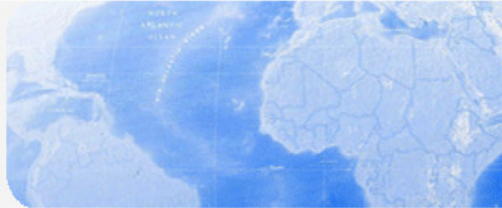




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## EU's Engagement with African (Sub)Regional Parliaments of ECOWAS, SADC, the EAC and the AU

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<sup>1</sup> The views expressed in the article are the authors' rather than their institutions'.

## Abstract

One of the remarkable untold stories in the recent strides made in many countries to ascertain democratic freedoms has been the silence and reticence of regional parliaments. Many regional entities of the South, especially those in Africa, now have parliamentary organs showing a clear ambition towards a European Union (EU) Parliament style organ; demonstrating that there is recognition, across many regions, that regional assemblies matter. However regional assemblies or international parliamentary institutions (IPIs) have not been very active. This paper will discuss how the EU has been engaging with other regions by enhancing regional parliamentary organs in Africa. In doing so the paper explores some of the opportunities, challenges and prospects which merit increased attention and ought to be integrated in the (sub) regional parliaments in Africa. In addressing these issues it presents the various forms of parliamentary and joint parliamentary constellations that exist. It considers their mandates, which often hover on the power of direct legislation (rarely) or the power to exert political pressure through non binding resolutions and recommendations (common). Apart from the East African Legislative Assembly, which has the power to adopt acts that are directly binding at the national level, the majority of sub regional and regional assemblies tend to be weak in terms of what they can actually do. At the continental level the Pan African Parliament can only adopt resolutions. In Southern Africa, there is the SADC (Southern African Development Community) Parliamentary Forum, and in West Africa, the ECOWAS' (Economic Community of West African States) Parliamentary Assembly which is limited only to adopting resolutions. The paper discusses some of the ways in which inter-regional engagement between the EU and these regions could be translated into more effective law making and pressure wielding parliamentary organs. Greater emphasis needs to be placed on encouraging the national governments and parliaments to embrace their regional assemblies. As discussed in the paper, the strategies to enhance the role of regional parliaments will have to be recognised and adapted to acknowledge this fact.

## Introduction: Context

Given the wave of democratic demands made in many parts of Africa, it is startling that regional parliaments fail to conduct a more forceful and vocal stance in favour of democracy. After all, regional parliaments are expected to promote democracy as their *main* mission and this mission should consequently address two distinct, although interrelated, aspects: (1) the democratisation of international relations and (2) the strengthening of democracy in member states. The former aspect is strictly related to problems associated with globalisation, global governance and what has been termed the “international democracy deficit,” i.e. the weak influence of traditional democracy in matters of global governance and the consequent lack of democratic accountability in international organisations. In this sense, regional parliamentary institutions can be perceived as both, an attempt of regional organisations to overcome criticism for their alleged democratic deficit problem and a national parliament response to the globalisation process and the erosion of their power. As Rittberger contends, de-parliamentarisation at the domestic level and re-parliamentarisation at the international or supranational level are insolubly linked. For him, “where the procedural legitimacy of a democratic polity is challenged, political elites will feel compelled to press for compensatory mechanisms, either at the domestic or supranational level. In this sense, both processes mark the two sides of the same coin” (Rittberger, 2005: 199). In this respect, the European Parliament, especially since the introduction of direct elections and the strengthening of its legislative and control powers over the Commission, can be described as the laboratory of international democracy.

Besides this role, regional parliamentary institutions have a commitment to promoting democracy at the national level too. Some recent events seem to confirm this. For instance in 2010, the SADC Parliamentary Forum adopted the Benchmarks for Democratic Legislatures in Southern Africa, which is a useful reference document as member countries embark on Parliamentary reform programs. Moreover, the ASEAN Inter-Parliamentary Myanmar Caucus was inaugurated in 2004 to call on the military government in Myanmar to bring about changes and democratic reforms in the country. Finally, the Parliamentary Assembly of the Council of Europe regularly monitors how member states comply with human rights provisions set in several European conventions and agreements; in particular in a number of new countries in

Eastern Europe which have joined the Council of Europe since 1989 and thus have become subject to such monitoring. This includes for example Russia as a result of human rights violations in Chechnya. Old members have also been included in this procedure: Turkey for instance was subjected to the monitoring between 1996 and 2004 for its questionable human rights record.

However, regional parliaments are not a panacea: the real scope of their influence and the practical purpose of these institutions have been widely disputed. In short, the desire for these regional parliaments to do more to foster democracy is often clouded by the fallacy of exaggerated and overambitious expectations. But regional parliaments are regarded, in many instances, as the constituent organs of the given regional organisations. In cases where governments are reluctant to defer authority to regional organisations, this reluctance applies *ipso facto* to regional parliaments.

