



The Pan-African Parliament

Is the glass half-full or half-empty?

INTRODUCTION

During 2007, the Pan-African Parliament (PAP) concluded its 8th Ordinary Session in Midrand, South Africa. This session effectively marked the fourth year of PAP's existence since its inauguration in 2004 and, more significantly, it marked the halfway point of PAP's first term. In terms of the Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament signed in 2001 (PAP Protocol), the African Union is supposed to evaluate the PAP's performance after the first five years and possibly review the PAP Protocol. Such an evaluation will determine the efficacy and effectiveness of the PAP and its Protocol.

Presently, the PAP serves only as a consultative and advisory body, but according to the PAP protocol it would be transformed or evolve into a full legislature after its first term, or by a date to be determined by member states. Obviously, this puts PAP in limbo because it is not clear exactly when and what will determine whether member states decide to vest PAP with legislative powers. In view of this, the stated vision for PAP remains that of providing a common platform for African peoples and grassroots organisations to be involved in discussions and decision-making regarding issues facing the continent. Equally important are its stated objectives, which include the requirement to facilitate the process of regional/continental integration, the promotion of peace and security, human rights, democracy, good governance and accountability, among others.

However, the questions that arise from this are: since its establishment in 2004, has PAP operated effectively and efficiently to realise the stated vision and objectives? If not, what challenges and problems has PAP been confronted with, what is the root-cause of these issues, and how, if at all, has PAP sought to address them? Is PAP's role and mandate clear enough for it to effectively and efficiently discharge its responsibilities?

In view of the abovementioned questions, PAP is now at a critical juncture in its existence and this paper seeks

to critically assess PAP's progress towards realising the stated vision and objectives for which it was established. This paper is organised as follows: the first section covers the critical discussion on the overarching objective – establishing the Pan-African Parliament. The discussion will be informed by the following key question: when the institution was launched, was PAP's role and position within the emerging African peace and security architecture clearly defined? The second section will focus on the traditional role of national parliaments. This is important because of PAP's reliance on national legislatures for its membership. The third section focuses on a comparison between PAP and another supranational institution the European Parliament. The latter will yield comparative lessons for PAP as it seeks to institutionalise itself and possibly evolve into an effective continental legislature.

The fourth section focuses on PAP's role and objectives as outlined in various instruments, but principally in the PAP Protocol. The discussion will be informed by the following question: how has PAP fared in realising the vision and objectives for which it was established? The fifth section deals with reasons why PAP has had difficulties in contributing effectively to realise its stated vision and objectives? In this regard, the following challenges and obstacles are highlighted: the acceleration of the implementation of the process for establishing the African Economic Community (AEC); relations between PAP and the AU; the oversight function; the issue of binding powers; and the election and independence of PAP members.

The conclusion will summarise key findings and arguments.

BACKGROUND ON THE ESTABLISHMENT OF PAP

In June 1991, African heads of state and government met in Abuja, Nigeria to discuss the possibility of establishing an African Economic Community.¹ As a result, the Abuja Treaty came into force in 1994. The main objectives

of the AEC included, among others, the promotion of social and cultural development and the integration of African economies in order to increase self-reliance; the promotion of endogenous and self-sustainable development; and the coordination and harmonisation of policies to foster the gradual establishment of the AEC (Abuja Treaty 1991: Art 4). Furthermore, the Treaty also stipulated that the AEC should be established gradually, in six stages of variable duration over a transitional period not exceeding 34 years. It also made provision for the establishment of various organs of the community, one of which is the Pan-African Parliament (PAP).²

In terms of the Abuja Treaty's timeline, the PAP was supposed to be established during the sixth and final stage of the AEC process. The primary objective of establishing PAP (Art 14) is to ensure that the people of Africa are fully involved in the economic development and integration of the continent. The establishment of PAP was supposed to happen during the final stage in order to provide a platform for representation and participation of African peoples in decisions affecting the continent. It is also important to note that when PAP was established, citizens of African states were expected to elect the representatives directly to the body, rather than the current process of nomination (see discussion below).

