thesis

This chapter introduced the puzzle and research question. It then clarified the main concepts of the study. Regional organisations are composed of states, have geographically contiguous membership, are founded on a treaty, and must be more than simply multilateral free trade agreements. A regional parliament, is an organ founded in the treaty or a protocol of the aforementioned regional organisation, must represent citizens, have members who are directly or indirectly elected to their role, and the members must be politically equal. The chapter then identified a universe of cases, of which three were selected for study to represent typical and deviant cases according to the main alternative theory of EU diffusion. Subsequent chapters contribute vital components of the overarching argument of the thesis.

Chapter 2 identifies more precisely the research gap that this thesis attempts to fill. It does so by critiquing two related strands of research. On the one hand, much international relations theory has been developed to explain institutional design. However, existing theories are inadequate for explaining the creation of regional parliaments. On the other hand, there has been much work conducted on regional parliaments that attempts to conceptualise and classify them as well as assess their effectiveness in regional decision-making. Nevertheless, researchers in this field have not gone beyond this to theorise their creation. My original contribution is therefore to develop a theoretical argument that will explain specifically why non-democratic regions create regional parliaments.

Chapter 3 presents the novel theoretical argument. Surprising institutional design outcomes such as regional parliaments can arise as the result of the professional beliefs of experts delegated the task of drafting the treaty, rather than the national interest of member states. When member states formulate no preferences about a treaty because they deem it to be of low priority, they delegate the task of drafting it to experts and give them high levels of discretion in order to minimise the costs of monitoring. Experts in return approach the drafting of the treaty not according to the national interests of member states but according to their own professional beliefs. They use their beliefs to define the problems of the organisation and therefore identify relevant solutions. However, where supranational solutions are required that may infringe upon the sovereignty of member states, experts will anticipate member states' hesitation and address it by weakening their proposals.

Chapter 4 begins the empirical part of the thesis by providing important context to the role of experts from the UN Economic Commission for Africa (UNECA) in fostering regional integration in Africa. Specifically, it shows that experts have been historically instrumental in

the creation of regional organisations, the formulation of important strategic plans, and the promotion of particular development ideas. They have worked closely with bureaucrats within the regional organisations as well as the member states and have had privileged access to their meetings. The power of these experts is determined by contextual factors such as crises, the marginalisation of African states in the international system, the poverty of the member states, and the advocacy of particular leaders among the experts.

Chapter 5 explains the creation of the Pan-African Parliament (PAP) according to the theoretical argument of this thesis. Member states of the Organization of African Unity (OAU) agreed to create an African Economic Community (AEC) but did not prioritise the drafting of the treaty. They did not pay their membership fees, did not ratify treaties, and did not submit any preferences for the content of the treaty. Instead, they delegated the task to the OAU secretariat and the UNECA. The latter, in particular, had recently adopted a belief in the vital connection between democracy and economic development – known as the participatory development norm. Regional integration as a strategy for economic development would fail unless the citizens of Africa were involved in the process through democratic institutions. For that reason, they called for a Pan-African Parliament in the 1991 AEC treaty.

Chapter 6 explains the creation of the ECOWAS Parliament according to the new theory. Member states of the ECOWAS agreed to revise the treaty of the ECOWAS following some lobbying from the Executive Secretary. However, because the ECOWAS was of such low priority in their affairs, they delegated the task of drafting the treaty to the secretariat, who hired a team of experts, a Committee of Eminent Persons, to draft the treaty. Many of the experts had connections to the UNECA and they brought with them a belief that economic development would not succeed unless the ECOWAS was endowed with a regional parliament

that would represent the will of the people in regional decision-making. Subsequently, the ECOWAS Parliament was called for in the 1993 treaty.

Chapter 7 explains why the Southern African Development Community (SADC) does not have a regional parliament using the novel theoretical argument. Southern African states created a decentralised informal organisation called SADCC to coordinate their efforts to fight the liberation wars and gain greater economic independence from South Africa. When they formalised the organisation into SADC via a treaty, member states continued to guard their control over the institutional design of the organisation because it was of a high priority to them. Instead of applying democratic beliefs to design the institution, member states were guided by their non-democratic national interests. They paid lip service to democratic values but made no institutional changes that might threaten their authority. For that reason, national parliamentarians were forced to create a separate institution called the SADC Parliamentary Forum (SADC-PF), which has no legal connection to the regional organisation.

Chapter 8 provides a conclusion for the thesis. It summarises the research puzzle and unique contribution of the thesis. Then, it reviews the evidence provided by the empirical cases in a comparative manner. Finally, it provides an evaluation of the thesis and its methods before making recommendations for future research.

2 Institutional Design and Regional Parliaments: Taking Stock

In this chapter, I will identify in greater detail the research gap this thesis fills by assessing the literature on theories of institutional design and also research on international parliamentary institutions (IPIs). In short, this chapter elaborates on what has already been done in order to highlight the original contribution of this thesis. First, I explore possible alternative arguments that could explain the puzzle of why regional organisations composed of non-democratic member states would create regional parliaments. I offer critiques that clarify why existing explanations are inadequate in non-democratic settings and why I forward my own theoretical argument (see chapter 3). Secondly, I assess the existing literature on IPIs, which has as yet been mainly concerned with conceptualising, classifying, and evaluating the effectiveness of these new institutions rather than explaining why they exist in the first place. Importantly, research on IPIs – never mind regional parliaments specifically – is sparse and in its infancy.

In the first section, I elaborate on three different schools of thought that can explain the emergence of regional parliaments as outcomes of institutional design. *Diffusion* is a broad approach with several specified mechanisms to explain increasing homogenisation amongst different organisations. Structural forces such as coercive higher authorities or pressure to survive similar environments by mimicking successful counterparts often lead organisations to adopt institutional forms that may be suboptimal but nevertheless appropriate. The creation of regional parliaments in even non-democratic regions may be explained by such structural forces operating upon regional organisations. *Liberal democratic values* may explain the phenomenon by pointing out that member states' beliefs in the democratic legitimacy of decision-making institutions induces them to create regional parliaments such as the European Parliament. However, this approach is problematic because it cannot address

the puzzle itself of why the emergence of regional parliaments also occurs in non-democratic regions. *Rational choice institutionalism* argues that international institutions are created to make decision-making between states more efficient, in particular to help states cooperate better. This perspective implies that regional parliaments emerge even in non-democratic regions because they have the capacity to help member states make cooperation more efficient. This appears difficult to reconcile with the reality that most of these parliaments have no legislative powers, are marginalised in decision-making, and have no mandates to enforce decisions made. A subset of this neo-institutionalist school might point to signalling theory, which suggests that institutional features represent sunken costs that states engage in so as to signal commitment. This, however, is an act designed to ensure better reputation or material rewards.

In the second section, I survey existing research conducted on IPIs as an empirical phenomenon. Previous literature has centred on conceptualising and classifying these institutions but there is still no consensus on these classifications and typologies. Despite attempts to define what a regional or international parliament is, scholars are in fact operating with very different conceptions and, I argue, are comparing highly disparate institutions. There is also a minimal body of work that has focused on assessing the role and effectiveness of these IPIs, but they often produce comparative studies with loose guiding frameworks and struggle to go beyond more than description. Most academic research has thus far been unsystematic and avoided both theory generation and theory testing. The only exception is in the case of the European Parliament, which has been extensively studied, theorised, and elaborated by many scholars over several decades. Theories and research findings based on the European Parliament's experience are, however, difficult to generalise beyond this case.

In light of the scholarly context, this chapter clearly identifies two gaps that this thesis will contribute to. First, existing theories of institutional design struggle to explain the puzzle of regional parliaments. While they have been successfully applied to other international institutions, they evince a strong statist bias that blinds them to the important role of non-state actors in creating international organisations. Second, existing work on regional parliaments has proceeded with virtually no attempts to theorise about them and generalise across various cases. This thesis bridges this gap by using and adapting theories of institutional design to address the empirical context of regional parliaments, specifically in non-democratic regions.

2.1 Alternative Explanations

There exist a handful of possible explanations for the emergence of parliaments in regional intergovernmental organisations. I review these theories because they may be able to explain the creation of regional parliaments as an institutional design outcome. While I present them separately, in practise they may not necessarily be mutually exclusive. In particular, there is a consistent statist bias across most of these theories, which directs attention away from the possible influence of non-state actors in institutional design. Furthermore, while I argue that none are sufficient on their own for explaining the puzzle of regional parliaments in non-democratic regions, insights have been borrowed from some of them to inform the argument that I have developed in this thesis (see chapter 3).

2.1.1 EU Diffusion

The diffusion literature has its roots in sociological institutionalism, a theory whose stated goal is to explain 'why there is such startling homogeneity' in organisational forms.[1] Sociological institutionalism emphasises that similar institutional design outcomes arise across different contexts irrespective of efficiency concerns. That is, organisations adopt features that do not necessarily make them more efficient. Any gains as a result of changes will be more likely incidental. 'To the extent that organizational effectiveness is enhanced, the reason will often be that organizations are rewarded for being similar to other organizations in their fields. This similarity can make it easier for organizations to transact with other organizations, to attract career-minded staff, to be acknowledged as legitimate and reputable, and to fit into administrative categories that define eligibility for public and private grants and contracts. None of this, however, insures that conformist organizations do what they do more efficiently than do their more deviant peers'.[2] This may be a useful guide for explaining why regional parliaments emerge even in non-democratic contexts where member states would seemingly have no use for them.

Sociological institutionalism puts this the increasing similarity of institutional design outcomes among different organisations down to the 'structuration of an organisational field'.[3] An organisational field implies that the different units - the organisations - as well as other types of objects around them are involved in similar activities and goals, making them

[1] DiMaggio, Paul J./Powell, Walter W. (1983): The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields. In: *American Sociological Review*, 48 (2): 148; see also DiMaggio, Paul J./Powell, Walter W. (1991): The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality. In: Powell, Walter W./DiMaggio, Paul J. (eds.) *The New Institutionalism in Organizational Analysis*. Chicago, IL: The University of Chicago Press

[2] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 153 – 154

[3] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 148

connected, interrelated, and in some way interdependent. An organisational field can be identified by increasing interaction among the organisations, interorganisational domination and the formation of coalitions, increasing information that the organisations have to grapple with, and growing mutual awareness among those organisations. Once these prerequisites are in place, the different organisations necessarily will become more similar. However, the mechanisms that will induce them to do this are threefold.

Coercive isomorphism is when organisations adapt their institutional features in a way that is in keeping with the expectations set by other organisations upon which they are dependent. These expectations may take the form of formal rules, which force organisations to make changes in very similar ways. This is the case with government standards, which can lead to schools having similar features such as PTAs and mainstreaming students.[4] Alternatively, they may be informal means such as persuasion or simply cultural pressure. Coercive isomorphism is thus a mechanism whereby organisations are homogenised through authority and hierarchy.

Mimetic isomorphism, by contrast, is when organisations model their own institutional features on those of more successful counterparts.[5] They will do this because they are facing uncertainty - the goals, the problems being faced, or the solutions required are ambiguous, it is less costly to mimic the behaviour of others who are performing well in the same environment. In mimicking, the organisation believes it will also increase its chances of survival. Mimetic isomorphism is less dependent on hierarchical relationships and more on the inherent pressured caused by the uncertain environments in which organisations exist. In

[4] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 150
[5] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 152

fact, the model may not be aware that it is being mimicked and may have no active role in the mechanism of homogenisation.[6]

Normative pressure describes a mechanism whereby the staff of different organisations nonetheless see the problems and solutions in similar ways, meaning they come to propose similar institutional solutions. 'To the extent managers and key staff are drawn from the same universities and filtered on a common sent of attributes, they will tend to view problems in a similar fashion, see the same policies, procedures and structures as normatively sanctioned and legitimated, and approach decisions in much the same way'.[7] Primarily, these happen through two processes: the universities that train the professionals (which often impart the same kind of education or are limited to a small subset of universities), and the professional networks that allow for the diffusion of ideas across space.[8]

Sociological institutionalism has inspired a large literature on diffusion across various fields of the social sciences. In political science, it has been used to explain, among others, the spread of democratisation,[9] public policies across states,[10] and Europeanisation of EU member states and neighbourhood states.[11] Some scholarship reminds us that not all diffusion is of Western values or institutional forms.[12] Relevantly for this thesis, there has been a growing body of scholarship intent on showing diffusion amongst regional intergovernmental organisations to

[6] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 151
[7] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 153
[8] DiMaggio, Paul J./Powell, Walter W. (1983), pg. 152
[9] Gleditsch, Kristian Skrede/Ward, Michael D. (2006): Diffusion and the International Context of Democratization. In: *International Organization*, 60 (4): 911 - 933
[10] Weyland, Kurt (2009): *Bounded rationality and policy diffusion: social sector reform in Latin America*. Princeton, NJ: Princeton University Press; Poulsen, Lauge N. Skovgaard (2014): Bounded Rationality and the Diffusion of Modern Investment Treaties. In: *International Studies Quarterly*, 58 (1): 1 - 14
[11] Sedelmeier, Ulrich (2012): Is Europeanisation through Conditionality Sustainable? Lock-in of Institutional Change after EU Accession. In: *West European Politics*, 35 (1): 20 – 38; Börzel, Tanja/Risse, Thomas (2012): From Europeanisation to Diffusion: Introduction. In: *West European Politics*, 35 (1): 1 – 19
[12] Weyland, Kurt (2017): Autocratic diffusion and cooperation: the impact of interests vs. ideology. In: *Democratization*, 24 (7): 1235 – 1252

explain their supposed homogeneity. Initially, their concern has been with showing that the EU has influenced the institutional forms of regional organisations elsewhere. Thus, Tobias Lenz argues that both Mercosur and the Southern African Development Community (SADC) adopted EU-style common markets and dispute settlement mechanisms as a means of navigating their uncertain environments.[13] Similarly, Anja Jetschke and Philomena Murray have argued that evidence of emulation of the EU can even be seen in ASEAN.[14]

Such diffusion arguments have been met with important critiques. The overwhelmingly structural nature of the theory is problematic. Actors entirely disappear, becoming mere receptacles of environmental pressures – they appear not to have their own incentives or power struggles.[15] There are also admissions that there is a 'double finding of increasing similarities and persisting differences' that the theory cannot account for, suggesting that agency-focused explanations may be more appropriate to explain the adoption and spread of ideas and institutional forms.[16] Scholars have also begun to question simplistic explanations of diffusion through mimesis of the EU specifically. Beeson and Stone offer a strong critique of Eurocentric explanations of processes in other regional organisations, pointing out that they still fail to account for the significant variation that nonetheless remains.[17] Suggesting

[13] Lenz, Tobias (2012): Spurred Emulation: The EU and Regional Integration in Mercosur and SADC. In: *West European Politics*, 35 (1): 155 – 173

[14] Jetschke, Anja/Murray, Philomena (2012): Diffusing Regional Integration: The EU and Southeast Asia. In: *West European Politics*, 35 (1): 174 – 191; Jetschke, Anja (2009): Institutionalizing ASEAN: celebrating Europe through network governance. In: *Cambridge Review of International Affairs*, 22 (3): 407 – 426; see also Jetschke, Anja/Lenz, Tobias (2013): Does Regionalism Diffuse? A New Research Agenda for the Study of Regional Organizations. In: *Journal of European Public Policy*, 20 (4): 626 – 637; Navarro, Julien (2010): The Creation and Transformation of Regional Parliamentary Assemblies: Lessons from the Pan-African Parliament. In: *The Journal of Legislative Studies*, 16 (2): 195 – 214; Dri, Clarissa (2010): Limits of the Institutional Mimesis of the European Union: The Case of the Mercosur Parliament. In: *Latin American Policy*, 1 (1): 52 – 74

[15] Hall, Peter A./Taylor, Rosemary C.R. (1996): Political Science and the Three new Institutionalisms. In: *Political Studies*, 44 (5): 954

[16] Börzel, Tanja A./van Hüllen, Vera (2015): Towards a Global Script? Governance Transfer by Regional Organizations. In: Börzel, Tanja A./van Hüllen, Vera (eds.) *Governance Transfer by Regional Organizations. Patching Together a Global Script.* Basingstoke: Palgrave Macmillan, pp. 4

[17] Beeson, Mark/Stone, Diane (2013): The European Union Model's Influence in Asia after the Global Financial Crisis. In: *European Journal of East Asian Studies*, 12 (2): 11 – 13

that such scholarship may be incentivised by the fact that their funding comes from the EU, they point out that these programmes 'encompass differing and sometimes sceptical perspectives on the status of the EU as the most sophisticated role model of regional integration'.[18] Other critique has shown that diffusion scholarship on regional organisations has proceeded without any useful elaboration of the mechanisms or even a development of a comprehensive framework.[19]

As a result, the diffusion literature has embarked on a new goal of showing how agency choice, as well as structural pressures, can play an important role in homogenisation. Jürgen Rüland and Karsten Bechle, for example, argue that the diffusion of IPIs to ASEAN, via mechanisms of mimicry and localisation, is being used by member states to reinforce their cognitive priors rather than promote democracy.[20] Jetschke, in another approach, has revised her straightforward EU-mimesis argument to promote a more 'modular' understanding of institutional design in ASEAN, whereby member states use multiple models for various institutional features. Each institutional feature can thus be modelled upon a different more successful organisation.[21] She asserts that diffusion, via the modular approach, can lead to greater effectiveness of the organisation, rather than being inefficient.[22] Another reversal of the theory, in order to address critiques of persistent variation, comes from Duina and Lenz, who argue that diffusion can in fact also lead to divergence.[23] Such amendments to the

[18] Beeson, Mark/Stone, Diane (2013), pg. 12
[19] Fioramonti, Lorenzo/ Mattheis, Frank (2016): Is Africa Really Following Europe? An Integration Framework for Comparative Regionalism. In: *Journal of Common Market Studies*, 54 (3): 674 - 690
[20] Rüland, Jürgen/Bechle, Karsten (2014): Defending state-centric regionalism through mimicry and localisation: regional parliamentary bodies in the Association of Southeast Asian Nations (ASEAN) and Mercosur. In: *Journal of International Relations and Development*, 17: 61 – 88
[21] Jetschke, Anja (2017): What Drives Institutional Reforms in Regional Organisations? Diffusion, Contextual Conditions and the Modular Design of ASEAN. In: *TRaNS: Trans-Regional and -National Studies of Southeast Asia*, 5 (1): 181 – 183
[22] Jetschke, Anja (2017), pg. 191
[23] Duina, Francesco/Lenz, Tobias (2017): Regionalism and diffusion revisited: From final design towards stages of decision-making. In: *Review of International Studies*, 42 (4): 773 – 797

theory, I argue, are ad hoc and have the perverse effect of making diffusion processes more opaque and imprecise.

My own critique of diffusion research as it pertains to regional organisations is two-fold. While this thesis does not intend to address these weaknesses directly or claim to 'fix' them, it proposes an argument that draws on insights from diffusion while aiming to avoid the pitfalls. First, diffusion research on regional organisations has clearly gotten stuck on mimesis as the primary mechanism. While sociological institutionalism clearly specifies three mechanisms as coercive, mimetic, and normative, mimicry has come to dominate the research agenda at the expense of the others. It is not clear why this should be the case, and many authors do not justify their avoidance of the other mechanisms nor test for them. This thesis, by contrast, hews closer to the normative pressure mechanism by revealing the influence of networks of professionals - namely the international bureaucrats and experts - in the process of institutional design.

Second, diffusion in the area of regional organisations still remains EU-centric, with very little efforts being made to understand what motivates local actors to push for a particular institutional form. While Jetschke's 'modular' approach takes an initial step to acknowledging that diffusion can occur in any direction and from many different models, the assumption is clearly that this mechanism is *interorganisational.* That is, diffusion happens horizontally from one international organisation, namely the EU, directly to the next.[24] That diffusion, the spread of ideas and institutional forms, may occur via other, more indirect sources is not considered by such scholars. In this thesis, I argue that it was democratisation via non-state

[24] Jetschke, Anja (2017), pg. 174

actors, specifically experts engaged in international development, and whose influence extended to regional organisations in Africa, that led to the creation of regional parliaments.

2.1.2 Liberal Democratic Values

An alternative explanation focuses on the role of the political values held by member states in determining institutional design outcomes such as parliaments. Much literature has already shown that democracies behave differently in international relations when compared with non-democracies.[25] Famously, democracies are less likely to go to war with each other, leading to sustainable peace amongst them.[26]

Similarly, democracies may also lead to certain institutional design outcomes, particularly those that reflect their own regime type. For instance, Jonas Tallberg et al have investigated why international organisations have opened up their decision-making to the participation of transnational actors such as NGOs and civil society groups.[27] They find that democracies try

[25] Graham, Benjamin A.T./Gartzke, Erik/Fariss, Christopher (2017): The Bar Fight Theory of International Conflict: Regime Type, Coalition Size, and Victory. In: *Political Science and Research Methods*, 5 (4): 613 – 639; Massie, Justin (2016): Why Democratic Allies Defect prematurely: Canadian and Dutch Unilateral Pullouts from the War in Afghanistan. In: *Democracy and Security*, 12 (2): 85 – 113; Hendrix, Cullen S./Wong, Wendy H. (2012): When is the Pen Truly Mighty? Regime Type and the Efficacy of Naming and Shaming in Curbing Human Rights Abuses. In: *British Journal of Political Science*, 43 (3): 651 – 672; Choi, Ajin (2012): Fighting to the Finish: Democracy and Commitment in Coalition War. In: *Security Studies*, 21 (4): 624 – 653; Reed, William (1997): Alliance Duration and Democracy: An Extension and Cross-Validation of "Democratic States and Commitment in International Relations". In: *American Journal of Political Science*, 41 (3): 1072 – 1078; Gaubatz, Kurt Taylor (1996): Democratic states and commitment in international relations. In: *International Organization*, 50 (1): 109 - 139

[26] Hobson, Christopher (2017): Democratic Peace: Progress and Crisis. In: *Perspectives on Politics*, 15 (3): 697 – 710; Jakobsen, Jo/Jakobsen, Tor G./Ekevold, Eirin Rande (2016): Democratic peace and the norms of the public: a multilevel analysis of the relationship between regime type and citizens' bellicosity, 1981 - 2008. In: *Review of International Studies*, 42 (5): 968 – 991; Bausch, Andrew W. (2015): Democracy, war effort, and the systemic democratic peace. In: *Journal of Peace Research*, 52 (4): 435 – 447; Dafoe, Allan/Oneal, John R./Russett, Bruce (2013): The Democratic Peace: Weighing the Evidence and Cautious Inference. In: *International Studies Quarterly*, 57 (1): 201 – 214; Owen, John M. (1994): How liberalism produces democratic peace. In: *International Security*, 19 (2): 87 – 125; Doyle, Michael W. (1986): Liberalism and World Politics. In: *American Political Science Review*, 80 (4): 1151 – 1169

[27] Tallberg, Jonas/Sommerer, Thomas/Squatrito, Theresa (2016): Democratic memberships in international organizations: sources of institutional design. In: *Review of International Organizations*, 11 (1): 59 – 87; see also Tallberg, Jonas/Sommerer, Thomas/Squatrito, Theresa/Jönsson, Christer (2013): *The opening up of*

to 'extend the liberal democratic ideals they value domestically to the sphere of global governance'; however, whether or not democracies succeed depends upon their domination in decision-making fora. Thus, 'highly democratic membership' of the member states is more likely to lead international organisations to open up to the participation of transnational actors than lower democratic membership.[28] On the other hand, they find that the membership of newer democracies are far less likely to lead to institutional designs of international organisations that are open to transnational actors.[29] According to these results, it is liberal democratic preferences of consolidated democracies that matter.

Most relevantly, one argument that the democratic values of the member states lead to parliaments has been elaborated by Berthold Rittberger. His aim is to explain the creation of the Common Assembly in 1952, now the European Parliament, as well as its empowerment in subsequent years. Although Rittberger never makes the explicit claim that he wishes to explain *all* regional parliaments, theories about the European Parliament may be considered useful for explaining the emergence of similar institutions elsewhere in the world. According to his perspective, parliaments emerge because of the democratic legitimating beliefs held by the member states – that is, the democratic value of the states flows upwards from the state level to the regional level to influence institutional design choices.[30]

Primarily, the creation regional parliaments was due to legitimacy concerns about the international organisation. Treaty negotiations to found an organisation include both 'higher level' concerns about the legitimate form the institution should take and the 'lower level'

international organizations: Transnational access in global governance. Cambridge: Cambridge University Press

[28] Tallberg, Jonas/Sommerer, Thomas/Squatrito, Theresa (2016), pg. 82

[29] Tallberg, Jonas/Sommerer, Thomas/Squatrito, Theresa (2016), pg. 75

[30] Rittberger, Berthold (2005): *Building Europe's Parliament: Democratic Representation Beyond the Nation-State*. Oxford: Oxford University Press, pg. 24, 27; see also Wagner, Wolfgang (2002): The Sub-national Foundations of the European Parliament. In: *Journal of International Relations and Development*, 5 (1): 24 – 36

concerns about distributional implications and effect on the constituents. 'Higher level' concerns primarily are about the meta-institutions or rules that determine the procedural legitimacy of the organisation – these bring to bear philosophical questions about what is normatively good. In novel situations where the distributive outcomes of an organisation are not obvious, states will perceive a legitimacy deficit and 'higher level' concerns will become paramount.[31]

Democratic states will turn to liberal democracy as a philosophy to decide the appropriate institutional form for the regional organisation, just as they use this value at the national level to alleviate similar issues. This, however, does not automatically mean parliaments. Rittberger argues that even amongst democracies, there are differing views about how best to institutionalise democratic legitimacy because different democratic states draw upon different democratic models.[32]

That the Common Assembly exists at all, according to Rittberger is due to certain legitimating beliefs winning over others at the 'higher level' negotiations. Amongst the democracies in Europe these included the federal state, intergovernmental cooperation, economic community, and network governance legitimating beliefs. These legitimating beliefs differ in their respective distributional implications, with the federal state belief being the only one to imply the necessity of a parliament at the supranational level.[33] The creation of the Common Assembly was due to the fact that the Germans were concerned about 'higher level' issues. Meanwhile the Benelux states negotiated with 'lower level' concerns about the effect of having a powerful parliamentary body at the regional level and demanded that the Common

[31] Rittberger, Berthold (2005), pg. 46 – 51
[32] Rittberger, Berthold (2005), pg. 52
[33] Rittberger, Berthold (2005), pg. 52 – 53

Assembly be toothless. Germany, however, pushed for an institutional design along the federal state belief and ensured that the need for a supranational parliamentary body was agreed upon.[34]

According to arguments about democratic values, regional parliaments have been created because of the deeply held beliefs of the member states in democratic institutional forms as an appropriate way of designing institutions. However, it is precisely this reliance on *national* democratic values that makes this argument appear difficult to reconcile with the empirical world where non-democratic states are creating regional parliaments nonetheless (and also gives rise to the puzzle of this thesis). The African Union's parliament was established under the AEC protocol of 1991, a time when the democratic credentials of the constituent member states was low. Since it is not at all clear that democracy is necessary to most or any legitimacy claims made by regional organisations,[35] non-democratic states may have their own standards of legitimacy.

2.1.3 Rational Choice Institutionalism

Rational choice institutionalists would posit that institutional design outcomes are determined by member states' desire to make their international organisation more efficient. They assume states to be rational, self-interested actors who create international institutions in order to overcome barriers to cooperation such as lack of information about each other's intentions.[36] International organisations possess centralisation and independence, two features that allow states to cooperate more efficiently and achieve greater understanding of

[34] Rittberger, Berthold (2005), pg. 73 – 113
[35] Zaum, Dominik (2013): *Legitimating International Organizations*. Oxford: Oxford University Press
[36] Jervis, Robert (1978): Cooperation under the Security Dilemma. In: *World Politics*, 30 (2): 167 – 214

their environments and other member states.[37] Furthermore, according to principal-agent theory, international organisations are also valuable as autonomous agents delegated with tasks by their principals i.e. member states. They gather specialised technocrats and bureaucrats and thus possess knowledge that individual states do not. They coordinate the actions of states, they help resolve disputes, and they help states make credible commitments vis-à-vis their constituents. In addition, international organisations lock-in policy biases such that they can help the winners among the member states insulate their benefits from change.[38] The emergence of regional parliaments must, according to this perspective, be the result of a rational attempt to address a cooperation problem. That is, states must have identified some means in which parliaments at the regional level help states to cooperate better.

This implies that non-democratic states created regional parliaments because this was the most efficient way to facilitate cooperation. However, the majority of regional parliaments are weak and consultative only, possessing not even powers of budgetary oversight as the early EP had. Furthermore, regional parliaments are created by states with the intention of serving another principal (namely, the citizens), thus increasing the risk of these agents becoming more autonomous.[39] Moreover, parliaments do not come endowed with any particular specialisation or technocratic skills that would facilitate cooperation. There are no

[37] Abbott, Kenneth W./Snidal, Duncan (1998): Why States Act through Formal International Organizations. In: *The Journal of Conflict Resolution*, 42 (1): 10 – 23; Koremenos, Barbara/Lipson, Charles/Snidal, Duncan (2001): The Rational Design of International Institutions. In: *International Organization*, 55 (4): 761 – 799

[38] Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (2006): Delegation under anarchy: states, international organizations, and principal-agent theory. In: Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (eds.) *Delegation and Agency in International Organizations.* Cambridge: Cambridge University Press, pg. 13 – 20

[39] Hawkins, Darren G./Jacoby, Wade (2006): How agents matter. In: Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (eds.) *Delegation and Agency in International Organizations*. Cambridge: Cambridge University Press, pg. 210 – 211

evident mutual benefits in creating weak regional parliaments as a means to facilitate cooperation among member states from this perspective.

Another possible account is that some regional organisations developed parliaments as an incentive to encourage powerful external actors to continue giving them resources or as a means to improve their own reputation. This would be the signalling argument, in which actors can act in ways that appear costly or even contradictory to their preferences as part of a strategy to secure greater benefits. Such actions are considered 'sunken costs' and they represent visible signals to observers that the actor is committed to a particular course of action.[40] In political science it has been effectively used to explain why states, even non-democracies, sign human rights treaties. That states sign human rights treaties at all is a puzzle: 'It is much less obvious why a state would join an agreement that requires it to provide fair trials when all the state explicitly receives in return is a reciprocal promise by other members to treat their own citizens with similar respect'.[41] Explaining this puzzle requires looking at the costs and benefits of such an act. By signing, autocracies may signal an inherent value – that they are cooperative – to other states in the world and thereby improve their 'network standing, status, and self-esteem'.[42] Among autocracies, the signing of human rights treaties has been associated with prolonged tenure, leading to the paradoxical observation that the more repressive the government, the more likely they will sign human rights treaties.[43]

[40] Fearon, James (1997): Signaling Foreign Policy Interests: Tying Hands versus Sinking Costs. In: *The Journal of Conflict Resolution*, 41 (1): 68 – 90
[41] Hathaway, Oona A. (2007): Why Do Countries Commit to Human Rights Treaties? In: *Journal of Conflict Resolution*, 51 (4): 589
[42] Whitehead, Charles K. (2006): What's Your Sign? International Norms, Signals and Compliance. In: *Michigan Journal of International Law*, 27 (3): 713; see also Moore, David H. (2003): A Signaling Theory of Human Rights Compliance. In: *Northwestern University Law Review*, 97 (2): 879 - 910
[43] Hollyer, James R./Rosendorff, B. Peter (2011): Do Human Rights Agreements Prolong the Tenure of Autocratic Ratifiers? In: *NYU Journal of International Law and Politics*, 44: 791 - 811

Similarly, non-democratic states may face an incentive to signal their democratic value in order to improve their standing or even increase the financial aid they receive. In a world where material resources are scarce and concentrated among wealthy, democratic states, who often tie their giving of aid and other support to democratisation, poorer states may find their long-term interests best served by creating democratic institutions, engaging in elections, and demonstrating respect for the rule of law. This logic might also hold for their regional organisations, which are also heavily reliant on external assistance to carry out their operations.[44] Weak parliaments, according to this perspective, represent costly signals to more powerful external actors in order to guarantee the continued flow of material resources and improved reputation while having little to do with fostering genuine democracy or appearing more legitimate to domestic actors.

However, signalling, appears highly unlikely to be relevant since it is unlikely that powerful external actors like the US or EU would increase their giving of aid or logistical support because a *regional organisation* has a parliament. Rather, it is more likely that levels of aid are tied to the strategic priorities of the external actors, their humanitarian efforts, and their domestic constituency preferences.[45] From the perspective of the receivers of this signal, it seems implausible that creating a parliament for a regional organisation would rank highly on their list of priorities for which to give precious material resources. Furthermore, while material gains might plausibly explain why some regional organisations create parliaments, it

[44] Zaum, Dominik (2013), pg. 121 – 122

[45] Dietrich, Simone/Murdie, Amanda (2017): Human rights shaming through INGOs and foreign aid delivery. In: *Review of International Organizations*, 12: 95 – 120; Hoeffler, Anke/Outram, Verity (2011): Need, Merit, or Self-Interest - What Determines the Allocation of Aid? In: *Review of Development Economics*, 15 (2): 237 – 250; Milner, Helen V./Tingley, Dustin H. (2010): The Political Economy of U.S. Foreign Aid: American Legislators and the Domestic Politics of Aid. In: *Economics and Politics*, 22 (2): 200 – 232; Alesina, Alberto (2000): Who Gives Foreign Aid to Whom and Why? In: *Journal of Economic Growth*, 5 (1): 33 – 63

fails to explain why many that are equally as dependent on aid, for example, SADC and COMESA, have chosen not to.

Having elaborated some of the standard competing explanations, the following section will now elaborate the state of the art in scholarship about international parliament institutions.

2.2 Research on International Parliamentary Institutions

Research on the role of international parliamentary institutions (IPI's) in international relations is still in its infancy and there is therefore very little theorising about the general population. Despite the existence of IPIs for more than a century, since the creation of the International Parliamentary Union, international relations scholars have still not managed to develop a systematic research agenda about IPIs. Instead, much of the work has been more concerned with conceptualisation, classification, and measuring the effectiveness of these institutions. This focus is understandable given that there is still a need to understand what exactly these institutions represent – however, even that endeavour is far from completed as scholars work with highly varied conceptions. The only area in which conceptualisation and theorising has made any significant progress is in relation to research on the European Parliament. However, with a few rare exceptions,[46] there have been no attempts to develop more generalisable theories based on comparative work. There is therefore a research gap that needs to be filled with more theory-driven research questions.

[46] For one such exception, see Habegger, Beat (2010): Democratic accountability of international organizations: Parliamentary control within the Council of Europe and the OSCE and the prospects for the United Nations. In: *Cooperation and Conflict*, 45 (2): 186 – 204; notably, Closa, Carlos/Casini, Lorenzo (2016): *Comparative Regional Integration: Governance and Legal Models.* Cambridge: Cambridge University Press, pg. 96 – 115 also superficially survey the possible explanations for the creation of regional parliaments but do not offer their own comprehensive argument.

2.2.1 Conceptualisations & Classifications

Works under this category mainly try to put research of IPIs on the map by acknowledging that there has been a noticeable rise in their numbers and arguing that they are relevant to democratising global governance. Many advance definitions and typologies, which can be useful foundations for further theorising. However, there is no sign of a consensus developing among scholars about the exact definition of an IPI. There are as many definitions and categorisations as there are scholarly works.

One of the earlier definitions offered was by Robert Cutler. He defines IPIs in the following manner:

> 'An IPI may be defined as an international institutions that (1) is a regular forum for multilateral deliberations on an established basis of an either legislative or consultative nature, (2) either attached to an international organization or itself constituting one, (3) in which at least three states or transgovernmental units are represented by parliamentarians, (4) who are either selected by national legislatures in a self-determined manner or popularly elected by electorates of the member states.'[47]

His definition includes a significant diversity of institutions, which may or may not be comparable. Certainly, the great variation that his definition allows for makes theorising a formidable challenge.

More recently, Claudia Kissling has done much to cut through this ambiguity by disaggregating IPIs into four distinct types.[48] She does so using the legal status and political influence of IPIs rather than purely their functions or institutional features. First, there are *Inter-parliamentary*

[47] Cutler, Robert M. (2006): the OSCE's Parliamentary Diplomacy in Central Asia and the South Caucasus in Comparative Perspective. In: *Studia Diplomatica*, 59 (2): 83

[48] Kissling, Claudia (2014): The legal and political status of international parliamentary institutions. In: Levi, Lucio/Finizio, Giovanni/Vallinoto, Nicola (eds.) *The Democratization of International Institutions.* London and New York: Routledge, pg. 25 – 53; see also Kissling, Claudia (2006): *Die Interparlamentarische Union im Wandel. Rechtspolitische Ansätze einer repräsentativ-parlamentarischen Gestaltung der Weltpolitik*. Peter Lang: Frankfurt am Main. Her typology forms the basis for my conceptualisation of 'regional parliament' in this thesis.

GRINGOs (government-run/-inspired NGOs), which are loose associations of individual parliamentarians. Some may be set up to lobby national governments or other powerful actors about specific issues. They have no formal relationship with international or regional organisations. She identifies 52 of such GRINGOs. She then identifies *international or regional parliamentary organizations* whose members are official delegations of national parliaments. Members cannot join unless they are members of a delegation and the organisation has full legal autonomy. The founders of such organisations are national parliaments and not national executives. Such an IPI also does not formally belong to an international or regional organisation. An example includes the Inter-Parliamentary Union. Kissling identifies 19 of these. *International or regional specialised agencies*, on the other hand, act within an international or regional organisation's system. While not integrated with an IO, they have some form of informal recognition or affiliation. However, like the preceding IPIs, they develop independently from the IO with which they have a relationship and control their own budget. Examples include the SADC Parliamentary Forum and NATO Parliamentary Assembly. Overall, she identifies 13. Finally, there are parliamentary organs of international or regional organizations, which are included in the treaty of an IO and draw their membership from the member states of the IO. They are not as independent as the other types of IPIs but on the other hand enjoy more opportunity to influence decision-making of the IOs than other types. She identifies 26 of such IPIs.

Zlatko Sabic offers a simplified typology similarly based upon the legal relationship between the IPI and international organisations. He conceives of international parliamentary organs (IPOs) and international parliamentary assemblies (IPAs). The former are formal organs of international organisations. The latter is a catch-all term for everything that is not an IPO. Thus, he acknowledges that some IPAs are highly structured and operate in very similar ways

to national parliaments e.g. via committees and plenary sessions, while others are much looser and may even have been started by NGOs.[49]

Using a more distinctive approach, Christiane Kraft-Kasack defines IPIs (although she prefers the term 'transnational parliamentary assemblies') as 'assemblies of parliamentarians from different states that have been given an internal structure by adopting working mechanisms'.[50] She disaggregates the universe of IPIs into three types – parliaments, assemblies, and conferences – based upon the extent to which they can participate in and influence decision-making rather than the legal relationship they have with IOs. Parliaments make legislative decisions with the majority principle. However, only the European Parliament qualifies for this category. Assemblies can issue non-binding recommendations based on the majority principle that nonetheless must be commented on by the executive organs of an international organisation. Conferences make non-binding resolutions that do not have to be commented on by executive branches, and their decision-making is usually by consensus.[51] However, her focus is explicitly on European IPIs, which may have a bearing on any works trying to apply her typology to other regions of the world.

In sum, there is much work that has attempted to define IPIs, classify them, and elaborate upon their most important features. However, the lack of coherence among scholars about the concept of IPIs and the fact that their definitions often lead to highly diverse types of institutions in the population, means that it is not clear what is being compared and makes theorising all the more difficult.

[49] Sabic, Zlatko (2008): Building Democratic and Responsible Global Governance: The Role of International Parliamentary Institutions. In: *Parliamentary Affairs*, 61 (2): 258
[50] Kraft-Kasack, Christiane (2008): Transnational Parliamentary Assemblies: A Remedy for the Democratic Deficit of International Governance? In: *West European Politics*, 31 (3): 535
[51] Kraft-Kasack, Christiane (2008), pg. 544

2.2.2 Assessing Effectiveness

Most research surveys the (historical) universe of IPIs[52] or assesses their role, functions, and effectiveness.[53] While useful overviews of the institutions, they nonetheless fall short of theorising the variation in outcomes they describe. For example, Clarissa Dri and Deisy Ventura assess the institutionalisation of the Mercosur Parliament and its achievements to date, finding 'inherent weaknesses in the lack of balance between the executive and the legislative powers in Latin America'.[54] They find several critical problems with the parliament that ensure it has very little impact in regional integration. While the Mercosur Parliament was conceived to be a directly elected assembly, in its initial stages (which still continues for some member states) there were 18 representatives from each member state's national assembly. The parliamentarians were also proportionally representative of the proportions of their parties in national assemblies. Although there are supranational parties, the left-wing

[52] Costa, Olivier/Dri, Clarissa/Stavridis, Stelios (2013): *Parliamentary Dimensions of Regionalization and Globalization. The Role of Inter-parliamentary Institutions*. Basingstoke and New York: Palgrave Macmillan; Levi, Lucio/Finizio, Giovanni/Vallinoto, Nicola (2014) *The Democratization of International Institutions*. London and New York: Routledge; Malamud, Andres/de Sousa, Luis (2007): Regional Parliaments in Europe and Latin America: Between Empowerment and Irrelevance. In: Hoffmann, Andrea Ribeiro/van der Vleuten, Anna (eds.) *Closing or Widening the Gap? Legitimacy and Democracy in Regional International Organizations*. Aldershot: Ashgate, pg. 85 – 102; Malamud, Andres/Stavridis, Stelios (2016): Parliaments and Parliamentarians as International Actors. In: Reinalda, Bob (ed.) *The Ashgate Research Companion to Non-State Actors*. Abingdon and New York, NJ: Routledge, pp. 101 – 115; De Puig, Lluis Maria (2004): International parliamentarism: An introduction to its history. In: *Parliaments, Estates and Representation*, 24 (1): 13 – 62

[53] Malamud, Andres/Dri, Clarissa (2013): Spillover Effects and Supranational Parliaments: The Case of Mercosur. In: *Journal of Iberian and Latin American Research*, 19 (2): 224 – 238; van Walraven, Klaas (2004): From union of tyrants to power to the people? The significance of the Pan-African Parliament for the African Union. In: *Afrika Spectrum*, 39 (2): 197 – 221; Terlinden, Ulf (2004): *African Regional Parliaments - Engines of Integration and Democratisation?* Friedrich Ebert Stiftung, pg. 1 – 21; Jones, Lee (2009): Democratization and foreign policy in Southeast Asia: the case of the ASEAN Inter-Parliamentary Myanmar Caucus. In: *Cambridge Review of International Affairs*, 22 (3): 387 – 406; Dri, Clarissa (2009): At What Point does a Legislature Become Institutionalized? The Mercosur Parliament's Path. In: *Brazilian Political Science Review*, 4(se): 0-0

[54] Dri, Clarissa/Ventura, Deisy (2013): The MERCOSUR Parliament: A Challenging Position between late Institutionalization and Early Stalemate. In: Costa, Olivier/Dri, Clarissa/Stavridis, Stelios (eds.): *Parliamentary Dimensions of Regionalization and Globalization. The Role of Inter-parliamentary Institutions*. Basingstoke and New York: Palgrave Macmillan, pg. 85

members drawn from national assemblies have been regrouped into one single party while the right-wing parties are more fragmented. National politics still has a significant sway over regional politics as members organise their regional schedules around their national ones. Finally, though improving, socialisation of civil servants is slow: rather than being selected based on competitive recruitment, they are appointed on the recommendation of the national political parties, and the secretaries perform multiple secretarial tasks for national and regional officials.[55]

Mercosur has three main functions, deliberation, control, and a limited form of legislation. Mechanisms for deliberation are used frequently because of their 'low political cost'. The Mercosur Parliament prefers to use statements to issue critique, and it sticks predominantly to international relations issues since these are less likely to aggravate national governments. Panel discussion and seminars also feature prominently in Mercosur's activities; their benefit is in bringing a variety of social actors and thus developing 'social roots' for the parliament.[56] On the other hand, powers of control and legislation are very limited. From 2007 to 2010, the Common Market Council – an intergovernmental organ – never responded to information requests from the Mercosur Parliament and the budget of the Secretariat had also never been reviewed by the parliament. Likewise, Mercosur has stuck more to issuing recommendations (56) instead of bills for regional decision-making bodies to consider (7) or draft bills for national parliaments (2).[57]

Their conclusion is that the Mercosur Parliament is 'a marginal assembly' that is insufficiently involved in decision-making, insufficiently empowered to control the executive, and

[55] Dri, Clarissa/Ventura, Deisy (2013), pg. 73 – 77
[56] Dri, Clarissa/Ventura, Deisy (2013), pg. 79
[57] Dri, Clarissa/Ventura, Deisy (2013), pg. 80 – 81

insufficiently known by its citizens. As such, the Mercosur Parliament merely serves to 'legitimize and support the action of the governments and the regional structures'.[58]

Similar evaluations have been made by other authors in the same volume about IPIs in other parts of world. Jürgen Rüland, for example, assesses The ASEAN Inter-Parliamentary Assembly (AIPA), a parliamentary forum associated with the regional organisation, the Association of South-East Asian Nations (ASEAN), but not formally an organ of it. AIPA exists to provide ASEAN 'with a modicum of legitimacy' and to help deflect criticism of the largely autocratic governments.[59] Moreover, its mandate is predominantly to foster support for the ASEAN integration programme and it only has limited powers to issue recommendations and act as a consultative body. With a 'small and loose organizational structure with a high turnover rate of delegates and severe underfinancing', Rüland evinces great scepticism about the impact of AIPA on ASEAN's decision-making.[60]

It must be pointed out that the only exception to this trend of lack of theorising is the European Parliament.[61] It has received significant theoretical attention over several decades. These include research about its institutional development,[62] the political behaviour of the

[58] Dri, Clarissa/Ventura, Deisy (2013), pg. 82
[59] Rüland, Jürgen (2013): Participation without Democratization: The ASEAN Inter-Parliamentary Assembly (AIPA) and ASEAN's Regional Corporatism. In: Costa, Olivier/Dri, Clarissa/Stavridis, Stelios (eds.): *Parliamentary Dimensions of Regionalization and Globalization. The Role of Inter-parliamentary Institutions*. Basingstoke and New York: Palgrave Macmillan, pg. 183
[60] Rüland, Jürgen (2013), pg. 174, 177
[61] For useful reviews of the literature see: Yordanova, Nikoleta (2011): The European parliament: In need of a theory. In: *European Union Politics*, 12 (4): 597 – 617; Hix, Simon/Raunio, Tapio/Scully, Roger (2003): Fifty Years On: Research on the European Parliament. In: *Journal of Common Market Studies*, 41 (2): 191 - 202
[62] Roederer-Rynning, Christilla/Greenwood, Justin (2017): The European Parliament as a developing legislature: coming of age in trilogues? In: *Journal of European Public Policy*, 24 (5): 735 – 754; Hix, Simon/Hoyland, Bjorn (2013): Empowerment of the European Parliament. In: *Annual Review of Political Science*, 16: 171 – 189

Members of the European Parliament (MEPs),[63] its ability to address the democratic deficit,[64] and its relationship with the other institutions of the EU[65] and national parliaments.[66] However, many of the research questions, never mind the theories generated thereof, are inapplicable to the experiences of other IPIs and particularly those in any other region of the world. There is little theory that can be gleaned or developed from the EP research agenda for the study of IPIs in general. For example, any study on the voting behaviour of MEPs would have to make assumptions about national and supranational parties, the existence of records of votes, direct elections, and the peculiar careers of MEPs. With most IPIs possessing highly varied institutional setups – usually with low institutionalisation and no formal powers – theories developed on the EP make little sense in other contexts. Thus, research specifically focused on the EP has not been a driver of research on IPIs in general.