This paper considers some of the difficult issues facing regional parliaments in Africa and the various avenues for redress. One of the ways such difficulties could be redressed is through an optimisation of ties with other external entities, including the European Union. The EU Parliament is regarded by many as an important international parliamentary institution (IPI). While specificities in history can hamstring efforts to mimic institutional models, it is possible for IPIs themselves to engage in inter regional parliamentary cooperation, as is increasingly the case; especially through meetings with delegations, speakers, committees, as well as via cooperation agreements (Cutler, 2001). The European Parliament itself has been described as a “labyrinth of inter-parliamentary relations between parliaments of different levels” (Herranz, 2005: 1). It is represented, for instance, in the Nordic Council, the Baltic Sea Parliamentary Conference and the Conference of Parliamentarians of the Arctic Region. Other IPIs are also creating their own networks; the East African Legislative Assembly organises the “Inter-Parliamentary Relations Seminars”, attended by speakers from the SADC Parliamentary Forum, the ECOWAS Parliament and the Pan-African Parliament. Examples of cooperation accords include the Agreement between the Latin American Parliament and the Council of Europe Parliamentary Assembly, as well as the Agreement between the Arab Inter-parliamentary Union and the African Parliamentary Union. Finally, there are more institutionalised inter regional

forums (such as the Asia-Europe Parliamentary Partnership - ASEP) and assemblies (examples are the ACP-EU Joint Parliamentary Assembly - ACP-EU JPA, and the Euro-Latin American Parliamentary Assembly - EuroLat).

Although specific Southern regional assemblies are likely to face crucial and common problems of mandate and resource deficiencies, this is ultimately not a problem that is specific to the regional entities as such. Rather the weakness of parliamentary organs at the regional level may actually be a symptom of systemic weaknesses faced by national parliaments in the area of treaty making in developing countries. As Karuuombe notes African parliamentarians have very little say in the adoption of treaties and this is equally the case for regional integration related treaties (Karuuombe, 2008: 2).

The next section will present a selection of the main regional parliaments in Africa in view of their mandates and powers. This is followed by a synopsis of the various forms of cooperation between the EU and African parliamentarians. The subsequent sections present the importance of the role of regional parliaments, as well as the constraints they face in discharging their mandates. Before making any concluding remarks, the paper then discusses some of the ways regional parliament in Africa can overcome the constraints they face.

## **Canvass of African regional parliaments: Powers and Mandate**

The (sub) regional parliaments discussed include those in ECOWAS, SADC, the EAC and the African Union. Other sub regional entities exist with parliaments such as those in Central Africa. However these bodies are very new, thus it is too early to provide an informed opinion concerning the shape and effects of the mandates granted to them in the constitutional and legal texts.

Art 6(1)(c) of the ECOWAS Treaty (Revised ECOWAS Treaty, 1993) states that one of the institutions of ECOWAS will be the ECOWAS Parliament. This is made explicit in Art 13. The

modalities on the functioning of the ECOWAS Parliament are deferred to the protocol that specifically deals with the ECOWAS Parliament.<sup>2</sup> The protocol itself was endorsed on 6 August 1994 in Abuja, Nigeria. The ECOWAS Parliament is expected to represent the peoples of the Community (Art 2 ECOWAS Parliament Protocol). The members of parliament (MPs) have to be elected by direct universal suffrage (Art 7(1) ECOWAS Parliament Protocol). However, since it is considered “in transition” at present, its representatives are appointed by the national legislative assemblies of member States. The duration of the transitional period has not yet been determined; it is subject to the approval of the authority of Heads of States and Government. The Parliament can meet in ordinary or extraordinary sessions. For the ordinary sessions it meets twice per year (Art 13). The tenure for MPs is for a period of four years. The Parliament did not enter into force until 2002. It is based in Abuja and has 120 members, 80 of whom are chosen from national parliaments (5 per country) and the remaining 40 are selected as a function of the population of each country. As such, Nigeria, with the highest population, has over a quarter of the seats (35), while Benin has the least (5) (Art 5 ECOWAS Parliament Protocol).

In terms of its powers, since the Parliament is considered in transition it functions exclusively in an advisory capacity and lacks, at present, more binding powers, such as legislative, oversight or budgetary ones. In particular, it has a consultative role on critical integration issues such as energy, communications, treaty review, community citizenship, human rights, amongst other areas (Magbagbeola and Onoja, 2008: 2). Further, there are specific areas where the Parliament’s opinion *must* be sought (art. 6.2 of the Protocol)<sup>3</sup>. The rules indicate that the Parliament has the potential to be a critical factor in fostering regional integration. However there is a strong school of thought which defends the view that its actions need to be better communicated to the citizens of ECOWAS, so they are fully aware of the organ’s role (Interview: Tolentino, 24 June 2009).

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<sup>2</sup> ECOWAS Parliament, Protocols and Decisions (2006), at <http://www.parl.ecowas.int/document/protocols.pdf>

<sup>3</sup> These are: interconnection of communication links among member states, so as to make free movements of persons and goods effective; interconnection of telecommunications systems; interconnections of energy networks; increased cooperation in the area of radio, television and other media, as well as development of a national communication system; public health policies; common educational policies; youth and sports; scientific and technological research; policy on environment; review of the ECOWAS Treaty; citizenship and social integration, human rights.