However, in 1999, when African heads of state and government gathered in Sirte, Libya, for the Fourth Extraordinary Summit of the Organisation of African Unity (OAU), they discussed the various ways and means of strengthening the organisation. They decided to establish an African Union and to accelerate the process of implementing the Abuja Treaty.³

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necessary structures

Significantly, the Sirte discussion led to the decision to shorten the timeframes outlined in the Abuja Treaty and to accelerate the establishment of the institutions provided for in the Treaty. It was decided that the speedy establishment of the Pan-African Parliament, among others, would become a common platform through which the people of Africa and their grassroots organisations could become more involved in discussions and decision-making (Sirte Declaration 1999). Ambitious leaders like Colonel Gaddafi of Libya, who was promoting the idea of a United Africa at the time, however, was

the main force behind the Sirte Decision. Unfortunately ambition and enthusiasm, clouded the importance of putting in place the necessary structures and methodology for establishing such a critical institution.

Thus, following the meeting in Sirte, African leaders again met in Lomé, Togo, for the 36th Ordinary Session of the OAU. They approved and adopted the draft Constitutive Act of the African Union (AU) and the draft PAP Protocol.⁴ Subsequently, the PAP Protocol was signed in 2001 and came into force in 2003. The Pan-African Parliament was inaugurated on 18 of March 2004 (Cilliers & Mashele 2004). In his speech inaugurating the PAP, the (then) Chairperson of the AU, President Joachim Chissano of Mozambique, said there was a great hope and expectation placed on PAP (Matume 2004).

Although President Chissano mentioned the expectations, he did not elaborate on what particularly was expected. Neither he nor any other African leader has thus far provided any clarity on the exact position that the PAP was supposed to hold in the new political and security architecture of the AU. The only guidelines are in the provisions of the Abuja Treaty and the PAP Protocol, both of which stipulate that PAP is created to ensure that the peoples of Africa are fully involved in the economic development and integration of the continent (Abuja Treaty 1991:16). Considering PAP's very broad mandate, there is a degree of uncertainty on the exact role that the PAP is supposed to play as a continental institution. Where does its primary responsibility lie? Is it with regional economic communities (RECs) and the integration process? How does it engage and link with other institutions primarily responsible for such issues as peace and security or human rights? How effective are its decisions on these other issues likely to be?

In order to answer these questions it is necessary to look at similar structures elsewhere. We will look briefly at the traditional role of national parliaments and contrast this with the role of the European Parliament. The European Parliament is a supra-national institution that is similar to PAP.

THE TRADITIONAL ROLE OF NATIONAL PARLIAMENTS

Historically, national parliaments have generally been perceived as mirrors of the character of the state, party systems and political culture (Salih 2005). The traditional role of a parliament is to represent the citizens and to reflect the needs and preferences of the citizens as expressed through elections (Salih 2005). Parliament is a multifunctional institution and performs a variety of roles. Key among these is that national parliaments are responsible for making new laws, amending or

improving old laws, the sanctions policy, approval of budgets and approval of key government appointments.

Another critical function of modern parliaments is to exercise oversight by reviewing key policy decisions. In this regard, parliaments are responsible for holding the executive leaders to account. They serve as pivotal oversight institutions that scrutinise the activities of government, ensure good governance and transparency, the proper utilisation of resources, and ensure the separation of powers (Salih 2005). Therefore, a strong parliament is essential for high quality governance and provides a platform for participation by a country's citizens in decision-making and policy processes.

It is important to note that a national parliament is only as strong and effective as the political environment (within which it operates) will allow. As such, effective and efficient parliaments generally operate in democratic systems, based on the principles values of universal suffrage, multi-party systems, the existence of civil and political freedoms, and the rule of law, among other things.

It is, however, important to acknowledge that the role and functions of parliament differs from country to country. According to Salih, parliaments in one-party states are formed with the expectation that members of parliament will be loyal to the government and provide a rubberstamp for policies and legislation proposed by the executive. Such systems are characterised by the absence of the separation of powers, which is very problematic, especially because installing systems for accountability becomes basically impossible (Salih 2005).

A strong parliament is essential for high quality governance

By contrast, in a multiparty democracy, parliament plays a much more prominent role. Parliaments in such systems are responsible for lawmaking; representation of citizens (by serving as a link between the government and the people); public scrutiny of policies and decisions; and ensuring that government is accountable for its actions. Equally significantly, parliaments in democracies are publicly elected and generally possess public legitimacy (Salih 2005).

In the African context, the composition of national parliaments is particularly critical because during the first term of the PAP, members are drawn from (nominated by) national legislatures. Thus, the quality of parliamentarians sent to represent member states should be kept to a high standard. This is outlined in the PAP Protocol (Art 2), which states that parliamentarians

represent all the people of Africa and that the five MPs nominated from each country must reflect the diversity of political opinions in each national legislature.