Much of the research on IPIs thus far has found that the institutions themselves are not fit for the purpose of democratising their member states or global governance. However, there are

[63] Marshall, David (2015): Explaining Interest Group Interactions with Party Group Members in the European Parliament: Dominant Party Groups and Coalition Formation, In: *Journal of Common Market Studies,* 53 (2): 311 – 329; Klüver, Heike/Spoon, Jae-Jae (2015): Bringing salience back in: Explaining voting defection in the European Parliament. In: *Party Politics*, 21 (4): 553 – 564; Scully, Roger/Hix, Simon/Farrell, David M. (2012): National or European Parliamentarians? Evidence from a New Survey of the Members of the European Parliament. In: *Journal of Common Market Studies*, 50 (4): 670 – 683; Hix, Simon/Noury, Abdul (2009): After Enlargement: Voting Patterns in the Sixth European Parliament. In: *Legislative Studies Quarterly*, 34 (2): 159 – 174

[64] Rittberger, Berthold (2014): Integration without Representation? The European Parliament and the Reform of Economic Governance in the EU. In: *Journal of Common Market Studies*, 52 (6): 1174 – 1183; Shackleton, Michael (2017): Transforming representative democracy in the EU? The role of the European Parliament. In: *Journal of European Integration*, 39 (2): 191 – 205; Bellamy, Richard/Castiglione, Dario (2013): Three models of democracy, political community and representation in the EU. In: *Journal of European Public Policy*, 20 (2): 206 - 223

[65] Egeberg, Morten/Gornitzka Ase/Trondal, Jarle (2014): A Not So Technocratic Executive? Everyday Interactions between the European Parliament and the Commission. In: *West European Politics*, 37 (1): 1 – 18; Mühlböck, Monika (2013): Linking Council and European Parliament Voting unity of national parties in bicameral EU decision-making. In: *Journal of European Public Policy*, 20 (4): 571 – 588

[66] Winzen, Thomas/Roederer-Rynning, Christilla/Schimmelfennig, Frank (2015): Parliamentary co-evolution: national parliamentary reactions to the empowerment of the European Parliament. In: *Journal of European Public Policy*, 22 (1): 75 – 93; Crum, Ben/Fossum, John E. (2009): The Multilevel Parliamentary Field: a framework for theorizing representative democracy in the EU. In: *European Political Science Review*, 1 (2): 249 – 271

no theories being generated about IPIs in general, whether their emergence or their institutional design, which is a significant shortcoming of the literature thus far.

2.3 Conclusion

This chapter clarified the research gap that this thesis fills. In the first section, I explored three alternative schools that may explain why non-democratic regions create regional parliaments. These were selected because they could explain regional parliaments as an institutional design outcome. On the one hand, diffusion theory and democratic values literature both suggest that the mechanisms involve decision-makers perceiving what is appropriate. On the other hand, rational choice institutionalism, including signalling theory, argues that the emergence of regional parliaments would be due to rational calculations to achieve optimal outcomes. Irrespective of their propositions, each on its own struggles to explain the puzzle because of particular weaknesses. Furthermore, they share an assumption – often implied rather than explicitly stated – that member states are at the helm of decision-making about institutional design.

Diffusion as used in the study of regional organisations, generally points to mimicry of the European Union. As an overwhelmingly structural argument, exactly which actors are doing the mimicking tends to get lost. Furthermore, work has thus far been very much concerned with showing that the EU has an influence on other regional organisations rather than further developing diffusion as a theory. Importantly, the assumption in many of the scholarly works is that it is the member states that make the critical decisions. Jetschke, for example, points to the negotiations between ASEAN member states when trying to show the influence of the EU on institutional features of ASEAN. This statist approach is, however, not an inherent

feature of diffusion theory itself, but rather an uncritical habit on the part of IR scholars working in this area. After all, sociological institutionalism acknowledges that networks of professionals can be channels for the diffusion of ideas and institutional forms.

Democratic values bring to light the role of appropriateness as a guide to the choice in institutional forms. Thus, democratic states are more likely to create international organisations with democratic organs. According to Rittberger, democratic states will push for democratic control of international organisations, leading to democratic features such as parliaments. Thus, the European states who came together to form the European Coal and Steel Community all forwarded democratic forms of control of the new organisation. However, the preferred mechanism was based upon existing national models – the Common Assembly, now the European Parliament, is the result of a federalist model pushed by Germany. Apart from the fact that it would be illogical to answer the puzzle of non-democratic regions creating regional parliaments with reference to democratic norms, this perspective also implies an unequivocally statist assumption about institutional design.

Rational choice institutionalism, with its roots in the liberal tradition in IR, also suggests a statist answer to the puzzle. National governments in non-democratic regions create regional parliaments because they lead to more efficient cooperation. While rational choice institutionalism does not overtly deny the role of non-state actors, when applied to explaining international organisations and their features, it is generally the preferences of governments that are used for analyses. Signalling theory posits that regional parliaments are being used as costly signals to communicate to outside observers that the regional organisation is committed to democratic values. This signal made specifically to gain a better reputation or material rewards. Signalling theory itself is agnostic about the types of actors involved, but

the literature in IR has focused more on the costs and benefits to states, particularly autocracies. Other than that, it is difficult to imagine which outside observer is supposed to be the receiver of this signal as the usual suspects – the EU, the United States, international financial institutions like the World Bank – are unlikely to have democratisation of regional organisations as a foreign policy priority, such that the increased reputation or material rewards would be forthcoming.

The second section of this chapter reviewed the literature on regional parliaments. As a burgeoning field, research thus far has remained on the level of description, conceptualisation, and classification. Several scholars have attempted to assess the role and effectiveness of IPIs but have stopped short of theorising either their emergence or institutional development. Research on the European Parliament remains the one exception, as there is a significant body of work spanning decades that is dedicated to this institution. However, scholarship in this field is not comparative, thereby operating in an empirical silo. Many of the research questions, never mind the findings and theories derived, appear irrelevant to most other international parliaments.

According to this review of the literature, there is significant need for theoretical innovations that can explain the creation of regional parliaments as institutional design outcomes. The next chapter will therefore propose an original institutional design argument that emphasises the role of independent experts and how they bring their professional beliefs to bear on the drafting of treaties establishing regional organisations.

3 Theorising the Power of Experts: Delegation and Institutional Design

This thesis addresses the question, 'Why do regional intergovernmental organisations composed of non-democratic member states create regional parliaments?' The last chapter showed that standard explanations fail to provide a satisfactory answer to this question and further theoretical development was necessary. Diffusion accounts point to various mechanisms. Broadly, they argue that regional parliaments in non-democratic regions represent the 'appropriate' features of regional organisations as dictated by structural pressures. However, they struggled to explain persistent variation and uneven diffusion. Other arguments may centre on the presence of liberal democratic values in the member states, but this, of course, cannot be the case for non-democracies. Rationalist accounts point to the procedural or outcome efficiency gains that institutional features can bring. Alternatively, non-democratic states may be prompted to create parliaments to signal a democratic value, resulting in material or reputational gains. However, it is unclear that parliaments bring such benefits to aid cooperation between member states or are effective signalling aids.[1]

I provide an original argument in this chapter that regional organisations composed of non-democracies have parliaments because experts situated in international bureaucracies and hired as external consultants decided to democratise the regional organisations according to their professional beliefs.[2] Member states delegate the task of designing the treaty to experts,

[1] Autocratic states have been shown to do this with their signing of human rights treaties. Hathaway, Oona (2007): Why do Countries Commit to Human Rights Treaties? In: *Journal of Conflict Resolution*, 51 (4): 588 – 621

[2] A related argument has already been made on how IOs can themselves initiate institutional change. See Barnett, Michael/Coleman, Liv (2005): Designing Police: Interpol and the Study of Change in International Organizations. In: *International Studies Quarterly*, 49 (4): 593 - 619

who in turn bring to the process their own deeply held democratic values. In their view, a regional parliament creates a link between the citizens of the member states and encourages their participation in the development projects being devised at the regional level. Participation of the people leads to more successful regional integration for economic development. The mechanism for this argument is as follows:

Weak state preferences → delegation to experts → policy outcome

There are thus two steps to the mechanism, which will be elaborated in the sections following this introduction. Section 1.2 explains the standard assumptions about delegation and why they are not useful for this argument. Section 1.3 then shows the first step of the mechanism, arguing that potential member states of the new regional organisation have weak preferences about the design of the regional organisation that they wish to create because the task is unimportant to them. Member states consider the design of the treaty overall as a low stakes process and are therefore indifferent to the proposed outcomes such as a new parliament. When governments consider the task unimportant, they delegate authority for drafting the treaty to third parties such as experts, thus ensuring that the task will be completed with minimal expenditure of state resources and expertise. Since member states express weak preferences about most aspects of the treaty, and wish to minimise costs, they provide vague mandates (i.e. little guidance) for the experts. This means experts are given high levels of discretion to formulate the treaty according to their own professional ideas rather than the national interests of the member states.

Section 1.4 then shows the second step in the causal mechanism. Having been given a vague mandate to design the entire organisation, experts proceed to apply their own professional ideas to interpret the problems at the core of the entire organisation. Experts that are well

connected to international professional and political networks are likely to also be carriers of transnational ideational frameworks. They use these ideas to define the problems of the regional organisation and then propose relevant solutions. However, experts will also be aware that the member states are concerned about loss of sovereignty. They therefore compromise on or weaken proposals that may have short-term implications for sovereignty in anticipation of member states' concerns. This raises the likelihood that radical new institutional features, particularly those that increase the supranationality of the organisation, are accepted by the member states. In the long-term, experts rely on the 'stickiness' of institutions to ensure proposed supranational features are strengthened in the future. The next section will lay out the first part of the causal mechanism.

3.1 Why States Delegate: Standard Explanations

The literature on delegation posits four situations in which states (principals) might wish to delegate to non-state actors such as experts (agents). However, these standard explanations are insufficient as they do not lead to delegation with high levels of discretion for the agent. First, states may wish to overcome commitment problems where the commitments made among states or between states and other actors are not convincing. In such situations, states face a greater risk of defection. Agents can help raise the credibility of commitments that have been made by being delegated the task of monitoring and enforcing. When states cannot trust that other parties will abide by the terms of an agreement, the agreement itself loses credibility and states may feel no need to commit to it. However, if agents can be entrusted to independently monitor and enforce commitment, then the agreement gains

credibility.[3] However, this is not the mechanism at play in this argument. Primarily, the credibility mechanism applies to a situation in which states already agree on a policy but wish to ensure it is credible. It is less evident in situations where member states have made no agreements yet and where the agreements are in fact driven by the agents themselves.

Second, states may wish to delegate to ensure that rule making is more efficient. That is 'agents are expected to respond to relatively specific problems and issues that arise, while principals set and then update the more general terms of policy'.[4] In the case of experts, they may be invited to fill in specific gaps in knowledge on an ad hoc basis when states require it. However, the policy itself is set by the states. This also fails to explain the phenomenon under investigation here.

Third, states may wish to delegate in order to avoid taking responsibility for a policy that may go wrong or will prove unpopular. In this context, a government knows it can deflect blame to unaccountable experts or conveniently present the policy as supported by relevant expertise in order to mitigate political resistance. Again, it is not clear that this would explain the emergence of regional parliaments via experts as it implies no discretion.

Fourth, states may delegate to other actors 'to overcome information asymmetries in technical areas of governance'.[5] States delegate to experts because they themselves lack the expertise to produce the relevant agreement or policy. In the case of regional organisations,

[3] Majone, Giandomenico (1997): 'Independent Agencies and the Delegation Problem: Theoretical and Normative Dimensions' In: Steunenberg, Bernard/van Vught, Frans (eds.) *Political Institutions and Public Policy. Perspectives on European Decision Making*, Springer: CITY, pg. 148 – 150; Gilardi, Fabrizio (2002): Policy credibility and delegation to independent regulatory agencies: a comparative empirical analysis. In: *Journal of European Public Policy*, 9(6): 873 – 893; see also Pollack, Mark A. (1997): Delegation, Agency, and Agenda Setting in the European Community. In: *International Organization*, 51 (1): 102 – 104

[4] Thatcher, Mark/Stone Sweet, Alec (2002): Theory and Practice of Delegation to Non-Majoritarian Institutions. In: *West European Politics*, 25 (1): 4

[5] Thatcher, Mark/Stone Sweet, Alec (2002), pg. 4

which encompass numerous policy areas and various constituent institutions, member states will need to delegate decision-making on a wide variety of issues. When national governments, the usual powers in policy-making, face a significant lack of expertise, this means they do not have enough information to interpret the nature of a problem they are facing (i.e. they are unsure about the causes of the effects they are witnessing) and, therefore, to devise concrete solutions.

Nevertheless, none of these standard explanations for why states delegate implies significant discretion for the agents. In fact, in all of these situations, the implication is that states would try to maintain 'ex ante, on the spot, and ex post'[6] control over the agents as much as possible to ensure their preferences are reflected in policy outcomes. Since agents – the bureaucrats of the international organisation – are at risk of slippage and shirking,[7] states are expected to use an arsenal of tools to maintain control.[8] One of the tools includes changing the terms of the contract – but this again seems paradoxical in a situation where the bureaucrats have been delegated the task of writing the contract itself, namely the treaty!

[6] Elsig, Manfred (2010): Principal-agent theory and the World Trade Organization: Complex agency and 'missing delegation'. In: *European Journal of International Relations*, 17 (3): 499 – 500

[7] Vaubel, Roland (2006): Principal-agent problems in international organizations. In: *Review of International Organizations*, 1 (2): 125 – 138; Conceicao, Eugenia Da (2010): Who Controls Whom? Dynamics of Power Delegation and Agency Losses in EU Trade Politics. In: *Journal of Common Market Studies*, 48 (4): 1107 – 1126

[8] Nielson, Daniel L./Tierney, Michael J. (2003): Delegation to International Organizations: Agency Theory and World Bank Environmental Reform. In: *International Organization*, 57 (2): 246; Thatcher, Mark (2002): Delegation to Independent Regulatory Agencies: Pressures, Functions and Contextual Mediation. In: *West European Politics*, 25 (1): 130; for an interesting discussion on a dynamic interaction between institutional design, policy outcomes, and further institutional design see Tallberg, Jonas (2002): Delegation to Supranational Institutions: Why, How, and with What Consequences? In: *West European Politics*, 25 (1): 23 - 46

3.2 How State Preferences Matter for Delegation

I propose a fifth reason that states may delegate to non-state actors, which strongly implies significant discretion for the agent: states have weak preferences regarding the task and delegating to another actor is the most cost-effective (cheap) way to complete it. I relax the assumption that states have strong preferences when approaching a task in international relations and in fact argue that the indifference of states can have significant implications for international relations.[9] Below I show that state preferences matter to state action in general, and thus also to delegation.

3.2.1 Preferences and State Action

The relevance of preferences to state action has been shown clearly. Jeffrey Frieden, for example, provides an excellent description of the importance of preferences. [10] Preferences are merely ordered options, with the option placed at the top of the list being the one an actor would like to achieve the most. Based on these preferences, it is presumed, nation-states proceed to develop strategies - means to reach their preferred goals - and then take

[9] For a discussion on the role of indifference in forming political preferences see Ryan, Timothy J. (2017): How Do Indifferent Voters Decide? The Political Importance of Implicit Attitudes. In: *American Journal of Political Science*, 00 (0): 1 – 16; Yoo, Sung-jin (2010): Two Types of Neutrality: Ambivalence versus Indifference and Political Participation. In: *The Journal of Politics*, 72 (1): 163 – 177; Thornton, Judd R. (2014): Getting Lost on the Way to the Party: Ambivalence, Indifference and Defection with Evidence from Two Presidential Elections. In: *Social Science Quarterly*, 95 (1): 184 – 201; Thornton, Judd R. (2013): The Impact of Elite Polarization on Partisan Ambivalence and Indifference. In: *Political Behavior*, 35 (2): 409 – 428; Davis, Nicholas T. (2015): The Role of Indifference in Split-Ticket Voting. In: *Political Behavior*, 37 (1): 67 – 86; Dassonneville, Ruth/Hooghe, Marc (2016): Indifference and alienation: Diverging dimensions of electoral dealignment in Europe. In: *Acta Politika*: 1 – 23; Eliaz, Kfir/Ok, Efe A. (2006): Indifference or indecisiveness? Choice-theoretic foundations of incomplete preferences. In: *Games and Economic Behavior*, 56 (1): 61 – 86

[10] For additional discussion on the relationship between preferences and state action, see Sunstein, Cass R. (1991): Preferences and Politics. In: *Philosophy & Public Affairs*, 20 (1): 3 – 34; Bailey, Michael A./Strezhnev, Anton/Voeten, Erik (2017): Estimating Dynamic State Preferences from United Nations Voting Data. In: *Journal of Conflict Resolution*, 61 (2): 430 – 456; Lake, David A./Powell, Robert (1999): *Strategic Choice and International Relations*. Princeton, NJ: Princeton University Press; Hersch, Joni/Del Rossi, Alison F./Viscusi, W. Kip (2004): Voter Preferences and State Regulation of Smoking. In: *Economic Inquiry*, 42 (3): 455 - 468

action.[11] This has led social scientists to consider it of utmost importance to 'set preferences apart from other things, and to determine them explicitly'. It is important because 'we could not tell whether wars were the result of bellicose aims of governments, in which case explanation rests on assertions about their preferences, or of a hostile and uncertain environment, in which case even the best of intentions would be overwhelmed by the setting'.[12] On the other hand, Frieden acknowledges that preferences are not directly observable, and it is therefore important to understand the strategic setting and the process of preference formation, in order to be able to determine that it was the preferences that led to the outcome we are observing.[13] Nevertheless, preferences are assumed to be important enough that they we cannot understand international relations without them. Furthermore, whenever 'preferences' are mentioned, they are generally assumed to be strong.

A classic example of an argument based on preferences is that of liberal intergovernmentalism. For IR liberal theory 'the configuration of state preferences matters most in world politics - not, as realists argue, the configuration of capabilities and not, as institutionalists (that is, functional regime theorists) maintain, the configuration of information and institutions'.[14] His core aim is to show through theory that there is a critical link between society and the state - namely, that domestic factors are important in determining state preferences and developing state strategies, and thus international relations in total. This is possible because the state, according to liberals, is a 'constantly subject to capture and recapture, construction and reconstruction by coalitions of social

[11] Frieden, Jeffry A. (1999): Actors and preferences in international relations. In: Lake, David/Powell, Robert (eds.): *Strategic Choice and International Relations*, Princeton, NJ: Princeton University Press, pp. 45 – 47
[12] Frieden, Jeffry A. (1999), pg. 39 – 40
[13] Frieden, Jeffry A. (1999), pg. 45
[14] Moravcsik, Andrew (1997): Taking Preferences Seriously: A Liberal Theory of International Politics. In: *International Organization*, 51 (4): 513

actors'.[15] The state is an aggregator of the most dominant interests domestically - dominant meaning the individuals and groups who are able to pressure the government the most effectively - and in some way will try to represent those interests when ordering its preferences. This therefore does not presuppose a democratic transmission of interests where different groups and individuals have equal access. Thus, 'representation might empower a narrow bureaucratic class or even a single tyrannical individual, such as an ideal-typical Pol Pot or Josef Stalin'.[16] Moravcsik's emphatic assertion is that state preferences, not structural changes, are what drive international relations. What states want is what determines the outcomes.

This is despite the numerous research findings that preference formation is not as straightforward as posited by international relations scholars. For one, the above accounts of IR require states to have strong preferences before they engage in policy formation. Far less thought appears to have been dedicated to theorising about what happens when states have weak or incomplete preferences. Since preferences are a necessary precursor to action, it is assumed that action cannot happen without preferences.[17] In fact, plenty of action occurs without states first having strong preferences. As Adler-Nissen has noted, diplomats are often confused by how IR theorists interpret the work they do.[18] Diplomats, in fact understand that

[15] Moravcsik, Andrew (1997), pg. 518
[16] Moravcsik, Andrew (1997), pg. 518
[17] For a broader discussion on the nature of preferences see Andersen, Steffen/Harrison, Glenn W./Lau, Morten I./Rutstroem, E. Elisabet (2008): Lost in State Space: Are Preferences Stable? In: *International Economic Review*, 49 (3): 1091 – 1112; Hill, Claire (2008): The Rationality of Preference Construction (and the Irrationality of Rational Choice), In: *Minnesota Journal of Law, Science and Technology*, 9: 689 – 742; Hoeffler, Steve/Ariely, Dan (1999): Constructing Stable Preferences: A Look into Dimensions of Experience and Their Impact on Preference Stability. In: *Journal of Consumer Psychology*, 8 (2): 113 – 139; Kertzer, Joshua D./Rathbun, Brian C. (2015): Fair is Fair: Social Preferences and Reciprocity in International Relations. In: *World Politics,* 67 (4): 613 – 655; Rho, Sungmin/Tomz, Michael (2017): Why Don't Trade Preferences Reflect Economic Self-Interest. In: *International Organization*, 71 (S1): S85 - S108
[18] Adler-Nissen, Rebecca (2015): Conclusion: Relationalism or why diplomats find international relations theory strange. In: Sending, Ole Jacob/Pouliot, Vincent/Neumann, Iver B. (eds.): *Diplomacy and the Making of World Politics. Cambridge: Cambridge University Press*, pg. 284 – 287

they often approach negotiations without clearly defined preferences and develop them as the social practice of negotiation continues. That is, preferences are constructed in the process of making decisions and as a response to the constantly evolving preferences of other parties, not prior to making them. Diplomats have described to her how they often 'bracket' the speeches of leaders - that is, keep portions of it blank - until the very last minute because they wish to maintain a degree of flexibility.[19]

My statement about the role of preferences is stronger still.[20] I argue that under certain conditions, states will sidestep the need to formulate strong preferences entirely (whether prior to or during negotiations) by simply delegating the task itself to other actors. Primarily they will do this to avoid expending resources and expertise on decisions that they consider unimportant. When two states wish to negotiate the specifics of trade, we usually assume they will develop strong preferences about these specifics. They might prefer X feature of the treaty rather than Y feature, and therefore convince their counterpart to also settle for X feature. Based on this they will develop strategies and so on and so forth. This scenario, however, only makes sense if the state has already decided that the trade negotiation itself matters enough to spend valuable resources and expertise generating clear preferences, developing strategies, and engaging in negotiations. Before deciding which specific features of the trade treaty are important, the state must decide that the trade negotiation is itself important in the first place and that it is therefore willing to engage in the process of preference formation about the specifics. If the outcomes of the trade negotiation are

[19] Adler-Nissen, Rebecca (2015), pg. 288. By pointing to the fluidity of interests, authors such as Adler-Nissen are not arguing that state preferences are unimportant, but that preferences are usually incomplete and changeable according to the social behaviour of states. Their point is that rational and purely structural accounts of state behaviour cannot account for what actually happens. They may be interesting heuristics, but they do not capture state behaviour and the reasons why we see the phenomena that we do.

[20] I do acknowledge the importance of preferences and also that states do not always have fixed preferences before they engage in negotiations. However, this is not central to my claim.

irrelevant - say, the volume of trade it would bring would be negligible - a state may decide not to develop any strong preferences about it and remain indifferent.

3.2.2 Weak State Preferences and Delegation

States often delegate because they have weak preferences (are indifferent) about the outcomes of a task. It is important to distinguish between delegation because of weak preferences and delegation because of lack of expertise (the fourth condition in the delegation literature explained above). These may be difficult to distinguish in real cases, but they are mutually exclusive in theory and have different implications. I also show here that delegation due to weak preferences is of a more fundamental form than, and essentially overrides, delegation due to lack of expertise.[21]

This concern is particularly relevant in a context in which member states are non-democratic. Primarily, the majority of such states are also some of the poorest and suffer chronically from lack of expertise[22] and are constantly under pressure from immediate natural and socio-economic disasters due to the dearth of infrastructure to deal with these. They are also likely to be the most dependent on experts to whom tasks may be delegated. Since states in the

[21] Tana Johnson also makes a similar distinction between the role of expertise and the 'salience' of a topic to states. However, I use the term 'priority' and link it more explicitly to the preference formation of states. I argue that delegation due to the weak preferences of states is of a more fundamental form than lack of expertise since it is more likely to lead to high levels of discretion for experts. Another important point of difference is that Johnson operationalises salience by policy area – security being of high salience while other policy areas are of low salience – but I do not. Such a distinction is not helpful when speaking of regional organisations because many cover a wide range of policy areas, including security. Finally, while Johnson predicts that such discretion leads bureaucrats to reduce the control mechanisms for states, the experts in my theory actually weaken their own proposals to ensure they are implemented. See Johnson, Tana (2013) and Johnson, Tana (2014).

[22] Poulsen, Lauge N. Skovgaard (2014): Bounded Rationality and the Diffusion of Modern Investment Treaties. In: *International Studies Quarterly*, 58 (1): 1 – 14; Stone, Diane (2001): Think Tanks, Global Lesson-Drawing and Networking Social Policy Ideas. In: *Global Social Policy*, 1 (3): 344 – 346. It is worth noting that many non-democratic states are also economically wealthy, for example China.

global south are less likely to have the necessary density of expertise trained in-house with local techniques and theories, they are highly likely to depend on experts with international training. States in the global south are more likely to lack funding for tertiary education and have generally lower numbers of excellent research institutions. It would be easy to argue that member states in such regions are more likely to delegate tasks because of lack of expertise. Undoubtedly, such delegation occurs frequently and across all policy areas.

However, my argument is that preferences play *a more fundamental role* than availability of expertise in determining whether or not a state will consider delegation. Thus, the mechanism holds irrespective of how well-staffed a state is, although this factor can be catalytic. To illustrate this, I will consider in more detail the relationship between the preferences, resources, and expertise of a state.

Preferences are, as stated earlier, the ordering of outcomes. In needing to travel to a job interview, I may prefer travelling by train rather than by taxi. 'Train' is higher up on my preference order than 'taxi'. However, there are many things for which I may not form preferences because they are unimportant to me. For example, when hiring a taxi, I have no strong preferences about the colour or model of the car that arrives to pick me up. I will leave it to the taxi service to decide which car to send. In a sense, forming strong preferences about outcomes is a way of expressing that the outcomes matter to me. When I form weak preferences, I am also implying that I am indifferent to the outcomes. Similarly, there may be outcomes that states are indifferent to and they will therefore form weak preferences about them.

Expertise refers to a state's store of relevant and adequate knowledge about a topic. Specifically, does it have staff in its ministries who are relevantly and sufficiently trained in

areas that concern the state's activities? Finally, r*esources* include material assets, primarily money. A state requires money to function as it needs to pay for infrastructure and staff and expenses such as travel. Having more money is relevant because it can be used to boost the availability of ministerial staff when there is a lack of expertise. The table below illustrates this relationship.

Table 4: Relationship between preferences, resources, and expertise of a state

	Strong Preferences		**Weak Preferences (indifference)**	
	High expertise	***Low expertise***	***High expertise***	***Low expertise***
High resources	No delegation	No delegation	Delegate	
Low resources	No delegation	Delegate		

When states have strong preferences, they are less likely to delegate because doing the tasks themselves is more likely to ensure they get the outcomes they wish. They employ their own staff and direct the staff's behaviour according to their own national interest. The only exception is in situations where they have low expertise but also have insufficient resources to employ permanent staff to compensate. Under this condition, states will delegate to an agent, giving them a highly specified mandate, and then monitor the agent closely to ensure the agent follows their given mandate.

When states have weak preferences, i.e. the outcomes of the task do not matter, then states will try to avoid using valuable resources and expertise on these tasks, since it means taking more away from the tasks that do matter. This means either the task does not get completed or, also highly likely, states delegate the task entirely to a third party. Delegation, in this

context, is a way of being cost-efficient (cheap) whatever the endowments of the state. I leave open the specific political causes of a state's weak preferences regarding particular tasks as it is outside of the scope of this thesis, but the main thrust of it will be that the tasks are perceived as irrelevant to their broader goals.[23]

3.2.3 Weak State Preferences and Discretion

Another important point that distinguishes delegation due to weak preferences from other forms of delegation is its implications for discretion. Discretion simply refers to how much authority the agent has to make decisions without oversight by the principal. In much of the delegation literature, the assumption is that states have strong preferences. This makes the act of delegating a risky option. States undergo the risk that agents may do something that the states do not like. Delegating involves risks of shirking and slippage on the part of the agent, such that agents may end up delivering outcomes that are not what the state preferred. This implies that states will do their utmost to carry out the task themselves. However, if they cannot and they must delegate, then they will use various mechanisms to monitor and control the activities of the agent. One such mechanism may be to give the agents minimal discretion – that is, give them detailed mandates circumscribing what they

[23] The role of ideational factors in determining preference formation may be relevant here. See Wildavsky, Aaron (1987): Choosing Preferences by Constructing Institutions: A Cultural Theory of Preference Formation. In: *American Political Science Review*, 81 (1): 3 – 21; Ruggie, John Gerard (1998): What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge. In: *International Organization*, 52 (4): 855 – 885; Aspinwall, Mark (2002): Preferring Europe: Ideology and National Preferences on European Integration. In: *European Union Politics*, 3 (1): 81 – 111; Blyth, Mark. (2003). Structures Do Not Come with an Instruction Sheet: Interests, Ideas, and Progress in Political Science. In: *Perspectives on Politics*, 1 (4): 695 – 706; Koenig-Archibugi, Mathias (2004): Explaining Government Preferences for Institutional Change in EU Foreign and Security Policy. In: *International Organization*, 58 (1): 137 – 174; Jacobs, Alan M. (2009): How do Ideas Matter? Mental Models and Attention in German Pension Politics. In: *Comparative Political Studies*, 42 (2): 252 – 279; Rodrik, Dani (2014): When Ideas Trump Interests: Preferences, Worldviews, and Policy Innovations. In: *The Journal of Economic Perspectives*, 28 (1): 189 – 208; Schirm, Stefan (2016): Domestic ideas, institutions or interests? Explaining governmental preferences towards global economic governance. In: *International Political Science Review*, 37 (1): 66 - 80

are to do and ensuring all decisions are first thoroughly checked by the state before being implemented in the treaty. [24] Delegation in a world of strong preferences implies highly specified mandates and low levels of discretion.

However, delegation due to weak preferences implies the exact opposite. When states do not care about the outcomes of a task, they will delegate in order to minimise the costs. This means that they delegate the task to an agent and spend little to no effort monitoring or controlling what the agents do. After all, to monitor and control during the process would be to waste resources and expertise on a task that had been deemed unimportant in the first place. They therefore delegate and automatically grant the agents high levels of discretion. In effect, we expect agents with vague, open-ended mandates and a lot of authority to make decisions without checking with the state. The state will simply await the final outcome and only then cast a final eye on the policy merely to ensure it does not conflict with other prioritised tasks or its ultimate sovereignty.

Table 5: Relationship between preferences and discretion in delegation

	Strong Preferences		**Weak Preferences (indifference)**	
	High expertise	***Low expertise***	***High expertise***	***Low expertise***
High resources	No delegation	No delegation	No monitoring / high discretion	
Low resources	No delegation	Monitoring / low discretion		

[24] Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (2006): Delegation under anarchy: states, international organizations, and principal-agent theory. In: Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (eds.) *Delegation and Agency in International Organizations.* Cambridge: Cambridge University Press, pp. 3 – 38; Hawkins, Darren G./Jacoby, Wade (2006): How agents matter. In: Hawkins, Darren G./Lake, David A./Nielson, Daniel./Tierney, Michael J. (eds.) *Delegation and Agency in International Organizations*. Cambridge: Cambridge University Press, pp. 199 – 228

3.2.4 Weak State Preferences and Choice of Experts

States' choice of experts will be based primarily on familiarity with and ease-of-access to the experts rather than any objective judgment of their quality (although these can be related – it is possible that a group of experts becomes well-known, i.e. familiar, in policy circles because of their excellence). Primarily, this is because it is the most cost-effective (cheapest) manner to get the task completed.[25] States intending to be as cost-effective as possible because a task is of a very low priority are unlikely to expend much effort carrying out an objective search for the best experts. All things being equal, they will rely on familiarity with a particular set of experts and choose them over possible alternatives, which will, in turn, be a matter of pre-existing relationships, reputation of the experts, or evangelism on the part of the experts themselves. Nevertheless, the ultimate reason why states choose one set of experts over another is because they know them or their work and assume that to be a signal that their expertise is 'good enough' to solve the problem.

States looking to create a regional organisation by using as little of their state resources as possible are likely to find that the most easily available experts will be those located in existing international bureaucracies and civil society organisations. These experts will be known entities. Nevertheless, they are more likely to have been trained at top institutions in the West and have been exposed to dominant paradigms developed in Western institutions and international fora.[26] Furthermore, experts available to member states in the global south are likely to maintain professional international networks, will attend conferences and workshops

[25] This is consistent with bounded rationality's concept of the 'recognition heuristic', which states that between recognised and unrecognised objects, decision-makers making judgement calls usually will choose the recognised object. Moreover, if two objects are recognised, the one that is recalled first is assumed to have a higher relevant value. See Goldstein, Daniel G./Gigerenzer, Gerd (2002): Models of Ecological Rationality: The Recognition Heuristic. In: *Psychological Review*, 109 (1): 75 – 90

[26] Stone, Diane (2001), pg. 355

internationally, and thus be highly influenced by international professional ideas. States delegate to these familiar experts and give them high levels of discretion.

3.3 Experts' Role in Institutional Design

Once given substantial discretion to design the organisation, experts will make decisions according to their professional beliefs[27] and not the national interests of the member states. Since member states have expressed weak preferences and delegated with high discretion, all that is left to guide experts in their daily tasks is their own professional ideas derived from their scientific knowledge and best practices. In particular, experts will apply their ideas to define the problems of the organisation and, following that, provide solutions that are standard in their profession. In the context of regional organisations in non-democratic regions, independent experts are more strongly motivated by professional ideas than their counterparts situated within national governments, whose primary goal will be to serve the national interest.

3.3.1 Defining Experts

To define experts, I borrow from Peter Haas' concept of epistemic communities.[28] Experts are 'knowledge based communities that are both politically empowered through their claims to

[27] Haas, Peter (1989): Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control. In: *International Organization*, 43(3): 380

[28] I use the term 'experts' instead of 'epistemic communities' because I wish to de-emphasise the 'networks' aspect of Haas' original concept. For Haas, a critical defining aspect of epistemic communities is that they are networked, because it makes them inherently powerful such that they can move ideas across national borders and to different sites quickly due to their connections to colleagues in other geographical locations. However, in my argument, ad hoc expertise can also make a difference.

exercise authoritative knowledge and motivated by shared causal and principle beliefs'.[29] They are professionals that are deemed to be authoritative in a particular field of knowledge and have coalesced their work around a shared set of scientific understandings. They can operate at any level of social organisation, be it sub-national, national, or international; they can promote their ideas in any policy field or sector.

First, experts can be distinguished from other kinds of actors in international relations by their *scientific* identity. They can be contrasted with transnational advocacy networks, i.e. civil society organisations and NGOs that act upon normative principles such as protecting human rights, addressing the grievances of oppressed minorities, and the like.[30] Experts, on the other hand, have *a scientific goal* – as opposed to a moral one – to resolve the problems they have been tasked with resolving. Thus, medical doctors have an interest in resolving health problems because it is their scientific goal to cure diseases; meanwhile structural engineers have an interest in resolving the infrastructural needs of society because it is their scientific

[29] Haas, Peter (1990): Obtaining International Environmental Protection through Epistemic Consensus. In: *Millennium – Journal of International Studies*, 19: 349. For other work on expertise in policymaking see Davis Cross, Mai'a K. (2013): Rethinking epistemic communities twenty years later. In: *Review of International Studies*, 39 (1): 137 – 160; Verdun, Amy (1999): The role of the Delors Committee in the creation of the EMU: an epistemic community? In: *Journal of European Public Policy*, 6 (2): 308 – 328; Berling, Trine Villumsen/Bueger, Christian (2015): *Security Expertise: Practice, Power, Responsibility*. London and New York, NY: Routledge; Jerden, Björn (2017): Security expertise and international hierarchy: the case of 'the Asia-Pacific Epistemic Community'. In: *Review of International Studies*, 43 (3): 494 – 515; Mevrot, Celine/Sager, Fritz (2016): Vertical epistemic communities in multilevel governance. In: *Policy & Politics*, pg. 1 – 17; Dunlop, Claire (2017): The irony of epistemic learning: epistemic communities, policy learning and the case of Europe's hormones saga. In: *Policy and Society*, 36 (2): 215 – 232. For innovations on this theme of communities of experts in international relations, see research based on practice theory, including Pouliot, Vincent (2008): The Logic of Practicality: A Theory of Practice of Security Communities. In: *International Organization*, 62 (2): 257 – 288; Adler, Emanuel/Pouliot, Vincent (2011): *International Practices*. Cambridge: Cambridge University Press; Bueger, Christian/Gadinger, Frank (2015): The Play of International Practice. In: *International Studies Quarterly*, 59 (3): 449 – 460. For an excellent review of the literature, see Bueger, Christian (2014): From Expert Communities to Epistemic Arrangements: Situating Expertise in International Relations. In: Mayer, Maximilian/Carpes, Mariana/Knoblich, Ruth (eds.): *The Global Politics of Science and Technology - Vol. 1: Concepts from International Relations and Other Disciplines*. Heidelberg: Springer, pg. 39 – 54

[30] Kekk, Margaret/Sikkink, Kathryn (1998): *Activists Beyond Borders. Advocacy Networks in International Politics*. Ithaca and London: Cornell University Press, pg. 8 – 9

goal to improve the functionality of structures such as buildings and bridges.[31] However, before addressing such problems, they must develop views about what causes the problems that they are employed to address. Medical professionals will spend their careers trying to find the causes of diabetes or malaria, as well as many other illnesses. Through their research they will develop a consensus around the scientific causes and effects of these ailments, which then constitute their professional beliefs.

The most classic example of experts making a difference to policy is that of ecologists promoting environmental protectionist beliefs that eventually led to the anti-chlorofluorocarbon (CFC) regimes during the latter half of the 1980s, in particular the Montreal Protocol. The Montreal Protocol and subsequent policies were designed to protect the Ozone Layer from CFC damage. In promoting these regimes, the experts had to gain influence with a powerful state, the United States, and also collaborate with international organisations such as UNEP, while staying cohesive as a networked group.[32] Their shared professional beliefs were that damage to the Ozone layer would be devastating for humanity as well as the wider ecosystem. This was based upon a hypothesis developed by two scientists, Sherwood Rowland and Mario Molina, that the use of CFCs was causing the depletion of the Ozone layer. The two experts were able to carry out research according to shared notions of validity, i.e. the scientific method, in order to evidence this causal link. Having convinced themselves of this hypothesis, the scientists mobilised around the cause to protect the Ozone Layer, and the planet as a whole, by convincing key powerful actors internationally.[33]

[31] This does not discount the possibility that such professionals might simultaneously have normative motivations. However, my argument only relies on them having at least professional ones.
[32] Haas, Peter (1990), pg. 347 – 364
[33] Haas, Peter (1990), pg. 356

Second, experts engage in policymaking as a means of getting their professional beliefs implemented at a greater scale than the individual.[34] For example, once aware that eating unhealthy foods and engaging in too little exercise causes people to be overweight, and this in turn can lead to greater health issues such as diabetes, medical professionals will want to address this by encouraging people to adapt their diet and exercise more on a daily basis. One way to do this is to wait for diabetes patients to arrive in GPs surgeries and help them address the symptoms and maybe even reverse the process with recommended lifestyle changes. However, curing existing patients with existing conditions is inadequate for developing a healthy society. It will hardly stop more patients from turning up at the GPs surgeries. Moreover, while not all illnesses are curable, many are preventable. If medical professionals wish to build a sustainably healthy society, they will need to encourage everyone to exercise more and eat healthier foods, thus preventing illnesses such as diabetes from occurring in the first place.

Prevention requires broader engagement with the public. Medical professionals will have an incentive to engage governments, which have the best means of reaching the wider public, and get them to fund programmes or pass legislation that incentivises everyone to behave in one way rather than another. Policy dictates everything from the rules of the profession, its relations with other professional areas, its practices, its means of funding, and, most importantly, mediates the effects of the work that the experts carry out. Experts will thus

[34] Ernst Haas alludes to this. See Haas, Ernst (1990): *When Knowledge is Power: Three Models of Change in International Organizations*. Berkeley, Los Angeles, Oxford: University of California Press, pg. 41. Existing literature otherwise says relatively little about the motivation of experts. Using a contrasting example, international relations scholars have a standard and wide-spread understanding of states as self-helping and self-interested actors who are always seeking to maximise their gains. Seeking power to survive becomes an inherent part of being a state. This, however, does not translate as neatly to experts, who are a completely different kind of group actor.

engage in a policy-making process because they believe implementing their professional beliefs at a greater scale will help them resolve problems more effectively.

Third, experts can be distinguished from state actors specifically by the fact that they have long-term, open-ended horizons. Succinctly put, 'the primary condition for a successful working of the "logic of scientific discovery" is absence of haste, or a systematic and critical deceleration of thought and action which sets science apart from the demands of urgency, immediacy, simultaneity, and publicity which are imposed by more "speedy" practices.'[35] Primarily this is because their work is concerned with solving broad, universal problems as effectively as possible. Such ambitious ventures means being thorough and patient. World peace, for example, will not be realised in a day. Neither will the cure for cancer be found by any particular deadline.

Moreover, experts work by accumulating knowledge over generations of scientific research. No individual can solve a big problem by herself; she will rely on the previous work of others to build the foundation of her own investigations, then when she presents her results, others will build upon her work. Solving a problem in this manner can therefore take decades, perhaps even centuries. Experts achieve their goals through incremental progress, knowledge accumulation, collaboration, and an eye on the long-term result.