SADC's Treaty of 1994 and as revised in 2001 (SADC Treaty, as revised 2001) makes no mention of a parliamentary organ in Art 9, which enumerates the institutions of the organisation. The SADC Parliamentary Forum (SADC PF) is thus not recognised within the framework of SADC's constitutional and legal framework. However, the PF has its own founding constitution, which sanctions the operations of the entity. Art 4 of the PF's constitution (SADC PF Constitution, as amended, 2010) states that it is an international organisation with a legal personality. Art 5 on the goals maintains that the PF's aim is to help citizens be aware of the role of SADC and also foster solidarity and the development of the regional body. Even though the PF regards itself as an international organisation, in reality it could be considered a sub regional pressure group that works on democratic and social causes. Art 6 of the constitution is to the effect that each state can have five members represented in the PF. To begin it can be stated that the SADC Parliamentary Forum is a consultative body. The Forum is expected to monitor the implementation of the SADC Protocols. It is an entity based on the participation of legislators from various national parliaments, acting as delegates. Further, its operational agenda is oriented more towards strengthening legislative institutions and the capabilities of the legislators and staff in the parliaments. As a result the PF has adopted several important documents. These include some *model draft laws*, which serve as the basis for the drafting of national legislations; with a view of ensuring harmonization<sup>4</sup>. Other vital texts adopted are the *Benchmarks for Democratic Legislatures in Southern Africa*; a useful reference document that is necessary when countries embark on Parliamentary reform programs. Worth noting is that the *Compendium on SADC Protocols and other Legal instruments*, is used by national parliamentarians and other stakeholders to comprehend the instruments their governments are signatories to. In addition, it has also developed a capacity building programme for SADC national parliamentarians, consisting of ad hoc training sessions for parliamentarians on different issues, such as HIV/AIDS, budgeting, gender, poverty reduction and conflict management. It also seeks to improve the conduct of elections in its member states: in this way its 2001 *Norms and Standards for Elections* is widely considered a comprehensive policy instrument for promoting good governance in the region.

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<sup>4</sup> See, for instance, the Model Law on HIV/AIDS which has become a useful reference point for countries as they develop their policies and laws on HIV/AIDS and which take human rights into consideration.



Its relationships with the SADC Secretariat are at arms-length and its activities are not necessarily coordinated or integrated with those of the SADC Secretariat. The operations of the two organisations are often disjointed. For example, there is no evidence that the Regional Indicative Strategic Development Program (RISDP, that is, SADC's development roadmap) and the Strategic Indicative Program for the SADC Organ on Defense Cooperation (SIPO or SADC's security policy template), which drive the regional integration agenda for the SADC Secretariat, are given the same prominence by the SADC Parliamentary Forum. Actually, the Organ on Politics, Defence and Security Cooperation, with which the SADC PF is expected to cooperate and collaborate closely with (politics and elections), does not work duly with the SADC PF in reality. To illustrate this, when the two send election observer missions they come out with very different observations and conclusions on both the conduct and outcomes of the elections. The regional integration agendas that are being pursued by the SADC Secretariat and the SADC PF may actually be quite different, by definition, content, and purpose (Interview, Kaounda: 15 June 2009). One of the challenges facing SADC's PF, which also affects other regional parliaments, is the weakness of the national assemblies (Martins, 2011: 2). It is hard to understand how weak national parliaments can produce strong regional ones given the dominant influence of the executive branch on law makers at both levels.

The Treaty establishing the EAC (as amended in 2006 and 2007) states that the East African Legislative Assembly (the EALA) has a wide range of roles; the task of oversight functions on all matters that fall within the Community's work include debating and approving the budget of the Community for instance (Art 49(2)). It also discusses all the matters that relate to the Community and makes recommendations to the Council which it deems necessary for the implementation of the Treaty. Art 4 of the EAC Treaty stipulates that the EALA is composed of nine sitting MPs per member state and 12 *ex officio* members, including ministers of EAC affairs and their deputies, as well as the EAC Executive Secretary and EAC Counsel. Per Art 58 *ex officio* members cannot vote. Art 50 provides that members have to be elected by the national assemblies of the member states, but with the caveat, they are not supposed to be members of their national parliaments, thus national parliamentarians cannot be elected. This is in contrast

with the majority of the other sub regional parliaments in Africa. Tenure of office for the EALA is five years and is renewable only once (Art 51 EAC Treaty). Bills from the EALA that are duly accented to are known as Acts of the Community (EAC, 2009: 7). However, its legislative autonomy is weakened by the fact that it generally only meets once per year to deal with matters of enormous magnitude, especially given that its drafted bills require assent by the Heads of State or Government. The EALA interacts with national parliaments on issues relevant to the Community and establishes committees as it deems necessary. Since being inaugurated in 2001, the EALA has had several sittings as a plenary in Arusha, Kampala and Nairobi.

At the continental level, the Pan African Parliament (PAP) was established in 2004. Art 17 of the Constitutive Act of the African Union<sup>5</sup> creates the PAP in order to foster the participation of the African people in the economic integration processes of the continent. The role of the PAP is better elaborated in the Protocol to the Treaty Establishing the African Economic Community (AEC), which relates to the Pan African Parliament (PAP Protocol).<sup>6</sup> As stated in the protocol, it is hoped that the PAP will eventually develop into a body with full legislative powers. In the meantime, it will possess only an advisory and consultative role (Art 2(3) PAP Protocol). In this regard, it may: examine, discuss or express an opinion on any matter, either on its own initiative, or at the request of the Assembly or other policy organs, and make recommendations it deems fit; discuss its budget and the budget of the Community and make recommendations prior to its approval by the Assembly. Art 3 states that goals of the PAP include the promotion of democracy, human rights and good governance. The organ is expected to enhance greater awareness of the AU integration process for African people while strengthening continental solidarity. As stated in the PAP protocol, it is an organ that was put in place to make sure that the concerns of African citizens are properly mirrored in the way the Union functions. Art 11 of the PAP Protocol provides for very specific expansive powers for the PAP, including the harmonisation of laws in member states and discussing the budget of the AEC with the power to make due recommendations to the Assembly of leaders.

