

## **NO LONGER IN SUSPENSE: CLARIFYING THE HUMAN RIGHTS JURISDICTION OF THE SADC TRIBUNAL**

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### **SUMMARY**

The Southern African Development Community Tribunal's (SADC Tribunal) decision in the matter of *Mike Campbell (Pvt) Ltd v Republic of Zimbabwe* 2008 SADCT 2 (28 November 2008) demonstrated its ability to utilise the principles contained in the *Treaty of the Southern African Development Community* when it ruled that it had the power and competency to adjudicate over a human rights case. The aforesaid decision was hailed by many scholars as a progressive judgment in the SADC region that would promote the rule of law and ensure that member states respected their treaty obligations in their own territories. Unfortunately, the same judgment resulted in the suspension of the SADC Tribunal in 2010 because it had purportedly acted beyond its mandate when it adjudicated over a case concerning a human rights dispute. This article investigates whether the SADC Tribunal had jurisdiction to deal with cases involving allegations of human rights violations. In addressing this question, this article will discuss the powers (implied and tacit) of international organisations as understood within international law. In addition, the study will ascertain how the International Court of Justice and the International Criminal Tribunal for the former Yugoslavia have dealt with cases that involved disputes concerning a tribunal or an international organisation that was said to have acted beyond its mandate. The study will also make reference to the East African Court of

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Justice and the Economic Community of West African States Court of Justice as they have also dealt with implied powers when they were confronted with cases concerning human rights abuses. Certain decisions of the SADC Summit of Heads of States or Government (Summit) and the Council of Ministers whose roles include the control of functions and/or overseeing the functioning of the SADC will also be referred to in this study.

**KEYWORDS:** Human Rights; Jurisdiction; SADC Tribunal; International Court of Justice.