3.3.2 Experts' Beliefs and Problem Definition

To interpret and define the problem, experts will rely on professional beliefs. These will be

[35] Pels, Dick (2003): Unhastening Science. Temporal Demarcations in the 'Social Triangle'. In: *European Journal of Social Theory*, 6 (2): 221; see also Berling, Trine Villumsen/Bueger, Christian (2015): Security Expertise. An Introduction. In: Berling, Trine Villumsen/Bueger, Christian (eds.): *Security Expertise: Practice, Power, Responsibility*. London and New York, NY: Routledge, pg. 9-10

based upon the theoretical and scientific paradigms that are dominant in their profession. Thus, for example, a country facing the problem of underperforming schools might bring in educational experts to help them understand what is causing the underperformance and therefore help them devise solutions. However, the choice of experts can make a significant difference to the policy decisions subsequently taken. One group, experts A, holds the belief that underperforming schools are caused by poor teaching in classrooms, and thus might recommend solutions such as retraining teachers or changing teacher hiring policies or even improving teacher training nationally. Another group, experts B, might believe that underperforming schools are simply cursed by bad management and bureaucracy, and might thus recommend restructuring the entire education system to reduce bureaucracy or remove layers of bureaucrats from the educational hierarchy. Whichever group is selected, its professional beliefs will create the framework for all subsequent processes. In a sense, selecting certain factors to the exclusion of others is 'an act of explanation that aggressively promotes a particular version of reality'.[36]

The definition of the problem is very important as it makes some solutions more relevant than others. Problem definition is essentially constructing a phenomenon as a problem and defining it in a specific way. In defining problems, there also come with it inherent sets of possible solutions.[37] 'A problem definition at the outset of the policy process has implications for later stages: which kinds of evidence bear on the problem, which solutions are considered effective and feasible, who participates in the decision process, how policies are

[36] Rochefort, David A./Cobb, Roger W. (1993): Problem Definition, Agenda Access, and Policy Choice. In: *Policy Studies Journal*, 21 (1): 60

[37] See Dery, David (2000): Agenda Setting and Problem Definition. In: *Policy Studies*, 21 (1): 40. As suggested by this article, problem definition may be distinct from agenda setting.

implemented, and by which criteria policies are assessed.'[38] Thus, though dependent on interpretation of a highly complex situation, problem definition significantly determines the most appropriate solutions.

3.3.3 Experts' Anticipations

Experts will often weaken their proposals or make compromises in advance in order to minimise the risk that member states reject them. This involves making the proposal palatable in the immediate term while deferring or minimising the costs of implementation for states as much as possible. Thus, while experts apply their professional beliefs to find solutions, they will not be immune to some bargaining pressures.[39] The reasons are two-fold. First, member states have weak preferences precisely because their expectation is that the outcomes of the tasks are irrelevant. If member states only delegate a task in the first place because they believe the outcome is unimportant, then experts understand that bringing solutions with significant implications for member states' national interests will make it unlikely that it will be accepted. That is, member states will not accept solutions for a task they do not care about that nonetheless threatens their interests in other areas of activity. This creates an incentive to make the solution palatable to member states by making compromises.

Second, as mentioned earlier in this chapter, experts have an eye on the long-term goals of their endeavour and understand that universal problems are solved incrementally. Member states, on the other hand, which are directed by national governments, are concerned with

[38] Weiss, Janet A. (1989): The Powers of Problem Definition: The case of government paperwork. In: *Policy Sciences*, 22 (2): 97 – 98
[39] Haas, Peter M. (1992): Introduction: epistemic communities and international policy coordination. In: *International Organization*, 46(1): 11 – 12

short-term political calculations. They deal with practical and immediate problems, which require visible solutions in the short-term. Experts thus possess a characteristic that governments do not: patience. The former will thus be willing to compromise on the strength of their solution in order to get it instituted in the first place. To increase the chances of successful adoption, experts must therefore make their policy proposal immediately palatable and try as much as possible to defer or minimise the costs inherent in any policy change.

Some supranational institutional features come with some significantly high costs, including sovereignty costs. For example, as a body with its legitimacy drawn directly from universal suffrage, a regional parliament could become a powerful rival to the authority of member states. Furthermore, in terms of decision-making powers, it would be an additional principal to the regional organisation rather than an agent for the member states. In fact, the purpose of a parliament is precisely to monitor and check other authorities, particularly the states, and it therefore represents in all senses of the word a loss for member states in the short and long term.

Experts anticipate member states' reluctance and strategise accordingly. In order for member states to accept supranational solutions, experts anticipate that they will have to reduce the sovereignty costs in the immediate term by weakening them. In essence, they defer the sovereignty costs in order to guarantee the creation of certain supranational features in the first place. However, by creating supranational institutional features, they also commit member states to strengthening them later in order to properly address the solution for which it was created. Since the expert argument for such features is the viability of the organisation, the implicit understanding is that they must be strengthened over time. For states, the

promise of a viable organisation thanks to the inclusion of supranational features is a benefit, and the minimised cost due to their weakened form in the short-term makes the decision more palatable.

3.4 Conclusion

To explain why non-democracies create regional parliaments, this chapter has developed an argument that institutional design can be driven by the professional beliefs of experts rather than the national interests of member states. When states have weak preferences about the regional organisation they wish to create, they will delegate the task of drafting the treaty to experts and will give them high levels of discretion. Experts then use this discretion to define the problems according to their own professional beliefs and devise the relevant solutions. This does not mean that experts fly in the face of member states' interests. Rather, the experts gain the power to design the organisation in radical ways precisely because member states are indifferent to the outcomes and are willing to be guided by the greater knowledge of the experts. However, to ensure the acceptance of member states for the regional parliament and increase its chances of implementation, experts lower the immediate sovereignty costs by weakening the parliament.

The remaining chapters will show that this mechanism can explain the emergence of regional parliaments in Africa, a region with historically low adherence to liberal democratic values. African states have weak preferences when it comes to their regional organisations and therefore delegated the making of the treaties to experts situated in international bureaucracies and civil society. Because the experts operating in this sphere have been socialised by the international community, they are particularly susceptible to trends and

movements within that community. In particular, their ideas closely follow those espoused by the development community as the regional organisations are conceived of as development organisations. These ideas include particularly democratic standards of governance as advocated by the development community and Western governments. As a result, these experts partly defined the problems of the regional organisations in terms of lack of democratic participation of the people. This led them to create regional parliaments to address this perceived deficiency.

The next chapter will commence with the empirical analysis. It provides a history of regional integration in Africa, focusing particularly on the unique role of the UNECA and other external experts in launching and steering regional organisations for the purpose of economically developing the member states.

4 Experts and African Regional Integration

In the previous chapter, I laid out an original theoretical argument that when states have weak preferences about a treaty, they delegate the task of drafting it to experts, granting them high levels of discretion. Experts bring to bear their professional beliefs on the institutional design rather than being guided by the preferences of the member states. This chapter shows that such a phenomenon has broader application on the continent and in various other issue areas. It does so by explicating of role of experts in regional integration in Africa more broadly and the conditions under which their roles become more or less prominent.

First, I recount the history of regional integration in Africa with a focus on the influence of the United Nations Economic Commission for Africa (UNECA), and, to a much lesser extent, other external experts, in launching and steering the regional organisations. The focus on the UNECA is justified by the fact that it has a particular relevance to the emergence of parliaments in regional organisations in Africa. The UNECA helped to establish various regional organisations, including two of the three regional organisations used as cases in this study, and has been a vital promoter of the argument for regional integration as a development tool, as well as having worked in close collaboration with the OAU/AU throughout its existence.

In the first section, the chapter draws upon the conceptual framework developed by Thomas Tieku, which classifies the various actors involved in African regional integration and modalities through which they influence the agenda. Regional organisations in Africa include intergovernmental, supranational, and outsider actors, who each have their particular influence upon decision-making. Understanding their particular roles sets the stage for

grasping the close relationship between experts and regional integration. The chapter then recounts the creation of the UNECA and its mandate to foster regional economic cooperation on the continent. Subsequently, it traces the critical role of the UNECA and a constellation of other experts in the creation of regional organisations in Africa and highlights some of the tensions that have arisen as a result. Finally, there follows a discussion on the various factors that enabled the UNECA to exercise such political power.

4.1 The Actors Driving Regional Integration in Africa

In this section I discuss the different actors involved in regional integration in Africa along three dimensions, and also how they interact. This is a useful way of approaching the analysis because it contextualises the role of the experts vis-a-vis other important actors. I base this analysis significantly on a framework developed by Thomas Tieku's '3D analysis' of international organisations. International organisations have three dimensions that shape its development and activities: 1) the intergovernmental dimension, which represents the member states, 2) the supranational dimension, which includes the bureaucrats and international civil servants, and 3) the outsiders, which includes the external experts, think thanks, and civil society groups that cluster around the international organisation in order to influence its behaviour.[1] A primary assertion in this conceptualisation is that the power of the first dimension is overestimated, while the second and third dimensions in many contexts

[1] This is separate from the *concept* (i.e. the definition) of an international organisation, which requires only that it be composed of sovereign states and have a standing secretariat. Specifically, the concept does not include external actors such as think thanks and civil society groups in the essence of international organisations.

have significant influence to shape the direction on of the international organisation.[2] The following will look at each of these dimensions in turn.

4.1.1 Intergovernmental Dimension

The intergovernmental dimension of international organisations is represented primarily by the organs whose membership includes representatives of the member states. In the United Nations, for example, this includes the Security Council as well as the General Assembly. In African regional organisations, this is usually the Assembly of Heads of State and Government and the Council of Ministers. In treaties, these bodies are usually tasked with providing general direction to the organisation and performing most of the legislative functions. The reality is that on the African continent, according to Tieku, they struggle to perform their duties to any appreciable degree because of the lack of technically skilled staff with the knowledge to supervise much of the technical tasks that the AU bureaucrats perform. Another important hindrance is that the executive organs meet infrequently, meaning they have very little time to digest the ongoing pressing issues at the regional level. The Council and the Assembly gather at the AU twice a year, with the Council having far more reports to consider in a similarly short space of time than the Assembly.[3]

The Permanent Representatives' Committee (PRC), an advisory body with representatives from every member state, was established as a means of devolving leadership tasks further. Unlike the other two organs it meets monthly, and it has become effectively the agenda-setting institution for the formal executive organs. However, there are problems with the

[2] Tieku, Thomas Kwasi (2016): *Governing Africa: 3D Analysis of the African Union's Performance.* London: Rowman & Littlefield, pg. 7, 34 – 35
[3] Tieku, Thomas Kwasi (2016), pg. 35 – 36

PRC, primarily that it is 'not well-equipped to supervise in any meaningful way' the work of the bureaucrats. Representatives that sit in the PRC are political appointees with a dearth of technical skills. 'Few PRC members have the formal education or public policy background that the job requires, and its discussions tend to be general, personality driven, and anecdotal in nature. The limitation of the PRC is exacerbated by the lack of technical support from their home countries.'[4] Thus, many of the strategic decisions (and, in fact, drafting of the strategic plans) is left to the bureaucrats of the AU. The only area in which the PRC maintains de facto control is in terms of funding of programmes.[5]

4.1.2 Supranational Dimension

The AU also has a de facto supranational dimension, although the treaty may de jure not suggest this. Due to the relative independence of the AU Commission, bureaucrats there are able to exercise significant influence upon all areas of decision-making. First, bureaucrats are mandated by the treaty to be responsible to the Commission only. They are thus granted freedom from interference by particular member states and external actors. Second, the lack of technocratic expertise of the member states means there is no effective oversight of the technical work of the bureaucrats. Member states fail to pay attention even when it concerns legally binding instruments. For example, the Protocol establishing the Peace and Security Council of the AU –the most powerful organ in decision-making about peace and conflict –

[4] Tieku, Thomas Kwasi (2016), pg. 35

[5] Tieku, Thomas Kwasi (2016), pg. 37. It is important to note that the reasons behind the importance of non-state actors in this framework are different to mine. The framework emphasises that delegation occurs because of lack of expertise. Member states in African regional organisations are technically less competent – that is, national civil servants have less expertise and training than the international civil servants, therefore they are *incapable* of effectively supervising the activities of the international organisation. My assertion (see the previous chapter) is that delegation occurs because these organisations are of low priority for the governments. That is, the member states are *unwilling* to supervise the work of the bureaucrats. This is a more fundamental problem.

only received comments from two member states before it was adopted. Third, career trajectories often lead bureaucrats to move from the national bureaucracy to the international bureaucracies as they shift positions. This means national officials supervising supranational officials were often once their juniors – this presents a personal and cultural barrier to effectively making AU bureaucrats accountable.[6]

As a result of this independence, bureaucrats at the AU have become highly influential in areas such as rule-making, particularly in drafting the treaties and policy instruments as well as regulations;[7] representation, where bureaucrats are sent on international missions to represent the voice of the African continent; and strategy-development and agenda-setting powers,[8] which allow the AU bureaucrats to affect the general direction of the international organisation and also set common positions for the entire continent.

4.1.3 Outsiders Dimension

There are three main outsiders that the AU works with: experts, NGOs, and eminent persons. First, the AU works extensively with experts, which includes independent academics, consultants, and representatives from think tanks. collaboration between the AU and external experts occurs in three ways. 1) The AU hires experts as consultants in order to help with technical tasks. For instance, when developing the structure of the Commission, the International Labour Organization was brought in to design it and accountants from Ernst and Young costed the project. Consultants have even been brought in to help hire Commissioners in the formative years of the AU. 2) Experts are hired as short-term contractual staff. In some

[6] Tieku, Thomas Kwasi (2016), pg. 38 – 39
[7] Tieku, Thomas Kwasi (2016), pg. 39 – 42
[8] Tieku, Thomas Kwasi (2016), pg. 44 – 46

departments, such as the Peace and Security Department, up to 90% of the staff are hired on temporary contracts. 3) The AU has also hired external experts as ghost writers to formulate important reports and legal instruments.[9]

Second, the AU likes to work with NGOs, which equip the AU with many of its norms in areas such as gender. They provide useful research and information for the AU bureaucrats to make decisions. For example, the 'AU rules of engagement for peace support operations, particularly those that concern the protection of civilians, were shaped by the advocacy work of the International Red Cross and Red Crescent'.[10]

Third, the AU likes to bring in eminent persons, which include retired Presidents and Ministers and senior diplomats. Because of their elevated political status, they often have credibility with incumbent governments and can help push the agenda of the organisation in more politicised contexts and mediate between conflict parties. This includes figures such as the former President of Nigeria Olusegun Obasanjo, former President of South Africa Thabo Mbeki, and the former President of Mali Alpha Oumar Konare.[11]

Having outlined a framework for understanding how various actors work together in regional integration in Africa, the following section will now focus on the role of external experts, in particular the UNECA, which has been a significant shaper of two of the three cases in this thesis.

[9] Tieku, Thomas Kwasi (2016), pg. 47 – 48
[10] Tieku, Thomas Kwasi (2016), pg. 49
[11] Tieku, Thomas Kwasi (2016), pg. 50

4.2 The UNECA and Regional Integration in Africa: A Brief History

The UNECA is an especially powerful *outsider* in the realm of economic policy-making at the regional level. Its influence, however, is usually ignored in official publications of the regional organisations as well as in social scientific scholarship. It is important, but it has a low profile. While itself an international organisation, vis-à-vis the AU, it performs the role of an economic 'think tank', filling in significant gaps in expertise and technical capacity found within the regional organisations. My assertion is not that it has been the only important influence on regional integration, but that its privileged position has allowed it at certain times to have a powerful effect on decisions made at the regional level. In particular, to explain the institutional design of African regional organisations in the 20th century, it is an integral part of the narrative. This section will provide an account of the particular circumstances surrounding the creation of the UNECA and how its mandate came about. This provides a clearer context for the significant influence it has had over regional integration in Africa.

The UNECA was established in 1958, quite some time after similar Commissions had been created for Europe and Latin America (1947) and Asia and the Far East (1948).[12] The UNECA's existence was the result of campaigning by a handful of African countries, in particular Ghana, which had just gained independence a year before and joined the UN General Assembly. With the support of 28 other countries, Ghana was able to push through resolution 1155 (XII). Member states of the UNECA included the eight independent African states at the time (Egypt, Ethiopia, Ghana, Liberia, Libya, Morocco, Sudan, and Tunisia), as well as the colonial powers (Belgium, France, Italy, Portugal, Spain, the United Kingdom), and independent

[12] UNECA (2008) *ECA and Africa: Fifty Years of Partnership*. Addis Ababa: UNECA, pp. 1; see also Adedeji, Adebayo (2004): The ECA: Forging a Future for Africa. In: Berthelot, Yves (ed.): *Unity and Diversity in Development Ideas. Perspectives from the UN Regional Commissions*. Bloomington and Indianapolis, Indiana University Press, pg. 233 – 236

apartheid South Africa.[13] It was only in 1963 that colonial powers relinquished their membership and, to date, the UNECA and UNECWA are the only Commissions in which France, the UK, and the USA are not full members.

The UNECA represents the first international organisation in Africa whose mandate was continent-wide, preceding the Organization of African Unity (OAU), which is now the African Union (AU). While the UN Commissions in other regions of the world were mostly established to aid in post-war construction, the UNECA's mandate was to assist African states and colonies in developing economically, specifically to act as a repository for technical expertise and cooperative strategies and as a forum for identifying and defining cooperation amongst member states.

Its terms of reference were broad within the boundaries of economic activity and development. It was to a) initiate and assist in activities geared towards 'facilitating concerted action for the economic development of Africa, including its social aspects', b) create studies and investigations on problems stymying development and disseminate the results, c) collect, evaluate, and disseminate data related to African states and their economies, d) provide advisory services to the member states, e) assist the UN Economic and Social Council in its activities on the continent, f) assist in the 'formulation and development of co-ordinated policies as a basis for practical action', g) and 'deal with the social aspects of economic development and the interrelationships of economic and social factors'.[14]

[13] UNECA (2008), pg. 2; the inclusion of then colonial powers in the membership was justified as necessary because they still maintained control over territories in the region. See also Berthelot, Yves (2004): Unity and Diversity of Development: The Regional Commissions' Experience. In: Berthelot, Yves (ed.): *Unity and Diversity in Development Ideas. Perspectives from the UN Regional Commissions*. Bloomington and Indianapolis, Indiana University Press, pp. 11

[14] UNECOSOC (1959): *Terms of Reference for the Economic Commission for Africa*. New York: NY, E/CN.14/1/Rev.1, pg. 2-3

Aside from this, the UNECA was empowered to make recommendations on anything it saw fit and, with the approval of the UNECOSOC, 'establish such subsidiary bodies as it deems appropriate for facilitating the carrying out of its responsibilities'.[15] However, while headquartered in Addis Ababa, the Secretary-General of the UN would be responsible for appointing the Executive Secretary of the UNECA and the staff were to be considered employees of the broader Secretariat of the UN. Moreover, the UNECA was to make yearly reports to the ECOSOC.

As is evident, not only was the UNECA's mandate wide, encompassing economic and social aspects broadly defined, and giving it powers to draft policies and set up institutions, it was in fact also geared both towards the global UN system and its African membership. This is not something that has gone unnoticed to the UNECA itself, as it notes in an anniversary document:

> 'The dual role of ECA as a regional arm of the UN and a significant pillar of the regional institutional landscape in Africa endows it with unique comparative advantages that enable it to make distinct and valuable contributions to its member States' efforts to address these challenges. Its strength derives from its role as the only UN agency mandated to operate in Africa at both regional and subregional levels and to harness resources and bring them to bear on Africa's priorities.'[16]

As an agent, the UNECA has been created with two principals in mind. On the one hand, its staffing, resources and legal mandate are granted by the UN system. On the other hand, it primarily serves the interests of its African member states, whose development needs give it direction on a day-to-day basis. To date, there is little evidence that this has caused any tension within the UNECA itself, but it has created ambivalence on the part of the African member states and the OAU towards the UNECA.[17]

[15] UNECOSOC (1959), pg. 3
[16] UNECA (2008), pg. 3
[17] D'Sa, Rose M. (1983): The Lagos Plan of Action - Legal Mechanisms for Co-operation Between the Organisation of African Unity and the United Nations Economic Commission for Africa. In: *Journal of African*

4.3 UNECA's Launching and Steering of Regional Integration

The UNECA lost no time in beginning its work. In the first instance, the organisation was responsible for institutionalising regional integration as a comprehensive development strategy. Prominent Pan-Africanists such as Kwame Nkrumah, the first President of Ghana, had made the case before, but theirs was at best a vague clarion call for African political and economic unity. As has been noted, the independence leaders in Africa 'were not like the professional diplomats and technocrats who would dominate the next generation. They did not possess the theoretical skills or sophistication or even the self-confidence to put together the development paradigm they thought Africa needed in the language and sophistication of modern-day economists and social scientists.'[18] The UNECA, with its technical knowledge and extensive economic expertise, which was otherwise rare on the continent, and especially at the continental level, was able to transform opaque declarations into concrete plans. It became a powerful legitimiser of the Pan-African ideal in economic terms.

This was by no means a unique mandate: most of the other Economic Commissions, notably those for Asia and the Far East (UNECAFE) and for Latin America (UNECLA), also upheld regional integration as a paramount development strategy and a means to independence.[19] Importantly, the creation of such regional organisations led to important new dynamics: 'the regional commissions developed intergovernmental machinery from which emerged networks of officials and experts. These constituted the topsoil in which ideas related to the

Law, 27 (1): 8; Andemicael, Berhanykun (1976): *The OAU and the UN. Relations between the organization of African Unity and the United Nations.* New York and London: Africana Publishing Company, pg. 203 – 204

[18] Adedeji, Adebayo (2004), pg. 238

[19] Berthelot, Yves (2004): Unity and Diversity of Development: The Regional Commissions' Experience. In: Berthelot, Yves (ed.): *Unity and Diversity in Development Ideas. Perspectives from the UN Regional Commissions*. Bloomington and Indianapolis, Indiana University Press, pg. 5 – 6

problems of the regions grew and matured. This intergovernmental framework became an instrument of unity.'[20]

For the UNECA, regional integration was important for two reasons. First, the constituent states were overwhelmingly small. Creating regional organisations 'would enlarge the scope of the market and thus enable more and more viable industries to be established' by creating economies of scale. Second, it would lead to greater efficiency as there would be more opportunity for specialisation.[21] The organisation published an annual Economic Survey of Africa, and its first one in 1959, which covered the entire previous decade, estimated intra-African trade to be at merely at 10% of African trade, and trade with the rest of the world to constitute 90%.[22] Although European and Latin American integration were kept in mind as reference points, there was a recognition that economic integration amongst African states would nevertheless have its own unique character.

> 'In Western Europe the problem of integration is, by and large, one of dovetailing national structures that are already well developed into an efficient mosaic. […] But African economies are in many instances so underdeveloped, that there is little to integrate, and the economic planner has to give as much attention to creating the structures themselves as to uniting them at the sub-regional level into consistent wholes' Probably, a term more expressive of this situation than "economic integration" would be "integrated economic development."'[23]

Thus, African development was intrinsically tied with economic integration, and the two became synonymous. Regional integration would foster economic development, and economic development had to be carried out in an integrated manner. This overarching development plan and belief in it has been unwavering and has remained surprisingly consistent to this day. The recently exited Executive Secretary of the UNECA, Dr Carlos Lopes,

[20] Berthelot, Yves (2004), pg. 19
[21] UNECA (1965) *Statement by the Executive Secretary of the Economic Commission for Africa on Economic Integration*. New York, NY: UNECOSOC, E/CN.14/L.273, pp. 1; UNECA (1968a) *A Survey of Economic Conditions in Africa, 1967*. New York, NY: UNECOSOC. E/CN.14/409, pp. xxviii. Intra-African trade has hardly increased since that period.
[22] UNECA (1959): *Economic Survey of Africa Since 1950*. Addis Ababa: UNECA, pg. 152
[23] UNECA (1965), pg. 2

reiterated this view in May 2016: 'Boosting intra-African trade is therefore critical to ensuring structural transformation, productive jobs and inclusive growth for Africa.'[24] The UNECA also devised the notion of dividing the continent into four economic sub-regions, North, West, Central, and a combined Southern and Eastern region, to facilitate a more manageable process of integration.[25] This set the foundations for the pyramid system existing today, whereby the AU forms the apex and the RECs its subsidiary building blocks. The UNECA was therefore instrumental in setting up what has now become the overarching framework for regional and sub-regional integration and also the unquestioned framing for the African development agenda at the international level.

Importantly for the UNECA, the process of integrated development would require formal organisations, and plenty of them. Accordingly, 'the principle of economic cooperation must be translated into inter-governmental institutions in which the Governments can initiate collective policies and projects, and generally build up stable relations in the economic field.'[26] In 1965 it looked encouragingly at efforts by Francophone states to establish UDEAC and hoped that 'other sub-regions will shortly set up arrangements along similar lines.'[27] However, where this did not happen, the UNECA gladly offered a hand of help, or in some instances, simply took over the construction process. This was the case in West Africa (which eventually formed the ECOWAS), Northern Africa (Arab Maghreb Union), Central Africa (which has ECCAS) and South-Eastern Africa (PTA/COMESA).

[24] Lopes, Carlos (2016): *We Cannot Afford to Fail on the Continental Free Trade Area*: http://www.uneca.org/es-blog/we-cannot-afford-fail-continental-free-trade-area (accessed 15th February 2017)
[25] UNECA (1968b): *Economic Cooperation in Africa*. New York: UNECOSOC. E/CN.14/UNCTAD II/4, pg. 4
[26] UNECA (1968b), pg. 5
[27] UNECA (1965), pg. 7

From 1965-1966 the UNECA organised a series of meetings between states in the four sub-regions of Africa in order to nudge the governments into launching regional integration organisations. In West Africa, fourteen member states came together first in Niamey, then Accra, Dakar, and finally Monrovia to consider draft *Articles of Association* prepared by the UNECA[28] and finalise the institutional design of an economic integration organisation. The intended member states set up an Interim Council of Ministers that would draft a treaty and Accra would be host to the provisional secretariat. This attempt at creating a West African community eventually failed because of Francophone misgivings about loosening their ties with France and, more critically, the eruption of political crisis in Nigeria in 1969, which distracted the region's biggest power for many years.[29] Nevertheless, the eventual ECOWAS treaty of 1975 was strongly influenced by the UNECA's draft articles. For one, the UNECA was consistently involved in drafting the final ECOWAS treaty of 1975, by providing 'advice and assistance' and being present at ministerial meetings.[30] According to the former leader of Nigeria, and co-founder of the ECOWAS, General Yakubu Gowon, the 'Articles of Association were, in many respects, very similar to those later adopted by ECOWAS.'[31] President Senghor of Senegal praised the UNECA in its efforts with ECOWAS, in particular 'for taking the initiative of helping to translate into facts what, in 1963, was only an idea.'[32]

The Preferential Trade Area (PTA), which brought together Eastern and Southern African States, and later became COMESA, was even more directly the child of the UNECA.[33] Similarly

[28] UNECA (1967a): *Draft Articles of Association for a Possible Economic Community of West Africa. Comments received from Governments*. New York: UNECOSOC, E/CN.14/WA/ECOP/6
[29] Gowon, Yakubu (1984) *The Economic Community of West African States: A Study in Political and Economic Integration*. Unpublished PhD thesis: Warwick University, pg. 135-176
[30] Gowon, Yakubu (1984), pg. 292
[31] Gowon, Yakubu (1984), pg. 119
[32] Gowon, Yakubu (1984), pg. 122
[33] Mwase, Ngila (1994): Economic integration for development in Eastern and Southern Africa: Assessment and Prospects. In: *IDS Bulletin*, 25 (3): 35

to the ECOWAS experience, 1965 saw the launch of a series of meetings between states of the Eastern and Southern sub-region as defined by the UNECA. States decided to establish an Economic Community of Eastern and Southern African States and set up an Interim Council of Ministers to create the treaty.[34] As with the ECOWAS, these efforts fizzled out. Rather than rely on member states to begin their own initiative, which seemed not forthcoming, the UNECA took matters into its own hands. The UNECA campaigned in 1971 to get member states to create an organisation. In June 1978, it succeeded in hosting the First Extraordinary Conference of Ministers of Trade, Finance and Planning of the Eastern and Southern African States in Lusaka, Zambia. The states established an Intergovernmental Negotiating Team which negotiated the articles of the draft treaty. Eventually, the PTA was signed into being in 1981 and became operational in 1984.[35]

What is surprising from a traditional state-centric view of this process is the prominent role that the UNECA had in running the PTA. Notably, by 1978, leadership at the UNECA had been taken up by Professor Adebayo Adedeji. His previous post had been as Commissioner of Economic Development (of the Ministry of Economic Development) in the Nigerian government under Yakubu Gowon, and he had been instrumental in formulating and negotiating the treaty of the ECOWAS.[36] Adebayo Adedeji, along with Yakubu Gowon, and President of Togo Gnassingbe Eyadema, is considered one of the three founding fathers of the ECOWAS. As head of the UNECA, Adedeji simply replicated that role, positioning the UNECA as the interim secretariat for the PTA during the intergovernmental negotiations and the REC's early years before becoming fully operational. Adedeji was even given the privilege

[34] PTA (1987): *The Objectives of the Preferential Trade Area for Eastern and Southern African States (PTA)*. Lusaka: PTA, PTA/SEM/1/11, pg. 1
[35] PTA (1987), pg. 1-2
[36] Gowon, Yakubu (1984), pg. 209, 299

of making an opening address at the inaugural meetings.[37] All the draft documents for the treaties, protocols, and rules of procedure used for negotiation among the member states were drafted by the UNECA. Even the PTA's first draft budget was drawn up by the UNECA.[38]

Importantly, the UNECA consciously pursued its involvement in the creation of the PTA and it deflected any attempts to usurp its fledgling organisation. Adedeji had been invited initially to assist in the creation of the Southern African Development Coordination Conference (SADCC), which was established in 1980. However, he declined. He viewed the PTA as of greater importance and saw the emergence of SADCC as a threat to the viability of the PTA.[39] The reason for this is that the PTA and SADCC had overlapping membership (all of the member states of the latter were also in the former) and very similar mandates.[40] Presumably, there was a real threat, in the eyes of Adedeji, that the success of SADCC would sap momentum from the PTA, an organisation in which he and the UNECA had invested much resources and energy. Adedeji's rebuff of SADCC spilled over into the inter-organisational relationship between it and the PTA. Many years would be spent debating the possibility of a merger between the two organisations and vacillating between outright hostility and cooperation.[41]

While these were the most prominent examples of the UNECA's involvement in the launching of regional organisations on the continent, it also tried to initiate a PTA for Northern Africa in 1988. Again, this prompted the setting up of an Intergovernmental Negotiating Team and

[37] UNECA (1982a): *Report of the First Meeting of the Council of Ministers of the PTA for Eastern and Southern Africa 22-25 June 1982*. Addis Ababa: UNECA, ECA/MULPOC/Lusaka/PTA/CM/1/2
[38] UNECA (1982b): *Draft Budget of the Secretariat of the Preferential Trade Area for Eastern and Southern African States for the Period January-December 1983*. New York: ECOSOC, ECA/MULPOC/LUSAKA/PTA/CM.1/1
[39] Mandaza, Ibbo/Tostensen, Arne (1994): *Southern Africa: In Search of a Common Future. From the Conference to a Community*. Gaborone: SADC, pg. 18 – 19
[40] Mwase, Ngila (1994), pg. 31 - 39
[41] Mwase, Ngila (1994), pg. 36; Mandaza, Ibbo/Tostensen, Arne (1994), pg. 96 – 97

drafts of documents prepared by the UNECA.[42] This too led to nothing, although a year later, due to the nudge by the UNECA, the Arab Maghreb Union came into being. Similar attempts were also made for ECCAS, which saw significant UNECA involvement. Beside the RECs, the UNECA also created the African Development Bank (ADB), and most importantly, was symbolically the birthplace of the Organization of African Unity (OAU). In 1963, the heads of independent African states met to bring to life the OAU, an event that was met with much optimism across the continent. Their meeting was hosted at the UNECA. In a sense, the UNECA was the womb in which the idea of the OAU was conceived.

4.4 Factors empowering the UNECA in regional decision-making

In this section, I identify factors that determine the prominent role and power of the UNECA in African regional integration. Noting that experts can have an influence on the international relations of states is useful but still not as fundamental as understanding why. States are undoubtedly the most powerful actors and ultimately the final arbiters in decision-making because of their unique possession of sovereignty. Experts at the UNECA only gain decisive influence when it is delegated to them. Primarily, this is the case when a) day-to-day policymaking concerns economic issues; b) when African states are facing economic difficulties that they do not have the expertise to resolve, c) when African governments are dealing with an issue of such low salience that the UNECA can form a convenient and familiar actor to pass the buck to; d) when the international community has a low level of interest in

[42] UNECA (1988): *Report of the Meeting of the Council of Plenipotentiaries of the North African Mulpoc - Progress Report on the Establishment of the Preferential Trade Area of North African Countries*. New York: UNECOSOC, E/ECA/CM.14/26; for some detail on historical involvement in North Africa see also UNECA (1966): *Economic Co-operation in North Africa*. New York: UNECOSOC, E/CN.14/CA/ECOP/2

African economic development; e) when leadership of the UNECA pushes for a more prominent role of the organisation.

4.4.1 Technocratic and resource advantage

For the UNECA, its power is augmented when it has a comparative technocratic advantage. Its long-standing relationship with the OAU/AU and RECs serves as an important example. In this regard, the UNECA's power is partly enabled by the chronic and persistent hardship of the regional organisations. Its budget in 1986-1987 was 48 million,[43] nearly double that of the OAU at the time. The OAU suffered frequently from shortages in technical experts for important tasks in economic planning at the regional level. While the OAU had economic decision-making bodies such as the Economic and Social Commission, which were poorly staffed, it is noteworthy that it also had no economic policy unit until 1994.[44]

The UNECA responded to this vacuum in economic expertise by setting up an 'impressive institutional landscape consisting of almost forty institutions' in key economic sectors.[45] Among them was IDEP, an institution that immediately proceeded to train national staff of African economic ministries.[46] Unsurprisingly, then, the OAU/AU has involved the UNECA in all economic policymaking efforts, including the formulation of international strategies and

[43] Naldi, Gino J. (1989): *The Organization of African Unity: An Analysis of Its Role*. London and New York, NY: Mansell, pg. 162

[44] Green, Reginal Herbold (1999): *Pan African Renaissance? Security and Economic Initiatives in SSA Sub-Regional Integration.* Paper presented at the Africa at 40 International Conference on Independent Africa, Westminster Central Hall, London, pg. 9; there is, in fact, a division of labour between the UNECA and OAU, which harkens back to the days of decolonisation. While the UNECA was initially involved in the decolonisation movement, the OAU took over this political task when it was created. Since then, the UNECA has remained responsible for significant aspects of economic policymaking at the regional level. See, for example, Adedeji, Adebayo (2004), pg. 244

[45] Adedeji, Adebayo (2004), pg. 249 – 250; see also UNECA (1971a): *Progress Report on Economic Co-operation in the Sub-Regions*. New York: UNECOSOC, E/CN.14/ECO/28

[46] Berthelot, Yves (2004), pg. 34

positions, the training of national bureaucrats for economic issues,[47] and consistent research that member states could not engage in because they lacked the expertise and the capacity. This falls in line with the UNECA's mandate. However, it also indicates that its power has been and continues to be much more latent, pervasive, and consistent than overt and sporadic.

The UNECA has shaped economic policymaking not just at the continental level, but in fact also has access to national fora. For example, by 1968 the UNECA had trained 1600 national economic staff, including statisticians, economists, and technical agents.[48] However, this influence does not usually extend to the political realm unless it in some way ties into development. While the UNECA, for example, can provide guidance on economic issues related to gender, its influence in the area of security is virtually non-existent. This area has been much more member-state driven, and African states have dealt more with the UN Security Council and relevant NGOs in this policy area than with the UNECA.[49]

4.4.2 Economic crises

The UNECA's power can become particularly relevant during economic crises. It is no coincidence that the UNECA's height of power was during the 1970s and 1980s. This is when African states, and their declining economies, most relied on its expertise. It was also a period of significant setbacks that have left the UNECA's regional integration agenda somewhat hobbled in more recent years.

[47] Adedeji, Adebayo (2004), pg. 248
[48] Asante, S.K.B. (1991): *African Development: Adebayo Adedeji's Alternative Strategies*. London: Hans Zell Publisher, pg. 25 – 26
[49] Adedeji, Adebayo (2004), pg. 297; Green, Reginal Herbold (1999), pg. 15

Crises present more visible attempts for the UNECA to exert its influence as it then has to struggle to maintain its grip on the economic narrative. Although overt attempts to assert its influence have largely led to minimal results, it is evidence of the taken-for-grantedness of the UNECA in more stable times, and also evidence that its role is far from merely passive. During the crisis years of the 1980s and 1990s, the UNECA struggled for dominance over the ideological and political narrative in order to push its agenda for African development. This struggle primarily manifested itself in the duel with the World Bank and IMF.[50] While the Bretton Woods institutions promoted a fiscal fix to Africa's economic woes of the 1970s-80s based upon structural adjustment (SAPs) of national economies, the UNECA believed in a long-term structural transformation with more fundamental and wide-ranging reforms, such as industrialisation, bottom-up participatory processes, and a more inward-looking African market.[51] While African states were broadly in favour of the UNECA's view, they followed the World Bank's SAP line as, unlike the UNECA, the Bretton Woods institutions were offering short-term financial relief. Adedeji himself remarks with an unsurprising critical slant: 'More often than not, ill-digested or irrelevant ideas become beacons for policy and action because they are backed by resources, usually foreign.'[52] In this instance, it was not necessarily technocratic knowledge that won out, but sheer economic power.

4.4.3 Marginalisation of Africa

The above raises another important factor in determining the UNECA's power – the marginalisation of Africa in the international economy. In the face of an international

[50] Berthelot, Yves (2004), pg. 41
[51] These reforms were primarily contained in the AAF-SAP.
[52] Adedeji, Adebayo (2004), pg. 246

community focused on Africa under hegemonic leadership of the USA and a dominant neoliberal agenda of the Washington Consensus, the UNECA has far less scope for influence. In one sense this suggests that the less important Africa is to the interests of powerful actors, the more the international community is willing to delegate the shepherding of African economic policymaking to the UNECA.

4.4.4 Low prioritisation of regional integration by member states

The UNECA gains power when African states simply are not committed to dealing with an issue themselves. This has happened in the past in particular with regard to the continental treaties, where member states have often delegated the drafting of the treaties to the UNECA and the OAU/AU. African governments' commitment to regional integration is historically low. This is evidenced in their inability and unwillingness to pay their membership fees of the various organisations.[53] The OAU has persistently hit critical shortfalls in its budget, prompting leaders to raise this issue over and over again at summits with little progress until very recently.[54] Member states' limited ownership of regional integration, and their unwillingness to devote resources to it, means that the OAU/AU bureaucracy has had to rely on expertise provided by the UNECA, ADB, and other consultants.

[53] Asante, S.K.B. (1997): *Regionalism and Africa's Development. Expectations, Reality and Challenges*. Basingstoke: Macmillan Press, pg. 73

[54] As of January 2017, member states will be implementing a 0.2% levy on imports from outside of Africa to fund the African Union.

4.4.5 Leadership of the UNECA

Finally, it is important to highlight the factors that reflect the UNECA's agency rather than its circumstances. It is worth remembering that the UNECA's raison d'etre is to assist African states in their efforts to develop economically. It was created by the international community precisely to serve the economic interests of African states. This means it has an interest in remaining relevant to and influential with African governments, if just for survival's sake. The UNECA's role is therefore not merely out of benevolence or altruism. When its leadership takes this mandate seriously, its influence over policymaking increases.

This leads to a closer examination of the singular leadership of its then Executive Secretary, Professor Adebayo Adedeji. Adedeji had 'a strong sense of mission about making the ECA a more central force in the African development process.'[55] A committed *dependienca* theorist and Pan-Africanist with his own particular economic ideology, Adedeji re-energised a stagnant UNECA when he joined in 1975.[56] He had extensive experience in government administration and policymaking, and the backing of one of Africa's most powerful nations, Nigeria. Former Nigerian President, Yakubu Gowon, described Adedeji as someone with 'zeal and dynamism and a wealth of new ideas' when he created the ECOWAS.[57] He was used to dealing with leaders, comfortable with speaking to them at their summits where, as Executive Secretary and host, he had the extraordinary privilege of addressing them when others could not. He had access to governments at regular intervals and could push for his agenda by addressing leaders as a group during summits or interacting with them individually. In regional integration issues, Adedeji cut a 'dominant' figure.[58]

[55] Asante, S.K.B. (1991), pg. 30
[56] Asante, S.K.B. (1991), pg. 27 – 29
[57] Gowon, Yakubu (1984), *pg*. 209
[58] Green, Reginal Herbold (1999), pg. 14

Furthermore, Adedeji and the UNECA straddled a significantly independent position between the global UN system on the one hand, and the regional African international system on the other hand.[59] The UNECA was staffed by Africans and served the interests of African states – it therefore had no innate loyalty to any external powers.[60] On the other hand, it had access to a sizable pool of resources provided by the international community, meaning it was not dependent on the African states that it served for funding.

Undoubtedly, Adedeji used this independence to further his agenda and the standing of the UNECA.[61] This was not always to the benefit of his own reputation, as evidence points to him aggravating as much as he inspired. To some, he was a man with vision and an overwhelming dedication to African economic development and regional integration. To others, he was a man who held grudges against those who appeared to oppose his approaches and eventually exhausted whatever goodwill was left among the African heads of state and government.[62] Nevertheless, his leadership created a prominent role for the UNECA in providing a critical voice in intra-African economic affairs and against dominant ideas emanating from the broader international community.[63]

[59] Green, Reginald Herbold (1999), pg. 10
[60] In fact, Adedeji describes how the ECA, as the only UN regional commission to exclude all the OECD countries, has a rather hostile relationship with Western countries. See Adedeji, Adebayo (2004), pg. 242
[61] Asante, S.K.B. (1991), pg. 7
[62] Interview, Participant 16, 26th March 2016; Interview, Participant 17, 18th April 2016. Informal discussions with staff at the AU and UNECA brought contradictory accounts, with Adedeji sometimes viewed as an idealist that could rub state leaders the wrong way and other times as a visionary.
[63] Green Reginald Herbold (1999), pg. 16 argues that the UNECA 'disintegrated' following the resignation of Adedeji and the loss of his leadership.

4.5 Modes of Collaboration Between UNECA and OAU/AU

One organisation that the UNECA did not create was the OAU/AU. Nevertheless, the OAU/AU has been its most important partner. This relationship is by no means simple or without its frictions. As one observer noted, 'From its foundation, the OAU's activities in the sphere of economic cooperation have been complicated by the existence of a second organization – the Economic Commission for Africa – whose stated goals and organizational mandate are almost identical to those that the OAU set for its own specialized body in this field, the Economic and Social Commission.'[64]

The OAU's early life was significantly dedicated to carving out its own authority and competence in the area of economic policymaking. Only in 1969, when the UNECA accepted the 'political pre-eminence' of the OAU, was a compromise reached – the relationship has remained uneasy but also vital for the survival of both.[65] Due to the significant overlap in activities and mandates, the OAU and UNECA have found it necessary to formalise their relationship and clearly demarcate their tasks through agreements and memoranda of understanding. Nevertheless, the OAU's close working with the UNECA is wide-ranging and all-encompassing, with no clear hierarchy of authority. The mechanism through which the two organisations have cooperated are various, but there are three main ones: a Joint Secretariat, provision of ad hoc technical expertise, and collaboration to draw up common strategies and negotiating positions.