However, the challenge of meeting these high standards is often hampered by the fact that some African countries have weak legislatures or none at all. Similarly, some countries are one-party states, others have no political parties, and some cannot be classified as democratic. In view of the aforementioned, PAP can only benefit from strong and effective national parliaments based on democratic practices, values and principles because these institutions are feeders for the continental legislative structure in the interim.

THE EUROPEAN PARLIAMENT: A CASE OF A SUPRANATIONAL BODY

The European Parliament (EP) is a supranational body and could be compared to the Pan-African Parliament. Comparing the two supranational institutions will elicit important similarities but also critical lessons for the PAP and the AU. The EP started as the common assembly of representatives for the 492 million citizens of the European Union. Since 1979, EP members have been elected directly by universal suffrage and the institution is today composed of 785 MEPs. EP members are elected for a five-year term. The seats in the EP are allocated broadly according to the populations of the member countries. Notably, MEPs of the European Parliament do not sit in national blocs. Instead, they are divided into Europe-wide political groups that bring together all the main political parties operating in the European Union (European Union 2000:2).

The starting point regarding the EP is that, similar to PAP, the EP started its work in 1952 as a consultative assembly, and intended only to follow consultative and advisory procedures. The opinions of the EP were non-binding and (instructive for Africa) its opinions were regarded as irrelevant by the decision-makers in the European Council (Maurer 2003). What changed? The EP achieved more supervisory and legislative powers over time, largely through successive treaties and through its own practice.

Significantly, the EP is today at a point where it has a high degree of participation in passing legislation but does not initiate policies. Through a co-decision procedure, the European Commission is required to consult various standing committees of the EP in the process of proposing and drafting legislation.

Similar to normal national parliaments, the European Parliament has three fundamental powers: legislative powers, budgetary power and supervisory powers. Even though the EP cannot initiate legislation, it can amend or veto proposals in many policy areas. In certain other

policy areas, the EP only has the right to be consulted. The 'co-decision' procedure means that the EP can block a proposal by the European Commission if the EP rejects it by an absolute majority.

Furthermore, the EP also forms one of the two arms of the budgetary authority. Parliament is given the opportunity to review and approve the EU budget proposed by the Commission and may insist on changes to it. In other words, the EP has the last word on most of the expenditure in the annual budget. As such, the European Parliament also has the power to reject the budget entirely if it believes that it does not meet the needs of the Union (Demeke 2004).

The work of the EP takes place at two main levels: through the committee system and in the plenary. Committee meetings take place before the plenary session starts; this is in order to prepare for the resolutions and recommendations that will be adopted at the plenary session. There are currently 17 committees within the EP that are responsible for various issues, including foreign affairs, budget and budgetary control, international trade, regional development, economic and monetary affairs, human rights, security and defence, to name just a few.

With this background in mind, it is clear that both national parliaments and the EP play an important role in governance matters and consequently possess the requisite powers or competencies. National parliaments and the EP are also instructive in that they only become effective and are strong when they possess three fundamental powers: legislative, supervisory and budgetary powers. By possessing these powers, the legislature is able to keep the executive accountable and, critically, provide a deliberative and participatory forum for the broader citizenry.

In view of the EP example above, the expectations placed on PAP are immense. For PAP to begin to meet these expectations, the following issues must be addressed: has PAP operated effectively and efficiently to realise the vision and objectives outlined in the Protocol? What are the challenges and problems PAP is confronted with? What is the root cause of these issues, and how has PAP sought to address them, if at all?

THE PAN-AFRICAN PARLIAMENT'S PERFORMANCE

Unlike the EP and national parliaments, the PAP does not have legislative, supervisory or budgetary powers. The PAP Protocol (Art 2) states that the ultimate aim of PAP is to vest the institution with full legislative powers, whose members will be elected by universal suffrage. However, this will only take place when, or if, member states of the African Union decide to amend the current Protocol. In the interim, PAP will only have consultative and advisory powers (PAP Protocol 2001). Therefore,

the major challenge facing PAP is to determine what is implied by 'consultative and advisory powers'. The meaning is still unclear. Furthermore, neither the PAP Protocol nor the Abuja Treaty has explained the mechanisms or processes by which PAP might evolve into a full legislature with legislative powers. The result of this is that PAP cannot effectively and fully realise its mandate.