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<sup>5</sup> Constitutive Act of the African Union, Lomé, Togo, 11 July, 2000, at <http://www.africa-union.org>: *Documents*.

<sup>6</sup> Protocol to the Treaty Establishing the African Economic Community (AEC) Relating to the Pan African Parliament, 2 March 2001. The AEC Treaty itself in Art 14 stipulates that to enhance the involvement of African people in the economic integration process, a parliament shall be created: Treaty Establishing the African Economic Community, 3 June 1991.

The creation of the PAP was preceded by important conflicts between key African nations, which fought to secure a creation centre or headquarter for the organ. Despite delegates from Egypt and Libya fighting hard for the creation of the seat of the PAP in their own respective countries (Cilliers and Prince Mashele, 2004), the honour fell on South Africa as a direct result of the commitment and determination of Frene Ginwala and Thabo Mbeki. South Africa is still one of the major backers and funders of the PAP (Mashele, 2005: 108).

The protocol also states that members of the assembly are not elected by universal suffrage like comparative institutions, such as the European Parliament. Instead, as Art 5 of the Protocol provides, the members are selected from the various national assemblies. The implied effect of this set up is that PAP's mandate is terminated as soon as the national tenure of office is expunged. This has adverse effects in securing a strong institutional memory for the institution. Each member state is entitled to five PAP seats (PAP Protocol: Art 4). One cannot serve in the PAP without being member of a national parliament (Art 5 PAP Protocol). This means that PAP members are like delegates from the national parliaments.

The PAP MPs are expected to be independent of their governments and are not allowed to serve as spokespersons for their national authorities. In as much as this can be considered an aspiration, it is difficult to separate PAP deputies from the influence of their national governments. In addition it meets twice a year in its plenary public sessions. In terms of the concrete actions it has taken, the PAP has been highly involved in monitoring elections in various African countries. It has equally been a strong advocate for the African Charter on Elections and Democracy.

## **EU and African Parliaments**

The European Parliament (EP) is regarded as an example of a regional parliament which is relatively advanced in terms of its mandate and performance. But what many fail to realise is that the challenges now faced by many sub regional and regional parliaments in most parts of the South were also experienced by the EP in the 1960s and 1970s. The EU's founding fathers did

not initially give the EP a lot of powers. Rather it gained powers over the years through experience (Malamud and De Sousa, 2007: 88). Malamud and Souza argue that the three main factors that have facilitated the EP's evolution from a mere assembly into the supranational body it is today include, early supra nationalism, extraordinary leadership and direct elections including the creation of Euro party formations (*Ibid.*, 89). Today the relatively experienced EP is faced with its own challenges. Even the much celebrated quality of deliberation within it has been waning (especially with the enlargements) in favour of increased bureaucratisation (De Clercke-Sachsse and Kaczynski, 2009: 2).

There are four formats of cooperation between the EU and African parliaments. The first is the Association of European Parliamentarians for Africa (AWEPA). The second is the ACP-EU Joint Parliamentary Assembly. The third is the EU-Africa parliamentary dialogue under the Joint Africa-EU Strategy. The fourth is the direct assistance that the EU provides to the continental and sub regional organisations with the hope that some of the resources will also trickle down to the regional parliaments.

AWEPA was created in 1984 by Nico Scholten as the Association of West European Parliamentarians for Action Against Apartheid. Following the demise of the apartheid government in South Africa, it changed its name in 1993 to AWEPA. It was initially formed to mobilise external support against the apartheid. However, it has grown and expanded its mandate to include the promotion of human rights, democracy, peace and the strengthening of parliaments; through capacity building initiatives. It is also keen on fostering assistance in post conflict societies and places an emphasis on the means through which regional parliaments can be mobilised to meet the Millennium Development Goals. One of its strategies is to keep Africa on Europe's Agenda and also to ease the Africa-Europe Parliamentary Dialogue. It has over 1500 members; who are either current or past parliamentarians. With main offices in Amsterdam and in Brussels, the association has nine satellites throughout Africa. AWEPA works closely with African parliaments at all levels: local, national, sub regional and continental. In terms of its regional initiatives it has institutional programs with the EALA and the PAP. Specifically, it has been very helpful to PAP in terms of technical and financial assistance (Navarro, 2008: 24).