[64] Ravenhill, John (1984): The OAU and Economic Cooperation: Irresolute Resolutions. In: El-Ayouty, Yassin/Zartman I. William (eds.): *The OAU After Twenty Years*. New York, NY: Praeger Publishers, pg. 176
[65] Ravenhill, John (1984), pg. 177

4.5.1 AU-ECA-ADB Joint Secretariat

The OAU and UNECA have collaborated frequently as part of bilateral and trilateral secretariat projects. In 1965, the UN and OAU first signed an agreement that set the framework for their mutual cooperation in economic matters. Accordingly, the two were to 'consult one another on all matters of common interest' and 'when circumstances so require, consultation shall be arranged between the Administrative Secretariat-General of the OAU and the Executive Secretariat of ECA' within the specified limits of their mandates.[66] The agreement also provided for reciprocal representation, such that each would send representatives to attend the other's meeting as observers. Shared statistical services and information sharing were to become important ways of avoiding duplication of effort and, interestingly, 'to reduce to a minimum the tasks incumbent upon African Governments'. The two organisations were also to prepare working papers for each other's meetings. Under this agreement, the UNECA could also assist the OAU in finding staff or experts that the latter needed or even second some of its own.[67]

In 1969, the OAU, UNECA, and ADB agreed to set up a tripartite mechanism to coordinate their activities and harmonise their views when participating in external international fora. In the early years, they worked together to create the 1973 African Declaration on Co-operation, Development and Economic Independence.[68] Later, the tripartite approach was institutionalised into an OAU/ADB/ECA Joint Secretariat. Starting in 1990, the chief executives of the three organisations agreed to meet twice a year to consult each other on regional

[66] UN (1965): *Agreement Between the United Nations and the Organization of African Unity on Co-operation between the Latter and the United Nations Economic Commission for Africa, 1965*. New York, NY: UN, Article 1, as reproduced in Andemicael, Berhanykun (1976), Annex III, pg. 301
[67] UN (1965), Article 6, as reproduced in Andemicael, Berhanykun (1976), Annex III, pg. 303; see also Wolfers, Michael (1976): *Politics in the Organization of African Unity*. London: Methuen & Co Ltd, pg. 98 – 100
[68] Wolfers, Michael (1976), pg. 102

development issues and activities and also to prepare protocols. In particular, the Joint Secretariat functioned as a monitoring mechanism for the implementation of the AEC treaty until it was formally absorbed into the AU. For most of the years, no formal structure was established and instead focal points in each of the secretariats and a Steering Committee realised the operationalisation of the Joint Secretariat.[69] In 2011, however, the organisations strengthened this cooperation mechanism by creating a Joint Secretariat Support Office (JSSO) based at the UNECA, which now coordinates their activities.

4.5.2 Providing technical expertise

The UNECA provided technical expertise to the OAU and member states. As one observer noted, in the early years, the mode of operation for the specialised commissions of the OAU was 'to digest the research studies by the UNECA and other agencies within the United Nations family rather than to undertake original research on African economic and social problems.'[70] Besides this, the UNECA openly offered its working papers and other documents to the OAU, making them available at meetings and at request. At times, the UNECA has even been responsible for training the OAU staff and, if necessary, providing experts via secondment to the OAU.[71]

However, the relationship has since moved significantly from spoon feeding to true collaboration and assistance. In 1990 the UNECA set up a multidisciplinary regional advisory group (MRAG), which would provide consulting services to member states of the UNECA, which are effectively the same as those of the OAU, and their regional intergovernmental

[69] See UNECA (1992): *Co-operation between ECA and OAU in connection with the establishment of the African Economic Community.* Addis Ababa: UNECA, UN/OAU/ECO/92
[70] Wolfers, Michael (1976), pg. 101
[71] Andemicael, Berhanykun (1976), pg. 236 – 238

organisations. Such services were provided at no cost. In its initial year, MRAG engaged in 24 missions, including those commissioned by regional organisations such as the ECOWAS and ECCAS. Activities included provided assistance in the formulation of training courses and improving systems for national monitoring of development projects.[72] In more recent years, the organisation provides technical advisory services primarily through its sub-regional offices, which exist in five sub-regions that correspond to the major RECs.[73] Additionally, the UNECA has specialised in producing statistical data and research reports about the continent and its member states in order to aid development projects as well as capacity building.

Most recently, the AU agreed to establish a new funding mechanism to lower dependence on external donors. Responsibility for researching the various options was delegated to staff at the UNECA, who then devised the models and alternative future scenarios.[74]

4.5.3 Formulating common strategies and positions for global negotiations

Helping member states to represent their positions in global international fora is a long-standing part of the UNECA's remit. It therefore has had a strong role in determining the interpretation of the challenges member states face as well as presenting solutions to the international community. Thus, when member states required a new overarching approach to deal with the economic crises besetting them in the 1970s to 1980s, the UNECA developed the Monrovia Strategy (1979) and the Lagos Plan of Action (1980) in conjunction with the

[72] UNECOSOC (1992): *Progress Report on the New Orientation of ECA Advisory Services During the 1990s*. New York: UNECOSOC, E/ECA/CM.18/19

[73] From 1979 these were called the Multinational Programming and Operational Centres (MULPOCs). Then they were renamed as Sub-Regional Development Centres in 1997. They have been the ECA Offices since 2002.

[74] Interview, Participant 22, 21st July 2016

OAU Secretariat. As will be argued in this thesis, it was in large part the UNECA's impetus that led to the realisation of the African Economic Community treaty in 1991.

UNECA was particularly involved in drawing up common positions for international conferences and negotiations for which African states wished to cooperate. In the late-1960s to the early-1970s, the UNECA worked jointly with the OAU to assist African states in harmonising their views and form common positions on the major trade negotiations such as UNCTAD II, the GATT, and trade relations with the EEC. The two secretariats hosted a long series of meetings that brought together the member states to formulate their stances.[75]

During the 1980s, the UNECA worked with the OAU to develop Africa's Priority Programme for Economic Recovery, 1986-1990 (APPER), a commitment by African states to take responsibility for their social and economic development and take concrete steps to reverse their declining economies. APPER was submitted to a special session of the United Nations General Assembly. The UN adopted a programme of its own, the United Nations Programme of Action for Africa's Economic Recovery (UNPAAERD), a commitment by the international community to support African states in achieving economic and social development. The UNECA, tasked with monitoring the implementation of APPER and UNPAAERD, set up a conference in conjunction with the Government of Nigeria titled 'Africa: The Challenge of Economic Recovery and Accelerated Development'. After 200 participants considered 74

[75] UNECA (1967c): *Preparatory Meeting for UNCTAD II, Algiers, 7-15 October 1967. Report*. New York: UNECOSOC, E/CN.14/UNCTAD II/PM/2/Rev.2; UNECA (1970b): *Report of the Fifth ECA/OAU Joint Meeting on Trade and Development, Geneva, 13-24 August 1970.* New York: UNECOSOC, E/CN.14/490, E/CN.14/WP.1/31, OAU/TRAD/30; UNECA (1971b): *Report of the Sixth ECA/OAU Joint Meeting on Trade and Development, Geneva, 12-23 August 1971*. New York: UNECOSOC, E/CN.14/535, E/CN.14/WP.1/45/Rev.1, OAU/TRAD/44/Rev.1; UNECA (1973b): *Report of the Eighth ECA/OAU Joint Meeting on Trade and Development, Geneva, 9-17 August 1973.* New York: UNECOSOC, E/CN.14/601, E/CN.14/WP.1/67, OAU/TRAD/58

papers that were submitted to the conference, delegates formulated a common stance in the Abuja Statement, which synthesised the findings and recommendations of the conference.[76]

Similarly, the UNECA worked with the OAU to formulate common positions in preparation for the World Summit for Social Development in 1995 and formulate a common position on the African Environment and Development Agenda (AEDA) in 1991. In more recent years, the UNECA provided technical support for the formulation of the Common African Position (CAP) on the Post-2015 Development Agenda.[77] Its influence is, therefore, widespread in the international relations of African states vis-à-vis the rest of the world.

Overall, this section has shown the main modes of collaboration of the UNECA and the OAU. The following section concludes this chapter.

4.6 Conclusion

This chapter has traced the influence that experts, especially those at the UNECA, have on regional integration in Africa more broadly. First, the chapter summarised a useful framework for understanding regional integration in Africa as composed of three group actors with varying levels of commitment: member states (intergovernmental), bureaucrats (supranational), and external experts (outsiders). It then argued that the UNECA, an outsider,

[76] UNECA (1986): *Preliminary Review and Assessment of the Special Session of the United Nations General Assembly on the Critical Economic Situation in Africa. Report by the ECA Executive Secretary.* New York: UNECOSOC, E/ECA/ECM.2/2; UNECA (1987a): *The International Conference on Africa: The Challenge of Economic Recovery and Accelerated Development. The Abuja Statement.* Addis Ababa: UNECA, ECA/CERAD/87/75; UNECA (1987b): *Progress in the Implementation of the United Nations Programme of Action for African Economic Recovery and Development and Africa's Priority Programme for Economic Recovery and Development, 1986-1990.* New York: UNECOSOC, E/ECA/CM.13/5

[77] UNECA (1995): *The African Common Position on Human and Social Development and the Outcomes of the World Summit for Social Development: Implementation, Follow-up and Monitoring.* New York: UNECOSOC, E/ECA/PHSD/MFC/95/7/WP.1; UNECA (1991f): *African Common Position on Environment and Development.* Addis Ababa: UNECA, ECA/Env.UNCED/AFRICOM/1; AU (2014): *Common African Position (CAP) on the Post-2015 Development Agenda.* Addis Ababa: AU

was responsible for catalysing the creation of regional intergovernmental organisations in Africa to foster economic integration of the member states. Finally, the chapter summarised the conditions that have led the UNECA to have such significant influence in African regional integration and the modes through which it exercises such influence.

Importantly, the UNECA maintains an active interest in pushing for its continued relevance in regional policymaking. The UNECA's independent power, though to some extent ensured because of member states' low prioritisation of regional integration and own lack of resources, still needs to be justified at times when alternative sources of expertise present themselves. This is particularly evident during times of economic crises when other actors such as the World Bank, which come endowed with billions in lending capacity, bring their own competing development strategies.

Particularly since the departure of Adebayo Adedeji in the 1990s, and the establishment of an economic secretariat at the UN headquarters in New York,[78] the UNECA has retreated into a more technocratic role that harnesses its identity as a think tank. The initial changes were implemented by K.Y. Amoako, Executive Secretary of the UNECA from 1995 – 2005. Previously a long-time World Bank employee that had risen high in the ranks there, Amoako represented a more technocratic approach to development. He interpreted the UNECA as having become institutionally incoherent and irrational, insular and unwilling to work with global organisations such as the World Bank, and involved in too many disparate projects. As a result, Amoako restructured the entire work programme and institutions of the UNECA. Primarily, his aim was to bring rigorous economic analysis to the forefront of UNECA's work and emphasise their comparative advantage in producing knowledge directly relevant to

[78] Adedeji, Adebayo (2004), pg. 293

African member states. Everything was reduced to five main programme directions, which were then complemented by two cross-cutting themes, gender and capacity building that were to be mainstreamed through all work.[79] Further streamlining of the UNECA's work and institutions in the 2000s, the latest being in 2013, were geared towards making it the 'think tank of reference' for all of Africa and to reduce duplication of effort with other international organisations.[80]

Work at the UNECA now consists primarily of producing analyses and statistical data for member states and regional organisations to use. In line with this, it has launched the Assessing Regional Integration in Africa (ARIA) series in which it measures the eight official RECs on the continent according to standardised benchmarks. For highly technical tasks, the AU still hires the UNECA. For example, the latter was tasked with formulating various options for the funding of the AU, one of which was then implemented in 2017 as the new AU levy.[81]

For these reasons, its power has become far less visibly political, if not actually waned. The transition from the OAU into the AU was a high-stakes process driven by three of the most powerful member states, Libya, Nigeria, and South Africa, and expert input was much more circumscribed. At the start of 2017, the AU member states decided to rationalise the institutions of the continental organisation. Rather than turning to the UNECA, they delegated the task to Rwandan President Paul Kagame, who assembled a diverse team of Rwandan and other African expertise. While the UNECA was represented in this team by its erstwhile

[79] UNECA (1996): *Serving Africa Better: Strategic Directions for the Economic Commission for Africa*. Addis Ababa: UNECA, E/ECA/CM.22/2

[80] UNECA (2013): *Putting Africa First: A Summary of the ECA Reform to Support Transformative Development in a Renascent Africa*. Addis Ababa: UNECA; see also UNECA (2006): *Repositioning ECA: Harnessing Regional Resources to meet Africa's Development Priorities*. Addis Ababa: UNECA

[81] Interview, Participant 22, 28th July 2016; see the background paper for information on the new financing mechanism, African Union (2016): *Background Paper on Implementing the Kigali Decision on Financing the Union*. Addis Ababa: African Union

Executive Secretary, Carlos Lopes, it was a small part of an overwhelmingly Rwandan initiative.[82] This by no means resembles the AEC or LPA processes, in which the UNECA was able to also impact the political agenda.

These recent events suggest a potential growing commitment of African leaders to the regional agenda. Should this come to fruition and member states finally address regional integration as a policy priority, it may be that experts located in the UNECA and elsewhere lose their relevance and thus their extensive discretion in regional decision-making. As one UNECA staff put it, these days, 'We need AU Commission more than they need us.'[83]

The next chapter explains the creation of the Pan-African Parliament through the 1991 African Economic Community (AEC) by revealing the powerful influence of experts, in particular the UNECA.

[82] African Union (2017): *Decision on the Outcome of the Retreat of the Assembly of the African Union on the Institutional Reform of the African Union*. Addis Ababa: African Union, Assembly/AU/Dec.635(XXVIII)
[83] Interview, Participant 22, 28th July 2016

5 The Pan-African Parliament

In this chapter, I use my theoretical argument to explain why the African Union (via the African Economic Community, AEC) has a regional parliament. I show that the Pan-African Parliament (PAP) was the result of democratisation via experts, who were delegated the task of designing the AEC treaty because member states had weak preferences about the organisation.

Conceived of as a means to involve the people in decision-making at the continental level, the PAP nonetheless has begun life with only consultative powers, which are then to evolve into full legislative powers at some unspecified time in the future. It also draws its membership from national parliaments: members of the PAP are elected to the continental institution by their colleagues in national parliaments, not by the citizens that they represent. However, the protocol establishing the PAP states that it is to enjoy election by universal suffrage eventually.

The PAP's current state is unfortunate: it is stuck in an unenviable political space in which it is in principle about to be granted the powers to make 'model laws' but with full legislative powers still evidently many years away.[1] Why did member states of the AU agree to create the PAP in the first place when they seemingly were not in a position to make it fully functional?

Existing theories might point to the PAP as the result of the diffusion of international normative standards of regional integration, particularly as set by the EU. They may assert that it was a rational design choice based on the preferences of the member states to increase efficiency or signal to gain reputational or material benefits. Alternatively, some theories

[1] The 2014 protocol granting it these new powers requires a simple majority to pass, but still only has 13 out of 54 signatures and 5 ratifications.

suggest that the PAP was a means for member states to transpose their liberal democratic values to the regional level.

I argue instead that the PAP is the result of democratisation via experts. Member states themselves had only weak preferences about the integration process because integration at the continental level was a low priority. Therefore, when it therefore came to drafting a treaty for a new era of economic integration, member states offered no guidelines about what it should look like.

Instead, they delegated the treaty drafting and the design of the regional organisation to experts in order to avoid costs. These experts carried out analyses of the problems in a purposeful manner and concluded that the policymaking process of the AEC needed to be driven by the citizens, from whom regional integration was entirely divorced. This was according to their belief in participatory development, which specified that economic development was dependent upon ownership by and participation of the people. It is these experts that pushed for the parliament, believing that it will aid the survival of the organisation by making its policymaking process better. Thus, the PAP came about because of the purposeful attempt by experts to solve a problem according to their democratic values. Furthermore, the current weakness of the parliaments represents a compromise with the realities of the continent and the member states that form them, who are unwilling to pay the cost of ceding sovereignty in the short term.

This chapter will first begin with a brief history of the Organisation of African Unity (OAU) and the AEC, which both preceded, and were merged to become, the AU. It will then show that member states revealed weak preferences about the design of the AEC treaty in which the PAP was first proposed because of their general disinterest in continental integration. The

section following that will elaborate upon the role of the experts and how they took advantage of states' weak preferences in order to promote the parliament. The final section will reveal how member states only accepted the PAP as long as it was weak and would not threaten the sovereignty of the member states.

5.1 History of the OAU/AEC/AU

What follows is a review of the history of continental integration. It provides necessary context for the decision-making behind the drafting of the treaties that came before the AU. The Pan-African Parliament as a concept and institutional feature of continental integration actually precedes the African Union. A superficial examination of its protocol reveals that its legal status is still rooted in the African Economic Community (AEC) treaty of 1991, also known as the Abuja treaty.[2] Before the AU charter, and with far less international academic attention, the AEC was considered a milestone decision that would provide a fast-track roadmap for African states to integrate into a full-fledged economic community. Moreover, it was to represent the economic wing of the Pan-African agenda. With hindsight, it became just one of several failed attempts in the history of continental integration to revitalise and catalyse the project in the face of sluggish efforts and meagre results. The AEC itself is rooted in the Lagos Plan of Action of 1980, the previous milestone agreement, which envisioned continental integration taking economic policies more seriously. Table 6 provides a brief summary of continental integration efforts.[3]

[2] The protocol of the Pan-African Parliament is titled 'Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament'. See also Khamis, Kassim Mohammed (2008): *Promoting the African Union*. Washington, DC: Lilian Barber Press, Inc, pg. 237

[3] For historical accounts and other reviews of continental integration in Africa, see Jeng, Abou (2012): *Peacebuilding in the African Union. Law, Philosophy and Practice.* Cambridge: Cambridge University Press, pp. 136 – 162; Yusuf, Abdulqawi A./Ouguergouz, Fatsah (2012): *The African Union: Legal and Institutional*

Table 6: Time Chart of Continental Integration

Date	Organisation/Event	Explanation
1963-2000	Organization of African Unity (OAU)	Created to further economic integration and politically liberate the continent. Eventually focuses solely on liberation struggles to the detriment of economic issues.
1980	Lagos Plan of Action	An informal instrument that provides African member states with a roadmap to economic development. Calls for an African Economic Community (AEC).
1980-1991	Drafting of AEC treaty	Protracted process is due to political infighting in the OAU over unrelated issues and member states being distracted by economic crises throughout the decade.
1991-2000	African Economic Community (AEC)	Created to further the economic agenda. Intended to exist side by side with OAU but fails to be implemented. Pan-African Parliament is first called for in this treaty.
1999-2000	Drafting of AU treaty	Very short process intended to involve experts and parliamentarians, but dominated by regional hegemons instead.
2000-Present	African Union	Created to replace OAU and absorb provisions of the AEC, including institutions like Pan-African Parliament, Court etc. Legally there is a debate about whether it is a separate organisation to AEC, but practically, it has completely absorbed AEC. There is no separate AEC structure or programme.
2004	Pan-African Parliament launched	Inaugural session of PAP held.
2004-Present	New Partnership for African Development & African Peer Review Mechanism	Programmes launched to help member states foster good governance. These are not relevant to this study and will therefore not be assessed going forward.

Framework. Leiden and Boston, MA: Martinus Nijhoff Publishers; Makinda, Samuel M./Okumu, F. Wafula/Mickler, David (2016): *The African Union. Addressing the Challenges of peace, security, and governance*. Abingdon and New York, NY: Routledge; Akokpari, John/Ndinga-Muvumba, Angela/Murithi, Tim (2008): *The African Union and its Institutions.* Auckland Park: Fanele; Hartmann, Christof (2016): Sub-Saharan Africa. In: Börzel, Tanja/Risse, Thomas (eds.): *The Oxford Handbook of Comparative Regionalism*. Oxford: Oxford University Press: 271 – 295; Taylor, Ian/Söderbaum, Fredrik (2017): Modes of regional governance in Africa. In: Engel, Ulf/Zinecker, Heidrun/Mattheis, Frank/Dietze, Antje/Plötze, Thomas (eds.): *The New Politics of Regionalism. Perspectives from Africa, Latina America and Asia-Pacific.* Abingdon and New York: Routledge, pp. 133 – 145; Bach, Daniel C. (2015): *Regionalism in Africa: Genealogies, institutions and trans-state networks*. Abingdon and New York: Routledge

The Organization of African Unity (OAU) was established in 1963 to the sound of many optimistic declarations from the leaders of African states. 'It is our duty and privilege to rouse the slumbering giant of Africa,' said Haile Selassie, the Emperor of Ethiopia. His colleague President Nyerere of Tanganyika (now Tanzania) declared that 'if when the nations of the world reassemble at the United Nations, they will approach the problems of the world in the same spirit of goodwill and cooperation as the nations of Africa assembled have approached their African problems here, the human race, like the African people, shall have taken an immense step towards universal brotherhood.' According to Kwame Nkrumah, President of Ghana, with the help of the OAU, leaders would now 'eliminate completely the handicaps, set-backs and humiliation we have suffered under colonialism and imperialism'.[4]

However, faced with a multiplicity of crippling challenges, mostly economic, the OAU proved to be a political one-trick pony. The organisation was established with a diverse agenda, ranging from the economic development of the member states through integration to the liberation of residual territories from European colonialism. Member states in the end opted to focus their attention entirely on liberation struggles, using the OAU to coordinate efforts; from the 1960s until the end of apartheid in South Africa in 1994, decolonisation absorbed most of the OAU's political will. The most likely reason was that it was a much more straightforward goal. 'Freedom' was an unambiguous rallying cry that easily fostered consensus. It also provided a highly visible shared enemy in the European powers and their settler communities in southern Africa. In comparison, African economic problems were more diffuse, linked to both unfavourable external conditions as well as poor national policy

[4] OAU (1963b) *Proceedings of the Summit Conference of Independent African States. Volume 1 Section 2*. Addis Ababa: OAU, CIAS/GEN/INF/3; CIAS/GEN/INF/34; CIAS/GEN/INF/39

decisions, including structural problems both within and without. Their solutions were far from obvious, and the means to achieve them created more division than consensus. Faced with a menu of challenges, member states of the OAU tackled the most politically uncontroversial one.

As became apparent later, this was to the detriment of the continental development agenda.[5] When economic shocks struck in the 1970s, the continent was ill prepared and poorly equipped to ameliorate them. Instead, African states experienced an economic turmoil so all-consuming that it would drown them in a multiplicity of woes from which they would not emerge for another two decades.[6] It began with oil shocks, which emanated from the OPEC countries and reverberated across the entire global economy. African states, already experiencing levels of growth far lower than what was needed to develop, and with national economies hugely dependent on the global economy while utterly lacking in domestic resilience, found their terms of trade diminishing, their economies declining, and their share of global trade shrinking. During the 1960s the annual growth of GDP per capita was 1.1 percent, while by 1982 it was -2.1 percent;[7] in the 1970s, Africa's share of global trade was merely 4.1 percent, but was declining by the 1980s despite an overall increase in volumes of trade.[8]

[5] OAU (1989b): *Introductory Note of H.E. Ide Oumarou, Secretary General of the OAU, to the Twenty-Fifth Ordinary Session of the Assembly of Heads of State and Government*. Addis Ababa: OAU, AHG/158 (XXV), pg. 31; OAU (1993a) *Address by General Ibrahim Badamasi Babangida at the 29th Assembly of Heads of State and Government of the Organisation of African Unity in Cairo, Egypt on 29 June 1993*, Addis Ababa: OAU; Shinkaye, Kayode (2005): Nigeria and the African Union: Roles and Expectations. In: Bola A. Akinterinwa (ed.) *Nigeria and the Development of the African Union*. Ibadan: Vantage Publishers, pg. 78

[6] The 1980s are known as 'the lost decade', while Jean Ping, former AU Commission President describes the 1990s as 'the decade of chaos' in his unpublished 2012 memoire.

[7] Berg, Elliot (1986): The World Bank's Strategy. In: Ravenhill, John. (ed.): *Africa in Economic Crisis.* Basingstoke: The Macmillan Press, pg. 50

[8] UNECA (1982c): *African Trade and Finance. Recent Developments and Prospects.* Addis Ababa: UNECA, ST/ECA/WP.1/11, pg. 2

Amongst the various actors in the OAU, a growing realisation came that they did not have the tools nor the requisite mandate to deal with economic concerns. So intensely had they been focused on decolonisation and related political matters that economic integration had been neglected. In 1979, member states tasked the OAU Secretariat and the UNECA with jointly devising a plan to deal with the crisis. Instead of working together, the organisations came up with rival plans and presented them to the OAU Council of Ministers at the Lagos summit in 1980. To resolve the impasse, the Council of Ministers combined the two in a simplistic manner, by placing the introductory material of the OAU Secretariat's plan and placing it atop the core materials of the UNECA's plan.[9] This, in effect, became the famed Lagos Plan of Action. The formulation of the Lagos Plan of Action, not so much a treaty as an informal map to economic development for African states, was thus an act triggered by the economic crises of the 1970s.

The Lagos Plan of Action consisted of several commitments, but chief among them was the determination to create an African Economic Community.[10] The logic was that in order to reduce dependence upon the global economy and to foster industrialisation of the member states, an economic community should be created which would integrate both the economies and societies. Economic integration, then, was to become the new driving force, not just decolonisation. As before, the OAU Secretariat and the UNECA were directed to work together to help member states implement the LPA, including drafting the AEC treaty. The process of drafting the treaty took ten years to complete, not least because initial attempts

[9] Amate, C.O.C. (1986) *Inside the OAU. Pan-Africanism in Practice*. London and Basingstoke: Macmillan Publishers, pp. 491; Interview with Participant 18 on 27th July 2016; See also D'Sa, Rose M. (1983), pg. 13

[10] See the preamble of OAU (1980) *The Lagos Plan of Action for the Economic Development of Africa, 1980-2000.* Addis Ababa: OAU. An African Economic Community had been called for as far back as the founding of the OAU in 1963 in a speech by President of Senegal, Leopold Sedar Senghor (OAU 1963a: CIAS/GEN/INF/9). President Mobutu repeated this call in 1976 but, as was common at the OAU, nothing much occurred in response, see Amate, C.O.C. (1986), pg. 488.

were frustrated by the economic crisis, which ensured member states scrambled to firefight national crises rather than pulling together for regional integration. Little progress at all was made for the first four years, until the OAU Secretariat begun initial consultations with African experts on a preliminary draft.

Over the course of the 1980s, the drafting process gained momentum, eventually leading to the signing of the AEC treaty in Abuja, Nigeria in 1991 – this has given it the nickname 'Abuja Treaty'. The AEC treaty was ambitious. It envisioned a stage-like process of ever-deepening integration, beginning with a customs union and ending with a full economic community with shared currency within 34 years. Like the LPA, the AEC treaty also covered all aspects of economic, social, and cultural development and integration. It promised to 'promote co-operation in all fields of human endeavour in order to raise the standard of living of African peoples, and maintain and enhance economic stability, foster close and peaceful relations among Member States and contribute to the progress, development and the economic integration of the Continent'.[11] Though it mirrored the institutional structure of the OAU, with the Authority of Heads of State and Government at the top and Council of Ministers second-in-command, it was also the first treaty in Africa to provide for a parliamentary body and a Court of Justice at the continental level.

Unfortunately, the AEC treaty was to suffer the same fate as many other decisions at the continental level. It was finally ratified in 1994, but was never implemented in the manner envisioned. Instead, after years of neglect by member states,[12] the AEC was to be 'fast-tracked' thanks to the efforts of President Muammar Gaddafi of Libya. The erstwhile leader

[11] OAU (1990b) *Treaty Establishing the African Economic Community*. Addis Ababa: OAU, Article 4(1c); see also all of Article 4

[12] The UNECA, on the other hand, made repeated efforts to popularise the AEC treaty and encourage member states to start implementation.

of Libya had been impressed with the support he had received from African states vis-à-vis Western powers. Their solidarity, which stood in stark contrast to the hostile attitude of his peers in the Arab League, led him to pivot towards Africa. His new strategic interests, however, were to be performed with an aplomb only capable of someone described by the former AU Commission President as 'out of the ordinary,'[13] and they involved a complete restructuring of continental integration schemes.

Gaddafi, buoyed by his discovery of a new way to expand his power, decided to push for a rejuvenation of the OAU to turn it into a United States of Africa, and finally fulfil the Pan-Africanist dream begun under Ghana's first President, Kwame Nkrumah. Other member states of the OAU, particularly Nigeria and South Africa, scrambled to counter his overzealous and clearly self-interested proposals with ideas of their own.[14] The compromise position was to fast-track the plans set out in the AEC treaty by merging it with the OAU. The African Union (AU) as we know it was born not just out of a compromise between diverging positions of the member states, but also as an 'interim' institution, a temporary placeholder, for what was the ultimate vision of an economic community.[15] The AU maintained the institutional structure of the AEC treaty, including the Pan-African Parliament and Court of Justice, as well as most of the objectives. However, it added new clauses to strengthen the political elements, including the much-lauded clauses on military intervention in situations of gross human rights violations.[16]

[13] Ping, Jean (2012) *Eclipse on Africa*. Unpublished manuscript, pg. 6
[14] Tieku, Thomas ((2004): Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union. In: *African Affairs* 103 (): 249 – 267
[15] Khamis (2008), pg. 143, 235-236
[16] OAU (2000a) *Constitutive Act of the African Union*. Addis Ababa: OAU

The history of African continental integration reveals an oft-repeated sequence of flurried enthusiasm followed by lack of implementation and slow progression. It was during one of these flurries, the drive to create an AEC, that the Pan-African Parliament was first instituted. The following section will demonstrate how the theoretical argument of this thesis explains the creation of the PAP.

5.2 Member States Delegate Treaty Making

5.2.1 Member States' Weak Preferences

The member states of the Organisation of African Unity (OAU) revealed weak preferences about the AEC. They did little to formulate preferences because they had generally paid the economic aspects of integration little attention. In fact, the OAU and UNECA jointly noted that the instructions given by the member states to create the AEC were vague and provided no real guidance, such that they had no other recourse but to employ experts to help to produce draft texts.[17] Thus, when it came to drafting the AEC treaty, they relied heavily on the experts and consultants made available to the OAU by the UNECA and UNDP.

Member states have traditionally not invested much in the regional integration process at the continental level, which resulted in them approaching the negotiating table with weak preferences about the general shape of the regional organisation they were to design. This is because regional integration as a practice – that is, actually implementing and enforcing the policies needed to integrate their markets, infrastructure, and societies – has been a low priority. The OAU's budget was comparatively fairly small, hovering around the $25 million

[17] OAU (1986b): *Report of the Secretary-General on the Establishment of the African Economic Community: The Arusha Colloquium*. Addis Ababa: OAU, pg. 2-3

mark by the 1990s. The Ethiopian Foreign Minister determined that 'timely payment of our assessed contributions is one way in which we express our commitment to our Organization,'[18] in which case, the commitment of member states appeared to be very low indeed as they consistently failed to pay their dues. In the 1991/92 financial year, the same one in which the Abuja treaty was signed, 46 of the then 50 member states were in arrears by January of 1992, altogether owing almost $25.5 million of an assessed budget of around $27 million. Lesotho, which owed $178,385.70 had by January of 1992 paid a total of $10 into the budget. Thirteen member states still owed a total of over $16 million from the previous 1990/91 financial year. Eleven member states still owed money from the 1976-1986 period.[19] Meanwhile member states paid their membership fees to other international organisations such as the United Nations.[20] The sheer extent of the financial deficit eventually prompted the Botswanan Minister of Foreign Affairs to interject with evident exasperation:

> To cut a long story short, we are simply saying that the Organisation of African Unity is in serious financial dire straits. We are fast approaching a situation where there will be no single contribution from a single Member State in one financial year. This trend has to be arrested before it totally gets out of hand and before the member States which have religiously been paying their dues to the OAU have their backs broken by the heavy continental financial burden.[21]

Much of this, however, could be seen as circumstantial. When it comes to the actual nitty-gritty of making the treaty, surely member states paid much more attention. After all, the institutions that are codified in the treaty will need to reflect the national interests of the member states and should ensure maximum benefit at minimum cost. In particular,

[18] OAU (1990a) *Statement by the Minister of Foreign Affairs of Ethiopia, Comrade Tesfaye Dinka in his Capacity as Outgoing Chairman of the Fifty-First Ordinary Session of the Council of Ministers of the O.A.U., Addis Ababa, 3 July 1990.* Addis Ababa: OAU, pg. 11

[19] OAU (1992): *Statement of Contributions as at 31st January, 1992 Under the Current Year 1991/92*. Addis Ababa: OAU, CM/1686 (IV)REV 1

[20] Tieku, Thomas Kwasi (2016): *Governing Africa: 3D Analysis of the African Union's Performance.* London: Rowman & Littlefield, pg. 73 – 74

[21] OAU (1993): *Intervention by the Hon. Dr G.K.T. Chiepe, Minister for Foreign Affairs of the Republic of Botswana, on Agenda Item 2 V): Statement of Contributions to the OAU Regular Budget as at 31st December, 1993.* Addis Ababa: OAU

international organisations are deemed to be the result of member state negotiations – if this is the case, then member states should have been integral to the formulation of every article. Thus, the expectation is that member states would maintain close oversight of the drafting of the treaty.

To some extent this is true. The Permanent Steering Committee (PSC) tasked with drafting the treaty operated at ministerial level, which for the OAU meant predominantly representatives from Ministries of Foreign Affairs. Member states, to that extent, were in charge. However, first, it should be noted that the drafting of the treaty was not the Committee's primary task. It was set up to consider and make decisions on economic matters pertaining to the continent generally, including external debt, international negotiations, industrial policy, trade, decolonisation and the like.[22] A preliminary draft of the treaty had already been completed by the OAU Secretariat in collaboration with experts, and funded by the UNDP, in 1984[23] – the continued revision and development of the AEC treaty was merely added to the Permanent Steering Committee's list of tasks to consider in 1986.[24] Thus, the Permanent Steering Committee's focus was largely on other matters for much of the 1980s and only turned their attention significantly to the AEC from 1987 onwards, when it established a team to work on the preliminary draft.[25] Secondly, while Ministers formally could exercise oversight and control, much of the knowledge generation and compilation of

[22] OAU (1985) *Resolution AHG/Res.136 (XXI).* Addis Ababa: OAU
[23] OAU (1987b) *Proposed Establishment of the African Economic Community. Summary Report on the Preliminary Views and Comments Submitted by Member States and Economic Cooperation Integration Groupings. Draft.* Addis Ababa: OAU, P/Steering/Cttee./Min.5 (VIII) (Bis)
[24] OAU (1986c) *Resolution CM/Res.1043 (XLIV).* Addis Ababa: OAU
[25] OAU (1989a): *Draft Treaty Establishing the African Economic Community: Introductive Note*. Addis Ababa: OAU, PSC/4/(XIX), pg.1

reports was done by the independent experts of the Committee, who convened separate meetings where government representation was minimal.

On two occasions, the PSC attempted to solicit substantive input from the member states, but these were met with half-hearted responses. The first attempt was made after the AEC project was referred to the PSC, which collected all the reports of the technical studies and outcomes of expert meetings and sent them to all member states as well as sub-regional organisations for comment. Member states were asked to submit their views by 31st May 1987. Only seven member states returned any comments at all, and only three of those made specific comments on articles of the draft treaty. It is worth mentioning that neither the draft treaty nor any of the member states made mention of a parliamentary assembly for the economic community at this stage.[26]

A second call was made later to encourage more states to submit comments. By November of 1988 only 16 states, one quarter of the membership, had responded. The Secretariat noted that the comments were 'for the most part, identical to those received prior to that period'[27] but also 'did not allow for a consensus or for a common or majority position to be adopted regarding the amendments to the draft treaty'.[28] Most comments were on procedural matters, but the comments on substantive topics touched on only two institutional features of the AEC: the composition of the Council and whether the OAU and the newly proposed economic community should share the Secretariat.

[26] OAU (1987a) *Proposed Establishment of the African Economic Community*. Addis Ababa: OAU
[27] OAU (1988) *Proposed Establishment of the African Economic Community Part II. Summary Report on the Preliminary Views and Comments of Member States and Economic and Integration Groupings (Continuation).* Addis Ababa: OAU, PSC/3(XV)Rev.3, pg. 2
[28] OAU (1988), pg. 8

Such low prioritisation of the drafting of treaties was not uncommon. In a parallel process to the AEC treaty drafting, the OAU had decided to review its own charter. Evidence of the process being of low priority was legion, not least the fact that the OAU charter review was never completed over the course of 18 years. The initial three meetings occurred in 1981-1982, but then followed a lull of seven years before the fourth and fifth meetings in 1989. By this point in time, the AEC treaty drafting had gained momentum and would eventually overtake the OAU charter review. Of course, both were then overtaken by the AU treaty drafting. The Authority created a Charter Review Committee comprising 14 member states but this eventually was enlarged to 28 member states despite recognition that this would create more difficulties. Enlargement, however, did nothing to ensure member states remained engaged – in one meeting it was noted that 'only two States had communicated, rather late, their observations to the General Secretariat'.[29] In an informal document submitted to the OAU Secretariat by a consultant, it was noted that over the entire period of the OAU Charter review, only six Member States had submitted proposals.[30]

Relevantly, none of the member states proposed a regional parliament or a court for the new OAU. Though in the fourth meeting, the Gabonese delegation suggested that the OAU should become supranational, this was not taken seriously in any part of the treaty. Only one new organ was added as a principal organ of the OAU, namely the Commission on Human and People's Rights, which had already been established.[31]

[29] OAU (1989c): *Interim Report of the Secretary-General on the Activities of the OAU Charter Review Committee.* Addis Ababa: OAU, CM/1539 (XLIX), pg. 5; OAU (1981a): *Progress Report of the Secretary-General on the Review of the Charter of the Organization of African Unity*. Addis Ababa: OAU, CM/1148 (XXXVII); OAU (1986a): *Composition of the Committee on the Review of the Charter of the OAU.* Addis Ababa: OAU, CM/1400 (XLIV). For a whole account see Khamis, Kassim Mohammed (2008), pg. 43 – 53

[30] Khamis, Kassim Mohammed (2000): *Towards Promoting the African Union. Contribution to the Implementation of the Sirte Declaration.* Unpublished manuscript, pg. 5 – 6

[31] OAU (1989c), pg. 7, 23

What is clear from the above is that member states showed a historical and widespread lack of commitment to continental integration by consistently failing to pay dues or engage fully in decision-making. The treaty drafting process was of a low priority and therefore of low salience in general, leading member states to expend little effort scrutinising the development of the draft treaty. As a result, when it came to drafting the AEC treaty, they generally did not evince any firm, articulated positions and had no evident preferences. Instead, they handed the responsibility of designing the AEC treaty to experts and international bureaucrats. The next section will now show the high levels of discretion that experts were granted in order to draft the treaty.

5.2.2 Member States Delegate with High Discretion

As noted by the OAU, 'the Assembly of Heads of State and Government of the OAU, gives specific, clear and full powers to the Secretary-General of the OAU, in collaboration with the Executive Secretary of the ECA, to prepare a draft Treaty relating to the said Community'.[32] The task of drafting the treaty was explicitly given to these two bodies,[33] along with the high discretion to make whatever decisions they saw fit.

The experts called in by the OAU Secretariat and UNECA were numerous and diverse in terms of their expertise and their nationalities, but their operations were all at the international level. Importantly, it was these experts that drove the drafting of the treaty, and not the member states. African experts were deliberately chosen since there was concern that the AEC should be produced by Africans for Africans – however they were representing their fields

[32] OAU (1989a), pg. 1
[33] OAU (1979): *Monrovia Strategy for the Economic Development of Africa*. Addis Ababa: OAU, CM/Res.722 (XXXIII) Rev.1

of expertise and not the member states of which they were nationals. There was a significant reliance on consultants (usually appointed with the 'technical and financial assistance' of the United Nations Development Programme, UNDP) to carry out basic tasks and technical studies, particularly in the early stages, while experts and bureaucrats from the OAU and UNECA jointly oversaw the entire process.[34]

One consultant was hired with the assistance of the UNDP to produce an initial draft of the treaty, which the OAU and UNECA then discussed and revised.[35] Three more consultants were hired to conduct fieldwork and produce comprehensive reports on all relevant economic, socio-political, and legal matters. These consultants were to liaise primarily with the officials from the OAU and the UNECA as well as visit member states for their research.[36]

To foster political will and forestall waning enthusiasm on the part of the member states, a High-Level Intergovernmental Committee of Experts was set up composed of officials from within the member state governments. Their role was to 'to review all past decisions that have been taken by the OAU and ECA, and suggest ways and means for their effective implementation by all Member States'[37]. However, they were accompanied and supported at all stages and through all meetings by a Consultative Group of Experts that were not affiliated with any member states, but rather brought ideas in their own individual capacities.[38] Of course, the entire treaty drafting process was shepherded by the OAU and UNECA, which had

[34] The ECA, in fact, shepherded the Permanent Steering Committee very closely for its entire duration and helped it formulate positions and decisions on virtually all economic matters. See OAU (1989b): *Introductory Note of H.E. Ide Oumarou, Secretary General of the OAU, to the Twenty-Fifth Ordinary Session of the Assembly of Heads of State and Government.* Addis Ababa: OAU, pg. 22
[35] OAU (1981b): Proposed Outline of a Draft Treaty Establishing the African Economic Community. Addis Ababa: OAU, pp. 2
[36] OAU (1984): The Establishment of the African Economic Community. Briefing Note No. 1. Addis Ababa: OAU, pp. 6-7
[37] OAU (1981), pg. 5
[38] OAU (1981), pg. 5

formed a Joint Secretariat Commission to facilitate their collaboration, and both organisations were present at all meetings and all stages of the process.

Based on the studies conducted by the three consultants, a colloquium was held in Arusha, Tanzania in 1985 titled 'What type of Economic Community for Africa by the Year 2000?' It gathered approximately forty experts 'selected in their personal capacities and representing the entire socio-professional spectrum and all the regions of the continent, and whose common denominator was their Africanity and personal commitment to the African cause'[39]. Their role was to produce a comprehensive conceptual framework for the AEC, which would guide subsequent work on the treaty. The forty experts spent four days discussing the three studies conducted by the consultants and were encouraged to freely share and contribute ideas to ensure the effectiveness of the proposed AEC.

Member states, on the other hand, were most directly represented by a 'Ministerial Drafting Committee of the Whole', which was responsible for debating the specific clauses and political implications of the drafts presented to them. Evidently, it was not from them that key provisions emanated, but from the bulwark of expertise made available to them in those meetings.

The above evidence demonstrates the heavy reliance of the member states and the OAU bureaucracy on experts. Specifically, the UNECA has been a constant partner to the OAU at all stages of the process. Besides this, ad hoc expertise was brought in to bolster decision-making capacity at all levels. What is most remarkable is the high level of discretion given to the experts, in particular, that they drove the conceptual elements of decision-making, as well as delegated the authority to consider all aspects of the regional organisation with minimal

[39] OAU (1986b), pg. 3

proscriptions. Thus, the Secretary-General described the resulting treaty not as the result of member state negotiations, but as 'the subject of debates, academic discussions and technical studies not only at the level of the two Secretariats of OAU and ECA but also by eminent African personalities from all walks of life (from the political, economic, cultural and academic worlds) who were invited to contribute to the debate.'[40]

The following section will reveal which beliefs brought by the experts led to the creation of the Pan-African Parliament.

5.3 Experts Design Regional Organisation

5.3.1 Experts' Beliefs and Problem Definition

Having seen how the OAU brought in a wide set of experts during the various stages of the institutional design of the AEC, but significantly relying on the resources of the UNECA and consultants brought in by UNDP, the question now remains how the influence of these experts defined the problems of continental integration.

For the experts, regional integration at the continental level had been a failure and was 'on the decline everywhere.'[41] Substantive economic undertakings, particularly regional integration for the development of the member states, had made no progress whatsoever since the OAU's inception. The reasons they identified for this general inadequacy were numerous and wide-ranging. Experts tried to address as many as possible in order to provide

[40] OAU (1991): *The African Economic Community or The Destiny of a Continent.* Addis Ababa: OAU, pg. 17
[41] Rurihose, Ndeshyo (1984): *Establishment of the African Economic Community Part I: Political, Social & Economic Dimensions of African Cooperation & Integration.* Addis Ababa: OAU, pg. 2; see also Chege, Michael (1984): *Establishment of the African Economic Community Part II: Economic Aspects towards Co-operation and Integration in Africa.* Addis Ababa: OAU, pg. 89

a comprehensive overhaul of regional integration. The most important, however, were consistently identified.