However, in spite of its lack of legislative powers, PAP has shown its willingness to become a worthy player on the African political scene. At the very early stages of its existence, the institution achieved certain goals despite being in its infancy (Mashele 2005a). These achievements include giving attention to administrative and operational matters, the adoption of the rules of procedure, the establishment of permanent committees, the appointment of the Clerk and two deputies, and the development of PAP's work plans. Similarly, the Bureau of Parliament, made up of PAP's president and four vice-presidents also did some advocacy work to popularise the work of the institution. Although these institutional achievements are essential for a well functioning parliament, they are not, however, the main objective or *raison d'être* for PAP's existence.

Accordingly, the PAP Protocol (Art 3) outlines the main objectives for the establishment of PAP. These include the following:

- To facilitate the effective implementation of the policies and objectives of the OAU/AEC and, ultimately, of the African Union;
- To promote the principles of human rights and democracy in Africa;
- To encourage good governance, transparency and accountability in member states;
- To familiarise the peoples of Africa with the objectives and policies aimed at integrating the African continent within the framework of the establishment of the African Union;
- To promote peace and security and stability;
- To contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- To facilitate cooperation and development in Africa;
- To strengthen continental solidarity and build a sense of common destiny among the peoples of Africa; and
- To facilitate cooperation among Regional Economic Communities and their parliamentary fora.

Any credible assessment of PAP's efficacy should be predicated on these objectives and vision. To this end, the question is: what has PAP done in order to realise this noble vision and achieve its stated objectives? One of PAP's important achievements with respect to human rights, good governance and peace and stability, was when it dispatched an observer mission to the Darfur region

in Sudan in 2004. The PAP president remarked that 'the decision sets an important precedent that the parliament will not shrink away from real challenges confronting the continent' (Mashele 2005a). Based on the information provided by the Darfur Observer Mission, PAP was able to pass resolutions and make recommendations to this effect.

Since 2005, PAP has dispatched other observer missions to Mauritania after the coup that took place in the country; to the DRC to monitor elections; and to the Central African Republic. During its 7th Session, PAP also decided to send a fact-finding mission to Zimbabwe, a move regarded as very bold and brave given the political crisis there. Unfortunately, to the disappointment of some but not surprising to many, the mission to Zimbabwe was cancelled because of. Equally significant is the fact that many resolutions and recommendations passed by PAP for the AU's attention have largely been ignored.

There is a disconnection between reality and the expectation of what the PAP actually contributes towards the decision making processes of the AU executive

Against this background, it is clear that there is a disconnection between reality and the expectation of what PAP actually contributes towards the decision making processes of the AU executive relating to conflict resolution on the continent. If measured against these stated objectives, PAP's achievements during its first term, or 'infancy period', become insignificant if not recognised by other AU organs. Thus, it becomes critical that, if it is to tackle real issues in line with its vision and mandate, PAP needs more than the 'first teeth of a child' to deal with the problems and challenges facing the African continent. This is largely because there are some serious challenges and obstacles that PAP needs to overcome, but more significantly, there is a lack of clarity regarding the proper role that the PAP is supposed to play in the emerging AU architecture.

CHALLENGES AND OBSTACLES

Acceleration of the implementation process

One of the critical challenges facing PAP is its institutional or structural position in relation to other AU

organs or institutions. Critics of PAP have highlighted the fact that PAP's resolutions and recommendations go largely un-noticed, and are often ignored or not taken seriously by the AU. This is often cited as indicative of a lack of clarity on the power relations between the PAP and other AU organs (Mashele 2005b). Indeed, there is some truth to this line of argument, precisely because PAP decisions and powers are not binding on other AU organs and structures. It is common knowledge that the lack of legislative powers can be considered a key obstacle and a cause of PAP's ineffectual decisions. In this regard, it is important to ask the following question: what is the root cause of this problem?

