

# Deepening African Regional Governance

**Assessing the Pan African  
Parliament's capacity to attract and  
grow legislative competence**

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# Introduction

- ❖ **Background:**

The unique nature of Regional Parliaments:

- ▶ **Trans National Regional Organizations (TNRO) context**
- ▶ **The role of National Parliaments**

# TNRO in context: theory

## ▶ Intergovernmentalists

Deepening integration in TNRO is outcome of nation state interests and deliberate delegation of powers to regional institutions

## ▶ Neo-functionalists

Deepening integration in TNRO is an organic process inspired by institutions, based on a natural expansion of tasks as regional transactions increase.

- **Institutionalists:** the impact of structure on policy and political behaviour
- **Convergence:** Regional Institutions matter
- **Divergence:** the role of regional institutions

# TNROs in Context: Potential of TNROs to nurture supranational institutions

## ❖ Goal of regional project:

- ▶ *Cooperation*: loosely structured and highly intergovernmental
- ▶ *Integration*: community building, strong conformity to regimes, acquires legitimacy to make decisions and implement policies

## ❖ Perception and role of sovereignty:

- ▶ *Disproportionate view nationalism*: non-interference, intergovernmental decision making, abhors institutional empowerment
- ▶ *Subsuming collective regional goal*: Collective choice dilemma

# Potential of TNROs to nurture supranational institutions contd...

- ❖ Predisposition to a democratic ethos
- ▶ *Participation*: member states accommodation of diversity and popular participation
- ▶ Creating institutions and opportunities for growth

# Disparity between National Parliaments and RPAs

- ▶ Growing attention on the role of National Parliaments in regional governance.
- ▶ Critical role of National parliaments in treaty ratification
- ▶ Greater influence of National Parliaments over Council of Ministers
- ▶ Clarifying jurisdictions (roles in treaty ratification)

# Regional Parliamentary Assembly (PAP) functions

## ❖ Functions:

- ▶ Budgetary
- ▶ Supervisory (scrutiny)
- ▶ Legislative

## ❖ Outputs:

- ▶ Legislative
- ▶ Non-legislative

# Legislative functions

- ▶ According to the revised PAP protocol that the PAP itself has proposed, the legislative powers of PAP will cover 16 domains spanning functional areas such as science and technology, public health, education. But also politically compelling issues such as migration, democracy, good governance and human rights.
- ▶ The Pan African Legislative Act (PLA): sourced from AUC and PAP with the PAP having powers to amend, ratify or reject an Act.



# Non legislative functions

- ▶ Ensuring democratic benefit,
- ▶ Promoting political ideology
- ▶ Citizen ownership

**Activities:** Deliberative(debates), Advisory (consultation), Oversight (reports, question and answer time; budget), Investigative functions, Co-operation and harmonisation in relation to Regional Parliamentary Assemblies (RPAs) and national assemblies, specialisation, advocacy

# Appreciating the challenge for PAP

- ▶ Short existence (unlike the EP, Latin American RPAs)
- ▶ Difficulty in fast-tracking without compromising process
- ▶ Effectiveness of national institutions and systems (Andres Malamud and Luis de Sousa. 2007)‘
- ▶ Differing governance and democratic systems, processes and priorities (determine the pace and character of regional experiment and its institutions).

# Extent of PAP's capacity for legislative powers

- ▶ **Defining Capacity:**
- ▶ Scholarship (Nzewi 2008, 2010; Mpanyane 2009), opinion (AU Monitor) converge on two issues:
- ▶ Capacity to influence (decision making, AU legislation)
- ▶ Capacity to perform

# Influence

“The ability of Regional Parliamentary Assemblies (RPAs) to assert their authority on regional decision making”

# Influence contd.

- ▶ Legislative powers may not necessarily improve PAP's influence in AU decision making

## Arguments:

- ▶ Strong executive and national pull
- ▶ Past performance
- ▶ Examples from Latin American RPAs and EALA (Malamud and Sousa 2007 and Mpanyane 2009)
- ▶ Narrow articulation of PAP's place in the Assembly, Executive Council, AUA and PRC decision making axis
- ▶ Legitimacy as expressed in popular support

# Influence contd.

- ▶ **Building influence:**
- ▶ Strengthening relations with key players
- ▶ Creating institutional allies (the ACJHR, CSOs)
- ▶ Enhancing popular legitimacy
- ▶ Making consultation compulsory
- ▶ Alternative relevance (subject to provisions contained to community treaty)
- ▶ Legitimacy is the extent to which political and social norms in a given society are accepted.  
(Michael Rush -Parliament today p 2)

# Performance

- ▶ Research findings on the performance of the 1<sup>st</sup> parliament can be summed up in four points:
- ▶ Recommendations on budgeting issues as well as pertinent human rights issues based on its own fact finding missions had very little influence on decisions at the Executive level.
- ▶ Although the protocol gives room for the PAP to play a consultative and advisory role in decision making at all levels of the AU there has been little consultation with PAP and consideration of or actions on PAP recommendations by the various AU organs.
- ▶ Tied to the issue of PAP's lack of influence of AU policies in its first parliament is the issue of legitimacy of the PAP itself. The value of parliaments in any polity is hinged on the extent of legitimacy they are able to draw as representative and oversight bodies.
- ▶ Legitimacy was and still is a crucial issue for this Parliament. This is because PAP legitimacy relies on its recognition and acceptability in the African political and social landscape by national and regional political actors and institutions and in particular the African people.

# Arguments for legislative powers

- ▶ Limited legislative competencies can work
- ▶ Greater access to funding
- ▶ A Legislative PAP will be needed to monitor the African Union Authority
- ▶ The European Parliament (EP) and East African Legislative Assembly (EALA) did it



# Arguments for a more incremental approach

- ▶ Unresolved Institutional relationships in AU
- ▶ Role and jurisdiction of PAP in relation to national parliaments
- ▶ The level of representativeness in Parliament
- ▶ The overall nascent AU System
- ▶ Evidence from the experience and study of the European Parliament

# Towards greater influence and performance

- ▶ PAP/AU inter-institutional rapport
- ▶ PAP / National Parliaments
- ▶ Civil Society and Parliamentary advocacy
- ▶ Accredited and recognisable performance
- ▶ Members of Parliament representation criteria
- ▶ Strengthening oversight functions within limitations provided.
- ▶ Making consultation compulsory
- ▶ Using its rules of procedure to extend its powers

# Conclusion

- ▶ Too soon for legislative powers
- ▶ Reticence observed in creating alternative relevance
- ▶ Incremental revision of PAP protocol should begin with strengthening its consultative and advisory role