First, the greatest concern was the slow rate of ratification and non-implementation of decisions made at the continental level. The decision-making process was dominated by member states, which meant that decisions made at the OAU level were not binding and therefore not enforceable. There was a significant dearth of political will on the part of member states, meaning their own volition to adhere to their commitments was low. To address this, experts recommended turning the purely intergovernmental organisations into supranational institutions. Second, member states were not paying their dues because of lack of prioritisation of the integration schemes and lack of financial resources, leading to chronic deficits in the regional organisations' budgets and slow progress on implementation. Third, member states were not incorporating regional integration concerns into their national development plans. This resulted in the objectives and tools of the regional organisations not being harmonised, and sometimes being in conflict, with the national variants. Fourth, there was a multiplicity of regional integration projects, which duplicated tasks, led to a thin spread of resources, and fostered a culture of inter-organisational competition. The answer to this was to rationalise and strengthen the groupings, disbanding or merging some and creating new ones where there were none before.[42]

Finally, and crucially for this thesis, the general lack of involvement of the citizens, civil society, and business communities of the member states meant that projects devised at the continental level found no fertile ground nationally in which to take root and grow. To tackle this issue, it was proposed early on that the AEC should be popularised and that the

[42] Chege, Michael (1984), pg. 98 – 99

development process as a whole should be democratised. African citizens 'should be effectively involved in the various phases of the development, namely, planning, taking of decisions on economic cooperation and their implementation; otherwise the Community project would remain the business of others'.[43]

That experts should consider the relevance of democracy to economic integration was the result of the salience of the participatory development movement, which formed a part of the democratisation wave. In the 1970s, critics of international development came to view development as practiced by NGOs and the international community as top-down, bureaucratic, and disempowering for the people in local communities who were supposed to be the beneficiaries. This led to an exclusionary politics in which the voices of the people who were meant to benefit were in fact ignored and had little influence in the design and implementation of the projects. In the 1980s, these critiques were recognised and elaborated upon, and strategies were put forward to involve local communities in development.[44] People's participation as a concept, therefore, became important for all areas of development during the 1980s and led to the 're-examination of existing assumptions and practices'.[45]

In 1979, the UN Research Institute for Social Development (UNRISD) nominated popular participation as one of its four major themes.[46] This was significant since it meant the organisation would spend the following decade concentrating on ways in which popular participation could be implemented for the benefit of development projects. The 1979

[43] OAU (1986b), pg. 6

[44] For a brief account, see Oakley, Peter (1995): People's Participation in Development Projects: A critical review of current theory and practice. In: *Occasional Papers Series*, volume 7. International NGO Training and Research Centre (INTRAC): http://www.intrac.org/resources.php?action=resource&id=128 (accessed 26th September 2016), pg. 3

[45] Oakley, Peter (1995), pg. 3

[46] Pearse, Andrew/Stiefel Matthias (1979): Inquiry into Participation: A Research Proposal. Geneva: UNRISD

proposal was followed by four papers – one written in 1981, one in 1982, and two in 1983 - on the theme, each discussing people's participation from various perspectives.[47] The rest of the UN system, especially the FAO, ILO, WHO, UNICEF, and UNDP, came to the concept of participatory development through the late 1980s and early 1990s and actively began promoting it.[48] For example, the UNDP established an annual Human Development Report beginning in 1990, which would measure, through a comprehensive index, the 'well-being' of citizens across the world. This report, primarily designed to measure the extent to which people's life choices (e.g. to feed themselves, to be educated, to have shelter) are increased, in fact also drew on the popular participation concept. In fact, the realisation of popular participation as an end was recognised as one of the key ways in which to expand people's choices and thus increase their well-being.[49] The report also concluded that popular participation 'is crucial to any strategy for successful human development'.[50] Popular participation, adopted by NGOs and powerful international development organisations, thus became a status quo concept mainstreamed through all major projects.[51]

This participatory view of development came, inevitably, to the attention of the UNECA in the late 1980s. In particular, one of the benefits of popular participation was said to be its ability to aid implementation of projects by ensuring that 'the goals and motivations are wholly internalised' by the participant-recipients.[52] Having seen its numerous programmes to

[47] UNRISD (1981): *Dialogue about Participation, No. 1*. Geneva: UNRISD; UNRISD (1982): *Dialogue about Participation, No. 2*. Geneva: UNRISD; UNRISD (1983a): *Dialogue about Participation, No. 3*. Geneva: UNRISD; UNRISD (1983b): *Dialogue about Participation, No. 4*. Geneva: UNRISD
[48] Oakley, Peter (1995), pg. 8
[49] UNDP (1990) *Human Development Report 1990*. Oxford and New York: Oxford University Press, pp. iii
[50] UNDP (1990), pg. 6
[51] For more recent examples of the mainstreaming of this norm, see Stiglitz, Joseph E. (2002): Participation and Development: Perspectives from the Comprehensive Development Paradigm. In: *Review of Development Economics*, 6 (2): 163 – 182; Schneider, Hartmut (1999*): Participatory Governance: The Missing Link for Poverty Reduction. OECD Development Centre Policy Brief No. 17*. Paris: OECD
[52] Nkunika, Adam I.Z. (1987): The Role of Popular Participation in Programmes of Social Development. In: *Journal of Social Development in Africa*, 2: 19

economically develop Africa economically fail time and time again due to lack of implementation at the national level, the promise of popular participation in development as a sustainable solution, proved particularly attractive. As one interviewee described this attraction:

> But Lagos Plan of Action, everybody was thinking that something would come out of that – nothing came out of that in terms of success and so on. African development programmes continued to disturb everybody. And we at the ECA, we came up with strategies, one of them – apart from the Lagos Plan of Action, which we actually helped the OAU to adopt – apart from that one – we came out with Africa Priority Programme for Economic Recovery. That did not actually work. And then, we then took Africa to the United Nations special session [UNGA Special Session on the Critical Economic Situation in Africa] – so the special session on Africa, you see. And again, the UN came up with Africa Recovery and Development [United Nations Programme of Action for African Economic Recovery and Development, UNPAAERD] and so on. All these things didn't work. We were worried. Why should Africa be in the same situation? Little did we actually pay attention to governance issues.[53]

Popular participation became an integral part of the UNECA's efforts to devise alternative development strategies for the African continent. The initiative for this came directly from the highest office, the Executive Secretary Adebayo Adedeji. And Adedeji's influence upon the strategic and operational directions was powerful. The UNECA was for Adedeji not just an employer, but a vehicle to promote his ideas for development. Upon taking leadership of the UNECA, Adedeji turned the ECA into an 'economic think-tank for Africa'.[54] As SKB Asante, a long-time colleague of Adedeji, wrote: 'What needs stressing is that Adedeji undoubtedly had a strong sense of mission about making the ECA a more central force in the African development process. He not only generated visibility for himself and the ECA; he has also used the ECA as an instrument to activate the energies of the leaders of the continent, the staff of the secretariat, and the existing institutional structures into confronting the African situation.' The UNECA was to 'develop a genuine ideology and capacity to influence the Commission's clientele and constituency and to direct their development strategies

[53] Interview with Participant 4, 18th May 2015

[54] Asante, SKB (1991): *African Development: Adebayo Adedeji's Alternative Strategies*. London, Melbourne, Munich, New York: Hans Zell Publishers, pg. 27

accordingly'.[55] Adedeji's critics, on the other hand, while they might not disagree with that fundamental notion, would put it differently: 'He was an arrogant son of a bitch. He ran the place like a fiefdom, and he was there too long,' was one account. 'He was feisty, he was controversial, bigger-than-life person.' However, 'Adedeji had the intellectual capital more so than the OAU then. So he took charge. And that's how the Abuja treaty and all that came. With a lot of ECA influence.'[56]

Having run the UNECA from 1975 to 1991, the Harvard and University of London trained economist, had witnessed the repeated failure of development strategies during some of the continent's darkest years. For Adedeji the core problem lay in the fact that these strategies were developed for societies with completely different histories, cultures and economic conditions and then applied wholesale to African societies. What was needed was a 'genuinely African-oriented and indigenous' development strategy.[57] The 1980 Lagos Plan of Action was the initial step to formulate African approaches to development; later, more controversially, he developed what has been described as his *magnum opus*,[58] the African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation (AAF-SAP).

Adedeji's idea was straightforward: lack of development in Africa was fundamentally due to the underlying structures of African economies. The AAF-SAP lists these as the predominance of subsistence activities; a small base for production of goods with no inward linkages and no modern technology; a large informal sector; environmental degradation; the urban bias of public policies with rural areas left behind; the small markets of African economies; the

[55] Asante, SKB (1991), pg. 30
[56] Interview with Participant 16, 25th March 2016
[57] Asante, SKB (1991), pg. 9
[58] Asante, SKB. (1991), pg. 195

openness and dependence of African economies on external environment; and weak institutions.[59]

The UNECA was a strong critic of the Structural Adjustment Programmes implemented by the World Bank and IMF, arguing that rather than addressing the root problems, they in fact exacerbated them, worsening the prospects for African states. For example, the devaluation of currencies, rather than making imported products more expensive and thereby increasing domestic production, in fact also increased the cost of necessary imports, which African markets could not produce themselves, making it harder to sustain businesses. Considering that foreign markets often sheltered their own industries, African products did not conversely get any cheaper and thus did not gain new markets.[60] The traditional SAPs, with their focus on fiscal and trade balances as ends rather than means, were essentially 'cosmetic' and 'the very antithesis of achieving these long-term development objectives'.[61]

The AAF-SAP was to address these concerns with a focus on transforming the structures of African economies directly. Above all, the AAF-SAP, like the Lagos Plan of Action before it, was to foster an approach of self-sufficiency and self-sustaining processes. The initiative for development was to come from within. African states were to cooperate through regional integration organisations to reinforce their national development programmes. The new framework also placed emphasis on the social and political factors because they were necessary for mobilising the people and giving them critical ownership of their own

[59] UNECA (1991b): *African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation. A Popular Version*. Addis Ababa: UNECA, pg. 2 – 3
[60] UNECA (1991b), pg. 13 – 14
[61] Adedeji, Adebayo (1991): Will Africa Ever Get Out of its Economic Doldrums? In: Adedeji, Adebayo/Teriba, Owodunni/Bugembe, Patrick (eds.) *The Challenge of African Economic Recovery and Development*. London: Frank Cass, pg. 780. In criticising the traditional SAPs, Adedeji also acknowledges the important role of UNICEF in promoting the importance of adjustment with a human face. The human element in development had, through the efforts of the UN, become widely accepted by the late 1980s and early 1990s.

economies. 'Basic rights, individual freedom and democratic participation are often lacking in African countries. Yet, without them people feel alienated and are unable to devote their energies to development and productivity.'[62] As such, in order for the alternative framework for Africa to work, in stark contrast to the failure of the traditional Structural Adjustment Programmes and all the other development plans that had come before, 'it must, right at its conception and formulation, involve all the people at all levels'.[63] The AAF-SAP is clear that popular participation of the people is necessary because the people are not just to be recipients, but the implementers: this was a plan that would not be owned by the usual ministries and central banks, but 'should be the property of the people and the people's own grass-roots organizations'.[64] If Africa was to take a path to development that was not dependent on external factors, but sustainable through domestic markets, then the participation of people wholesale would be vital. Popular participation, became an integral part of the new development strategy for the UNECA.

The UNECA set up an international conference on the topic of popular participation in February 1990, with the theme 'Putting the People First', and it brought together over 500 individuals, including members of civil society, academics, government ministers, and international bureaucrats involved in concerted efforts to foster economic development. The objectives of the conference were to establish popular participation as a meaningful concept, sensitise relevant actors to its importance in development, facilitate sharing of information, and bring about concrete policy recommendations for implementation and monitoring.[65] Many participants from all sectors contributed papers, which formed the basis of discussion.

[62] UNECA (1991b), pg. 19
[63] UNECA (1991b), pg. 19
[64] UNECA (1991b), pg. 22
[65] UNECA (1990b): *African Charter for Popular Participation in Development and Transformation (Arusha 1990)*. Addis Ababa: UNECA, preamble

Notably, the Director of UNRISD, Dharam Ghai, whose organisation had researched the topic extensively in the preceding decade, contributed papers focusing on the conceptual and empirical aspects of popular participation.[66] The conference was also attended by Dr Salim Ahmed Salim, then the newly minted Secretary-General of the OAU. He noted: 'At the present time, the involvement of the wide spectrum of people in the development process is rather limited'. He also added: 'Effective utilization of human resources at all levels and in all dimensions, is key to the promotion of real development in Africa.'[67] The conference culminated in an African Charter on Popular Participation, which concluded that popular participation itself had to be mainstreamed through all areas of society, from the family outwards, including 'at the work place, and in all organizations, and in all walks of life.'[68]

However, neither the discussions held at the conference, nor the Charter itself make specific references to regional organisations in Africa. While the Charter recognises a role for the international community in fostering popular participation at the national and local levels,[69] there are no specific prescriptions about how the regional organisations should themselves adapt their practices and institutional forms to accommodate this principle. Instead, this translation from the local to the regional level was done by the UNECA itself.

[66] Ghai, Dharam (1990a): *Concept and Practice of Participation: Some Theoretical Considerations.* Addis Ababa: UNECA, E/ECA/ICPP/90/3; Ghai, Dharam (1990b): *Participatory Development: Some Perspectives from Grass-Roots Experiences.* Addis Ababa: UNECA, E/ECA/ICPP/90/23

[67] Quoted in UNECA (1990a): *Quotes from Opening Statements. In: International Conference on Popular Participation In the Recovery and Development Process in Africa. African Charter for Popular Participation in Development and Transformation (Arusha 1990).* Addis Ababa: ECA, E/ECA/CM.16/11, pg. 8

[68] UNECA (1990b), chapter 2: article 15

[69] UNECE (1990b), chapter 3C: articles 1-7

5.3.2 Experts Propose Regional Parliament

The concept of having some kind of a continental assembly as a means to address the lack of people's participation was first floated in 1984 by the OAU/UNDP consultant Professor Ndeshyo Rurihose, who was responsible for the report on socio-political conditions. With a background in law and publications on African economic integration[70], he had been hired as an expert on international/inter-African relations. Rurihose's reasoning was based on an observation: the 'greatest weakness of the LPA is that it is not known to the African peoples'. It was crucial not to replicate this mistake in the AEC treaty.

> Only the setting up of a Panafrican Parliamentary Body, truly representing the African people and capable of deliberating on all the problems of Africa, constitutes a true beginning of the African integration.[71]

Importantly, this proposed parliament was to have 'ordinary parliamentary powers' and be elected by direct adult suffrage in the long term, but if this could not be achieved immediately due to constraints, then consultative powers would have to suffice for the short and medium terms.[72]

However, Rurihose's proposal for a parliament never gained much traction. None of the initial drafts of the treaty included provisions for a parliament. While there was nominal recognition of the fact that the AEC needed to involve citizens further by 'sensitisation', institutionally, the AEC looked like it would simply replicate the OAU. Rurihose, with the collaboration of Cyrille Sagbo, the third consultant brought in to consider legal matters and draft the initial

[70] Rurihose, Ndeshyo (1984): *Le système d'intégration africaine.* Presses universitaires du Zaïre; Ndeshyo, Rurihose, and Luaba Lumu Ntumba (1983): La Commission Economique des Nations Unies pour l'Afrique: 25 ans d'activités au service de l'Afrique. *Zaïre-Afrique: économie, culture, vie sociale* 23 (177): 411 – 423
[71] Rurihose, Ndeshyo (1984), pg. 60
[72] Rurihose, Ndeshyo (1984), pg. 60

treaty, made another intervention in 1987 calling for the inclusion of a parliament[73], but this too was ignored in further drafts.

Two coincidental events occurred at the very last stage of the treaty drafting process, which eventually convinced the member states. First, Rurihose was persistent and made a third intervention in January 1990. At this very late stage of the drafting process, he once again submitted a document dealing with sensitive socio-political issues 'to help produce a better final draft' of the treaty.[74] He argued quite forcefully the need for a parliament. Though supranationality was a necessary condition for successful integration, he asserted that this had not been seriously provided for in the draft treaty (for example, there were no thorough considerations for sanctions to help enforce decisions made). He stated:

> The question of population and democratization of the Community is not a slogan, it is an undeniable necessity. African Unity will be established by the people of Africa, or not at all. That is the reason why I suggest that a PanAfrican Assembly which would initially be consultative, and then deliberative, be established.[75]

He then made a bid to institute the new parliament as the supreme body of the AEC instead of the heads of state:

> In the same manner, the Organizational chart of the Community should include PanAfrican Assembly as its focal point. Instead of having at the frontispiece of the preamble to the Treaty "We, the African peoples", we should have as the supreme organ of the Community the "African parliament as a guarantor for the respect of the objective of the decolonization of Africa, and the PanAfrican court[“], in place of the Assembly of Heads of State and Government, and "Our Heads of State and Government," which is more of an executive organ which should constantly monitor the proper functioning of the Community![76]

[73] Rurihose, Ndeshyo/Sagbo, Cyrille (1987): The African Economic Community, a Major Challenge for the African Continent: A Contribution by African Scientists to the Idea of the Establishment of an African Economic Community. Addis Ababa: OAU, pg. 22

[74] OAU (1990c): *Draft Treaty Establishing the African Economic Community. General Mission Report of Experts to the 18th Session of the Permanent Steering Committee: Suggestions for a better finalization of the Draft Treaty*. Addis Ababa: OAU, PSC/7/(XIX), pg. 2

[75] OAU (1990c), pg. 9-10, underlining is in the original

[76] OAU (1990c), pg. 1, underlining is in the original

Even Rurihose recognised that his intervention was coming at a point when the treaty 'has practically been completed'[77], but nevertheless he felt strongly enough about the flaws in the treaty to make this last-ditch attempt. What is clear from the above statements is that this consultant wanted to ensure the success of the AEC by employing the efforts of the people. He emphasises that integration will be 'established' by the people, not that it will be consented to, approved, or in some way legitimised by the people. The Pan-African Parliament was an effort to ensure that, unlike in previous initiatives, the people themselves would be involved and form a robust constituency.

The second factor that made possible the Pan-African Parliament was the power of the UNECA. Through the participatory development movement, and its Charter on Popular Participation, the UNECA had become convinced that regional integration required an institutional channel for citizen participation in order to survive.[78] The participatory development norm spoke very directly to the economic issues that occupied the UNECA. Adebayo Adedeji, an active promoter of regional integration in Africa[79], eventually called for the creation of consultative assemblies at the regional and sub-regional levels to complete the movement occurring at the national level. Unsurprising for a UN employee, he was convinced that democracy was an indispensable ingredient to development. However, as an economist and a technocrat, it was not so much the political consent of the people or the

[77] OAU (1990c), pg. 3

[78] In fact, this is not the first time that the UNECA had considered a parliament for the regional organisations in Africa. In a 1973, the ECA flirted with the notion of implementing international parliaments for functional reasons, namely as a means of speeding national ratification of regional agreements. With particular reference to groupings of the Nordic countries as well as the African case of the East African Community and its Legislative Assembly, the paper mentions that an international parliament could meet regularly to discuss community legislation and then promote this within national assemblies when the individual parliamentarians return to their native countries. There is no evidence that this was seriously followed up later. See UNECA (1973a): *Intra-African Economic Co-operation and Africa's Relations with the European Economic Community (Some issues raised and proposals made in the Philip Report).* Addis Ababa: UNECA, CEC/WP/3, pg. 8-9

[79] As Nigeria's Economic Minister, he was one of the three co-founders of the ECOWAS in 1975

granting of legitimacy on their part that mattered, but that without their active and sustained involvement, economic development as a project, the raison d'etre of the UNECA, would fail.[80]

Furthermore, the UNECA conceived of regional integration primarily as a means for economic development. From the 1950s when the UNECA was created, it had upheld economic integration of the largely small, economically unviable African economies as necessary for their eventual prosperity. The concept was to create one large continental market from the disparate, piecemeal countries left behind by colonial powers.[81] Economic integration-as-development was reinforced through the Final Act of Lagos annexed to the Lagos Plan of Action 1980, which not only accepted this reasoning, but had also called for the creation of more sub-regional bodies in the parts of Africa that did not have them in order to facilitate the process of integration. As a result, the Preferential Trade Area (1981)[82] and the Arab Maghreb Union (1989) were created. The AAF-SAP envisions a role for the regional integration organisations, particularly to pool resources, coordinate research and industrial development, and to facilitate increased intra-African trade.[83]

Combined with the call for popular participation at all levels of governance, it was not a huge leap for the UNECA to draw lessons from the nationally-focused debate and apply them to

[80] Adedeji, Adebayo (1990): *Le Role de la Participation Populaire dans le Relevement des Defis Du Redressement et du Developpement en Afrique: La Democratisation du Processus de Developpement*. Addis Ababa: UNECA, E/ECA/ICPP/90/25

[81] See for example UNECA (1967b): *Economic Cooperation in Africa.* New York: UNECOSOC, E/CN.14/UNCTAD II/4; UNECA (1970a): *Strategy for Economic Development in Africa*. Addis Ababa: UNECA; Asante, S.K.B (1996): *The Strategy of Regional Integration in Africa.* Addis Ababa: UNECA. Regional integration continues to be a key theme of the UNECA's work today, and monitors this process through its regular progress report comparing the main regional organisations on the continent, the Assessing Regional Integration in Africa (ARIA) series, and its Africa Regional Integration Index (ARII).

[82] The PTA does not qualify as a regional organisation according to my definition, and is therefore not included in the dataset. However, notably, Adebayo Adedeji and the UNECA were the direct architects of the PTA treaty and its institutional design.

[83] UNECA (1991b), pg. 33

the regional integration bodies, which themselves had failed just as dismally as the general development agenda up until that point. A paper by the Coordinator of the UNECA's Multidisciplinary Regional Advisory Group (ECA-MRAG), S.K.B. Asante, illustrates the closing of this link between the two formerly separate worlds of regional economic integration and popular participation. The purpose of the paper, titled '*Democracy, Development and Regionalism in Africa*', is straightforwardly 'to demonstrate that the apparent lack of democracy and popular participation in the regional co-operation and integration process in Africa is one of the main causes of the ineffectiveness of the present economic groupings.'[84] It grapples with the question of whether democracy is necessary for economic development and concludes that it is essential because the political cannot be divorced from the economic. Citing Ernst Haas, it reiterates the inevitable politicisation of any economic integration project, and thus the *quality* of the political elements directly impacts the quality of economic development. This analysis fit particularly well with the history of African development, which saw poor and often repressive governance go hand-in-hand with economic stagnation. 'And just as the autocratic, one-party system, hindered development, so at the level of regionalism the process of integration has not been able to realize its avowed principal aims and objectives.'[85]

It is important to note that, for the UNECA, '[d]emocracy is currently attractive because of its *economic* implications.'[86] It is worth remembering that the UNECA was concerned with economic matters and was staffed by experts interested in concepts that could improve the economic standing of African states. As evidence, the paper points to the correlation between

[84] Asante, S.K.B. (1993b): *Democracy, Development and Regionalism in Africa*. Addis Ababa: UNECA, ECA/MRAG/93/41/TP, pg. 5
[85] Asante, S.K.B. (1993b), pg. 4-5
[86] Asante, S.K.B. (1993b), pg. 8, emphasis added

economic success and democracy. Democratic regimes, the paper argues, are shown in academic research to be better at economic management and more responsive to a wider range of social groups when formulating policies. Furthermore, democracy creates a stability that makes enterprise and trade less costly, facilitating economic growth. Authoritarian and successful regimes tend to be the exception rather than the rule, as in the rare cases of Singapore and South Korea.[87]

Threaded through this is a neo-functionalist argument explicitly borrowed from social scientific theory. 'Over the years, neo-functionalist scholars like Haas and Lindberg ascribe a dynamic role to interest groups in the process of integrating pluralist communities. According to such neo-functionalist theorists, by participating in the policy-making process, interest groups or the private sector are likely to develop a "stake in promoting further integration" in order to acquire economic payoffs and additional benefits from maintaining and stimulating the organisation through which certain demands can be articulated and goals attained. This implies that in the integration process interest groups can play an instrumental role in the maintenance of the integrative system.'[88] Inevitably considering the neo-functionalist leanings, the paper draws on the experience of the EEC (now the EU), which has the strongest record of integration as well as having 'channels' such as the Economic and Social Committee which involves those groups in discussion about policy. Reference is also made to the Latin American groupings, which have similar institutional mechanisms to involve civil society and business groups.[89]

For African regional organisations plagued by repeated failure and a general lack of forward

[87] Asante, S.K.B. (1993b), pg. 11-13
[88] Asante, S.K.B. (1993b), pg. 15
[89] Asante, S.K.B. (1993b), pg. 16, 18

momentum, the catalytic promise of theretofore marginalised groups was persuasive. The paper recommends, as a matter of urgency, given the rapid changes occurring in the world and the threat of Africa being left behind, that 'Africa has to move fast towards pursuit of a sub-regional, regional or continental constituency as the best guarantee of its survival in the increasingly competitive world.'[90] The fundament of the argument is that African integration had been missing an involved and engaged citizenry: citizens had not just been marginalised in the integration effort, but had also been kept entirely ignorant of its existence and thus its potential benefits. Without citizens, regional organisations in Africa had been denied the necessary nourishment to maintain their vigour. Survival of the regional organisations on the continent thus required bringing the citizens in to demand more from the regional integration process. A parliament was one of major the institutional features deemed vital to giving voice to the people.[91]

All of this echoed the equally emphatic, but less precise, arguments made by Rurihose since the early 1980s. However, while Rurihose represented one consultant among many, the UNECA, as the initiator and an indispensable collaborator for regional integration on the continent, had a close and systematic relationship with the OAU Secretariat, particularly in the making of the AEC treaty, and was a partner to all member states. Most importantly, the UNECA was bringing an economic argument based on received and generalised scientific understandings of the time: economic development requires popular participation – regional organisations whose purpose is economic development therefore require popular participation.

[90] Asante, S.K.B. (1993b), pg. 20
[91] UNECA (1991a): *Progress Report on the Strengthening of Subregional Economic Integration Process and the Establishment of the African Economic Community*. Addis Ababa: UNECA, E/ECA/CM.17/12, pg. 19

As a result of the support of a powerful and highly committed actor in the form of the UNECA, the second meeting of the Committee of the Whole in August 1990, just one year from signing, endorsed the inclusion of the PAP in the treaty. An entirely new article was provided for in order to accommodate it. The inclusion of the PAP in the treaty and its evolution from a consultative to a legislative organ were endorsed unanimously.[92] While documents reveal no heated debate surrounding the issue of a parliament, and therefore the exact intricate politics of the discussions are not possible to explicate, it appears that at least the logic of the original argument – that parliamentarisation would lead to more successful integration, and that a parliament at the continental level was precisely the mechanism through which to achieve this – was accepted in the end without any debilitating resistance. During this meeting, it was emphasised once again that the PAP was needed because 'no integration and no development were possible without democracy and no democracy was possible without the participation of peoples, economic and social actors as well as all the active forces concerned'.[93] It was the force of argument by the experts, and the recognition of the parliament as a solution to an identified problem, that led to the creation of the PAP.

Was the EU wholly irrelevant as a model? Evidence suggests not. A study was conducted by the OAU office in Brussels on the functioning of the European Parliament (EP) and its relationship with other organs, although it is not evident that this had a strong influence on the final design of the PAP itself.[94] Undeniably, the creators of the AEC were aware of and took into account institutional design options present in Europe, but the existence of the EP itself was not the cause of the PAP.

[92] OAU (1990d): *Draft Rapporteur's Report of the Second Meeting of the Drafting Committee of the Whole (13-25 August 1995).* COM/PLEN/DRAFT RAPT.RPT (II) Rev. 1, pg. 12
[93] OAU (1990d), pg. 10
[94] OAU (1990d), pg. 10 – 11

The above analysis showed how the experts utilised their broad and deep access to the institutional design process to implement a continental parliament according to their professional beliefs. For them, the parliament was about adhering to a belief that democratisation through the principle of people's participation will strengthen the regional integration process and lead to its eventual success. This belief was strongly upheld by the UNECA, which, from its development economics perspective, had come to view all prior attempts to spur economic integration as stunted precisely because of the lack of people's knowledge and involvement. The following section will elaborate on how the weakness of the PAP was used as a means to address member states' concerns about sovereignty.

5.4 Weakening the Regional Parliament to Address Member States' Concerns

There is evidence that member states accepted the logic put forward by the experts that, to achieve success, regional integration would require the involvement of the citizens via a continental parliament. However, they only accepted a weak parliament without legislative powers so as to avoid the high costs of ceding sovereignty in the immediate term. Member states' reactions are difficult to ascertain at the time of the drafting of the AEC treaty in the 1980s because little evidence could be found pertaining to their positions on proposals for a Pan-African Parliament (or the AEC generally). However, discourses surrounding the drafting of the African Union treaty provide some useful insight. This is because the two are closely related: many of the provisions of the former were included in the latter. The 1991 AEC treaty was never implemented in full. The protocols to be attached to it were not even drafted and the original deadline of the year 2000 for their completion has long since passed. Instead, in

1999, the decision was made to create the AU as a means to 'accelerate' the process of implementation for the provisions made in the AEC.[95] The AEC and the OAU were merged into a single entity and renamed the African Union.[96] This new organisation retained most of the provisions of the AEC and added some new innovations: the political and economic wings of continental integration finally became one.

Unlike the drafting of the AEC treaty, the creation of the AU was overwhelmingly member-state driven, in particular by the heads of state of Libya, Nigeria, and South Africa, the three most powerful members, who made direct interventions to reshape continental integration 'to suit their foreign policy interests'.[97] The stakes were high and therefore their interests were much more clearly formulated than had ever been before. Libya's leader Gaddafi, a major regional player and the largest contributor to the AU budget, was intending to use continental integration as a grab for power by creating a United States of Africa that would have one president.[98] Nigeria and South Africa scrambled to prevent him instituting his plans. As Thomas Tieku has argued, the 'competing interests are making the leaders of Nigeria, South Africa and Libya demonstrate commitment to the entire AU process.'[99] The institutional

[95] OAU (1999b): *Sirte Declaration*. Addis Ababa: OAU, EAHG/Draft/Decl.(IV) Rev.1, Article 8(ii)

[96] In fact, debates about the relationship between the AEC and the OAU were waged from the very beginning of the AEC treaty drafting process. Several options were considered over the course of the 1980s and then in the early 2000s when creating the AU. These included the option of having two entirely separate bodies, two bodies that nevertheless shared some common institutions, and then a full merger into one organisation. In the end, the final option won. Khamis, Kassim Mohammed (2008), pg. 229 - 256 has an excellent discussion on the legal morass that represents the relationship between the AEC and the AU.

[97] Tieku, Thomas (2004), pg. 251. Although, I have a slightly different understanding of the process, mainly that Libya triggered the reform process, and not South Africa and Nigeria. See also Jeng, Abou (2012): *Peacebuilding in the African Union. Law, Philosophy and Practice.* Cambridge: Cambridge University Press, pg. 152

[98] Gaddafi's Africa foreign policy has a long, controversial history. He supported many liberation movements on the continent, including those that freed South Africa from white minority rule, creating surprising allies such as Nelson Mandela. On the other hand, he frustrated many leaders on the continent with his military meddling, for example in Chad in the 1970s and 80s, and use of economic might to buy support from weaker states – a sort of 'chequebook diplomacy'. For a thorough overview, see Solomon, Hussein/Swart, Gerrie (2005): Libya's Foreign Policy in Flux. In: *African Affairs*, 104 (416): 469 – 492

[99] Tieku, Thomas (2004), pg. 266 – 267

design of the AU was therefore not solely about the next evolution of the project, but was also a strategic effort to prevent a Libyan take-over.

While Libya intended to turn the continent of Africa into a federal state, which implied a powerful legislature equal to the US Congress,[100] competing views from Nigeria and South Africa never contested this specific institutional design choice – this is because the question of having a parliament had already been settled with the AEC treaty. Member states were now working with the AEC blueprint, which provided a baseline for much of their thinking. The inclusion of a Pan-African Parliament had now become an assumption, not a question. The main contention was, just like with the creation of the OAU in 1963, more about the speed and depth of integration than the specific institutional features. The Sirte Declaration of 9 September 1999, which codified the decision of the Heads of State and Government to create the AU, aims for a 'speedy establishment of all the institutions provided for in the Abuja Treaty; such as the African Central Bank, the African Monetary Union, the African Court of Justice and in particular, the Pan-African Parliament. We aim to establish that Parliament by the year 2000, to provide a common platform for our peoples and their grass-root organizations to be more involved in discussions and decision-making on the problems and challenges facing our continent'.[101] It is noteworthy that out of all the institutions, the PAP should be the only one to receive special mention and a definitive deadline. The PAP's elevated position in the plans for the AU continued throughout the process as, for example, the drafting of the treaty and the protocol for the Pan-African Parliament occurred entirely in tandem, while those for other institutions were left until much later.[102]

[100] Huliaras, Asteris (2001): Qadhafi's Comeback: Libya and Sub-Saharan Africa in the 1990s. In: *African Affairs*, 100 (398): 17; Khamis, Kassim Mohammed (2008), pg. 78
[101] OAU (1999b), Article 8(ii)(b)
[102] Consultants were tasked with drafting both the treaty and the PAP protocol, but none of the other proposed institutions.

According to one observer at the time, the protocol on the PAP was in fact considered a priority even before the drafting of the AU treaty, primarily because the initial intention was for the PAP to assist with the final design of the AU, thereby facilitating the involvement of the people in the design of the continental organisation itself.[103] The PAP, which was attached to the AEC, was to be established so that parliamentarians could have a voice in drafting the AU treaty at the continental level. This modus operando was abandoned fairly quickly, however, when member states asserted themselves – again, because of the immediate threat of Gaddafi – and ended up side-lining parliamentarians in contravention to their supposed initial intentions.[104] In the end, member states did not delegate the treaty making to any significant extent to either the experts or the OAU bureaucracy, but their justifications for having the PAP were in line with those given by the experts nearly a decade earlier. The argument that there was a need for a parliament for the success of the organisation was therefore accepted by them.

However, when it came to the composition of and powers of the continental parliament, the issue became more controversial. No evidence was found of any actors involved in the decision-making emphatically calling for immediate legislative powers. In the 72nd ordinary session of the OAU Council of Ministers in July 2000, the group of leaders agreed that the PAP was a priority, but that it 'should not be a supra-national entity in the transitional period'.[105] President Konaré of Mali observed that 'as an initial step, it was not necessary for such an institution to be a supranational body, but rather a forum that allowed for discussions and exchange of views on the African Union, as well as the participation of political parties and

[103] Khamis, Kassim Mohammed (2008), pg. 229
[104] Khamis, Kassim Mohammed (2008), pg. 230-235
[105] OAU (1999a): *Report of the Ministerial Conference on the Establishment of the African Union and the Pan-African Parliament 31 May - 2 June, 2000, Tripoli, Libya*. Addis Ababa: OAU, CM/2162 (LXXII), paragraph 66(a)

civil society in the project'.[106] President Abdoulaye Wade of Senegal, though in favour of a 'chamber of representatives', agreed that he preferred 'the definition of a system that does not affect national sovereignty'.[107]

Neither did the consultants recruited to draft the PAP's protocol seriously consider giving the new institution legislative powers. Primarily, the initial conceptualisations of the OAU Secretariat heavily discouraged this. In the preliminary assessment of the PAP's composition and function, the formal functions of an ordinary parliament were: legislative function, control and supervisory functions, electoral or appointing functions, articulating function, the *pouvoir constituant*, and an integrating function. However, all apart from the articulating and integrating functions were 'definitely' entrusted to the Heads of State and the Council of Ministers by the AEC treaty, and it was therefore deemed unwise to shift any of the substantive powers to the PAP. Only the articulating and integrating functions were therefore 'open to the fullest exploitation' in the PAP's protocol without doing 'violence to the structure of the Treaty'.[108] Given the member states' reservations on this issue, and their lack of uncertainty on this issue, experts brought into the process had their scope of influence circumscribed to avoid loss of sovereignty.

Parliamentarians were also invited to contribute opinions. However, this was after the draft Protocol had been produced and their input did little to further the process. While the possibility of a fully legislative parliament was considered, even the parliamentarians opted for a consultative body. While they recognised that 'the ultimate aim of the Pan-African Parliament is to evolve into an institution with legislative powers, until such time as the

[106] OAU (1999a), paragraph 46
[107] OAU (1999a), paragraphs 61-62
[108] OAU (2000b): *Pan-African Economic Community. Options for a Protocol on the Pan-African Parliament.* Addis Ababa: OAU, pg. 2 - 3

Member States decide otherwise by amendment to the Protocol, it shall be an advisory and consultative body.'[109]

The weakness of the PAP is primarily due to the unwillingness of member states to cede sovereignty in the immediate term to a continental parliament. This was a cost too high. The instructions from the OAU bureaucrats regarding the functions of the PAP makes this clear: all the legislative and decision-making powers are to stay with the Heads of State and Government as well as the AU's Executive Council. Undoubtedly, these reflected the positions of the member states, who had affirmed their preference for a toothless organ. However, neither the consultants nor the parliamentarians were in any position to effectively counteract this. The compromise position adopted in the end was to codify the eventual strengthening of the PAP into a fully legislative organ in the protocol,[110] but only at some unspecified time in the future.

An important point to note is that the EU model of regional integration was explicitly taken into account for the creation of the AU. Requests were made for the rules of procedure of the EP and the Parliamentary Assembly of the Council of Europe once a decision was made to have the PAP.[111] A paper written by civil society for the UNECA's 2002 African Development Forum deemed the EU the most appropriate model for the AU, although in spirit the AU operated more like ASEAN.[112] As a result, for example, strengthening the Secretariat meant

[109] OAU (2001a): *Report of the Secretary General on the Meeting of Parliamentarians to Examine the Draft Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament.* Addis Ababa: OAU, CM/2197 (LXXIII), paragraph 10(f)
[110] OAU (2001b): *Protocol to the Treaty Establishing the African Economic Community Relating to the PAP*. Addis Ababa: OAU, Article 11
[111] OAU (2000c): *Urgent Request for Documents.* Intra-organisational Fax message. Addis Ababa: OAU, CB/LEG/23.15/16/Vol.III
[112] UNECA (2002): *The Architecture and Capacity of the African Union*. Addis Ababa: UNECA, pg. 3. Note that, while this document is owned by the UNECA, it is written by the InterAfrica Group/Justice Africa. The UNECA itself, however, has not been shy about learning lessons from other regional organisations. See UNECA (1999):

turning it into a 'Commission'. In practice, the AU Commission is not a supranational executive, but still a secretariat and is structured along very different lines to the EU Commission. In any case, considering that the decision to create the PAP preceded the decision to create the AU, it is difficult to identify the EU model as the cause of the PAP. What it does show, however, is that the EU is nevertheless an important background factor to regional integration processes in Africa.

5.5 Conclusion

This chapter has shown that the theoretical argument of democratisation via experts with democratic values is the cause of the Pan-African Parliament. Member states delegated the drafting of the AEC treaty to experts because they viewed the task as low priority. Experts used the high discretion they were granted to interpreted the problems of regional integration according to their professional beliefs. Following their belief in the participatory development norm, they argued that the parliament would be one important means to involve the citizens of Africa in the regional integration process and thus ensure the long-term success of the organisation.

Consequently, the cause of the PAP was not diffusion of the EU model; a rational design choice to increase efficiency or signal democratic values to increase reputational or material benefits; or the democratic values of the member states.

Member states acknowledged the logic of the argument once it was forcefully presented to them and supported by powerful actors with whom they were familiar. However, the solution

African Integration: Lessons from the EU, NAFTA, Mercosur, ASEAN and APEC. Addis Ababa: UNECA, ECA/RCID/078/99

of a parliament for the AEC and eventually the AU was accepted only because it could be adapted to be of a low cost in the short-term. The resulting weakness of the PAP reflects the compromises that experts had to undergo when dealing with an inherently under-resourced continent where democracy was short in supply at the national level, and member states guarded their sovereignty closely.

6 The ECOWAS Parliament

In this chapter, I use my theoretical argument to explain why the Economic Community of West African States (ECOWAS) has a regional parliament. The ECOWAS gained a regional parliament in the 1993 treaty, although this particular organ was only inaugurated seven years later in 2000. The parliament was to be a channel for the voices of the people – to facilitate this it should eventually be directly elected, have full legislative powers over community matters, and hold the executive branch of the ECOWAS to account for implementation of these decisions. Today, the ECOWAS Parliament has no formal powers to make laws binding on the community and only a minimal capacity to check the Authority of the Heads of State and Government or the Executive Council. Its 115 members are also elected from among the national assemblies of the member states by the national parliamentarians,[1] meaning that the MPs that make it to ECOWAS have a dual role of representing both their local constituencies and the community as a whole.

Recently, after repeated attempts to increase its powers, the ECOWAS Parliament finally gained the ability to make model laws, is now formally mandated to be directly elected, and must give its mandatory assent on almost all decisions made apart from those on security. Though none of its decisions are binding, the ECOWAS can in practice block policies that are mandatorily referred to it.[2]

Existing theories would explain the creation of the ECOWAS Parliament either as the diffusion of international normative standards, especially as a mimicry of the EU; alternatively, the

[1] Each member state is guaranteed a minimum of five seats, with the remaining 40 distributed according to population size. Thus, Nigeria has 35 representatives while, Ghana has 8, Cote d'Ivoire has 7, Burkina Faso, Guinea, Mali, Niger, and Senegal have 6 each, and the remaining member states have 5.

[2] ECOWAS (2016): Supplementary Act Relating to the Enhancement of the Powers of the ECOWAS Parliament. Abuja: ECOWAS. A/SA.1/12/16; ECOWAS (2017): *ECOWAS Ministers of Justice Endorse Supplementary Act on Enhancement of Powers of Parliament:* http://www.ecowas.int/ecowas-ministers-of-justice-endorse-supplementary-act-on-enhancement-of-powers-of-parliament/ (accessed 5th December 2017)

ECOWAS Parliament was created as a rational design choice to enhance the efficiency of the ECOWAS and thus deepen member states' cooperation; or it was an attempt to reflect their inherent liberal democratic values of the member states.

In this chapter, I show that the ECOWAS Parliament was the result of democratisation via experts. Member states had weak preferences vis-à-vis the treaty. Since the ECOWAS was of a low priority, member states did not have a habit of devoting their resources or time to it. As a result, they delegated the task of designing the treaty to experts instead of doing it themselves, and gave them high levels of discretion to do so.

Some of the experts brought into the treaty making process had worked on the AEC treaty described in the previous chapter. In particular, there were individuals from the UNECA, which had been a critical driver behind the creation of the Pan-African Parliament. Unsurprisingly, these experts brought to the negotiation table many of the same ideas: a rejuvenated ECOWAS would require democratisation in order to succeed in the future where it had failed in the past. Nevertheless, the experts had to deal with the reality of member states that were far from democratic nationally – as such they compromised by proposing a weak parliament that would gain its powers eventually.

This chapter will begin with a brief history of the ECOWAS to provide important context to the treaty drafting process. It then shows that member states had weak preferences about the new ECOWAS treaty because it was a low priority issue. As a result, they delegated the drafting of the treaty to the experts, giving them high discretion. In the section after that, the role of the experts is elaborated. They brought to the treaty their own problem definition and solutions, importantly that the regional organisation would need to be democratised via a

parliament. This led them to include the ECOWAS Parliament as an integral organ of the regional organisation. The final section will provide a summary and conclusion.

6.1 History of the ECOWAS

This section provides a brief overview of the history of regional integration in West Africa. It contributes important context to the decision-making of the member states and the experts during the treaty review that produced the 1993 treaty. Primarily, it shows the difficult context in which the ECOWAS was established and how it failed to provide the integration it promised, prompting a significant reorientation in the early 1990s. Instituting changes to strengthen the ECOWAS has since brought greater successes, particularly in the area of security. Table 7 provides a summary of the main stages of regional integration in West Africa.

Table 7: Time Chart of ECOWAS Integration

Date	Organisation/Event	Explanation
1965-1968	Abortive attempts at West African integration	The UNECA attempts to create a regional organisation for West Africa, however, these fail due to several unfavourable factors.
1973-1975	Drafting of first ECOWAS treaty	Initiated by Nigeria and Togo, the drafting is highly intergovernmental but draws upon many ideas from the UNECA's initial attempts. No regional parliament is called for.
1975 - 1991	ECOWAS	Following the creation of the ECOWAS, the organisation proceeds to stagnate. Membership fees are not paid, decisions are not implemented, and the organisation begins to drift.
1991-1993	Drafting of second ECOWAS treaty	In recognition of past failures, and the changes in the international system such as the end of the Cold War and the impending Maastricht treaty in Europe,

		member states decide to regenerate the organisation. ECOWAS Parliament is first called for.
1993 – Present	ECOWAS	The ECOWAS gains significant powers in the area of security and becomes more dynamic and active in this policy area. Economic integration, however, still lags behind.
2000	ECOWAS Parliament launched	Inaugural session of ECOWAS Parliament held.