One possible explanation for this problem might be found in PAP's origins under the Abuja Treaty and, subsequently, in the Sirte Declaration. According to Article 6 of the Abuja Treaty establishing the African Economic Community, the AEC was supposed to be established gradually in six stages, over a transitional period not exceeding 34 years (Abuja Treaty 1991). The six stages were as follows:

- STAGE 1: Strengthening existing RECs and creating new ones where needed (to take 5 years);
- STAGE 2: Stabilisation of tariff and other barriers to regional trade and the strengthening of sectoral integration, as well as coordination and harmonisation of the activities of the RECs (8 years);
- STAGE 3: Establishment of a free trade area and a Customs Union at the level of each REC (10 years);
- STAGE 4: Coordination and harmonisation of tariff and non-tariff systems among RECs, towards establishing a Continental Customs Union (2 years);
- STAGE 5: Establishment of an African Common Market and the adoption of common policies (4 years); and
- STAGE 6: Integration of all sectors, establishment of an African Central Bank and a single African currency, setting up of an African Economic and Monetary Union, and creating and electing the first Pan-African Parliament (5 years).

The Abuja Treaty clearly states that the transition from one stage to another shall be determined only after the specific objectives for a particular stage have been implemented and all commitments have been fulfilled. Only when this is done will the process be allowed to move to the next stage (Article 6, 3-5). In this regard, the Abuja Treaty is clear that the main objective of the six stages is to create an economic union starting at the level of the regional economic communities (RECs). The establishment of an African Common Market should then pave the way for Africa to establish executive organs and the Pan-African Parliament in order to manage the

institutions and to ensure that the people of Africa are fully involved in the economic development and integration of the continent.

Instead of following the timelines and framework outlined by the Abuja Treaty, a decision was made by the heads of state and government at a summit held in Sirte, Libya in 1999, to accelerate the implementation of the Abuja Treaty. Roughly eight years passed between the signing of the Abuja Treaty and the Sirte Declaration, where a decision was made to accelerate the process. In view of this, it can now be argued that the process outlined in the Abuja Treaty was not accelerated but basically abandoned. A whole new continental agenda was set. When PAP was established, it became clear that the original process was not necessarily going to be followed and steps towards integration were dropped. This had some serious consequences.

If we critically analyse the six stages of the Abuja Treaty, it is clear that Africa did not even achieve the objectives of the second stage. RECs are still struggling to coordinate and harmonise their activities; rather than working in harmony, they have multiplied and some now have overlapping membership. A few RECs are basically non-functional. This is important given the stated intention to regard the RECs as pillars of the continental integration process. Equally significant is that, although the objectives set for stage two were not achieved, the organs intended for stage six were established. As a result, Africa was suddenly graced with a grand continental structure (in the form of PAP), but the necessary foundations for this structure were absent. The consequence of this was the establishment of weak structures without clear mandates, of which the PAP is a perfect example.

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From the information above it is clear that the acceleration process initiated by African leaders during the 1999 Sirte meeting had some serious consequences for the plans to create an African Economic Community and other institutions like PAP. It is however extremely important to understand the circumstances in which African leaders found themselves when they decided to speed up the processes leading to the establishment of the AEC.

Firstly, the initiative of creating an AEC arose from the Lagos Plan that was drafted in 1980. The Lagos Plan flowed from a variety of decisions taken during the 1970s including the Libreville Decision of July 1977 and the Kinshasa Declaration of December 1976 calling for the establishment of an African Economic Community in successive stages within 15 to 25 years (Lagos Plan 1980:98). The Lagos Plan also stipulated that a drafting committee was to be appointed at ministerial level as quickly as possible to prepare the draft of the treaty establishing the EAC. According to the Lagos Plan, the draft should have been submitted for the consideration of the assembly of heads of state and government by 1981.

Unfortunately, these objectives were rarely translated into more concrete action. The fact that the first draft of the treaty establishing the EAC was only submitted on 3 June 1991, exactly 10 years after the date as stipulated by the Act of Lagos, further emphasised Africa's poor record of implementation.

Although there was no shortage of African intellectuals and politicians who knew what Africa needed, implementation failed mainly because these ambitious plans were generally disregarded by individual countries whose development programmes were more narrowly focused. The other problem was that individual countries had little capacity to mobilise resources that could be used to implement the plans (Arnold 2005:609)

Finally, in 1994, the treaty establishing the African Economic Community came into force, more than 13 years after the first draft was supposed to be submitted to the African heads of state and government. Unfortunately, the world did not sit back and wait for Africa to implement its grand plans for economic growth and development. Instead, between 1980s and 1990s, we witnessed the fall of the Berlin Wall, marking the end of the cold war, and the emergence of a new world order. Suddenly, Africa found itself in the midst of an interconnected globalised world, where economic power replaced much of the political leverage that was typical of the cold war era.