The second format for cooperation is through the Joint Parliamentary Assembly, established under the Lomé and (now) the Cotonou Partnership Agreement (CPA) between the EU and African, Caribbean and Pacific (ACP) countries. The norms governing the functioning of the JPA are the ACP EU JPA Rules of Procedure (JPA RP).<sup>7</sup> It brings together 156 representatives, 78 from the European Parliament and 78 from the parliaments of ACP countries. It meets twice a year, once in the EU and once in an ACP country. However, the continuity of its work is assured by a Bureau (composed of a co-president and twelve vice-presidents from each side) and, since 2003, by three standing committees, namely on Political Affairs; Economic Development, Finance and Trade; Social Affairs and the Environment. These committees may adopt resolutions on the basis of drafts proposed by co-rapporteurs, which are subsequently forwarded to the plenary for consideration and adoption. It is mainly a consultative body which adopts resolutions and makes recommendations to the Council of Ministers, with a view to achieving the objectives of the Cotonou Agreement. The JPA's current priorities include: supporting democratisation and human rights, conflict prevention, regional cooperation, rural development, the local processing of and trade in commodities, better coordination of the Union's development policies, and the need to promote training in and technology transfer to developing countries (Corbett et al., 2001: 184).

So, at first sight its powers may appear rather weak, since it is not endowed with many of the core functions that a parliament is typically expected to exercise (even at the supranational / regional level). It has no legislative and budgetary powers and cannot exert binding control over the Council of Ministers (that is, it can neither elect its members nor express motions of censure or non-confidence votes). Moreover, it cannot receive petitions from citizens. However, the JPA has traditionally attempted to overcome these shortcomings through supplementary functions. In the following areas its contribution is particularly relevant.

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<sup>7</sup> ACP-EU Joint Parliamentary Assembly, Rules of Procedure, Adopted on 3 April 2003, Revised on 25 November 2004, 23 November 2006, 28 June 2007, 28 November 2008 and 18 May 2011.

The first is the joint oversight of the partnership. The JPA exerts a monitoring role in relation to the partnerships' aims. Reports and recommendations, as well as written and oral questions to the Council of Ministers, represent the common tools it is endowed with to implement this task. In addition, the JPA can also scrutinise spending under the European Development Fund (EDF) (over which democratic control is otherwise weak) (Corbett et al., 2011) as well as the economic partnership agreements (EPAs)<sup>8</sup>. In particular, as far as EDF oversight is concerned, the Committee on Economic Development, Finance and Trade has recently been entrusted with an additional responsibility; the scrutiny of the Regional Strategy Papers (RSPs) for the different ACP regions. These were published in 2009 and set out the strategy of the European Commission for the regional development of the regions concerned. The Committee appointed co-rapporteurs for each RSP and adopted reports on each of them. The conclusions of this oversight exercise were adopted at the 19<sup>th</sup> Session in Spain, from 29 March to 1 April 2010<sup>9</sup>. However, the limit of this oversight function is that the JPA can produce only non-binding resolutions and recommendations.

The oversight competence also includes election observation and fact-finding missions to assess human rights and humanitarian situations on the ground. These missions generally lead to the adoption of a report and a resolution; urging states to adopt the necessary measures to address the most serious concerns. However, the Assembly has in some cases failed to adopt a unified stance due to the sharp divisions between the EP and ACP delegations: this happened, for instance, in Nigeria, Togo and the Democratic Republic of Congo in 1997, Sudan in 1999 and Zimbabwe in 2002. Sometimes, the Assembly also acted as a mediator by resolving conflicts peacefully and offering its full support to international and regional negotiators, as observed in Ethiopia and Eritrea between 1998 and 1999.

Second, it plays an important role in policy-oriented intercultural dialogue. The JPA functions as a permanent and institutional setting where long-term policy- and action-oriented intercultural dialogue on issues such as human rights, democracy and global public provision of goods can be

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<sup>8</sup> Since 2003, the Committee on Economic Development, Finance and Trade has adopted two reports over EPA negotiations: in 2004 (Addis Ababa ) and 2009 (Prague).

<sup>9</sup> See [http://www.europarl.europa.eu/intcoop/acp/60\\_19/default\\_en.htm](http://www.europarl.europa.eu/intcoop/acp/60_19/default_en.htm)

resolved. The number of resolutions and declarations unanimously adopted<sup>10</sup> relies on the capacity of parliamentarians from different regional (and cultural) contexts to reach consensual agreements on these issues, which may then promote a harmonisation of national legislations to international standards. However, this dialogue has not only been fruitful in the deliberative domain, it has also produced joint strategies and concrete action plans to face the serious challenges in the aforementioned areas. Examples include the JPA's strategy to combat child labour (2008), achieve the MDGs (2010) and to include people with disabilities in developing countries (2011).

Third, it is a linchpin for parliamentary socialisation. Regular, systematic and institutionalised exchanges between parliamentarians from different regional blocs encourage them to "learn about the assembly's formal and informal rules, realise which are the most efficient procedures and patterns of behaviour, discover how to work with colleagues from different nationalities, acquire new professional skills and understanding of politics" (Dri, 2009: 81). Within the JPA, where delegates may come from countries that are at very different stages of development concerning parliamentary democracy, in the long term this practice may have a positive impact in terms of parliamentary empowerment and democratisation at the national level. In some cases, taking part in these interregional assemblies is often the only opportunity for certain delegates to acquire the skills and information that enables them to exercise their control function at the national level, and to promote the more active involvement of parliaments in foreign affairs issues<sup>11</sup>. However, one of the key problems is the degree to which the delegates to the JPA have

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<sup>10</sup> See, for instance, the Resolution on children rights (2003); on the role of regional integration in the promotion of peace and security (2005); on small arms and light weapons and sustainable development (2005); on migration issues (2006); on freedom of association (2007); on right to food (2009). These resolutions may have, sometimes, had a considerable impact, contributing to the adoption by the Council of strategic guidelines that States are invited to follow (as it happened in 2003 with the guidelines on children in armed conflicts).