The impetus to establish ECOWAS came on 1st May 1972 when Nigeria and Togo issued a joint communique stating that they intended to build an organisation that would 'form the nucleus of the West African Economic Community'.[3] For Nigeria the creation of the ECOWAS was part of a strategy to create a larger African market in which the country would represent the industrial hub. Although Nigeria has been rhetorically an unwavering supporter of Pan-Africanism, the country's interests were primarily economic.[4] In the way of such economic ambitions, however, stood significant political hurdles. Within Nigeria there was much scepticism about the value of an economic integration organisation to the Nigerian economy. Nigeria's trade with the rest of West Africa was negligible and competitive rather than complementary, Nigeria was also the largest country in the sub-region and thus least in need of enlarged markets, and that Nigeria's sizable share of African trade at the time meant it already had bargaining power in the international system and so did not need economic integration to increase that power. There was also concern that the lack of adequate infrastructural and cultural linkages would be insurmountable barriers, and, worse, economic ties with the Francophone states would mean being tied with the colonial powers of Europe

[3] Morning Post (1972): *Togo and Nigeria form Econ Group*. 2nd May 1972, pg. 1
[4] Ojo, Olatunde J.B. (1980): Nigeria and the Formation of ECOWAS. In: *International Organization*, 34 (4): 573, 575

via the France-Francophonie relationship.[5] While the challenges were overcome by pointing to the potential long-term benefits, the concerns were far from baseless naysaying,[6] and these issues were to play a role in much of ECOWAS' stagnation later.

Among the fifteen intended member states, there were also critical ideological differences. Certain leaders such as Kwame Nkrumah wished for immediate political integration through the creation of a United States of Africa. Nigeria strongly opposed this view, preferring a more pragmatic and stage-like process that would begin with economic integration and aim for political integration as a final stage. Hostility between Nigeria and Ghana aggravated matters. Simultaneously, the Francophone states were sceptical about any projects that would loosen their ties with France. All worried about Nigerian domination of the region and the possibility of ECOWAS being a vehicle for this.[7]

In fact, West African regional integration had been tried several times. The most important effort came from the UNECA, which managed to get the member states to agree to a set of Articles of Association in 1968. However, this too came to nothing when five of the member states, for various reasons, did not attend the Monrovia meeting in 1968, which was to present an important protocol as part of the treaty-making process. According to General Gowon, former leader of Nigeria, 'the political will was not yet there' and efforts to create a West African regional organisation stalled.[8]

[5] Nigerian Federal Ministry of Information (1975): *Professor Adedeji Expatiates on ECOWAS Treaty*. Late News Release No. 539; Ojo, Olatunde J.B. (1980), pg. 574 – 575

[6] In fact, lack of infrastructure and other important prerequisites were very much taken into account as challenges when designing the ECOWAS. See Nigerian Federal Ministry of Information (1975)

[7] Ojo, Olatunde J.B. (1980), pg. 574 – 575

[8] Gowon, Yakubu (1984): The Economic Community of West African States: A Study in Political and Economic Integration. Dissertation, pp. 128

In the end, what the UNECA was unable to achieve, the member states did on their own, primarily through the diplomatic offensive of Nigeria and Togo, the latter under President Eyadema. In 1972, the two states jointly began the process of bringing together the ECOWAS that exists today.[9] Negotiations for an all-West African ECOWAS gained momentum in 1973 as a means of preventing the Francophone states from pre-empting Anglophone efforts. Francophone states in West Africa had formed the Communaute Economique de Afrique de l'Ouest (CEAO) in 1972 and this spurred Nigeria and Togo to 'hasten the formation of the wider regional body, rather than risk the permanent division of West Africa into two mutually exclusive economic zones'.[10]

Perhaps unfortunately for the ECOWAS, citizens formed an emancipatory view of the organisation, which made it inevitable that it would disappoint. ECOWAS was described as a 'bulwark of economic solidarity which will ultimately check the bluff and foil the antics of the lingering economic colonialism'[11] and would lead to 'joint economic emancipation'.[12] Headlines such as 'Dawn of a New Era of Solidarity in West Africa'[13] gave a sense of great possibility for better change as West Africans hoped the new organisation would raise the standard of living.

This reflected the optimism among the leaders themselves. Speaking to his peers in the Council of Ministers in 1977, the Nigerian Minister of Economic Development and Chairman

[9] Gowon, Yakubu (1984), pg. 177 – 211; Daily Times (1972): *Towards Economic Integration in West Africa*. 15th July 1972, pg. 22
[10] Gowon, Yakubu (1984), pg. 286
[11] Sunday Chronicle (1975a): ECOWAS: *Can it really survive?* 8th June 1975, pg. 11
[12] New Nigerian (1975a): *ECOWAS hurdles ahead*. 9th June 1975, pg. 5
[13] Times International (1975): *Dawn of a New Era of Solidarity in West Africa*. 2nd June 1975, pg. 4

of the Council stated that in relation to the hostile international economic environment and the 'sickening realities of neo-colonialism, ECOWAS offers at once a solution and a hope.'[14]

Upon the creation of the ECOWAS in 1975, however, West Africans quickly recognised the reality of the challenges ahead. There was speculation about the competitive nature of the economies, the low level of intra-West African trade, and the huge gaps in inequality among the member states in terms of wealth and economic development (Nigerian Tribune 1975: 7; Sunday Chronicle 1975b: 3).[15]

These concerns were prophetic. ECOWAS began to stagnate as soon as it was created due to these issues. Most damning is that there is very little to say about the period that followed its creation, except to point out its negligible progress and plunging reputation. The organisation spent the next fifteen years of its life trying to institutionalise its organs and gain traction on its goals. It failed to create a common market, to create free movement of people, to liberalise trade, or to indeed increase the level of trade within the subregion. ECOWAS quickly drifted, becoming a regular target for criticism and disappointment in the eyes of the general population.[16]

Redemption came in 1990, when the ECOWAS made the unusual but timely decision to intervene militarily in the affairs of one of its member states, the Liberal civil war. Concerned about the conflict's potential to spill over into the rest of the region, and the potential for greater European interference via France, Nigeria initiated an intervention under the guise of

[14] ECOWAS (1977): *Annex I. Address by the Chairman of ECOWAS Council of Ministers Dr. O. Adewoye, Delivered at the Second Meeting of the Council Held in Lagos, 18-19 November, 1977*. Lagos: ECOWAS, ECW/CM/(2)/1

[15] Nigerian Tribune (1975): *Tribune Comment: ECOWAS*. 20th May 1975, pg. 1 & 12; Sunday Chronicle (1975b): *ECOWAS: Its Implications (3)*. 13th July 1975, pg. 3 – 4

[16] New Nigerian (1983): *ECOWAS: How much impact after seven years?* 20th January 1983, pg. 5; Daily Times (1985a): *ECOWAS at ten (2)*. 29th May 1985, pg. 5; New Nigerian (1985): *ECOWAS Consciousness*. 30th August 1985, pg. 2; The Punch (1989): *ECOWAS in financial mess*. 6th February 1989, pg. 8

the ECOWAS flag. A peacekeeping force, the ECOMOG, was set up, which coordinated with the UN to play a significant role in bringing peace to Liberia. Though technically an illegal act – the UN Security Council gave permission after the fact – its success brought new impetus and meaning to the organisation as well as significant praise.[17] Throughout the 1990s, ECOMOG was to intervene in Liberia, Sierra Leone and Guinea-Bissau, cementing the ECOWAS' now dominant security role in the subregion.[18]

Apart from an emerging security agenda, there was also the end of the Cold War, the threat of intensified unification in Europe through the Maastricht treaty, and the wave of democratisation that brought new concerns about good governance and human rights. These loomed large in the minds of West Africans, and the need for some kind of adjustment in regional integration to account for this was acknowledged.[19] It was in this context of renewal that the decision was made to review the treaty and institute a regional parliament. It would set the ECOWAS on a new, energetic trajectory.

In recent years, the regional organisation has intervened in Cote d'Ivoire in 2011, remained a key player in mitigating instability in Mali following the Tuareg rebellion and a coup in 2012 and, and most effectively ousted President Yahya Jammeh of the Gambia in 2017 after he refused to concede following an election loss. Regarding economic integration, however, progress remains sluggish. Intra-regional trade before ECOWAS in 1974 stood at 3.7%,[20] and

[17] National Concord (1990): *Why ECOWAS went into Liberia*. 5th November 1990, pg. 12; Guardian Nigeria (1990): *ECOWAS' finest hour*. 7th December 1990, pg. 19

[18] See Adeleke, Ademola (1995): The Politics and Diplomacy of Peacekeeping in West Africa: The ECOWAS Operation in Liberia. In: *The Journal of Modern African Studies*, 33 (4): 469 – 593; Adebajo, Adekeye (2002): *Building Peace in West Africa: Liberia, Sierra Leone, and Guinea-Bissau*. Boulder, CO and London: Lynne Rienner Publishers

[19] Daily Times (1989b): *ECOWAS and Europe 1992*. 29th June 1989, pg. 12; Guardian Financial Weekly (1989): *ECOWAS sets up panel on EEC's single market*. 10th July 1989, pg. 20; Champion (1991): *ECOWAS: the journey so far.* 11th July 1991, pg. 14

[20] Asante, S.K.B (1986): *The Political Economy of Regionalism in Africa: A Decade of the Economic Community of West African States (ECOWAS)*. New York: Praeger Publishers, pg. 41

by the ECOWAS' fortieth anniversary it was still merely 12%.[21] Member states are still much more reliant on trade with partners external to West Africa than with each other, suggesting that this economic community will require much greater consolidation.

Having provided important historical context in this section, the next section will commence with the empirical analysis of the creation of the ECOWAS Parliament via the treaty review process. It applies the theoretical argument developed in this thesis to show that member states delegated the treaty making to experts and experts then used their professional beliefs in participatory development to create a regional parliament.

6.2 Member States Delegate Treaty Making

Member states delegated the task of drafting the ECOWAS treaty because the organisation was of low priority and thus they showed little commitment to the organisation. This lack of commitment is evidenced in the low priority they gave to ensuring its proper functioning. They neither regularly paid their membership fees, often being in arrears for many years, nor implemented most of the protocols and agreements that were designed to integrate the region.

6.2.1 Member States' Weak Preferences

Chronic funding problems were consistently highlighted as a problem from the onset of the organisation and continued to persist throughout its initial decades. Member states were neither paying for the operational budget of ECOWAS nor paying into the ECOWAS Fund, a

[21] TRALAC (2015): *ECOWAS laments as West Africa's intra-regional trade sinks to 12%:* https://www.tralac.org/news/article/8421-ecowas-laments-as-west-africa-s-intra-regional-trade-sinks-to-12.html (accessed 16th December 2017)

mechanism designed to provide loans for development projects. Just two years after the signing of the treaty, the financial controller of the ECOWAS noted that 'high level intervention was necessary to bring some pressure to bear on member states to pay their contribution' because only six of them had fully paid into the ECOWAS Fund while a further seven had made only part payments.[22] The high level of alarm was justified as most member states paid nothing into the budget for the first five years.[23] In 1985, an entire decade later, the Council of Ministers noted that although just over 15.6 million units of account (UA) of funds were due to be paid by member states by January 1985, only 26% had been received by September of that year. Two states still owed funds from 1979, 13 states owed funds from 1984, and only two states had paid their dues for 1985.[24]

This problem was repeatedly raised by the ECOWAS Secretariat at every Council meeting, with warnings about the 'gravity' of the 'considerable arrears'[25] at the ECOWAS, and the 'difficulties the Secretariat and the Fund face because of non-payment of Members' contributions to the operational budgets of the institutions of the Community'.[26] The state of the funds was so dire that an order was made at the highest level, namely by the Authority of the Heads of State and Government, that arrears up to 1983 should be paid by October 1986, and following that, payments should be received in full by March 1987.[27]

[22] Sunday Chronicle (1978): *ECOWAS Funds. Only 6 Countries Have Paid*. 26th November 1978, pg. 1; New Nigerian (1978): *Only six states pay to ECOWAS fund*. 24th November 1978, pg. 32
[23] ECOWAS (1988a): *Twenty-Third Session of the Council of Ministers. Lomé, 18 - 21 June 1988. Final Report*. Lagos: ECOWAS, ECW/CMXXIII/Rev. 1, see statement of contributions.
[24] ECOWAS (1985): Speech by Mr. Komla Alipui, Honourable Minister of Finance and Economic Affairs, Outgoing Chairman of the ECOWAS Council of Ministers. In: ECOWAS (1985): *18th Session of the Council of Ministers. Lomé, 25 - 29 November 1985. Final Report.* Abuja: ECOWAS, ECW/CM.XVIII/8/Rev. 1, pg. 4
[25] ECOWAS (1979): *Sixth Meeting of the Council of Ministers. Dakar, November 26 - 28, 1979. Final Report.* Lagos: ECOWAS, pg. 9
[26] ECOWAS (1981a): *Ninth Session of the Council of Ministers. Freetown, 24 - 27 May, 1981. Final Report.* Lagos, ECOWAS, ECW/CM.IX/15/Rev.1, pg. 13
[27] ECOWAS (1986): *Authority of Heads of State and Government. Abuja, 30 June - 1 July, 1986. Final Communique.* Lagos: ECOWAS, ECW/HSG.IX/3/Rev.2, pg. 6

However, even the Authority could not motivate payments by the member states. The Nigerian Minister of Transport noted during the meeting of the Council of Ministers in June 1988 that such funding shortages were occurring even despite appeals by the highest organ:

> 'It is saddening to learn that many member States have not responded to that appeal. There are many States whose arrears run into thousands of US dollars while some others are indebted to the tune of over one million US dollars. It is a fact that all our countries are facing severe economic crisis and balance of payments difficulties. Nevertheless, member States should show their level of commitment to our organization by making a conscious effort to reduce the quantum of arrears even if they cannot liquidate them at a time.'[28]

Equally, the ECOWAS Fund was deemed to be facing 'a serious liquidity crunch and unless its resources are augmented soon, the Fund's activities will grind to a halt.'[29] If payments to the budgets of the ECOWAS were an indicator of member states' prioritisation of its activities, then clearly it was low.

The ECOWAS' 'financial mess'[30] was highlighted frequently in the media, becoming an embarrassing public sign of its low priority to its own membership. One newspaper reported that one of the ECOWAS organs was forced to borrow money in order to meet its commitments.[31] Even where funds were paid, member states appeared not to be too careful about following the correct procedures. An official being quoted in the New Nigerian noted that states:

> 'after being associated with ECOWAS for up to seven years still did not appear to know how to channel their contributions to the various bodies.
>
> "Can you imagine," he said in anger and embarrassment, "that some countries' remittances are sometimes credited to the wrong account?"'[32]

[28] ECOWAS (1988b): Opening Speech by the Honourable Minister of Transport of the Federal Republic of Nigeria and Chairman, ECOWAS Council of Ministers, Dr. Kalu I. Kalu, at the Meeting of the Council of Ministers, Holding in Lomé, Togo From 18th to 21st June, 1988. In: ECOWAS (1988): *Twenty-Third Session of the Council of Ministers*, pg. 5
[29] ECOWAS (1988c): *Opening Speech by Dr Kalu I. Kalu.* Lagos: ECOWAS, pg. 2
[30] The Punch (1989), pg. 8
[31] Daily Express (1978): *No Money for ECOWAS*. 24th November 1978, pg. 16
[32] New Nigerian (1983), pg. 5

By its tenth anniversary, ECOWAS was reported as having to put a temporary ban on recruitment of staff and also restrict its operations to the extent that major projects would not be forthcoming. This was despite the fact that member states were managing to pay their contribution to other bodies such as the United Nations.[33] When it was reported that only 3 member states had made their contributions for 1984, the Daily Times noted with some irony that 'at least as at January 11 [1985], ECOWAS had only three (financial) members – Nigeria, Ivory Coast and Niger Republic. What about the remaining 13 debtor nations? We can only hope that their commitment to the organisation is not getting eroded so early in its history.'[34] Thus, even the general public understood that the ECOWAS was low in the priorities of the member states.

Concern about the low priority of the ECOWAS was far from misplaced, as lack of payment was not the only alarming indicator. Member states also did not ratify or implement the protocols they signed, nor took the ECOWAS seriously in their national development plans.[35] In 1989, fourteen years after ECOWAS was first established, the Council of Ministers acknowledged that out of 23 protocols and conventions, only 16 had been ratified by seven or more member states, which was the number required to bring them into force.[36] Furthermore, important headline projects of the ECOWAS deemed necessary for integration never got off the ground as member states stalled on their implementation. The trade liberalisation scheme, envisioned since 1975, still had stalled by 1991.[37] As the Executive

[33] Daily Times (1985a), pg. 5
[34] Daily Times (1985b): *Therapy for ECOWAS*. 22nd January 1985, pg. 3
[35] Bundu, Abass (1997): ECOWAS and the future of regional integration in West Africa. In: Real Lavergne (ed.): *Regional Integration and Cooperation in West Africa. A Multidimensional Perspective.* Trenton, NJ: Africa World Press, IDRC, pg. 29 – 47
[36] ECOWAS (1989a): *Twenty-Fifth Session of the Council of Ministers. Ouagadougou, 25 - 27 June 1989*. Lagos: ECOWAS. ECW/CM.XXV/24/Rev.1, pg. 14
[37] ECOWAS (1991b): *Thirtieth Session of the Council of Ministers. Lomé 20 - 22 November, 1991. Final Report.* Lagos: ECOWAS. ECW/CM.XXX/10/Rev.1, pg. 2

Secretariat himself noted: 'The failure of the trade liberalisation scheme is interpreted by many observers as Member States' lack of commitment to regional integration.'[38] Decisions of the ECOWAS, in fact, were rarely domesticated and there was concern about the lack of decision-making coordination between the regional and national levels. In 1981, Council urged member states to 'be more effective in their activities to ensure a permanent link with the institutions of the Community and a smooth functioning at national levels of ECOWAS activity programmes.'[39] Decisions, however, were regularly neither gazetted nor incorporated into relevant national bills,[40] and the ECOWAS and its projects, despite much prompting, remained of low relevance to the states.

The initiative to review the treaty was itself taken by the new Secretary-General, Dr Abass Bundu, primarily triggered by a need to find solutions to the funding problems.[41] Member states, however, granted him the approval at the highest level. First appointed in June 1989, Bundu immediately set about convincing the member states that the problems that the ECOWAS the region in general were facing were far-reaching and chronic enough that the entire approach of the organisation needed to be reconsidered.

In one of his first addresses four months after taking office, which was to the Summit of the CEAO, whose membership overlapped entirely with that of the ECOWAS, he reiterated the need to rationalise regional integration in West Africa. He argued that 'the potential contribution of regional cooperation to the development of the West African economy is not yet fully appreciated; not enough priority has, in practice, been accorded to economic

[38] ECOWAS (1992c): *Racing Against Time: Either Accelerate Integration or Continue to Stagnate. 1991/92 Annual Report by Executive Secretary, Dr Abass Bundu*. Lagos: ECOWAS, ECW/CM.XXXI/2, pg. 52
[39] ECOWAS (1981b): *Tenth Session of the Council of Ministers. Freetown, 23 - 25 November, 1981. Final Report*. Lagos: ECOWAS. ECW/CM/X/18, pg. 5
[40] New Nigerian (1983), pg. 5
[41] Interview, Participant 9, 5th May 2017

integration in the economic arrangements of our countries.' To change the fortunes of the region would require 'a re-thinking of the way things have been done in the past' and 'a higher degree of commitment and determination'.[42] He continued to reiterate this call at every opportunity. In 1990, he advised the Council that 'ECOWAS and its Member States had no choice but to continue to strive for regional integration, and to engage in much critical self-examination, re-consideration of past set objectives and review mechanisms and strategies for tackling the socio-economic and political issues confronting West Africa'.[43] Furthermore, he made one of his four key priorities the strengthening of the ECOWAS institutional capacity.[44]

It was in line with this thinking that he proposed to the Authority and the Council in May 1990 that the treaty be reviewed. Interestingly, the reaction from the two organs was diametrically opposed. The Council decided against it, stating that it was 'rather early in the life of the Community to undertake a general review' and that they approved a more piecemeal approach by amending specific parts of the treaty. Such request should be brought before the Council.[45] The Authority simultaneously, on the other hand, fully approved the recommendation to review the treaty and mandated the Executive Secretary to 'set up a Committee of Eminent Persons in the sub-region, both within and outside governmental circles' to carry out this task.[46] While this discrepancy is curious, decisions by the Authority

[42] ECOWAS (1989c): *Summit Meeting of the CEAO. Cotonou, 23 October 1989. Address of Dr. Abass Bundu, ECOWAS Executive Secretary, at the opening session.* Abuja: ECOWAS
[43] ECOWAS (1990b): *Twenty-Eighth Session of the Council of Ministers. Abuja, 12 - 13 December, 1990. Final Report.* Lagos: ECOWAS. ECW/CM.XXVIII/15/Rev.1, pg. 6
[44] ECOWAS (1989b): *Twenty-Sixth Session of the Council of Ministers. Lomé, 29 - 30 November, 1989. Final Report.* Lagos: ECOWAS. ECW/CMXXVI/II/Rev.1, pg. 6
[45] ECOWAS (1990a): *Twenty-Seventh Session of the Council of Ministers. Banjul, 22 - 27 May, 1990. Final Report.* Lagos: ECOWAS. ECW/CM.XXVII/17/Rev.1, pg. 7
[46] ECOWAS (1990c): *Thirteenth Session of the Authority of Heads of State and Government. Banjul, 28 - 30 May 1990. Final Communique.* Lagos: ECOWAS, ECW/HSG/XIII/3, pg. 8

override those of the Council, and thus approval was given at the highest level, paving the way for the treaty review.

6.2.2 Member States Delegate with High Discretion

Given the aforementioned low commitment to the organisation by member states, they revealed no preferences with regard to the design of the treaty. An argument could be made that they simply lacked the expertise to conduct this exercise themselves. However, this is unlikely since the same member states had created the ECOWAS in 1975 through traditional inter-state bargaining, albeit with some encouragement from the UNECA. Importantly, states gave the Secretariat open-ended instructions, which is evidence of their weak preferences. The mandate given to the Committee of Eminent Persons (CEP) was broad, covering all structural and procedural elements of the organisation without specifying any particular desired outcome. The review would include a 'critical analysis' of the treaty in the following areas: a) the decision-making process of the Community with specific reference to national sovereignty and supranationality; b) supremacy of the ECOWAS vis-a-vis other regional organisations in West Africa; c) scope and degree of cooperation regarding all the areas of ECOWAS activity; d) the organs and institutions of the Community; e) mobilisation of resources.[47] The objectives were only two, but also broad and thus worth quoting in full:

> '-Correct deficiencies of the legal bases of Community action that have been detected over the past fifteen years; and
>
> - Propose necessary amendments that would contribute more effectively and speedily towards the realisation of an integrated and functional Community'[48]

[47] ECOWAS (1991a): *Committee of Eminent Persons. Review of the ECOWAS Treaty. Memorandum by the Executive Secretariat.* Lagos: ECOWAS, ECW/CEP/TREV/1/2, pg. 14
[48] ECOWAS (1991a), pg. 15

There is evidence that the CEP took seriously these open-ended objectives, expanding their own mandate in the process. While they had been asked to focus on the legislative process, financing, and decision-making procedures of the ECOWAS, the CEP decided at the onset of the treaty drafting process that 'the scope of the mandate was broad enough' to review anything else they saw as unfit and add new provisions not in the old treaty when deemed relevant.[49]

Member states gave no specific direction beyond this. They delegated the task of reviewing the treaty to the Executive Secretariat and the CEP and left them with open-ended goals and vaguely worded instructions that meant these agents had free reign. Member states did this because they themselves saw the ECOWAS as a low priority organisation. They neither paid for it when called to do so nor implemented most of its important decisions. Moreover, in a period of acute economic crisis, their attentions where elsewhere, meaning regional integration itself had basically stalled. It was in fact the Secretariat that pushed for a treaty review, being convinced that without stronger institutions it's mission would fail in the long-run. And it was also the Secretariat that convinced the member states that this treaty review would need to be thorough and all-encompassing. Given member states' lack of commitment, they showed no specific preferences and instead delegated the task entirely to the Secretariat and the CEP by giving them a broad mandate.

The Committee of Eminent Persons had a diverse composition and was to reflect not just the national diversity of West Africa but a broad policy scope. Vitally, their work was carried out with great independence, meaning the member states did not monitor their agents to ensure their national interests would be represented. As the mandate given to the Executive

[49] UNECA (1991c): *ECA-MRAG Mission Report on ECOWAS.* Addis Ababa: UNECA, ECO/RA/91/1, pg. 2

Secretary made clear, they were also to be drawn from within and outside government. In the end, the composition was such: there would be one person of renown from each member state selected to reflect 'the main areas of concern' of the treaty review. A further eight individuals would be chosen from academia, the West African Women's Association, the Federation of West African Chambers of Commerce, Federation of West African Manufacturers Associations, the OAU, the UNECA, UNCTAD, and the African Development Bank (ADB). The CEP was also to have a Chairman of the Committee. Apart from the CEP, there would also be ad hoc use of consultants, who would be tasked with conducting studies to support the discussions of the CEP. Consultants could be drawn from amongst the CEP membership or hired from the broader West African region. Finally, the CEP would employ legal experts to translate their decisions into a draft treaty.[50]

The CEP was divided into four sub-committees, each tasked with a different aspect of the treaty: a) Institutional Matters; b) Political Cooperation, Regional Peace and Security; c) Financing of Regional Integration Efforts; d) Available Options for Cooperation and Regional Economic Integration. Of these, the first was the most important to considerations about the organs that the new ECOWAS should have. Far less information was available about discussions of the last sub-committee, but available documents suggest that it set the tone for the significant influence of the AEC treaty in the ECOWAS treaty.

Formally, the members of the CEP were requested by the member states and then appointed by the Executive Secretary.[51] When asked how they were chosen, some members of the CEP

[50] ECOWAS (1991a), pg. 16 – 17
[51] ECOWAS (1992a): *Review of the ECOWAS Treaty. Final Report by the Committee of Eminent Persons.* Lagos: ECOWAS, pg. 2

confirmed in interview that they were formally asked by heads of state and government. One account proceeds as follows:

> 'The recruitment exercise, if I recall, I think it starts with a letter to the respective Heads of State asking each one of them to nominate a person they consider to be capable, respectable, I presume – that's why they were eminent – to the Committee. In my case the letter went to Dr Amos Sawyer, who was at that time the Interim President of the Republic of Liberia. And I was at that time the Senior Advisor to the President and at the same time responsible for the restructuring of Liberia that was really almost coming out of critical civil war period. And so, in his own wisdom, Dr Sawyer asked me if I could take on this responsibility and I accepted it because of my own personal interest as well in ECOWAS. And so that's how he then nominated me and I joined the Committee.'[52]

Informally, the Executive Secretary highly influenced the choices of the heads of state. One interviewee stated this, pointing to his own experience of being chosen. According to his experience he was directly approached by the Executive Secretary before any plans had been finalised because Bundu wanted to identify those who he would like to sit on the CEP. Once he had confirmed, then the relevant head of state was asked to support this. When asked why it was so automatic, the interviewee mentioned that once the Executive Secretary had made the request, 'governments found it very difficult a) to refuse, b) not to accept the person mentioned by the Executive Secretary himself'. [53] Another high-level official confirmed this, stating that the Executive Secretary 'did not want them [member states] to be the actual selectors of the members of the group. So that's the approach that we used. We identified them as independent, in their own independent capacities, looking at their expertise, at their background.'[54] The importance of not having a purely government-driven treaty process was that it offered the opportunity for fresh ideas instead of 'just a group of Yes Men'. The CEP was to be filled with people who were 'to be broad-minded, to think outside the box, so to speak, to approach things from a different perspective, from a very liberal perspective, and a

[52] Interview, Participant 1, 17th April 2015. See also Interview with Participant 3, 16th April 2015
[53] Interview, Participant 7, 27th June 2015
[54] Interview, Participant 9, 5th May 2017

very accommodating perspective, an argumentative perspective.' Thus, their backgrounds were diverse – political science, economics, law, finance – and their professional experiences also from various organisations.[55]

Apart from governmental choices, personal connections extended also to those selected from civil society and international organisations. This is particularly relevant as it explains why the UNECA was well represented in the most relevant sub-committees. One CEP member mentioned being given the opportunity not just because of his professional background, but because he was also a colleague of Professor Adebayo Adedeji. He added that this was the case for another of the CEP members that he knew. 'And when Adedeji was moving, he also moved with his personal assistant, Senghor. Senghor has been a good friend for many years.'[56] Another interviewee confirmed this UNECA connection, pointing out that it created an enabling environment:

> The Committee members generally 90% of everybody that was sitting around the table were not meeting for the first time. And that was important. Because, when you have such a high-level panel, and people are meeting for the first time, they waste a lot of time posturing, holding back, sizing up one another. And so when you waste that much time and it's not done properly in that sizing up and so forth, and you have preconceived ideas about one another, it impacts the rate of progress and even the content. But when we met, as I say almost 90% of the people around the table had interacted in one way or another. There was a group that had worked together in the United Nations systems. So, for example, we had Professor Adebayo Adedeji, who was Executive Secretary for ECA. And in the room there, I was there, I worked under Adedeji for nine years. So I was one of his boys, let me put it that way. You had Dr Senghor. Senghor worked with him for another maybe ten, eleven years. Because I left them there one year and went to Washington and to New York. And you had Dr Asante, Sam, Sam also worked with him. We had Sall. And Sall also – Sall was member of Council working with us in Addis Ababa. So there was that group. So going into that room there were already familiar faces. Then there was this comradeship professionally. So an ease – so it brought a first set of environmental calm, or an enabling environment to undertake this exercise.[57]

The Executive Secretary not only selected the CEP members but also ensured that they were largely left to do their work with 'tremendous independence'.[58] The CEP experienced no

[55] Interview, Participant 9, 5th May 2017
[56] Interview, Participant 4, 18th May 2015
[57] Interview, Participant 1, 17th April 2015
[58] Interview, Participant 9, 5th May 2017

oversight from the member states, whether through the Council of Ministers or otherwise. They reported directly to the Executive Secretary and sent reports directly to him. Nevertheless, they proceeded by 'bearing in mind what was acceptable to the member states and what was not acceptable, and so on. We spent some considerable time doing just that, to make sure we had a document, a proposal that was sellable to the member states.' Deciding what was sellable, however, was a matter of intuition borne out of personal experience and not any specific revealed preferences of the member states.[59]

Another important strategy to ensure that member states would not reject the treaty outright that they had delegated to the experts was to provide the heads of state with briefings. Halfway through the process, once the ideas had become more concrete, the Executive Secretary and the Chairman of the CEP, Yakubu Gowon, travelled together to the member states to inform them of progress made. This made sure they 'wouldn't find the thing rather surprising'.[60] Importantly, it was also an opportunity to convince member states that the provisions in the draft treaty was also what they wanted. While the treaty was derived through a technical process by experts, it then had to be 'sold to the politicians or the military heads of state at the time to appreciate that there was value in accepting what the experts were suggesting.'[61]

[59] Interview, Participant 9, 5th May 2017
[60] Interview, Participant 9, 5th May 2017
[61] Interview, Participant 9, 5th May 2017

6.3 Experts Design Regional Organisation

6.3.1 Experts' Beliefs and Problem Definition

Having been delegated the drafting of the treaty by the member states, the CEP proceeded to use their professional beliefs to design the new ECOWAS. Generally, the CEP membership most relevant to deciding the organs of the ECOWAS also had worked together at the continental level, some even on the AEC treaty. They brought with them preconceived definitions of the problems behind ECOWAS' prior failure and what would be most effective for ensuring future success of the new treaty.

Much of the problems and opportunities had already been elaborated by the Executive Secretary in his reports and statements to the executive branches of the ECOWAS. They were not mysterious, but glaring and pressing. Europe's impending 1992 Maastricht treaty presented, from the West African perspective, a threat that would likely lead to lowered trading opportunities. The only answer was to strengthen regional integration in West Africa and rely evermore on subregional capabilities. An emerging security mandate since the interventions in Liberia also gave ECOWAS an opportunity to create regional security mechanisms. In response to these challenges, the treaty provided for election observations, mediation, the establishment of a monitoring system, and the creation of joint peacekeeping forces. Much of their elaboration was done later in protocols amending the treaty.[62]

Lack of supranationality meant that decisions made at the ECOWAS level were simply not implemented or enforced. The solution was to make decisions of the Authority binding on

[62] See ECOWAS (1992a), pg. 36 – 40. These specific CEP recommendations were adopted almost word for word in Article 58 of the 1993 ECOWAS treaty. The most important protocol to come out of this was the one establishing the Mediation and Security Council, namely ECOWAS (1999): *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security.* Lagos: ECOWAS

member states and the ECOWAS institutions, although this only went partway to resolving the problem. Another problem was the lack of payment of the membership fees. Taking the low prioritisation of the ECOWAS into account, experts decided that the solution would be to implement an automatic process. As such the ECOWAS levy was introduced, which would put a small tax on imports into the West African region and put that towards the funding of the ECOWAS.[63] In order to address the issue of the overabundance of regional organisations in West Africa, which were draining member states of resources, the approach was taken to name ECOWAS as the official REC of the subregion and rationalise all the others through their merging or closing.[64]

However, the CEP's problem definition included a vital additional concept that had not been elaborated by the Executive Secretary. ECOWAS had, in their eyes, not taken seriously enough the participation of West African citizens in its decision-making. This had partly caused its lack of dynamism.

> 'And so when we sat down in Lagos at the time to think about revising the ECOWAS treaty, we said 'Ah, it's time.' Because there was a time when they'd say 'Eh, ECOWAS decisions it belongs to the states and their civil servants and so on.' So no regulation was given to the people. And yet it is the people who actually make integration work. It's the women and so on who send goods from one country to the other who make integration work, and not the heads of state. So normally I tell students that, look, we are not integrating heads of states. We are integrating the people. And now ECOWAS has adopted – you might have heard it – ECOWAS has moved from ECOWAS of states to ECOWAS of people – you might have heard about that.'[65]

Similar justifications are made by other CEP members, stating that during the treaty making process they started 'talking about ECOWAS of the peoples. So parliament, ECOWAS

[63] This was eventually implemented in 2000 and the ECOWAS is now overwhelmingly member state funded. Nevertheless, member states still do not forward all the funds that they collect via the levy and ECOWAS still finds itself short of its target budget every year.

[64] This decision had already been taken by the Authority. See ECOWAS (1990b), pg. 7. However, the CEP supported this and reiterated the need for rationalisation as a solution to the funding issue and commitment of member states. See ECOWAS (1990d): *Committee of Eminent Persons for the Review of the ECOWAS Treaty. Outcome of the First Meeting Held in Abuja, 27 - 30 May, 1990*. Lagos: ECOWAS, pg. 4; ECOWAS (1992a), pg. 7

[65] Interview, Participant 4, 18th May 2015; for an analysis of the influence of democracy on the new ECOWAS treaty see Kufuor, Kofi Oteng (1994): Democracy and the New ECOWAS Treaty. In: *Oxford International Review*, 6 (1): 60 – 65

Parliament, is representing the people. So it has these two hats. Make sure it works for the national legislations, national parliaments, to domesticate, ratify and enact any protocol that is passed. Then it comes also to represent the people.'[66] Another pointed out that democracy had become the only legitimate form of government across the entire continent and military forms of government had become an 'aberration'. As such, 'when you have most or practically all the countries have now either imbibed the democratic ideals and ethos, then of course, in that stage, they would like anything that is done, it must be done as a result of political agreement by a group of people who are either elected or if not elected, they are at least representing their elected government in that sort of committee'.[67]

Statements from interviews are corroborated by the frequent justifications given at the time of the treaty review as revealed in official documents. In the minutes of the second plenary session, the CEP decided that the Parliament and the ECOSOC should be created in order to ensure the 'participation of the masses in the integration process and the follow-up and implementation of Community decisions and programmes' in accordance with the new Community objectives.[68] When gathering a separate set of experts to draft the protocol for the new ECOWAS Parliament, the Executive Secretary stated that the purpose of the parliament was to establish real democracy within the region. 'No true democracy can be achieved without a representative parliamentary institution because that is a basic ingredient of democracy.' For that reason, the ECOWAS Parliament was 'certain to be one of the essential pillars of the new democracy' of the West African region.[69]

[66] Interview, Participant 1, 17th April 2015
[67] Interview, Participant 3, 16th April 2015
[68] ECOWAS (1991c): *Second Meeting of the Committee of Eminent Persons for the Review of the ECOWAS Treaty, Abuja, 4 - 7 October, 1991*. Lagos: ECOWAS, ECW/CEP/TREV/II, pg. 5
[69] ECOWAS (1992b): *Meeting of Legal Experts of ECOWAS Member States on the West African Parliament. Speech by his Excellency Dr. Abass Bundu, ECOWAS Executive Secretary*. Lagos: ECOWAS, pg. 2 – 3

Nevertheless, apart from ad hoc justifications, I found little evidence of much thorough discussion about why the parliament was necessary or in fact any indication of resistance to this idea. Neither the final CEP report nor the initial minutes of the CEP meetings are clear about what benefits beyond simply democratisation the ECOWAS Parliament would bring or how they hoped to implement this.

The reason for this minimal discussion is that the ECOWAS Parliament was an assumption from the start and required little justification within CEP discussions. Members of the CEP were bringing with them the same ideas from the AEC process – including the Arusha declaration on putting the people first – such that many of their assumptions did not have to be explicitly reviewed again. One CEP member stated it clearly: 'So we then said, with the Arusha declaration and so on, this is the time for us also to make provisions for the people to be involved. And so we therefore considered the ECOWAS treaty, the revised treaty, to make provisions for parliament.'[70] His justification was as follows: 'You can't just, after you've gone through this, with the popular participation and so on, and then you come to draw up a treaty who is also in the same area for development, and then you forget the people.'[71]

The AEC treaty was drawn on heavily when considering the institutional design of the ECOWAS. This provides important evidence of the same problem definition being applied to both. The AEC treaty had since its completion in 1991 been considered an important reference point for harmonisation of the regional economic communities across the African continent. The vision for the UNECA was for the continental body to create the overarching framework while the RECs represented the building blocks. Final outcomes could include the subregional bodies being transformed into 'subregional development organs' of the

[70] Interview, Participant 4, 18th May 2015
[71] Interview, Participant 4, 18th May 2015

continental body, or for the entire system to be transformed into a 'confederation of African economic communities'.[72]

When considering the implementation of the AEC treaty across the continent, treaty reviews of the various subregional organisations were seen as important opportunities for harmonisation. According to the UNECA, effective implementation would 'require in some cases the realignment of the treaties of the subregional communities in order to make them consistent with the objectives and provisions of the treaty of the AEC; the new treaty of the ECOWAS under discussion has already incorporated some amendments to that effect'.[73] Furthermore, an integral part of strengthening the institution framework of regional integration in Africa was to introduce new democratic elements to the RECs, 'including creation of economic and social councils, parliaments and courts of justice'.[74]

Harmonisation with the AEC treaty was taken seriously at the ECOWAS, and not just at the level of the UNECA. In the 29th Session of the ECOWAS Council of Ministers, the Chairman of the Council pointed out that 'the signing of the Treaty establishing the African Economic Community was a particular challenge to West Africa' and that 'there was now the additional task of shaping ECOWAS to suit the requirements of the Pan-African integration organisation'.[75]

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[72] UNECA (1991d): *Progress Report on the Strengthening of Subregional Economic Integration Process and the Establishment of the African Economic Community*. Addis Ababa: UNECA, E/ECA/CM.17/12, pg. 20

[73] UNECA (1991e): *Proposals for a Regional Plan for the implementation of the Abuja treaty establishing the African Economic Community.* Addis Ababa: UNECA, pg. 11; see also UNECA (1993): *Proposals for the implementation of the Abuja Treaty establishing the African Economic Community.* Addis Ababa: UNECA, ref no E/ECA/CM.19/7, pg. 2 – 3

[74] UNECA (1991e), pg. 30. The same document also calls for national institutions dealing with matters of economic integration. This may explain why Senegal, for example, decided to create a national Ministry for African Integration in 1991.

[75] ECOWAS (1991d): *Twenty-Ninth Session of the Council of Ministers. Abuja, 30 June - 3 July 1991.* Lagos: ECOWAS, pg. 4

The CEP itself kept in mind the new continental context created by the AEC when considering the ECOWAS treaty. Many of the innovations were directly related to harmonising (which in this context means mirroring) the ECOWAS and the AEC.[76] During the treaty review one study was carried out by SKB Asante, at the time a current employee of the UNECA. It compared the treaties of the AEC and the old ECOWAS, remarking that many of the features that had been deemed necessary for the former were lacking in the latter. The reason for the need to bring all the same problem definitions and solutions of the AEC to the ECOWAS was that that the AEC was 'to forestall any possible conflict of interest that might arise and to establish a harmonious and effective working relationship' between the two organisations. Furthermore, optimistically, the AEC treaty was seen as responding effectively to the multiplicity of challenges the continent was facing given the economic and political upheavals.[77]

As the UNECA had recommended, the parliament was placed in the ECOWAS treaty as part of a 'package' of institutional reforms that included the court and economic and social bodies.[78]

6.3.2 Weakening the Regional Parliament to Address Member States' Concerns

The ECOWAS Parliament was ultimately conceived of as a democratising organ, which would bring the people's voices to the ECOWAS and ensure a symbiotic connection between the organisation and it citizens. However, its actual composition and powers did not reflect this purpose. Instead of being elected via universal suffrage, its Members would be elected from among the national parliaments by national parliamentarians. It would be advisory only,

[76] ECOWAS (1992c), pg. 6 – 7
[77] Asante, Sam K.B. (1993a): Comparative Analysis of the Treaties of the African Economic Community and the Economic Community of West African States. In: Senghor, Jeggan (ed.): *ECOWAS: Perspectives on Treaty Revision and Reform.* Dakar: UN IDEP, pg. 16
[78] Interview, Participant 7, 27th June 2015; Interview, Participant 9, 5th May 2017

having no say on the budget and no means of checking the executive organs. Finally, none of its decisions would be binding on the Community or the member states or supersede national laws.

These weaknesses were agreed upon by the members of the CEP in anticipation of the political and logistical challenges of implementing a full regional parliament in the West African context of the time. As a former senior official mentioned: 'we knew it was very difficult to get the heads of state to agree to direct representation to the parliament. But we settled on a halfway mechanism, where the national parliaments themselves were the selectors of the members that came to the ECOWAS Parliament. But with a view that in future that process too could be enlarged and expanded to include direct representation.'[79]

Besides the difficulties of convincing member states, the CEP acknowledged that the state of the national political contexts in the subregion meant an ambitious regional parliament would be impractical. Apparently, none of the member states at the time had real functioning parliaments with democratically elected members. Nevertheless, they expressed the hope that universal suffrage would be attained in the future.[80]

I note that their conclusions were not inevitable. Actors in other spheres observed the same challenges but instead rejected the idea. In 1989, two years before the CEP first met, the option of an ECOWAS Parliament was briefly floated amongst the public but was quashed as premature. The Ghanaian Foreign Minister Dr Obed Asamoah raised the issue, but it was viewed with some scepticism because most member states had no elected national assemblies of their own. Accordingly, 'any ECOWAS parliament now will be no more than a

[79] Interview, Participant 9, 5th May 2017
[80] ECOWAS (1992d): *Third Meeting of the Sub-Committee on Institutional Matters. Draft Report. Lagos: ECOWAS*, pg. 7

military assembly'.[81] A second critique was that the ECOWAS should focus on achieving its economic goals, which still had not been realised after many years of effort. Finally, because member states had only recently gained independence, they would be in no position to give up their sovereignty to a higher political body. An ECOWAS Parliament was, therefore, 'something good whose time has only not yet come.'[82]

I argue that the CEP's thinking was particularly made possible by the fact that the members maintained a long-term view of regional integration. Not only was it a stage-like process from lower levels of integration to full monetary union, democratisation itself was a continuous process. Abass Bundu himself noted that, 'As we all know, like the edifice it could be, democracy is built in stages.'[83]

6.4 Consideration of Alternative Arguments

An important question is to what extent alternative models, particularly the European Union, came to play a role. This is relevant in this chapter because important evidence was found that may support alternative arguments. Certainly, the experts were aware of, and consciously took into account, regional integration efforts in other parts of the world. In his opening statement to the CEP at their first meeting, the Chairman Yakubu Gowon stated: 'We intend to draw inspiration from other regional and sub-regional groupings world-wide especially those who have a record of success.'[84] And a wide variety of African and non-

[81] Daily Times (1989a): *ECOWAS Parliament.* 4th April 1989, pg. 10
[82] Daily Times (1989a), pg. 10
[83] ECOWAS (1992b), pg. 3
[84] ECOWAS (1991e): *Opening Statement by General Yakubu Gowon (RTD) Chairman of the Committee of Eminent Persons for the Review of the ECOWAS Treaty Delivered at the Opening Session of Inaugural Meeting of the Committee.* Lagos: ECOWAS, pg. 7

African regional schemes are mentioned by name as examples of dynamic regionalism and a broader trend of integration that must not be ignored as it threatens to leave West Africa behind.[85]

The EU is mentioned explicitly and frequently in both interviews and documents. The strongest statement is made by one former high level ECOWAS official, who stated: 'The ECOWAS Parliament, that one we borrowed that idea from the EU basically'. From his perspective, 'with hindsight, we had the EU as a point of reference. If you're talking about integration, the EU was the most successful model at the time. And we followed very closely how the EU was moving. And we felt if they moved in a particular way and succeeded, then it was worth looking at and perhaps replicating in our own situation as well.'[86] Clearly, the EU was a useful blueprint for organs apart from the Parliament. For example, when discussing how best to deal with coordinating technical, social, economic, and cultural elements of regional integration at the ECOWAS, the AEC treaty's approach of creating a powerful Economic and Social Commission is deemed unnecessary for the ECOWAS. Instead, the ECOWAS should adopt an Economic and Social Committee in the style of the EU.[87] Notably, this organ was eventually named the 'Economic and Social Council' rather than a Committee in the 1993 treaty and was never established.