The process of globalisation was strongly driven by the West and by multinationals; Africa did not have any choice in the matter. For Africa, it remains a question of adapt or die. Africa's 54 mostly weak states will probably remain permanently subservient to Western pressure unless they act as one in relation to the United States and the European Union (Arnold 2005:958).

With these processes in mind, African leaders like Muammar Gaddafi of Libya have called for the acceleration of the processes establishing an AEC and its institutions. Given the pressures from the globalising international community, it seems as if Africa moved into panic mode by the end of the 1990s as it tried to cope with the challenges brought about by the new conditions within the globalised economy. It became essential for Africa

to speak with one voice and it is for this reason that the AU was launched in July 2001 through the adoption of the Constitutive Act (Kotze & Steyn 2003:82). The Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament was also adopted at this meeting.

Thus, the AU and the PAP were established because of Africa's desperation as it sought to deal with the pressures of the new conditions in a post-Cold War era and a globalised world. Consequently, the New Plan for Africa's Development (NEPAD) was instituted as a mechanism to help Africa respond to the new set of circumstances and to seek to counter a further marginalisation of Africa in the global economy and community (Kotze & Steyn 2003:71).

It becomes clear that the PAP was not established through the gradual process that was initially planned, but rather out of the sheer desperation of a continent trying to cope with a whole new set of challenges.

It is in this context that other challenges and problems afflicting PAP must be understood and appreciated. The discussion below touches on some of the institutional/structural challenges facing PAP. These include, inter alia, poor relations between PAP and other AU organs; the oversight function; the lack of binding

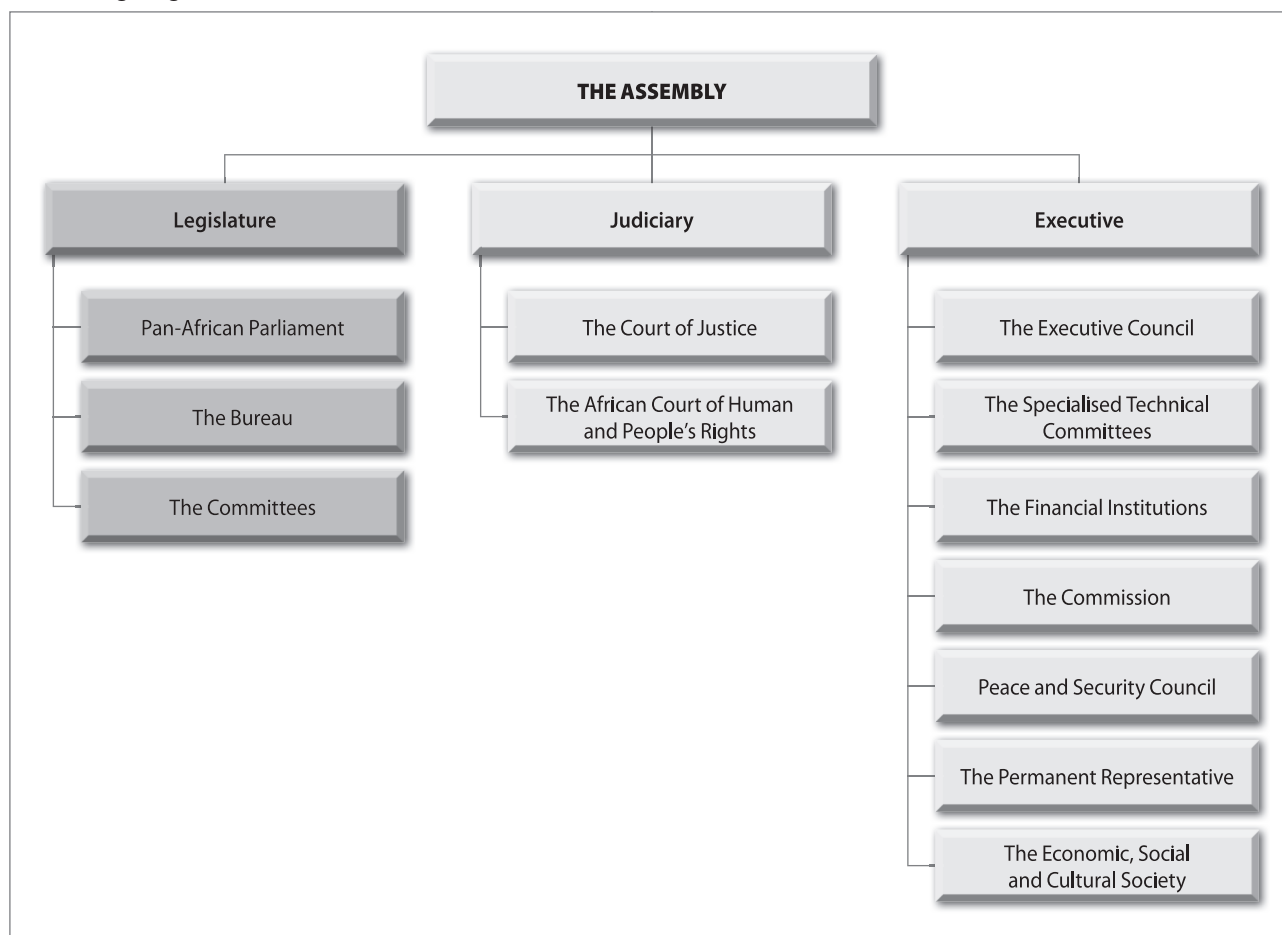
powers; and the issue of the election and independence of PAP members.