<sup>11</sup> The benefits of parliamentary interactions in these assemblies is being increasingly recognised by parliamentarians from the developing countries themselves, who "wish to see their own national parliaments develop from 'rubber stamp' institutions into full-fledged legislative assemblies" (Stelios Stavridis and Roderick Pace (2008: 20). For instance, MP Anne S. Makinda, Deputy Speaker of the Parliament of Tanzania, declared during a UN conference that: "it is important that parliaments and not only governments and international agencies be seen increasingly as actors in building South-South as well as North-South cooperation. [...] We need to help parliaments to learn from one another, compare experiences, and exchange information on best legislative practices and policies. Parliaments should also be seen increasingly as forums that can assist in peace-building and conflict resolution in those LDC countries that are either at risk of or are emerging from conflict" (Statement by the Honourable Anne S. Makinda, Deputy Speaker of the Parliament of Tanzania on behalf of the Inter-Parliamentary Union, High-level Meeting of the General Assembly on the mid-term review of the implementation of the Programme of Action for the

truly been democratically elected. In this sense, the European Parliament is more and more requiring some forms of legitimisation to their counterparts in order to be accepted as members of the Assembly. Thus, for instance, the session scheduled for 25-28 November 2002 was cancelled because two of the persons appointed by the Zimbabwean authorities to form part of their delegation were covered by Council restrictive measures concerning visa issues, on the grounds of serious human rights violations and freedom of opinion, association and peaceful assembly.<sup>12</sup>

Finally it serves as a staunch facilitator for the involvement of non-state actors. JPA's Rules of Procedure clearly state that the Assembly's role includes facilitating regular contact and consultations between the EU and ACP representatives, as well as civil society actors<sup>13</sup>. For this purpose, the JPA has regularly promoted regional and sub-regional meetings to consult with different categories of non-state actors; amounting to a sort of "regional public hearing," and fully involving them in the regular monitoring of the work carried out by the Assembly's Committee on Economic Development, Finance and Trade with regard to the EPAs. Moreover, it has approved many resolutions calling for the protection and promotion of human rights which are particularly sensitive for civil society's activities, such as freedom of speech, information, assembly, amongst others.

The third format is the EU-Africa parliamentary dialogue under the Joint Africa-EU Strategy. The Strategy was adopted at the EU-Africa Lisbon Summit between the European Union and the African Union in 2007. Paragraphs 116 and 117 of the Joint Strategy lay down the specific role of the European and African Parliaments. On an annual basis, they have to coordinate the

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Least Developed Countries for the Decade 2001-2010, United Nations, New York. Quoted in Stavridis and Pace 2008).

<sup>12</sup> European Parliament, *Report on the work of the ACP-EU Joint Parliamentary Assembly in 2003*, A5-0013/2004, p. 11-12

<sup>13</sup> Art. 28 stipulates that

The Assembly shall take steps to ensure that the ACP States and the European Union have regular contacts and consultations with representatives of the ACP-EU economic and social partners and the other actors of civil society, in order to obtain their views on the attainment of the objectives of the Partnership Agreement. These representatives of civil society shall have the opportunity to attend regional and sub-regional meetings and standing committee meetings and take part in workshops. The Bureau will examine, in each case, the conditions under which invitations should be addressed to them.



preparation of a joint report on the progress made in the implementation of the Strategy and its action plans; using clear indicators and concrete benchmarks and timetables to ensure that implementation is kept on track. These reports are presented to the Africa-EU Ministerial Troika meetings, and every third year to the Summit of Heads of State and Government, for their consideration. The two institutions have established specific inter-parliamentary delegations (the Pan-African Parliament's ad-hoc committee for relations with the European Parliament and the European Parliament's ad-hoc delegation for relations with the Pan-African Parliament) that hold informal meetings and "exchanging of views" to carry out this monitoring task. Unfortunately, these meetings are neither regular nor supported by a joint formal structure.

The fourth format of cooperation is the direct regional strategy program which the EU has for specific sub regions. Through the CPA with ACP states, the EU commits to supporting regional and sub regional entities. As a regional organisation the AU is explicitly singled out. The direct support granted to these sub regional and regional entities is often expected to also benefit all the organs of the organisations; including the regional parliaments. In the framework of this fourth format, a prominent role is played by the European Parliament, especially by its Office for Promotion of Parliamentary Democracy (OPPD), which was established in 2007 to actively contribute to the strengthening of parliaments worldwide; including the (sub-) regional ones. One of its long-term partners is the PAP, which has been involved in the programme "EP twinning with the Pan-African Parliament". The cooperation with the PAP covers many areas, including the building of its infrastructure, the choice of ICT, assistance in setting up interpretation and translation mechanisms, the development of finance and audit systems and the sharing of best practices. This is realised through various study missions, technical assistance services, a series of fellowships for PAP's core staff and active participation in strategic discussions regarding the development of the PAP. Bi-annual conferences ensure the coordination of activities by other donors. Moreover, both parliaments have also created a parliamentary delegation, composed of parliamentarians, to stimulate political and policy cooperation. It is desirable that similar programmes are expanded to other regional parliaments too.