However, one member of the CEP contradicts this, stating that the EU came up in the context of discussions about supranationality but was not discussed in the context of regional parliaments. He had a 'lukewarm' reaction to the proposal to include a Parliament because he could not see how it could be useful when even national parliaments were barely

[85] ECOWAS (1991e), pg. 4
[86] Interview, Participant 9, 5th May 2017
[87] Asante, Sam K.B. (1993a), pg. 19.

functioning. He himself believed more in strengthening the NGOs in the subregion directly in order to foster democratisation. However, he made no protests against the notion of an ECOWAS Parliament because it could do no harm to have one. Neither was the European experience uncontroversial – he himself felt it was being referenced too much in the discussions about supranationality[88], but he remembers there being only very little discussion about the Parliament overall, and the EU not being mentioned in that context.[89]

Moreover, the timing of the decision to create a regional parliament speaks against the EU model being the cause. The EU is mentioned as a reference point for institutional design decisions across the history of the organisation. For example, observers point to the EU as a successful example of regional integration for both the ECOWAS of 1975 and the ECOWAS of 1993. One CEP member critiqued the ECOWAS treaty of 1975 as follows: 'You see, the old treaty laid emphasis only on trade liberalisation, so right from the beginning the member states of ECOWAS were concerned with trade liberalisation. They were actually copying the European system, the classic European model. They were copying, or mimicking, the European one, forgetting that in Europe, when they talk about trade liberalisation, they already have – they produce the goods already.' Accordingly, the new ECOWAS, however, would follow a different approach of focusing on production and not just trade liberalisation.[90]

[88] Supranationality is interpreted by the CEP to mean that decisions made at the ECOWAS are binding on member states and Community organs. It does not refer to supranationality as understood in the European context, where organs of the regional organisation are autonomous from the member states and make decisions that are binding. For that reason, the Authority and Council of the ECOWAS are considered to have supranational powers despite being composed of heads of state and government ministers. A truly supranational Commission was, in fact, overtly rejected. See ECOWAS (1992a), pg. 18 – 22

[89] Interview Participant 8, 27th June 2017

[90] Interview Participant 4, 18th May 2015. For a similar critique on African adoption of the 'classical' European model of trade liberalisation, see Aly, Ahmad A.H.M (1994): Economic Cooperation in Africa. In Search of Direction. Boulder, CO and London: Lynne Rienner Publishers, pp. 35 – 41. Adedeji himself appeared to have had a different view at the time of the creation of the ECOWAS. In his address for the 1976 Conference on the

That the EU could be a model for regional integration in two separate instances in the history of the same regional organisation but somehow lead to no parliament in an earlier period and lead to a parliament in a later period suggests that, while it is a structural influence, it is by no means the cause of the ECOWAS Parliament.

Frequent references to the EU indicate that it is an important example that is taken into account when institutional design decisions are being made. This is unsurprising since the precedent of a successful regional organisation would be a costless source of inspiration. For that reason, the EU can be considered an important, constant background factor. Nevertheless, the EU as a model cannot be considered the cause of the ECOWAS Parliament. Rather, what caused the ECOWAS Parliament was the experts' intention to democratise the regional organisation in order to ensure its effectiveness according to their belief in participatory development.

6.5 Conclusion

This chapter has shown that democratisation via experts wanting to strengthen the ECOWAS was the cause of the regional parliament. Member states had historically not prioritised the ECOWAS in their decision-making. As soon as they signed the original 1975 treaty, member states began shirking on their responsibility to pay for the running of the organisation, leaving the Secretariat to struggle to fulfil its duty. More significant is that member states also failed to ratify and implement the decisions they jointly took at the ECOWAS level. While the

ECOWAS, he mentions that the ECOWAS is 'not essentially concerned with trade. It is concerned with the transformation of production' as well as furthering the principle of collective self-reliance. See Adedeji, Adebayo (1984): Collective Self-Reliance in Developing Africa: Scope, Prospects and Problems. In: Akinyemi, A.B/Falegan, S.B/Aluko, I.A. (eds.): *Readings and Documents on ECOWAS.* Lagos: Nigerian Institute of International Affairs, pp. xxxiii

purpose of the organisation was to help its members develop through increased integration and cooperation, member states failed to streamline their ECOWAS decisions into their national development plans and thus side-lined the organisation at their most critical time in the 1980s.

When the time came to redraft the treaty, member states delegated this task to the Secretariat and a host of experts drawn from outside the national governments. Delegation occurred with vague mandates that did not convey any strong preferences on the part of the member states. Experts were therefore not circumscribed in the scope of the changes they could make to the treaty, and as a result exercised high levels of discretion.

Using this discretion, experts proceeded to develop the ECOWAS treaty according to their own beliefs rather than the preferences of member states. The most influential among the experts brought with them ideas of participatory development, which influenced their problem definition of the ECOWAS and also the solution they devised. In particular, experts believed that the reason the ECOWAS had not succeeded in attaining its goals was because it had omitted the West African people from the integration process. Their inputs would be needed to foster a sense of ownership of development among the people and to ensure that implementation was reinforced at the national level. Creating the ECOWAS Parliament was one feature in a 'package' – which included the ECOSOC and the ECOWAS Court – that was designed to bring good governance principles and democracy to the regional level.

On the other hand, recognising that a parliament has supranational powers that would have significant implications for the sovereignty of member states, experts anticipated that such an organ might be met with resistance. For that reason, experts weakened the powers of the

parliament while codifying a commitment in the treaty to make it fully legislative and elected by universal suffrage at an unspecified time.

The next chapter will now focus on the SADC Parliamentary Forum, which is a negative case. It shows that SADC-PF has failed to become instituted as a regional parliament of the SADC regional organisation because member states did not delegate the drafting of the treaty to experts and continue to maintain control of the organisation because it is of a high priority to them.

7 The SADC Parliamentary Forum

In this chapter, I apply my theoretical argument to explain why the Southern African Development Community (SADC) does not have a regional parliament. Experts committed to participatory development were not delegated the task of drafting the treaty. Instead, member states' retained control over the treaty drafting process because the organisation was of a high priority. Therefore, their non-democratic preferences determined the institutional design of SADC. Member states opted not to create a regional parliament, leaving national parliamentarians and civil society groups to establish an autonomous institution, the SADC Parliamentary Forum (SADC-PF) outside of the institutional framework of SADC and with no legal relationship to it either. SADC-PF therefore represents a negative case.

SADC existed for the entire decade of the 1980s as an informal organisation called SADCC (with two 'C's). Member states considered SADCC to be of a high priority because it was a vital coordination mechanism for fighting the wars of liberation in the sub-region. Furthermore, it was a useful tool for raising donor funding and thereby enriching the member states. Member states retained significant control over the organisation by decentralising most of its activities. Rather than delegating coordination to the Secretariat, each member state coordinated a sector for the whole sub-region. This ensured a sense of ownership among the member states.

In 1992, member states decided to formalise the organisation by creating a treaty. With their preferred working mode highly decentralised, member states consulted among themselves to formulate the basic ideas and concepts for the treaty. They hired a small team of four advisors drawn from the hard core of most influential states and tasked them with synthesising member states' preferences into an aide-memoire. This document was then to

form the basis of the negotiations for the treaty. No parliament was called for in the treaty – in fact, the idea was overtly rejected – because member states did not hold democratic values and therefore saw the creation of democratic institutions as an infringement upon their powers rather than a necessary part of regional integration.

Following this introduction, this chapter will first lay out the history of SADC from its creation in 1980 as an informal organisation to its transformation in the early 1990s into a formal organisation, and lastly, its current state today. The next section shows that member states controlled the drafting of the treaty and did not delegate this task with any discretion. Following that, the subsequent section reveals that the main influence upon the treaty was the non-democratic national preferences of the member states, which were to keep SADC decentralised and minimally institutionalised. In the next section, the chapter shows the reactions of civil society to the lack of a parliament in the treaty. In particular, it traces two periods of unsuccessful campaigns that have been exercised to try to push the member states into turning the SADC-PF into a regional parliament.

7.1 History of SADC

This section briefly reviews the history of regional integration in Southern Africa in order to provide important context for the decision-making of the member states regarding the treaty. SADC has undergone three phases in its history. During 1981-1992, the organisation, then called SADCC, operated without any legal personality and was primarily focused on fighting the liberation wars to decolonise Southern Africa. Member states were highly invested in the organisation and created a decentralised mechanism of cooperation. 1992-2001 saw the formalisation of the organisation through a treaty and the reorientation of the organisation

from security matters to economic development. Nevertheless, member states continued to jealously guard their control of the organisation and maintained a decentralised structure. Finally, from 2001-present, SADC has been dealing mainly with rationalising its institutions and programmes as well as coordinating its member states' efforts with various governance issues. Table 8 provides a summary of the various stages of Southern African regional integration.

Table 8: Time Chart of SADC Integration

Date	Organisation/Event	Explanation
1975	Frontline States	Independent Southern African states form loose grouping to coordinate their activities in fighting liberation wars and countering the aggression of apartheid South Africa.
1981	SADCC established	Member states sign agreement establishing SADCC, a decentralised informal organisation that can help them coordinate more effectively to fight the liberation wars and gain greater economic independence from South Africa.
1992	SADC treaty	SADCC is formalised as SADC via a legal treaty.
1994	South Africa joins SADC	Following the end of apartheid, South Africa formally joins SADC, becoming its largest and most powerful member.
1993-1997	Conferences to create SADC-PF	National parliamentarians and civil society formulate plans and draft documents for a regional parliament for SADC.
1997	SADC-PF launched	SADC Parliamentary Forum is established. However, it is constituted as an autonomous institution rather than an integral organ of SADC.
2001 – Present	Rationalisation of SADC activities	Increasing centralisation of SADC and clustering of its various policy areas to streamline its work. Multiple failed attempts are made by civil society to institute SADC-PF as a formal organ of SADC.

Unlike most of the other regional organisations in Africa, SADC was first created as an informal organisation, SADCC (with two 'C's). That is, it possessed no treaty and thus no legal personality.[1] This outcome was a deliberate decision by the member states, who wished to take advantage of the operational flexibility and low administrative costs this would bring. SADCC's roots lie in the liberation struggles in Southern Africa, which began in the 1960s. After six years of conferences from the mid-1960s to the early-1970s,[2] leaders in the region saw a need to better coordinate their efforts to decolonise the sub-region. As a result, Tanzania, Zambia, and Botswana formed a loose grouping called the Frontline States in 1975. Tanzania at this time formed the headquarters of the various liberation movements waging on the rest of the continent and was thus an apt partner. The Frontline States were instrumental in negotiating with foreign powers such as the United Kingdom, America, and the Soviet Union, as well as the OAU and UN in order to bring about favourable outcomes. It also hosted a series of conferences at which regional strategies were formulated and informal ties of solidarity were created between the leaders. Mozambique and Angola joined the FLS later in 1975, and Zimbabwe in 1980 when it gained independence.

The Frontline States' greatest achievements included their role in gaining Zimbabwe's freedom, particularly in fostering the Lancaster House agreement and convincing the UN Security Council to back a demand for the withdrawal of South Africa from Zimbabwe (then Rhodesia). This eventually led to an independent Zimbabwe, which also became the chair of the grouping for the rest of its existence.[3]

[1] SADC is therefore not considered a regional organisation according to this study until 1992, with the signing of its treaty.
[2] Mandaza, Ibbo/Tostensen, Arne (1994): *Southern Africa: In Search of a Common Future. From Conference to a Community.* Gaborone: Printing & Publishing Company of Botswana, pp. 6
[3] Mandaza, Ibbo/Tostensen, Arne (1994), pg. 10 – 11

With decolonisation gaining ground in Southern Africa, another problem emerged for the newly independent and black-majority ruled states. South Africa, still under an apartheid regime, remained the dominant economic force just as it had been during the colonial era. Neighbouring states were heavily reliant on its transport and communication systems, especially as South Africa pursued its strategy of destabilising the region by destroying infrastructure elsewhere. They also depended on South Africa for manufactured goods and food, as well as imports generally, and many citizens of neighbouring states travelled to South Africa seeking better employment opportunities.[4] The disparity in infrastructural endowments and trade relations was so great that it left the neighbouring states highly vulnerable. As a result, the Frontline States decided to cooperate more intensely and integrate aspects of their economies to counterbalance the economic might of South Africa.

SADCC was born with the Lusaka Declaration of 1980 and the Memorandum of Understanding of 1981. [5] The Lusaka Declaration defined the four objectives of their cooperative efforts as reducing economic dependence on South Africa, creating equitable regional integration, mobilising resources to ensure implementation of policies at all levels, and concerted efforts to cooperate internationally for the purpose of furthering economic liberation. It also determined that there should be a Southern African Transport and Communications Commission, which would drive their infrastructural agenda.[6] The MoU, on the other hand,

[4] Mandaza, Ibbo/Tostensen, Arne (1994), pg. 23 – 24

[5] SADCC's creation was controversial as it coincided with the establishment of a rival organisation, the Preferential Trade Agreement (PTA), which later was to become the Common Market of Eastern and Southern Africa (COMESA). The PTA, a brainchild of the UNECA was created specifically in line with the Lagos Plan of Action to unite Southern and Eastern Africa, which were considered one region by the UNECA. However, the Southern African states beat the ECA to it, which led to much duplication of efforts, unnecessary diffusion of resources across two organisations, and a simmering rivalry that occasionally created ill feeling.

[6] SADCC (1980): *South Africa: Toward Economic Liberation*. Gaborone: SADCC

established the institutions that would form the hub of this new cooperation.[7] These include the Summit of Heads of State or Government, the Council of Ministers, the Sectoral Commissions, the Standing Committee of Officials, and the Secretariat.

In 1992, member states chose to formalise the organisation to give it legal personality. While the international system was changing in dramatic ways following the end of the Cold War, Southern Africa was looking ahead at a more optimistic future.[8] Most of the conflicts in the subregion had come to a halt, decolonisation had been achieved with the independence of Namibia, and South Africa had been preparing to move to majority black rule since Nelson Mandela walked free out of prison. Democratisation was a prominent part of the Southern African experience during this phase, particularly as Zambia toppled the long-standing and seminal President Kenneth Kaunda through national elections. During this period, and reflecting the demand for greater democracy at the regional level, national parliamentarians tried and failed to create a regional parliament and instead established an autonomous parliamentary forum.

Formalisation of SADCC into SADC was about consolidating gains in light of imminent changes more than changing the institutional modes of cooperation. Following the signing of the treaty, SADC spent the rest of the decade reorienting its goals from security to economic development. Another influential factor was that its former enemy, South Africa, became its most powerful member state. When, by the turn of the millennium, South African foreign

[7] SADCC (1982): *Memorandum signed in Harare on the 20th July, 1981 as amended (in Article III, para 2) in Gaborone on the 22nd July, 1982*. Gaborone: SADCC

[8] The Economist Intelligence Unit (1989), pg. 104 – 106. Notably, the Frontline States also disbanded in 1994

policy interests became a significant driver of SADC's programmes and the integration project was flagging due to loss of focus, SADC's decentralised, flexible approach came into question.[9]

Since 2001, SADC has been rationalising its institutions and Programme of Action, in particular by centralising its activities within the Secretariat. The ramifications have been significant: it now has a growing dependence upon the European Union for funding and external relations at the expense of previously important partners such as the Nordic countries,[10] and significant centralisation of tasks within the Secretariat has left the member states less engaged.[11] In its environment, various governance issues such as the suspension of the SADC Tribunal, insecurity in Lesotho, Swaziland, and Zimbabwe require much attention. SADC continues to resist any attempts to institute a regional parliament.

This section provided important historical context to the creation of the SADC treaty. In particular, it showed the importance of the organisation to the liberation struggles of the member states and its role in combating South Africa. The next section will show that, when drafting SADC's treaty, member states retained control over the process and did not delegate to any agents.

[9] Adelmann, Martin (2012): SADC – an Actor in International Relations? Freiburg: Arnold Bergstraesser Institut, pg. 76 – 89; Oosthuizen, Gabriel H. (2006), pg. 70 – 98

[10] According to The Economist Intelligence Unit (1989), pg. 39 – 40, Nordic countries in the 1980s contributed a share of about a quarter of donor funding to SADCC projects. The EU at the time only about a tenth. Today, the EU is the biggest funder of SADC while Nordic countries' contributions are relatively negligible, see Oosthuizen, Gabriel H. (2006), pg. 181. Also Mandaza, Ibbo/Tostensen, Arne (1994), pg. 84 – 89

[11] Interview Participant 11, 4th August 2015; Adelmann (2012), pg. 89 – 109, 368; Oosthuizen (2006), pg. 99 – 116, 181

7.2 Member States Control Drafting of Treaty

7.2.1 Member States' Strong Preferences

SADCC was of a high priority to the member states. In the words of the Tanzanian Minister of Foreign Affairs, 'the SADCC Organisation serves a double purpose - namely to fight apartheid and to underwrite our economic survival and collective development.'[12] Not only was the organisation a useful coordinating mechanism to fight the wars of liberation wars in the sub-region, it also brought significant financial benefits for the member states. As a result, member states formed strong preferences about its institutional design, particularly that it should have minimal structures and be decentralised.

SADCC's structure was highly decentralised, reflecting the preferences of member states to retain as much control as possible. One observer noted early in the informal organisation's life:

> 'the degree of member state leadership and involvement. Most regional groupings depend heavily on central secretariat, technocratic and even external initiatives in pre-planning, launching, programme development and policy formulation. SADCC has been the creature of its members (initially potential members) throughout with serious Head of State and Government, Ministerial, Official and Coordinating Country attention to strategy, policy, programme, project and institutional design.'[13]

Its various projects were arranged along policy sectors, each of which was delegated to individual members states whose relevant ministries formed the Sector Coordinating Unit (SCUs). Though the SCUs were based nationally and its staff were national staff, they were responsible for coordinating efforts on their particular sector across the sub-region. Another

[12] Quoted in SADCC (1987): *Record of the Council of Ministers Held in Lusaka Republic of Zambia on the 22nd July, 1987.* Gaborone: SADCC, pg. 22

[13] Green, Reginald Herbold (1982): Coordinating Common Interests in Development: SADCC in Retrospect and Prospect. In: SIAS (ed.) *SADCC: An Unconventional Approach to South-South Regional Development*. Uppsala: The Scandinavian Institute of African Studies, pg. 6. Underlining in the original document.

related effect was that the projects and assets were owned by the member states.[14] Thus, Zimbabwe coordinated 'Food Security,' Tanzania 'Industry and Trade,' Mozambique 'Transport and Communications,' and Angola 'Energy', amongst others.

There were significant benefits to this approach, which included a sense of ownership and responsibility for SADCC and its activities among the member states. Decentralisation meant member states 'cannot pass the buck' when it comes to taking responsibility for the organisation's projects.[15] Potentially, decentralisation reflected member states' own experiences of guerrilla warfare, which they brought to bear on the institutional design of SADCC. Spreading resources and capabilities across various geographic locations had allowed the Frontline States to fight effectively against a much stronger enemy, South Africa. SADCC, as a tool of the liberation wars also implemented this strategy. Member states delegated sectors to various countries and remained highly flexible in their working methods.[16]

There was a belief that in decentralising activities, SADCC was avoiding an expensive and burdensome bureaucracy that might hamper its effectiveness. President Machel of Mozambique states this at the signing of the MoU: 'Some of us have experience in the inefficiency of the creation of heavy and expensive structures which contribute nothing or little to main objectives that we achieve. Institutions should appear in order to respond to the objective needs, and not conceived as an end in themselves.'[17] SADCC was to develop according to the guerrilla mind set and functionalist principles.

[14] Oosthuizen, Gabriel H. (2006): *The Southern African Development Community. The organisation, its policies and prospects.* Midrand: Institute for Global Dialogue, pg. 63
[15] The Economist Intelligence Unit (1989), pg. 5
[16] Interview, Participant 11, 4th August 2015
[17] Quoted in Mandaza, Ibbo/Tostensen, Arne (1994), pg. 14

Funding was another reason why member states prioritised SADCC in their activities: the organisation was a lucrative source of aid and logistical support. Like other regional organisations in Africa, SADCC was significantly dependent upon external funding, particularly from European states and the United States of America. Member states institutionalised the process of raising funds, setting up elaborate Annual Consultative Conferences that were well attended by the major powers. From the onset, the organisation attracted significant donor aid. In 1980, SADCC put to donors a ten-year funding request of $1.9 billion to finance projects. Donors responded with pledges of $650 million over five years, which, though short of the goal, was still 'more than most delegates at the Maputo conference expected'.[18] By 1989, the organisation had managed to secure up to $3 billion.[19] With the decentralisation of the projects and sector coordination, mostly member states benefited from the funds raised and not the central secretariat.[20]

In comparison, the Secretariat's operating budget, which was wholly paid for by the member states, was paltry. With a budget of $4.9 million for the year 1993/1994, it represented a tiny part of SADCC's overall financial portfolio.[21] While systematic financial data was difficult to find for the 1980s, reports indicate that member states did fall into arrears.[22] However, the SADCC Secretariat was neither critical to the most important goals nor represented to any

[18] Geldenhuys, Deon (1981): *The Constellation of Southern African States and the Southern African Development Co-ordination Council: Towards a New Regional Stalemate?* Braamfontein: South African Institute of International Affairs, pg. 26

[19] The Economist Intelligence Unit (1989): *SADCC in the 1990s: Development on the Front Line*. London: The Economist Intelligence Unit Limited, pg. 1, 9. The 1988 consultative conferences attracted delegations of up to 1000 people, 37 partner governments, and 33 international agencies – see pg. 8. Such funding is separate from the central secretariat budget.

[20] Interview, Participant 11, 4th August 2015

[21] SADC (1993c): *Record of the Council of Ministers Held in Harare, Republic of Zimbabwe 25 - 26 January, 1993*. Gaborone: SADC, pg. 166

[22] For concerns about the SADC budget and member state arrears see SADC (2000): *Record of the Council of Ministers Held in Windhoek, Republic of Namibia, 4 – 5 August, 2000*. Gaborone: SADC, pg. 2 – 3, where Council directs the Secretariat to work with the ECA to develop a self-financing mechanism for SADC. It is unknown if this study was undertaken, although no such mechanism has been implemented.

significant capacity the operations of the organisation. Instead, member states themselves ran the projects and sourced funding for them directly from donors. This ensured that, despite arrears, SADCC still was able to implement decisions that were a priority to member states.

7.2.2 Member States Retain Control and Oversight

Member states of the then SADCC strongly controlled the content of the treaty throughout its drafting process. The initiative to draft a treaty for SADC came from the Council of Ministers. In 1987, the Secretariat had advised the Council that certain categories of staff should be granted immunities and privileges, which prompted the Council to ask the Secretariat to amend the founding MoU of SADCC as well as the founding instruments of SACCAR and SATCC. However, when the Council then received and considered the new draft instruments, they found significant difficulty in carrying out this task since SADCC had no legal personality in the member states. The Council therefore recommended that SADCC be given appropriate legal status in order to permit the granting of immunities.[23]

At the summit in Harare that same year, the heads of state agreed that there was a need to formalise the organisation. In particular, the instruments needed to be reconsidered 'in light of the experiences gained in running the affairs of SADCC in the last nine years'. Of particular concern to the Summit was the legal personality of SADCC and its representative institutions within the member states. SADCC's informal status needed to be reconciled with the need for harmonisation with national legislation. Apart from the same issues relating to immunities that the Council had noted, the Summit also expressed concern about taxation of SADCC staff

[23] SADCC (1990a): *Record of the Council of Ministers. Held in Lusaka, Republic of Zambia on 29th - 30th January, 1990.* Gaborone: SADCC, pg. 120

located within member states; the extent to which the instruments are binding on member states; member states' right of withdrawal and their duties following withdrawal; and provisions for any possible dissolution of SADCC and disposal of its assets.[24]

Thus, the Summit instructed the Council of Ministers to formalise SADCC by changing its MoU into a legally binding instrument. In response, the Chairman of the Council of Ministers set up a small team of advisors to implement the Summit's instructions. The team included four members:

Professor Kighoma A. Malima from Tanzania at that time was a member of the ruling party CCM and had a life-long career in Tanzanian politics, both in various Ministries as well as being an MP. With a PhD from Princeton in International Trade and Economic Development, his background was in economics. He later became Minister of Finance for a period of one year.

Professor Rui Baltasar dos Santos Alves from Mozambique had a background in law, had been Deputy Minister of Finance, and was at that time Rector of the University of the Eduardo Mondlane University in Maputo. He later became a Chief Justice and President of the Constitutional Court of Mozambique.

High Commissioner Kebby S. K. Musokotwane from Zambia was a career politician, having served as Prime Minister from 1985 to 1989 and then later becoming Secretary-General of Kenneth Kaunda's ruling UNIP party.

Mr David M. Zamchiya from Zimbabwe was a lawyer and legal expert, a former Minister in the ZANU government, former parliamentarian, and helped draft numerous constitutions in Zimbabwe (Zimbabwe).

[24] SADCC (1989): *Record of the Summit. Held in Harare, Republic of Zimbabwe on the 25th August 1989*. Gaborone: SADCC, pg. 3 – 4

They were also to be assisted by two legal experts appointed by the Executive Secretary, Mr O.T. Mapitse of Botswana and Miss B. Mulamfu of Zambia.[25] Together, the team would be responsible for collating basic ideas from the member states and summarising them into a document that could be used to guide the drafting process. No other actors either from civil society or from the international community were involved. The Secretary-General was said to have discussed the drafting of the treaty with colleagues on an ad hoc and informal basis when travelling to conferences and summits, but these were not a formal part of the drafting process, nor is it clear that any of these informal discussions had any significant effect on the content of the treaty.[26]

Notably, although the four experts were not recruited to represent member states, they came from the Frontline States, who formed the hard core of the SADCC membership.[27] Using only expertise from within the sub-region was a deliberate strategy. Member states considered it paramount that the making of the treaty should 'come from within SADCC itself'. The treaty should 'reflect SADCC thinking' and not thinking from other outside countries or organisations. 'We wanted to have products that are SADC-grown products. We don't want too much influence from other organisations. Because we are trying at creating a unique entity of our own understanding'.[28]

The Chairman of the Council and Secretariat met with the team to brief them on their tasks, agree on their terms of reference, and develop with them a methodology for devising the treaty. From the onset, they decided that the team would need to consult with the member

[25] SADCC (1990b): *1990 Summit, Gaborone, Republic of Botswana, 24th August, 1990. Annex: Formalisation of SADCC. A note from the Chairman of Council of Ministers*. Gaborone: SADCC, SADCC/S/2/90/3, pg. 9.
[26] Interview, Participant 14, 21st August 2015
[27] Interview, Participant 11, 4th August 2015
[28] Interview, Participant 13, 19th August 2015

states and relevant ministries in order to gather ideas from them. These consultations would include the heads of state, the Ministries of Finance and Development Planning, Sector Coordination, Foreign Affairs, and Legal Affairs (Attorneys General). The advisors would split into two teams of two in order to tour the member states. Ahead of the visits, member states and their ministries would be sent questionnaires to complete, which would facilitate the discussions. [29] The results of these consultations would then form the basis of a report, which would in turn inform the content of the treaty.

The terms of reference for the expert advisors was thorough and left little room for the consideration of ideas that were not prescribed. The language also left little room for any widening of the scope to dramatically alter the institutional make-up of the organisation. This was a drafting process made for preservation of the working arrangements, not dramatic change. The core problems of the organisation were already identified in the terms of reference as conceptual, legal, and institutional-operational. 1) Conceptual problems included the fact that there was possible contradiction in the aims of the organisation. While its fundamental mission is coordination, as emphasised by its name, its objectives include integration. Formalising SADCC would therefore require clearing up these ambiguities. 2) The legal status of SADCC caused problems when, urged by the Council, the Secretariat tried to amend the founding MoU to ensure the granting of immunities to staff. Thus, formalisation itself was necessary in order to ensure smooth functioning of the organisation in future. 3) SADCC functions primarily through decentralised institutions, the Sector Coordinating Units (SCUs), each of which is located in a particular country that is taking the lead on the relevant specific sector. However, since the staff of the SCUs are national staff, the institutions

[29] SADCC (1990a), pg. 115 – 116

themselves are national ones, not regional bodies. Thus, it was important to consider the status of the SCUs, their relations with each other, and their relations with member states and SADCC Secretariat and Council of Ministers.[30]

Given that the advisors' task was to clarify SADCC's double mission of coordinating and integrating, they were also requested to 'review the current structure of SADCC and its Institutions, in order [to] determine whether this structure is adequate and appropriate to the mandate and mission of the Organisation'.[31] This could have been interpreted as allowing for new organs such as a Parliament and Court. However, 'institutions' were most likely interpreted as referring to the SCUs, as implied by the relevant passages in the terms of reference. With the mandate highly constrained, and the team reporting to the Council of Ministers while gathering its ideas from the member states directly, member states retained significant control and oversight of the treaty drafting process.

In this section, I showed that member states prioritised the organisation and maintained strong preferences about the institutional design of the organisation throughout its informal years. As a result, they did not delegate the task of drafting the treaty to experts with high levels of discretion. Instead, they delegated the task to the Council of Ministers, who used advisors to collate the views of the member states to form the treaty. The next section will now show the preferences of the member states and the solutions they devised.

[30] SADCC (1990a), pg. 120 – 122
[31] SADCC (1990a), pg. 122

7.3 Member States Reject SADC Parliament

7.3.1 Preferences and problem definition

Member states had strong concerns about retaining the flexibility and decentralisation of the organisation because they believed it had served them well in the past.[32] SADCC was, in their eyes, a success and only required formalisation rather than a change in its fundamental approach. The organisation's primary role in the preceding decade had been to serve as a coordinating mechanism for the wars of liberation and integration for the purpose of reducing dependence on apartheid South Africa. In that regard, SADCC had been part of a story of success: by 1990 the last remaining colony, Namibia, had gained independence, many of the conflicts were coming to an end, and South Africa was stirring to end its minority white rule. Optimism was far from misplaced as the region in 1988 recorded annual average growth of 4.5%, outstripping for the first time in over a decade the population growth of 3.3%.[33]

There was an optimism at SADCC that the future was to be more peaceful and more prosperous when compared to the 1980s. For example, as President Kenneth Kaunda of Zambia noted at the Summit in 1989:

'As we enter 1990, SADCC seems to be blessed with a new climate of peace that stands to enhance our development potential. The emergence of a new climate of peace in Southern Africa has the formidable role of stopping the costly destruction of material and human resources in addition to releasing funds from Defence and Security in pursuit of Social and Economic goals.'[34]

[32] Interview, Participant 14, 21st August 2015
[33] Reuters (1989): *World Bank Hails Return to Growth in Southern Africa*, 2nd February 1989
[34] SADCC (1989): *Record of the Summit. Held in Harare, Republic of Zimbabwe on the 25th August 1989. Annex C: Speech by the President of the Republic of Zambia His Excellency Dr Kenneth Kaunda at the SADCC Summit 25th August, 1989: Harare, Zimbabwe*. Gaborone: SADCC, pg. 27 – 28

President Joaqui Chissano of Mozambique also praised SADCC, remarking that it had brought 'remarkable victories'. Furthermore, 'SADCC's experience during this first decade, namely the economic development recorded in the region, despite the adverse factors already referred to constitutes an evidence of the huge benefits which stem from regional organization of this kind, based on unity, common interests, trust and commitment. In this sense, I have no doubts when I state that SADCC is a good model of South-South co-operation, as well as North-South co-operation.'[35]

Member states' concerns were not with SADCC per se, but with the changing international environment and whether it had the legal personality and instruments to have its decisions be effectively implemented within member states. Another concern was the growing programme of action, which a new SADC would need the formal institutional structures to manage well.[36] The team of four advisers produced an aide-memoire 'based on the common views which emerged from the interviews' with the government officials.[37] As expected given the narrow and specifics of the mandate, continuity rather than change was emphasised. As though to symbolise their preference for maintaining things as they are, member states revealed a preference that the acronym of the organisation remain similar.[38]

7.3.2 Solutions devised

To address the contradictory concept between coordination and integration, the advisors recommended that the two should be viewed as the two ends of a spectrum along which the

[35] SADCC (1989): *Record of the Summit, Harare. Annex G: Address by H.E. Joaqui Alberto Chissano President of the People's Republic of Mozambique at the SADCC Summit Meeting, 25th August, 1989, Harare, Zimbabwe*. pg. 46, 48
[36] Interview, Participant 14, 21 August 2015
[37] SADCC (1991a): *The Second Decade and Beyond. Aide-Memoire.* Gaborone: SADCC, pg. 2
[38] SADCC (1991a), pg. 2

organisation's purpose would travel. They preferred the name Southern African Development Community in order to reflect that integration of the region into a community was the organisation's ultimate aim. However, this mission should be carried out in a step-by-step process, beginning with coordination of development efforts and ending in full integration. In that sense, there would be a need in the treaty to put even more emphasis on economic integration. Better harmonisation of the policies and development plans of the member states would also be required. Importantly, the document recognised that giving up some sovereignty in a limited manner to the organisation would also strengthen the integration process. However, what this meant or how this would be instituted in practise was left unexplored.[39]

Regarding the specific institutions, they were deemed 'adequate and effective generally' but would require minor amendments to 'improve the efficiency and effectiveness' of the formalised organisation. Accordingly, there was no need for change to the Summit and only minor changes made to the Council of Ministers. A recommendation was made to appoint Ministers of Finance or Economic Planning to the Council rather than Foreign Affairs, and the Council should also gain new advisory committees. Apart from that, the Secretariat should be kept small but have its duties clarified better in the treaty.[40] The rest of the document mainly concerns clarifications of procedural matters and more minor institutions. It thus met its mandate of formalising what was already in existence rather than bringing any new outside perspectives or ideas.

The lack of a parliament, however, is not for the lack of any knowledge of such institutions or any lack of acknowledgement of democracy as a salient issue. While there is no reference

[39] SADCC (1991a), pg. 3
[40] SADCC (1991a), pg. 4 – 5

made to the AEC in the aide-memoire, member states were certainly aware of it and referenced it as part of their drive to formalise SADCC and to strengthen its institutions. In the same year that the team was gathering ideas and writing the aide-memoire, the member states were also signing the AEC treaty. The Secretariat submitted a note to the Council of Ministers in 1991, acknowledging the signing of the AEC treaty and his own presence at a meeting between the OAU/ECA/ADB Joint Secretariat and the regional economic groupings. Coordination between these organisations would be all the more important because the RECs would form the building blocks of the new pan-African community. However, since the treaty did not specify the exact RECs, each sub-region of Africa would need to identify theirs and appropriately strengthen its institutions in order to allow for more effective collaboration. In Southern Africa, this would be SADC.[41] There was thus significant understanding of the SADC as emerging in a context of the renewal of greater continental integration. Notably, what is missing is the conviction that SADC therefore needs to be 'harmonised' institutionally with the AEC.

A policy document written shortly after the treaty was signed, provides a more in-depth analysis of the challenges and opportunities the new SADC treaty was to address. It acknowledges that popular participation of the citizens of the region will be vital for the success of SADC. 'Many integration schemes in the past have failed because they were based on weak commitment by governments and were drawn up by officials and ministers with little or no involvement by interested parties in civil society including, professionals, educational institutions, non-governmental organisations and sporting and cultural bodies.' For that

[41] SADCC (1991b): *Record of the Council of Ministers. Held in Arusha, United Republic of Tanzania on the 22nd and 23rd August 1991. Annex: Pan-African Economic Community. Note from the Secretariat.* Gaborone: SADCC, SADCC/CM/2/91/10, pg. 383

reason, member states should take steps to 'publicise the treaty, and involve a 'broad range of interested parties' in the creation of protocols and other agreements. Furthermore, the citizens should be informed of what is agreed upon at the regional level.[42] Popular participation as an emerging concept in development was known to the leaders.[43] However, while the language here reflects a continental trend of recognising people's participation as an important governance issue, the policy document stops short of recommending a parliament as one of the viable options.

One perspective is that the treaty merely paid lip service to such values because the democratic wave had become an existential threat to the leaders of the sub-region. In 1991, a virtually unknown Zambian politician managed to unseat President Kenneth Kaunda, one of the pillars of the Southern African liberation movements, through the first multiparty elections instituted in that country. It unsettled the other leaders and may have prompted them to make superficial rhetorical concessions. On the other hand, the idea of a regional parliament was 'alien' and 'a completely odd idea' to these same countries who had experienced nothing but one-party states.[44]

Creating a regional parliament, in any case, was 'shelved' until an unspecified future date.[45] The 1992 Theme Document 'SADC: Towards Economic Integration' recognises that there is a 'relationship between development and good governance' and thus democratisation of SADC would at some point be relevant.[46] The possibility of having a parliament for SADC is raised

[42] SADC (1993a): *A Framework and Strategy for Building the Community*. Gaborone: SADCC, pg. 21
[43] In 1990, the Executive Secretary, for example, attended the OAU/ECA/ADB High Level Expert Group Meeting on Africa's Development During the 1980s. Popular participation in and democratisation of development as part of the Lagos Plan of Action was a strong theme. See the Executive Secretary's report in SADCC (1991c): *Record of the Council of Ministers Held in Windhoek, Republic of Namibia on the 28th January, 1991.* Gaborone, SADCC, pg. 147
[44] Interview, Participant 12, 8th August 2015
[45] Interview, Participant 13, 19th August 2015
[46] Theme document made available as an Annexe to SADC (1993a), pg. 49

and evaluated, but nevertheless considered too premature– instead it is something for the organisation to aspire to in future.

> 'Closer regional economic cooperation and integration, with the concomitant strengthening of institutions of regional decision-making and execution, will inevitably raise the question of applying the above principles to regional institutions. Although up to now, and perhaps for some time to come, regional decision-making bodies can be seen as collectives of national governments, as and when the integration process advances, and more actors than just governments and their agencies become involved, including formations of citizens; consideration will have to be given to introducing mechanisms to make regional decision-making directly accountable to a "regional electorate". Some form of elected representative regional authority (parliament), operating according to the principles of good governance, will be both desirable and necessary.'[47]

A clear theme that comes out in the reasons offered for not creating a SADC regional parliament is that it would have no purpose and thus it would be a meaningless exercise. A regional parliament is seen as having no rooting in any of the sectors that SADC deals with, meaning there is no obvious functional need for it. For example, the Tribunal, in contrast, will relate to the legal aspects of SADC integration and will ensure smoother collaboration.[48] Furthermore, the debating function of such a parliament is already fulfilled by the executive branches, which view themselves as the only real representatives of the people. Having fought the liberation wars to free the people of Southern Africa, the ruling parties see themselves as the only legitimate representatives. 'Because of that kind of mind set, the issue of parliament did not even come to mind.'[49]

Such thinking, and the decision not to create a parliament, is best explained with reference to the lack of democratic values in the leaders of the sub-region. While their rhetoric acknowledges the importance of democratisation, member states did not wish to create an institution that would indeed represent a democratic threat to their power at the regional level. Critically, since only they controlled the process of making the treaty, no alternative

[47] SADC (1993a), pg. 49
[48] Interview, Participant 13, 19th August 2015
[49] Interview, Participant 11, 4th August 2015; Participant 13, 19th August 2015

actors from among civil society, either domestically or internationally, had any access to the document and could therefore bring genuine democratic values linking participation of the people to successful governance to bear. There was thus no political opportunity for a regional parliament to be instituted in the 1992 treaty.

In this section, I showed that member states omitted a regional parliament from the treaty because of their preferences for a decentralised structure that would maintain their control. The next section will explicate their reactions to civil society attempts to create a regional parliament in recent years.

7.4 Civil society campaigns for a SADC Parliament

Creating a regional parliament for SADC has been a repeated theme across the recent history of the organisation. This section will explain member states' rejection of civil society proposals to create a regional parliament. The idea for a SADC regional parliament has become an 'undesirable animal' that nonetheless keeps loitering.[50] The first campaign was initiated shortly after the signing of the treaty by national parliamentarians, but the result was instead the establishment of the SADC-PF, a pale version of what they had campaigned for. Following that, SADC-PF has appealed to the SADC authorities in 2004, again in 2008, then in 2012, and finally in 2015. In all of those instances, the proposal to turn the SADC-PF into a full-fledged regional parliament has been rejected. The following will describe these campaigns, focusing particularly on the first and the last, and show that SADC continues to lack a regional

[50] Interview, Participant 10, 15th August 2015

parliament because member states' non-democratic national preferences determine the institutional design.

7.4.1 First civil society campaign, 1993 – 1997

Once the new SADC treaty was signed, the lack of a parliament did not go unnoticed. Parliamentarians of the region lamented that there was 'no provision in the SADC Treaty providing for the establishment of a Parliament or specifically a Parliamentary forum, to ensure the involvement of the common people of the region in the development process of the Southern African region.'[51] In particular, the parliamentarians of SADC's newest member state, Namibia, believed it was a significant failing of the treaty that it contained no parliament. Namibian parliamentarians therefore gathered their counterparts in other Southern African states for two consultative meetings, one in 1993 and a second in 1995. This launched a process that created the SADC-PF in 1997.

During the first consultative meeting, held in Namibia in October 1993, the region's parliamentarians launched the Windhoek Initiative, which would represent their campaign to institute a SADC Parliament. Their belief was that such an institution 'would, certainly, guarantee the achievement of effective economic integration and prosperity, democratic governance and freedom in the region.'[52] The parliamentarians also believed that SADC had a need for a parliament since development, its primary goal, required thorough debate and discussion from citizens and their representatives.

[51] African-European Institute (1995): *Memorandum of the Draft Constitution of the SADC Parliamentary Forum.* Amsterdam: African-European Institute, pg. 1
[52] AWEPA (1996): *SADC Parliamentary Forum. Building a Development Community.* Amsterdam: AWEPA, pg. 5

Also present were a host of civil society groups, experts, and representatives of the international community, as well as government representatives. Notably, the Windhoek Initiative was supported by the Association of European Parliaments with Africa (AWEPA), a parliamentary association that was created in 1984 to mobilise European support for the anti-apartheid movement.[53] Apart from AWEPA, there were several other representatives from the international community present. They included a representative from the European Parliament, Nordic Council, Benelux Economic Union, as well as the UNECA. The SADC Executive Secretary, cabinet ministers, and the then Prime Minister of Namibia.

The UNECA, importantly, was represented by SKB Asante, head of its Multidisciplinary Regional Advisory Group (MRAG). Asante submitted to the meeting a paper arguing the importance of a regional parliament for SADC. Arguing that there is strong a debate about the link between democracy and development, he points out that this debate has been further elaborated by the work of the UNECA, in particular its African Alternative Framework and the 1990 African Charter for Popular Participation in Development.[54] Regional integration is an important development strategy, and therefore also in need of democratisation like any other aspect of development.[55] However, he notes that while member states have committed to promoting democracy and human rights in their region, there is lacking in the treaty a 'relevant institutional structure that would enable the people and their elected representatives to find appropriate and adequate channels of participation'. SADC's new treaty, according to Asante, has no popular roots, leading to the question of whether

[53] Following the end of apartheid and the move to black majority rule in South Africa, this association focused on supporting democratisation, human rights, and good governance in Africa generally. It was involuntarily dissolved in 2017 by the Netherlands court, where it is headquartered.
[54] SADC (1993b): *Democracy and Development: the SADC Parliamentary Forum and the Process of Economic Co-operation and Integration in Southern Africa*. Gaborone: SADC, 620 SC A19, pg. 1
[55] SADC (1993b), pg. 9

integration is having to be '"sold" to a reluctant, an uncommitted, and sceptical private sector and working population' in lieu of them having any influence.[56] For him, the answer is for SADC to create a regional parliament just as the European Economic Community and the new AEC both have done, and as provided for in the new ECOWAS treaty. A regional parliament is the only way to 'effectively provide for a democratic element which is essential for the health and survival of the Community by preventing it from degenerating into a mere technocratic and almost bureaucratic construction.'[57] His arguments for the creation of a SADC-PF reflected his general concerns for the democratisation of development on the continent as reflective of the UNECA general view.