## **Importance of the role of regional parliaments**

Regional parliaments can be important entities. First, they can serve as the voice of the people, especially in a continent where governments tend to cloud out the political and economic lives of citizens. But this has to be qualified, as many parliamentarians can be amendable to special interests and lobby groups that have far narrower agendas. Further, MPs can themselves be the facilitators of gross acts of corruption. Even in Europe there have been serious complaints regarding the manner in which members of the EP (MEPs) tend to cater more for their personal aggrandisements; rather than the real concerns of citizens (Craig and Elliot, 2009: 128-129).

Second, regional parliamentarians have the important task of vetting the regional executive arm. But the problem is that the regional executives in Africa are regarded as widely moribund entities. National governments prefer to keep a tight rein on the regional organisations and thus limit the scope of the powers deferred to regional bodies. This of course means that the parliaments have little to vet that will be of significance. Instances where parliamentarians call for commissions of inquiry when there are excesses or omissions have been rare.

Third, regional parliaments can be regarded as tools for democratic advocacy, especially for causes that are hard to sell on a national level. But given that some have little concrete legislative or constitutional powers, what can be achieved in concrete terms is duly limited. However they are a strong tool because, in certain regions, certain governments may take issue with the actions of their peers (especially the bigger ones). Given this reality, the smaller nations can mobilise support from the regional parliamentarians, who in turn can instigate advocacy pressures on the larger states.

Finally, regional parliaments are vital as the main platforms or forums for cultural exchange, because they provide the only formal institutional framework at the regional level whereby countries from different cultural backgrounds can act together; articulating common people-negotiated approaches, standards and rules. This allows for an important exchange of cultural approaches to problem solving.

## **Problems faced by regional parliaments**

To run a regional parliament, either at the sub regional or continental level, requires money. It takes a lot of effort to displace parliamentarians each time they have to move for the plenary sessions to the seat of the assemblies. For non local deputies this is a drag on resources that are scarce in periods of fiscal challenges for many countries. Even in Europe, where countries are more advanced on the development scale, displacing MEPs between Brussels and Strasbourg has raised eyebrows. The situation can be more daunting for African countries where direct flights between countries, even within the same sub region, may entail a detour through Europe. This is a monetary challenge that poses serious practical problems for the smooth operation of the parliaments.

Linked to the issue of lack of money is the perennial problem of human resources. Many African parliamentarians are bereft of the needed resources to hire assistants who could help them in their tasks, as deputies. Being an effective parliamentarian, especially at the regional level, requires a broad knowledge of many fields, as well as a deep insight on the issues dealt with by committees to which the members belong. This can hardly be done optimally without the help of parliamentary assistants to help ease the task of law makers. By way of example, PAP members are strongly under resourced from a human and material point of view. This means that deputies often lack assistants for research and other strategic concerns. While some delegations are able to retain a few assistants, this tends to be the exception. But the issue of human resources deficiency is deeper in IPIs, such as the PAP. The PAP only has 44 permanent members of staff compared to the 150 that is hoped for (Interview, Dahab, 21 February 2011).

Another important challenge for regional parliamentarians in Africa is the absence of real political clout. In most countries real power still rests in the hands of the executive head or the president. This means that national political masters of the executive still wield considerable powers and determine which MPs represent the country at the (sub) regional level. More often than not, the candidates that succeed in getting into the regional parliaments are selected for political convenience, rather than for substantive merit. The sub text here is that the

independence of MPs at the regional level, and the degree to which they can push a truly regional agenda, is a function of the whims and caprices of the governments in the various capitals.

Also critical is the lack of awareness of the work of the parliaments on the part of African citizens. Many people regard the regional parliaments as distant. Very few African citizens know that regional parliaments exist. Even if they did, the relevance of such bodies is still difficult to communicate. One of the reasons is that African countries, for the most part, are young nations quite keen on safeguarding their sovereignty. Given that, in principle, no national institution better represents the sovereignty of a state than a parliament does, Africans tend to be envious of their national autonomy and thus find it hard to devolve matters to a distant regional entity. This is a problem faced not only by regional parliaments, but also by regional institutions as a whole. A critical factor that plays into this sense of detachment of the regional parliaments from the African people is the absence of direct elections for the parliamentarians.

Indirect elections may also have caused problems in terms of fair representativeness. Indeed, with the ECOWAS Parliament as the only exception, all the considered IPIs attribute the same number of seats to the participating countries; irrespective of their population size. Also, the principle of political diversity to guide the appointment of the IPIs' parliamentarians from national assemblies and which was explicitly stated in many treaties and founding documents, has not always been respected. For instance, South Africa decided to exclude the official opposition, the Democratic Alliance, from its five MPs in the first PAP session in 2004 (Cilliers and Mashele, 2004).

Moreover, African regional parliaments are plagued by the issue of multiple parliaments. This is because some of the states are members of several regional entities. For those entities that have regional parliaments that overlap in membership, it becomes difficult to maintain and sustain equiponderant commitment of all of the member states. Participation in these regional forums is not cheap; states soon realise they are unable to meet their multiple and overlapping financial obligations and regional agendas.