His recommendations for the composition and powers of the regional parliament are also ambitious. He foresees it being directly elected by the people. It should also have budgetary oversight powers, be able to propose draft regulations and consider draft regulations submitted to it by the Council of Ministers, and to be able to debate any other matters of the region and make recommendations on these issues.[58]

However, the objectives adopted at the first meeting did not quite match these ambitious prescriptions. Instead, the SADC-PF was to have the following wide-ranging, low-level objectives: 1) to promote human rights and democracy in the region, 2) to familiarise the people of the sub-region with SADC and its activities, 3) to inform SADC decision-making by representing the will of the people, 4) to provide a forum for discussion, 5) to facilitate networking with other parliamentary bodies globally, 6) to popularise the concept of development, 7) to ensure implementation of SADC decisions, 8) to promote the participation

[56] SADC (1993b), pg. 14
[57] SADC (1993b), pg. 15 – 16
[58] SADC (1993b), pg. 16 – 17

of civil society groups, including the private sector, 9) to review the state of integration and provide recommendations, 10) and to provide any other services that may be relevant.[59] What is interesting about this list is that it nowhere mentions the desire for full legislative powers or powers to check other organs involved in the decision-making process. Evidently, a cautious approach was taken here – the wish by parliamentarians was to create a SADC organ that would channel the voices of citizens but 'without the Forum usurping the legislative powers of sovereign legislatures and unnecessarily impeding the smooth operations of SADC as an entity'.[60]

A draft Constitution was also agreed upon, which took into account the functions of other similar parliaments elsewhere in the world.[61] The decision to create SADC-PF through a separate Constitution rather than a protocol amending the treaty is indeed significant. Primarily, the member states did not wish to create a fully integrated regional parliament that would be a part of the SADC decision-making. Amendments to the draft Constitution particularly illustrate this. In the original draft, the legal status of SADC-PF is described as being 'an integral institution within the structure of the Southern African Development Community and shall enjoy all rights and privileges as enjoyed by other institutions of SADC'.[62] However, in the final Constitution, its legal status instead grants it complete independence from SADC. Accordingly, SADC-PF 'shall be an international organization, and shall have legal personality with capacity and power to enter into contract, acquire, own or dispose of movable or immovable property and sue and be sued'.[63] Also important is that formal

[59] AWEPA (1996), pg. 6 – 8
[60] African-European Institute (1995), pg. 1
[61] African-European Institute (1995), pg. 3. It was not possible to identify which other parliaments were taken into consideration.
[62] National Assembly of Namibia (1993), Article 3(1)
[63] SADC-PF (1997): Constitution. Windhoek: SADC-PF, Article 4(1)

connections between the SADC and SADC-PF were weakened. For example, in the draft Constitution, the Executive Secretary of SADC is deemed an ex-officio member who may not vote. In the final Constitution, the Executive Secretary of SADC is merely deemed to have the right to attend meetings of the SADC-PF.[64] Importantly, while the Constitution came into effect with the assent of the heads of state and government, they do not retain the power to dissolve SADC-PF. Only a vote by three-quarters of the members of the Members of the parliamentary forum can bring an end to the life of the organisation.[65] Furthermore, the parliamentary forum is financed by the national parliaments rather than through SADC's ordinary budget, giving it no financial connection to the regional organisation either.

As a result, SADC-PF is not an integral part of SADC, certainly not a regional parliament, but a separate international organisation in its own right.[66] Following the second consultative meeting, held in May 1995, where the draft Constitution for the SADC-PF was adopted, the document went through various stages of negotiations with the national governments. The end result was that the governments of SADC approved SADC-PF in 1997 as an independent body that would have no formal ties with SADC except for its name.[67]

[64] SADC-PF (1997), Article 8(3h)
[65] SADC-PF (1997), Article 13(3)
[66] SADC itself provides somewhat confusing information on the position of the SADC-PF. On the website it asserts that there are 8 principal institutions and organs, but then proceeds to list nine, the ninth being the SADC-PF. This suggests that the SADC-PF is at least not considered a principal institution. The website also explains that the 'SADC Parliamentary Forum does not have a reporting relationship to Summit and other SADC Institutions, but works together with them on matters of common interest.' See the website at SADC (2017): *SADC Parliamentary Forum*: http://www.sadc.int/about-sadc/sadc-institutions/sadc-parliamentarian-forum/ (accessed 3rd December 2017)
[67] Using the name 'SADC' does not necessarily imply a formal relationship. For example, SADC-CNGO is a council representing NGOs of the sub-region. It is a separate organisation that uses the name merely as a geographic indicator, not to signal its ties to the organisation itself. See Interview, Participant 12, 8th August 2015.

7.4.2 Further civil society campaigns, 2004 – 2015

Since the 1990s, there have been repeated efforts both by SADC-PF and other civil society groups to turn it into an integrated regional parliament. However, these have been consistently rebuffed by member states. Official justifications given by officials vary. I argue, however, that SADC member states refuse to institute a parliament because they do not hold democratic values and thus do not find the parliament a necessary means of reflecting such values. More importantly, since they are the only actors able to control the institutional design of SADC through its treaty, their national preferences for a decentralised SADC without any supranationality determines the institutional design of the regional organisation.

The next attempt to create a regional parliament for SADC was in 2004. During a consultative workshop on the matter in May and also during the meetings of the Summit and Council, the SADC-PF was encouraged to submit a paper arguing the need for a full regional parliament.[68] Its arguments for a regional parliament contextualised the request by referring to two important developments. First, there had been a significant restructuring process underway at SADC since 2001. This process formalised many institutions and also created new ones, for example the Organ on Politics, Defence, and Security Cooperation and the SADC Tribunal. However, once again the parliamentary dimension had been ignored. Importantly, these new institutions were being created according to Article 9(1) of the treaty, which established integrated organs of SADC. It was time, according to this argument, that the SADC-PF also be re-established under the same article of the treaty. Second, the continental Pan-African Parliament had been established that same year, and was headquartered in South Africa. The PAP protocol makes several and explicit references to the parliaments of the RECs, and SADC

[68] SADC (2004a): *Record of the Summit. Held in Grand Baie, Republic of Mauritius 16-17 August 2004*. Gaborone: SADC, pp. 26

was one of the few without one. Establishing a SADC-PF was seen as a means of harmonising with the new African Union agenda.[69] No doubt, part of what triggered this campaign was also likely prompted by the fact that the SADC-PF's own Strategic Plan had set itself a goal to transform into a regional parliament by 2005, and time was running out to meet that artificial deadline.[70]

Member states disagreed with this assessment, and, in fact, used the existence of the PAP as well as other regional parliaments such as the East African Legislative Assembly as an excuse to reject the proposal. Their view was that the consolidation of the PAP took priority and thus there was no need to have a regional parliament for SADC; furthermore, the PAP was going to be hosted in the same subregion, leading to concerns about duplication of efforts. Tanzania also pointed out that it was sending parliamentarians to the new East African Legislative Assembly and so did not feel the need for another regional parliament.[71] They agreed that the idea of a regional parliament 'may be considered in the distant future'.[72] Member states that participated in the workshop had previously engaged in separate consultations about the subject and previously come to the conclusion that it was not desirable to have a regional parliament. Considering that of the then ten SADC member states, eight attended the meeting, theirs represents a majority view.

South Africa, the most democratic of all the member states, fell entirely in line with the other decisions, stressing that the process of rationalising the SADC institutions should take priority.[73] That this democracy did not encourage creating a regional parliament as part of the

[69] SADC (2004b): *The Case for a SADC Parliament*. Gaborone: SADC, SADC/CM/2/2004/15A, pg. 26
[70] SADC (2004b), pg. 201 – 203
[71] SADC (2004c): *Record on the Regional Consultative Workshop on the Proposed SADC Parliament*. Gaborone: SADC, SADC/CD/2/2004/15, pp. 541
[72] SADC (2004b), pg. 26 – 27
[73] SADC (2004c), pg. 541.

process is important. One perspective is that since the former President Thabo Mbeki's exit, South Africa has lacked coherence in its foreign policy strategy and lost a certain stature in the region. Thus, despite the country's overwhelming economic might, it has very little influence on many of the historically more important states, particularly the Frontline States.[74] I argue that democratisation via a regional parliament is not seen by its member states as necessary to SADC's success or survival. Member states conceive of SADC's success in terms of its flexibility and low institutionalisation, and this is reflected in their preferences. Moreover, South Africa represents a minority of democracies in SADC and alone cannot compensate for the non-democratic values of the other member states.

In 2008 and 2012, the SADC-PF submitted the same requests to the Council to create a regional parliament, with each attempt proving unsuccessful.[75] The last attempt at the time of writing occurred in 2015 when civil society on its own volition opted to campaign for a strengthened SADC under the banner 'SADC We Want' (SWW-C). Their mobilisation was based on their observation that SADC was operating without the input of the citizens and often.

> 'The SWW-C is premised on the belief that only policies adopted and implemented through full participation of citizens have the real potential to address developmental challenges facing our region. Ownership of regional integration and development can only evolve if leaders adhere to basic tenets of democracy that ensure transparency and accountability. For this to happen there must be an appropriate governance architecture.'[76]

Subsequently, it demanded 'people-centred policies, inclusive regional governance and sustainable development' as well as 'a SADC that is more transparent, more accountable and

[74] Interview, Participant 12, 8th August 2015. This interviewee also believes the smaller island states are considered much more likely to be supporters of the idea of a regional parliament than South Africa, but their influence is even smaller.

[75] SADC (2008): *Record of the Meeting of the SADC Council of Ministers, 28-29 February 2008, Lusaka, Zambia*. Gaborone: SADC, pg. 46. Notably, the Summit does not mention this request anywhere in its report of its meeting, suggesting that the Council did not refer the matter to them and therefore the Summit did not even discuss this request by the SADC-PF.

[76] SADC-CNGO (2015a): *I speak for SADC because I am SADC.* Campaign leaflet

more open to participation'.[77] To achieve this required a regional parliament to allow citizens to influence regional decision-making, a regional court of justice instead of the weak SADC Tribunal that had been suspended in 2010 and reinstated with fewer powers, and a regional authority in the form of a truly supranational secretariat. A fourth demand was for the speedy implementation of the Protocol on the Facilitation of Movement of Persons in SADC, which had been languishing since 1997, in order to bring true freedom of movement to the sub-region.[78]

With regard to the regional parliament, the importance of such an institution lies in the principle of instituting democracy itself rather than the hope that it will function perfectly as intended. Campaigners are aware that most regional parliaments in the world are weak. This, however, is seen as being beside the point.

> 'The principle of democracy, the principle of separation of powers, is important. If you can't live by that, we have a problem. Because it means you will have some kind of executive, some kind of judiciary, and no voice for people. So just in terms of what we want to design as a regional authority, that needs to be held accountable. We are not saying it will do that – whether any parliament anywhere in the world does that is open to debate. But as far as we understand, democracy is a better option. And having people's elected representatives oversee and make laws is inclusive to democracy. So if our project is premised on democracy and deepening democracy, then it is a necessary condition.'[79]

SADC-PF rode this civil society-generated momentum to submit another request to the national governments for SADC-PF to be transformed into a regional parliament. It argued that all the previous conditions had been met. Not only was the PAP fully operational, the relationship between the AU and the RECs was being rationalised. However, the proposal also is very cautious and explicitly addresses concerns about the sovereignty of the member states. On the one hand, it argues that a regional parliament would be useful in helping with

[77] Statement made on the front page of the campaign website found at SADC-CNGO (2015b): *SADC We Want*: http://sadc-we-want.org/ (accessed 29th November 2017)
[78] SADC-CNGO (2015a)
[79] Interview, Participant 12, 8th August 2015

implementation and popularisation of the regional integration agenda. On the other hand, it would make only model laws, rather than binding ones, in policy areas not related to high politics. The parliament would also 'report to the Summit of Heads of State and Governments on its activities while at the same time recognizing and accepting the sovereignty of SADC Member States'.[80]

While civil society wanted a powerful supranational architecture that represents the will of the citizens, SADC-PF appeared more concerned with playing a sensitive political game. One complication for the SADC-PF was that the scandal regarding the SADC Tribunal might cast a shadow on other possible supranational organs.[81] The SADC Tribunal had been created with the powers to adjudicate on matters between institutions of SADC, member states, and also between individual citizens and any of the other entities. When it tried to use those powers against Zimbabwe following many cases lodged by citizens of that country, the member states of SADC retaliated by suspending the institution. They dissolved the Tribunal and redrafted its Protocol to remove its ability to take hearings from individuals.[82] SADC-PF emphasises in its concept note to the member states that any model bills it creates would be assented to by the Heads of State and Government in order 'to avoid what happened to the SADC Tribunal'.[83]

[80] SADC-PF (2015a): *The Transformation of SADC PF into a SADC Regional Parliament. A Document of the SADC Parliamentary Forum.* Windhoek: SADC-PF, pg. 7

[81] Interview, Participant 10, 15th August 2015. According to this interview member states in fact considered getting rid of the institution entirely, but Namibia, which hosts both the SADC-PF and the Tribunal, campaigned for its continuation and for the matter to be left open for future consideration.

[82] SADC-CNGO also campaigned hard to prevent the Tribunal being stripped of its powers to hear cases from citizens. See Sunday Standard (2014): *Open Letter to the Ministers of Justice in Southern Africa: "The time is always ripe to do right".* 16th February 2014, pg. 27. According to Interview with Participant 12, 8th August 2015, this strong move by the SADC-CNGO made the SADC-PF nervous as the latter is shy of confrontation with the member states. SADC-PF distanced itself from the campaign for a brief period as a result.

[83] SADC-PF (2015b): *Concept Note. From SADC Parliamentary Forum (SADC-PF) to a SADC Regional Parliament*. Windhoek: SADC-PF, pg. 12

Despite the support of a grass-roots movement and a very cautious proposal that would in effect do nothing more than make SADC-PF an integral institution rather than an autonomous one, the member states yet again rejected the proposal to create a regional parliament. SADC at the time of writing continues to operate without a regional parliament and no new campaigns to follow up on SADC We Want have been launched. The next section will now conclude the chapter.

7.5 Conclusion

This chapter has used the theoretical argument to explain why SADC has not been endowed with a regional parliament. Despite the structural fact of democratisation in the region, no experts were delegated the task of drafting the treaty with any discretion and thus there was no impetus from any agents with power over the treaty to create a regional parliament. Instead, national parliamentarians and civil society established a joint initiative to create the autonomous SADC-PF, which has no legal or reporting relationship with SADC.

Specifically, the member states considered SADC a high priority project for which they had strong preferences. The organisation, in its earlier informal form, had been a tool to integrate vital sectors and services, thereby creating greater interdependence amongst member states to decrease their dependence on a hostile South Africa. It possessed a highly decentralised structure, which ensured control by and commitment of the member states. Although SADC's track record until the early 1990s was mixed, it had managed to foster a community both amongst the government elites and also among the peoples of the region, and provided a common framework through which they could pursue their security and development interests.

As a result, member states did not delegate the drafting of the treaty to any outside experts. They rather opted for an approach that retained all the control in their own hands and ensured their preferences were instituted in the treaty. They retained control of the treaty making by delegating the task to the Council of Ministers, which is an intergovernmental organ of SADC composed of Ministers drawn from the national governments. The Council of Ministers appointed a team of only four advisors, each drawn from a Frontline State, who gathered the preferences of the member states and used them to formulate the basic ideas for the treaty. The advisors were not brought in to bring their own expertise to bear on the treaty, but to collate and organise the preferences of the member states.

The preferences of the member states were straightforward. In light of the improving conditions of the sub-region, particularly the independence of the last remaining colonies, the prospects for increased peace, and the beginning of the end of the apartheid regime in South Africa, they viewed SADCC as having been a useful tool. They wished to maintain many of the features that had served them until then – particularly the decentralised and flexible organisation of SADC's activities and the member-state driven sectoral approach. This involved keeping the Secretariat small and ultimate authority vested in the Summit and the Council of Ministers. While some institutions needed to be rationalised, in general, there was no preference for any elements of supranationality.

Member states were aware of the demand for democratisation of regional integration through a regional parliament but rejected this outright. I argue this is because they were non-democracies and therefore did not hold any true commitment to democratic values. They rhetorically acknowledged the democratisation movement and the need for popular participation in governance, but had strong preferences for retaining control of SADC and not

creating any supranational organs that would reduce their own power. This continues to be the case despite attempts by civil society to push for a regional parliament and a voice for citizens at the regional level. Having ultimate control over the treaty and no other influences to bring alternative problem definitions, member states have been able to prevent any democratisation of SADC via a regional parliament.

8 Conclusion

Why do regional intergovernmental organisations composed of non-democratic member states create regional parliaments? Since parliaments are the ultimate expression of liberal democratic values, it appears paradoxical that non-democracies should create them at the regional level while denying their citizens the same values at the national level. Nevertheless, of 28 regional organisations across the world, 14 have parliaments, and they exist across various geographic regions and in different political contexts. The creation of regional parliaments presents an important opportunity to innovate upon theories of institutional design and gather new empirical knowledge. In particular, what is needed is a theory-driven account of regional parliaments that emphasises agency, makes no appeal to the efficiency or functionalist gains for the organisation, and does not rely on the democratic values of the member states. This thesis is an initial attempt to tackle such a challenge.

In this chapter, I first highlight the two major contributions of the thesis, which are theoretical and empirical. Subsequently, I assess the three main findings from the case studies in a comparative manner. The next section then elaborates upon the implications for policymakers concerned with democratising global governance using regional parliaments. Finally, I provide a reflection on my research, assessing its limitations and how these can be addressed in future research.

8.1 Main Contributions

8.1.1 Theoretical contribution

The first contribution is to provide an original theoretical argument that emphasises the agency of experts in determining institutional design outcomes. In particular, my argument

highlights how delegation due to the weak preferences of member states can lead to experts having high levels of discretion. Theoretical innovation is necessary because none of the existing theories can satisfactorily explain the phenomenon of regional parliaments in non-democratic regions. The causal mechanisms that they posit are inadequate or simply absent.

EU diffusion theories propose that regional parliaments are the result of structural pressures operating on regional organisations across the world to mimic the institutional forms of the EU. In light of such pressure, however, there persists a surprising amount of variation across regions. Importantly, such an approach cannot explain the timing of the emergence of most of these regional parliaments. For example, the ECOWAS decided to have a regional parliament in 1993 but not in 1975 even though the EU existed with a parliament at both points in time.

Rational choice institutionalism argues that international organisations are created to make cooperation more efficient. It is unclear how regional parliaments can contribute to efficiency since they bring no particular expertise nor serve to coordinate the member states. Parliaments are intended to serve the citizens, not the governments of the member states, meaning they may become a competing principal. In practise, regional parliaments are designed to be weak, such that they cannot check executive branches of the regional organisation or enforce implementation within the member states. As such, the evidence is weak that regional parliaments were created for the sake of aiding cooperation among member states.

Liberal democratic values of the member states are another potential explanation for the creation of regional parliaments. While not denying that the regime type of member states

matters to institutional design – for example, as with the European Parliament – this explanation struggles given the nature of the puzzle. Explanations based on the democratic values of states are highly unlikely to account for the emergence of regional parliaments in regions where states are non-democracies.

I propose a novel theoretical argument that democratisation via experts results in regional parliaments. Rather than emphasising structural factors like the EU diffusion arguments, this thesis puts the emphasis on the agency of the actors drafting the treaties and the manner in which they use their professional beliefs to interpret and solve the problems of the regional organisations. Their motivation is to improve the regional organisations, which they believe are critical components of a continent-wide development strategy. I, therefore, answer the call for more agency-focused studies of regionalism.[1]

Instead of emphasising objective efficiency as the reason for the creation of regional parliaments, as does rational choice institutionalism, my argument emphasises the interpretive role that the actors play by using their pre-existing beliefs to define the problems of the regional organisations.[2]

Similarly, unlike the statist view of arguments based on liberal democratic values, I point to the democratic values held by non-state actors. Regional parliaments are the result of democratisation, yes, but via experts and not the domestic political values present in the member states, which are predominantly non-democracies.

[1] Lorenz-Carl, Ulrike/Rempe, Martin (2016): *Mapping agency: comparing regionalisms in Africa*. London and New York, NY: Routledge

[2] See, for example Blyth, Mark (2003): Structures Do Not Come with an Instruction Sheet: Interests, Ideas, and Progress in Political Science. In: *Perspectives on Politics*, 1 (4): 695 – 706

The causal mechanism of the theoretical argument is as follows:

Weak state preferences → delegation to experts → policy outcome

In the first part of the mechanism, member states delegate the task of drafting the treaty to the experts, granting them high levels of discretion. Member states only do this automatically when the regional organisation is of such a low priority that they have weak preferences. Having such weak preferences means that the outcome of the treaty is deemed irrelevant to their national interests. As a result, they decide to produce the treaty at the lowest cost possible in order to avoid expending state resources on a task that is a low priority. The least costly approach is to delegate the task to another actor who has the capacity to produce a treaty and observe the outcome only to ensure it does not conflict with other pre-existing priorities. That is, member states will refrain from monitoring the activities of the agent and instead give them high levels of discretion. Member states will delegate to experts who are readily available as this requires no costly search. In international affairs, the most readily available experts are those situated in international bureaucracies and other agencies already known to the member states.

Having been delegated the task of drafting the treaties, experts will proceed by first defining the problems that need solutions, and then identifying those solutions. Problem definition is not an objective exercise, but one very much based upon pre-existing beliefs held by the experts. Since member states have revealed only weak preferences, experts must rely on their own professional beliefs to guide their decision making. Thus, what experts define as a problem depends on what they already believe to be true about the world. Once they have identified the problems, experts address them with particular institutional features.

Where supranational institutional designs are identified as the solution, there arises a high probability that this will be rejected by member states. Supranational institutional features have the disadvantage of divesting member states of sovereignty and authority over decision-making. For member states, who hold the regional organisation to be of a low priority, such an infringement will not be acceptable. Experts will therefore need to compromise on their proposals in order to ensure a greater chance of them being adopted. For that reason, experts will weaken the supranational features and commit member states instead to strengthening them in the future in order for them to become effective.

8.1.2 Empirical contribution

My second contribution is empirical. Having spent 7.5 months carrying out field research at four sites[3] on the African continent, and having conducted interviews with 26 officials, this thesis has led to a significant stock of new empirical data. First, while the treaty reviews of the regional organisations in this study have been superficially covered before, they have not gone as far as to identify actors or justifications behind the decisions. For example, in the case of the ECOWAS, the only information that had been available before field research was the final report of the Committee of Eminent Persons (CEP) that drafted the treaty. To my knowledge, this thesis is the first to have brought to light data about the meetings of the CEP and the evolution of their thinking.[4] This can also be said of the empirical data on the AEC treaty, which, while explored in other works,[5] is covered in greater detail here, particularly

[3] I visited four regional organisations, AU, ECOWAS, SADC, and COMESA. While only the first three represented cases for this thesis, some important data gathered at the fourth site was nonetheless used here.
[4] The most detailed account of the institutional changes is to be found in Kufuor, Kofi Oteng (2006): *The Institutional Transformation of the Economic Community of West African States.* Aldershot: Ashgate. However, this is largely based on the CEP final report.
[5] See Khamis, Kassim Mohammed (2008) for the heretofore most detailed account.

with reference to the role of the UNECA. With SADC, the relative role of the four consultants employed to collate the views of the member states and the entire process of the treaty drafting had previously not been explored in other works.

Importantly, the origins of the regional parliaments in Africa have heretofore not been studied with this level of detail.[6] Primary documents summarising the meetings of the committees allowed for more precise scrutiny of the evolution of the idea across time. For example, the Pan-African Parliament emerged as a serious institutional design choice in 1984, but required multiple interventions from experts, and then a convinced UNECA in 1990, to be put in the treaty. It was also possible to identify that member states were unlikely to have been the source of the regional parliament since they declined to make a similar proposal when they did control the review of the OAU charter.

Data on the origins of the SADC Parliamentary Forum are also novel. I reveal the role of the national parliamentarians, as well as international agencies such as AWEPA and the Benelux states, in pushing for a regional parliament for SADC. I also show through primary data the reactions of member states to this proposal and why they continue to reject it. Overall, the thesis brings a significant body of new empirical evidence to bear on a topic that is itself rarely researched in international relations.

Having explicated the unique contributions of this thesis above, the following section will now summarise the findings by analysing the empirical cases in a comparative manner.

[6] Navarro, Julien (2010) offers theoretical implications but brings almost no primary empirical evidence about the origins of the PAP to bear on his work.

8.2 Findings: The Cases in Comparative Perspective

To answer the research question, I conducted comparative case studies of two positive cases, the AEC (Pan-African Parliament, PAP) and the ECOWAS (ECOWAS Parliament). A third negative case was also included with the SADC (SADC Parliamentary Forum, SADC-PF) to strengthen the argument. Process tracing was used to identify the causal mechanism behind the creation of regional parliaments. The bulk of the data consists of reports from the archives of the regional organisations, interviews with former and current officials, as well as secondary sources, including previous academic research. In this section I combine evidence from all the cases in a comparative-analytical manner to elucidate the generalities of the causal mechanism.

8.2.1 Indifference and state action: weak preferences lead to delegation

In the two positive cases, the AEC and the ECOWAS, member states delegated the drafting of the treaty to experts. In the negative case, SADC, member states retained control over the drafting of the treaty.

When it came to drafting the 1991 AEC treaty, member states of the OAU only revealed weak preferences because the task was of a low priority to them. They had historically not invested much in continental economic integration, with membership fees consistently unpaid and the organisation repeatedly in arrears despite calls to the contrary. States were keenly aware of this since the topic came up at every Council of Ministers meeting and in reports of the Secretariat, but appeals to change such behaviour went unheeded. During the treaty drafting, member states exercised formal oversight over the process via the Permanent Steering Committee (PSC) once an initial draft had already been completed by

the experts. This body made two attempts to solicit comments from the member states and received barely any substantive feedback. In the first round, only seven member states responded. After the second round, a total of 16 states had submitted comments. However, none of them were coherent enough to show a majority position and they all related to procedural matters rather than the institutional design of the organisation. Evidence of the low prioritisation of regional organisations also could be found in a parallel process of the review of the OAU Charter. Despite spanning 18 years, the charter review was never completed. Yet again, only six of the states submitted comments.

Similarly, ECOWAS member states also revealed weak preferences regarding the regional organisation and therefore delegated to experts the drafting of the 1993 treaty. Two years after the organisation was established in 1975, only six of the fifteen member states had fully paid into the ECOWAS Fund for projects. Member states continued to default on their payment of fees. As a result, the organisation suffered chronic funding shortages throughout its lifetime. The Secretariat appealed regularly to the Council of Ministers, highlighting 'difficulties' in executing its work, and introduced a temporary ban on recruitment. Meanwhile the media derided the member states' behaviour as showing a lack of commitment. In addition to the lack of payment, member states also were slow to ratify protocols. After 14 years, only 16 out of 23 protocols had attracted a sufficient number of ratifications to enter into force. Projects stalled and decisions were rarely implemented at the national level. So low was the commitment, that the new Executive Secretary took the initiative to propose that the treaty be reviewed entirely. Member states agreed and delegated the task to him and mandated him to set up a Committee of Eminent Persons.

At SADC, which represents a negative case, member states revealed strong preferences for the organisation because it was of a high priority. The predecessor informal organisation, SADCC, was a security tool to liberate Southern Africa from colonial rule and also to fight a hostile South Africa, which was still under apartheid rule. SADCC represented part of a survival strategy for the newly emerged states, who wished to coordinate their activities to ensure greater economic integration and thus economic independence from South Africa. SADCC was highly decentralised, meaning each member state coordinated activities in a policy sector for the sub-region using its national ministries. The Secretariat, on the other hand, was kept deliberately small in order to avoid the need to provide it with significant resources. Instead, member states themselves managed projects and used the Secretariat merely as a coordination tool. Consequently, funding of SADCC was decentralised too: sector Coordinating Units included national staff and funding from donors for particular projects went through state mechanisms. SADCC projects raised billions of dollars over the decades, benefiting primarily the member states. Thus, when it came to drafting the new treaty to create SADC, there was great concern about retaining the benefits of a flexible organisation whose benefits would go directly to the member states rather than a centralised bureaucracy. Member states retained significant control over the treaty rather than delegating it.

8.2.2 Experts versus states: actor types matter in institutional design

When it comes to institutional design, it matters which types of actors are driving the process and have power to draft the treaty. Non-democratic states are unlikely to create regional parliaments on their own initiative. In the context of African regional organisations, experts

were predominantly economists, lawyers, and political scientists engaged in questions of economic development. They were individuals known to state actors in a personal capacity or belonged to organisations that the member states trusted. However, because of their professional occupation with economic development, they were also proponents of the idea of participatory development and brought these beliefs to the treaties of the regional organisations.

In the AEC, member states delegated to experts the task of drafting the treaty, giving them high levels of discretion in the process. Specifically, they tasked the Secretariat of the OAU to work closely with the UNECA to complete the task. However, consultants, many paid for by UNDP, were also heavily relied upon to conduct technical tasks. With member states revealing no clear preferences, experts used their own professional beliefs to guide their design of the AEC treaty. Their intention was to solve the problems of the organisation in order to improve it and equip it to deal with emerging issues that the experts had identified. They revealed a concern that the AEC, which was to spur economic development, would fail without the participation of citizens. This was according to an emergent belief among development practitioners and scholars that democracy was necessary for development to occur. Creating a Pan-African Parliament was the key solution to this. Meanwhile member states simultaneously undertook a review of the OAU charter. At no point did they recommend a parliament for the OAU because this did not accord with their own non-democratic political values.

Similarly, the ECOWAS member states delegated to experts by mandating the Executive Secretary to set up the CEP. In this case, the experts had even more autonomy and discretion as the Executive Secretary not only selected the members, but ensured that they

operated almost entirely without member state oversight. His aim was that the CEP would bring innovative ideas to the table rather than relying on the 'yes men' of the national ministries. For that purpose, he deemed the independence and intellectual freedom of the CEP as paramount. Member states were briefed at the initiative of the CEP once it had already formulated most of the ideas. The aim was to ensure that member states would not be too surprised when the final document was presented rather than to give them an opportunity to control the process. Once again, the experts brought to bear their professional beliefs about the relevance of democracy to economic development in order to create a regional parliament. What is notable is that several of the individuals on the Sub-Committee for Institutional Matters, which was responsible for the regional parliament idea, had previously worked together for the UNECA or directly on the AEC treaty. Thus, the ideas instituted in the ECOWAS treaty were identical to those of the AEC.

In SADC, member states delegated the task of drafting the treaty to the Council of Ministers but also remained individually engaged throughout. As a result, their non-democratic preferences to retain control over the regional organisation determined the institutional design outcome. The treaty drafting process was structured so that the advisors hired – each from a founding Frontline State – would first gather ideas from the member states, thereby ensuring that member states themselves formulated the contents of the treaty. Their task was merely to gather positions from member states and summarise them in an aide memoire, which would then form the basis for the treaty. They reported to the Council of Ministers, who negotiated the actual provisions of the treaty. Compared to the large groups of experts hired for the AEC and the ECOWAS, the consultants used in SADC were only four. Their analyses concluded that the organisation should remain largely the same and maintain its flexible and decentralised approach. There was no evident interest in

including a regional parliament until after the treaty had been completed. Civil society groups have campaigned repeatedly for the creation of a regional parliament since 1993, but member states continue to reject the proposal.

Importantly, democratisation occurred in the Southern African sub-region simultaneously as it did in other regions of Africa. However, the mere structural fact of democratisation was not enough to create a regional parliament in SADC. As the positive AEC and ECOWAS cases show, actors possessing democratising professional beliefs must gain power over the treaty for a regional parliament to emerge.

8.2.3 Reflecting on Alternative Arguments

The cases provided no robust evidence supporting the rational institutionalist or the democratic values arguments. Rational calculations based on national preferences and the goal of making the regional organisation more efficient played no role in the decision to create regional parliaments. Similarly, member states did not follow their national democratic political values in creating regional parliaments because they possessed none. In fact, had they not delegated the task of drafting the treaty and retained control, evidence based on the SADC case and the OAU charter review point to the exact opposite outcome: that states would have decided against establishing a regional parliament. For that reason, this brief discussion will focus primarily on the strongest alternative argument of EU diffusion.

Undeniably, the EU is a frequent point of reference for decision-makers in regional organisations in Africa. The EU is considered the most successful among its peers and interviewees were aware of its history and institutional development. However, this research throws into question the argument that the EU is therefore a cause of institutional design

choices. Structural pressures to create legitimate institutions would suggest that, just like the AU and ECOWAS, SADC too would create a regional parliament during its formalisation process. While awareness of the EU is prevalent and all regional organisations are highly dependent upon the EU for project funding, local factors play a much stronger role in determining institutional design.

Regional parliaments were created specifically to address the new belief that economic development would be dependent upon the democratic participation of the people at the regional level. Moreover, this belief by itself could not be implemented in the treaties without experts, who were motivated to democratise the regional organisations, gaining power over the treaties. Such access is dependent upon the relationship that the member states have with the regional organisation, particularly its prioritisation in their policy agenda. Such factors have little, if anything, to do with the EU and the fact of its own institutional development.

Nevertheless, my argument is not a refutation of the EU diffusion argument, but rather a check on its scope conditions. There is plenty of room for complementarity. In order for EU diffusion arguments to be able to explain the puzzle, they may need to focus upon the actors that have the capacity to transfer ideas from Europe to other regions of the world. Until now, the emphasis has been upon states' intentions to adopt EU institutional forms for their own regional organisations.[7] What has not been considered is the importance of non-state actors such as experts, who may have the capacity to introduce ideas from other domains.

[7] See for example Jetschke, Anja/Murray, Philomena (2012): Diffusing Regional Integration: The EU and Southeast Asia. In: *West European Politics*, 35 (1): 174 – 191

Having assessed the main findings of this research using the cases in a comparative manner, the next section will provide a prospective on regional parliaments targeted at policymakers.

8.3 Outlook on the future of regional parliaments

My findings are relevant for policymakers and other practitioners concerned with democratising global governance. This section summarises important policy lessons based on the research findings. Regional organisations, like other international organisations, are adopting many of the functions that states have traditionally undertaken.[8] Yet, many operate without input from their citizens. The EU has experienced the most salient and thorough debate about its 'democratic deficit'.[9] Global organisations such as the United Nations are also coming under greater scrutiny, with sustained campaigns to create parliamentary institutions for them.[10] The reasons why regional parliaments were created may provide important insights into whether they are a fruitful mechanism for the democratisation of regional organisations.

I begin on a cautious note to check expectations. While the institutions being studied in this thesis are deemed 'parliaments', they have little in common with their national counterparts.

[8] For a debate on the matter see Archibugi, Daniele/Cellini, Marco (2017): The Internal and External Levers to Achieve Global Democracy. In: *Global Policy*, 8 (6): 65 – 77; Dingwerth, Klaus (2014): Global democracy and the democratic minimum: Why a procedural account alone is insufficient. In: *European Journal of International Relations*, 20 (4): 1124 – 1147; Moravcsik, Andrew (2004): Is there a 'democratic deficit' in world politics? A framework for analysis. In: *Government and Opposition*, 39 (2): 336 – 363

[9] Bang, Henrik/Jensen, Mads Dagnis/Nedergaard, Peter (2015): 'We the People' versus 'We the Heads of States': the debate on the democratic deficit of the European Union. In: *Policy Studies*, 36 (2): 196 – 216; Cheneval, Francis/Schimmelfennig, Frank (2013): The case for demoicracy in the European Union. In: *Journal of Common Market Studies*, 51 (2): 334 – 350; Moravcsik, Andrew (2002): In Defence of the 'Democratic Deficit': Reassessing Legitimacy in the European Union. In: *Journal of Common Market Studies*, 40 (4): 603 - 624

[10] Bummel, Andreas (2010): The Composition of a Parliamentary Assembly at the United Nations. Berlin: Committee for a Democratic U.N.; see also the following campaign website UNPA Campaign (2017): *Campaign for a United Nations Parliamentary Assembly:* http://en.unpacampaign.org/ (accessed 31st December 2017)

They are legally connected to regional organisations composed of sovereign states, the latter of which have arguably the most legitimate claim to being the true representatives of their citizens in the international system. For now, almost no regional parliament is directly elected by anything resembling a majority of the population.[11] Rather, their members are often indirectly appointed from national assemblies to represent their nations. Above all, most of them do not have the powers to legislate; rather, the laws of their respective regional organisations are made by the executive branches. With such limitations in mind, the true potential of regional parliaments, while substantial, must also not be overestimated in the short term. Making them more legitimate and more powerful will be a highly challenging undertaking. Nevertheless, there are positive policy lessons that can be drawn from this research.

8.3.1 Regional parliaments exist to democratise

The creation of regional parliaments in Africa reflects a sincere attempt at democratisation on the part of the actors that drafted the treaties. Encouraged by a new social scientific consensus that effective economic development requires democracy, the experts who drafted the treaties argued strongly to ensure some institutional mechanism for citizens' voices to be heard at the regional level. However, they also took into account the realities on the ground and the facts of slow decision-making of the member states and decided to play the long game. Instead of supranational organs with full legislative powers, they proposed weak, consultative assemblies that they knew would not threaten the member states. For the

[11] European Parliament elections, the longest running example of direct elections at the regional level, have remained below 50% since 1999, and dropped to a record low of 42.6% in the 2014 elections.

experts, the establishment of hollow regional parliaments was merely an initial step in a long journey of democratisation. Not to create the parliaments at all and wait for democracy to take hold at the national level would have represented a wasted opportunity in their eyes.

Regional parliaments in Africa, therefore, do not represent cynical attempts to impress Western donors or ineffectual mimicry of the EU as was sometimes suggested to me in off-the-cuff discussions at conferences or even in the canteens of the regional organisations. Member states did not create regional parliaments as sinecures, intending to pack them with cronies and inconvenient political opponents, as another line of reasoning went. Thus, policymakers interested in using regional organisations to democratise global governance can be encouraged by the fact that they would be in line with the initial intentions of the experts.

8.3.2 Powerful non-state insiders are key to strengthening regional parliaments

Empowering regional parliaments will be a challenging long-term undertaking that will require non-state actors with political influence in the regional organisations. Scholars have remarked upon the ineffectiveness of regional parliaments: they operate like talking shops and are frequently side-lined in decision-making. This is no accident. My research shows that member states agreed to the regional parliaments because they were weak and the regional organisations were a low priority. Member states' commitment to these institutions was correspondingly low from the start and is likely to remain low for the foreseeable future. In fact, the slow ratification of the Protocol granting the PAP powers to make model laws is a sobering, albeit unsurprising, example. Moreover, in Africa, democratisation at the national level continues, but member states remain overwhelmingly non-democracies. Initiatives to

strengthen regional parliaments are unlikely, therefore, to originate with the governments in the foreseeable future.

Bar another democratisation wave, only sustained campaigning by non-state stakeholders with political influence is likely to help regional parliaments achieve legislative powers. I refer to actors that occupy structurally similar positions as the UNECA vis a vis the OAU in the 1980s and 1990s. This may include parliamentarians, international bureaucrats, academics, and civil society groups that have a robust relationship with the national governments and can convincingly argue for enhanced powers at moments when member states are most receptive to institutional change. As the SADC case suggests, campaigning by groups outside the decision-making circles operating at the regional level is unlikely to have any effect. Notably, at the time of writing, the AU is undergoing a review of its institutions. Initial reports from the lead member state, Rwanda, have called for an assessment of the purpose and powers of the PAP. Judicious and sensitive campaigning on the part of trusted non-state actors may make the difference to securing the future of the PAP in these discussions.

8.3.3 Regional parliaments need democratising

Third, regional parliaments have a precarious existence and are themselves in need of democratising. They were conceived of as representative institutions to channel the will of the people in regional decision-making processes. Yet, the only way they could be created in the first place was if they were weak and lacked popular roots. With no universal suffrage to elect representatives, the regional parliaments are virtually unknown to their people and neglected by the national governments. Policymakers interested in strengthening these bodies should focus on building a constituency by fostering a popular awareness of the

existence of these organs as well as creating formal links between citizens and the regional parliaments. As the case of the SADC Tribunal has shown, states in Africa are willing to remove inconvenient institutions. Should member states of the AU, for example, decide they no longer approve of the PAP, it is far from obvious that citizens would mobilise to defend it.

Having elaborated on the lessons for policymakers and practitioners above, the next section will conclude by assessing the limitations of this thesis and how future research may address them.

8.4 Future Research

While this thesis has contributed to a theory-driven research agenda on regional parliaments, it by no means represents the last word on the topic. As with any scholarly endeavour, compromises had to be reached and there exist multiple avenues for further development of this burgeoning field.

Primarily, this thesis has revealed weak preferences as a motivation for delegation from principals to agents. However, it treats it as an exogenous causal variable rather than explaining it. Thus, the theory remains neutral about the reasons why states have weak preferences in the first place and brackets their causes. Future research should unpack this bracket. In particular, why is it that states have weak preferences about tasks to which they are already committed? Under what conditions do such weak preferences lead to action rather than non-action? With regard to African states, why do they retain their memberships in regional organisations when they have little desire to pay the fees or implement the decisions made at the regional level? Why delegate unwanted tasks with high discretion when it might be easier and cheaper to simply dissolve the regional

organisation? Answers to these questions will most likely lie in more thorough investigations of the connection between African foreign policy strategies and weak preference formation.[12]

Second, while my theory emphasises delegation to experts because they contribute the professional beliefs that create the regional parliaments, there is clearly a role for secretariats in the empirical narratives. Secretariats hire, coordinate and organise the experts. They also act as a go-between for the experts and the member states, which allows for the translation of professional beliefs into political decisions. In the ECOWAS, this role becomes most apparent. The Executive Secretary approached the treaty review process determined to shield the experts from member state influence in order to maximise the experts' discretion. This bolsters the assertions made in previous research that international bureaucracies are particularly instrumental in determining institutional design outcomes and global governance in general.[13] Future research can elucidate the relationship between Secretariats and external experts, and how they may collaborate to strengthen their power in international relations.

Third, there is scope for greater methodological innovation following this thesis. My study

[12] See for example Welz, Martin (2013): *Integrating Africa: Decolonization's legacies, sovereignty and the African Union.* London and New York, NY: Routledge; Welz, Martin (2014): A 'Culture of Conservatism': How and Why African Union Member States Obstruct the Deepening of the Integration. In: *Strategic Review for Southern Africa*, 36 (1): 4 – 24. However, Welz's work appears to be the only significant scholarship in recent years that has aimed at understanding the relevance of regional integration to the foreign policy strategies of African states.

[13] Haftel, Yoram Z./Hofmann, Stephanie C. (2017): Institutional authority and security cooperation within regional economic organizations. In: *Journal of Peace Research*, 54 (4): 484 – 498; Tieku, Thomas Kwasi (2016): *Governing Africa: 3D Analysis of the African Union's Performance.* London: Rowman & Littlefield; Eckhard, Steffen/Ege, Jorn (2016): International bureaucracies and their influence on policy-making: a review of empirical evidence. In: *Journal of European Public Policy*, 23 (7): 960 – 978; Johnson, Tana/Urpelainen, Johannes (2014): International Bureaucrats and the Formation of Intergovernmental Organizations: Institutional Design Discretion Sweetens the Pot. In: *International Organization*, 68 (1): 177 – 209; Jinnah, Sikina (2014): *Post-Treaty Politics: Secretariat Influence in Global Environmental Governance*. Cambridge, MA: MIT Press; Biermann, Frank/Siebenhüner, Bernd. (2009): *Managers of Global Change: The Influence of International Environmental Bureaucracies.* Cambridge, MA: MIT Press

offers a novel approach to address a specific puzzle that existing theories cannot adequately explain. However, to truly test competing theories in a robust manner requires a large-n, deductive analysis to complement the small-n, inductive approach taken here. The research agenda overall will demand multiple approaches and methodologies to fully explain the various facets of the puzzle and deal adequately with competing theories.

Furthermore, based on three African case studies, the findings of this thesis cannot be deemed as generalisable. I make no assertion that the theoretical argument proposed here explains all institutional design outcomes or all delegation or even all behaviour by experts. However, I do assert that it is a fruitful theoretical lens when observing paradoxical institutional design choices similar to regional parliaments. There likely exist a multitude of contexts in which the focus on the beliefs of experts rather than the national interests of member states will elicit more useful explanations of seemingly incongruous institutional design outcomes. Future research should include cases from other regions and assess institutional forms other than the regional parliament, preferably through large-n analyses, in order to generate generalisable results.

In this thesis, I have shown that when experts secure power over a treaty drafting process, their guiding beliefs shape institutional design in remarkable ways. As a result, regional organisations may not reflect the political values of their member states, but may in fact supersede them.

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