Another issue deals with accessibility. Efforts to involve CSOs in the IPIs' work are crucial and are increasing over time; however they have rarely been translated so far into an institutionalised practice that can assure a certain degree of consistency and continuity. Moreover, citizens can not directly accede to these institutions; for instance through popular initiative proposals or through mechanisms to express their grievances.

Finally, and of great importance, is the problem of a deficit in visionary leadership in the various regional parliaments. Given that parliamentarians are closely dependent on the vagaries of national politics, and also on the desires of national political masters of the executive branch, it becomes hard to formulate independent visions that are bold enough for the (sub) region, given that political sensitivities are also ubiquitous in clogging the realisation of true (sub) regional visions and programs. But this is not an insoluble problem. Tactful and skilled leadership in the regional parliaments can help mitigate such challenges.

### **Beyond the constraints**

The problem of money is not immune to solutions. With major differences, the parliaments source money from the core budget of the regional entities. But this is hardly sufficient. One of the aspects that could bolster the independence of the regional parliaments would be relative financial autonomy. An approach to assuage this problem could be to reach special agreements with host states; as the PAP has done with South Africa. But such deals can also be negotiated with transportation companies so that they can ease the travel of deputies. On the revenue side, it is vital that the parliaments are able to mobilise their own resources, from both private and public partners. It is also crucial that internal modes of generating resources, such as the operation of libraries and museums on regionally relevant developments, be seriously considered.

Dealing with human resources is also a problem that can be addressed. In a number of the (sub) regional bodies, some of the MPs are already making use of assistants for specific delegations. It is not a general trend, but the exception. An approach that could be considered, in the short to medium term, entails increasing the engagement with civil society organisations (including think

tanks) that work on regional issues. Such organisations usually have a strong insight on policy issues that are relevant to the region.

It is difficult to address the question of limited political clout on the part of regional parliamentarian's mindfulness given that they are highly dependent on their national governments. However, as they become financially autonomous, and also consolidate the influence of the regional parliamentary entities, national governments are bound to take note and act accordingly.

Also crucial is dealing with the problem of lack of awareness among the African population regarding the activities of the (sub) regional parliaments. Here the parliaments have a responsibility to engage in outreach programs through media and education outlets. A strong communications unit is needed in the regional parliaments which can spread the word to students, businesses and other relevant actors within the regions.

Direct and universal suffrage elections represent the most straightforward way to overcome criticism regarding accountability and representativeness. However, as long as regional parliamentary members are elected or appointed by national assemblies, representativeness may be improved by ensuring fair representation in national delegations in terms of political positions, gender and representation of minority groups.

The issue of multiple parliaments is not hard to address. It is an institutional constraint which can also be dealt with by a serious remodelling of the relationship between the sub regional parliaments and the Pan African Parliament. Mindful of the plans to have a common African Economic Community by 2028 that assembles African regional economic communities, there is no reason why the PAP cannot also serve as an umbrella parliament for the sub regional ones. This is going to be a challenging task bearing in mind the sub regional differences that exist between the various sub regions. But the advantages of such cooperation certainly outweigh any possible downsides. One could envisage a novel structure of the PAP with two chambers: one for the sub regional parliamentarians as such and another for the national representatives. In time

such an arrangement can help to phase out the numerous sub regional parliaments which tend to duplicate the tasks of the PAP.

A dialogue with CSOs should be promoted through more institutionalised channels to ensure consistency and regularity over time. Local actors and religious leaders should also be involved. More efforts should be paid by regional parliaments to promote human rights as a pre-condition for the existence of CSOs; such as freedom of expression and assembly, the freedom of the press etc, at the national level. Citizens, however, should have the possibility to directly accede to regional parliaments, through popular initiatives or express their concerns and grievances. Specific institutional mechanisms could be established to work towards this goal, such as petition committees or parliamentary ombudsmen.

Finally, visionary leadership cannot be hoped for. For a true sense of strong parliaments to take hold, the leaders of the parliaments have to lead and be seen to be leading. It is not going to be an easy task to explain to national governments and citizens why regional parliaments are useful or add value. But that is exactly the task of visionary leadership, which could be reached by making the job of regional parliamentary leaders more attractive through important benefits, privileges and above all responsibilities.

## **Conclusions**

The problems that affect African regional parliaments are considerable. But they are also issues that are typical for regional entities. A number of insights were discussed in this paper as a point of departure to address some of the weaknesses that still impact some of the sub regional entities. The main pointers from the analysis lead to two main elements: (sub) regional parliaments need more concrete legally locked responsibilities and they also need well targeted resources. It is true that all the regional and sub regional parliaments have the mandate to provide advice and recommendations. But the flip side is that there is no obligation on the other entities to follow the suggested recommendations and advice (Terlinden, 2005: 3). It was argued that while there are many advantages associated with the tasks of (sub) regional parliaments, those in Africa have to

overcome many difficulties. But such challenges, as noted in the paper, can be overcome. But for this to be done, targeted actions are necessary; some of which were considered in part VI. Cooperation between the EU and African (sub) regional parliaments will be an added value if aligned with, or presented in, the form of targeted actions, as outlined in the preceding section.



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