Relations between PAP and other AU organs

As noted previously, the main objective was for PAP to facilitate the process of African integration, by providing a forum for African citizens to participate in the decisions affecting them. Equally significantly, PAP is the embryonic legislature of the continent's future Union Government (see the *Report of the Pan-African Parliament's on the Grand Debate on the United States of Africa*⁵). To this end, PAP will eventually constitute the legislative arm of the African Union, or eventually, the envisioned Union Government, as the organogram in Table 1 shows.

The premature establishment of PAP, however, resulted in serious complications for the development and effective functioning of the continent's embryonic legislature. The first obstacle in this regard is PAP's inability to establish respective areas of jurisdiction in relation to other AU organs (PAP Strategic Plan 2005). Similarly, the poor levels of interaction and cooperation between the PAP and other AU organs, such as the

Table 1 Organogram of the AU



Source PAP Strategic Plan 2006–2010

Assembly, the AU Commission, and Peace and Security Council (PSC), among others, had a negative effect on PAP's mandate to provide oversight and contribute effectively to issues of peace and security in Africa (See *Report on the Pan-African Parliament Seminar on Strengthening the Capacity of the Pan-African Parliament to Exercise Effective Oversight*, October 2007).

This poor levels of interaction continue even though Article 11(5) in the PAP Protocol clearly stipulates that PAP may request that officials of the OAU/AEC (now the AU) attend its sessions, produce documents and assist the institution with discharging of its duties (PAP Protocol 2001). Similarly, the Protocol relating to the establishment of the PSC adopted in 2002 (Art 18) requires the PSC and chairperson of the AU Commission to cooperate with PAP.⁶ The PAP's rules of procedure further empower the PAP to invite representatives of other AU organs and structures to make representation or submit reports to it (Mashele 2005b). However, since its inauguration in 2004, there is no record that AU officials or representatives have appeared before any of PAP's committees, produced any documents, or presented reports to the PAP.

Mindful of the fact that PAP is supposed to deal with important issues of peace and security, good governance and human rights, among others, it is difficult to conceive what impact PAP has had on such critical issues affecting the continent. The current poor relationship between the PAP and other AU organs clearly reflects a definite need to outline the proper mechanisms to enhance cooperation between PAP and other AU organs and structures.

Oversight function

One of the key functions of an effective parliament is its capacity to exercise its oversight role so that it can hold leaders to account and ensure transparency in governance. In this regard, an important indicator of whether any parliament has real oversight is in the area of budget control. Article 11 (2) of the PAP Protocol clearly stipulates that PAP must discuss its budget and the budget of the Community and make recommendations thereon. However, in reality, PAP does not play such a role, nor is it allowed to exercise this function, especially as it relates to the budget of the Community/AU. Budget control remains the exclusive domain of the Assembly of Heads of State and Government, which constitutes the executive of the AU.

The fact that the AU Assembly is in total control of the entire AU budget, including the budget for PAP, limits PAP's freedom to prepare its independent work plans and further prevents it from undertaking critical study tours and oversight visits. This marginalises PAP

and prevents it from holding the executive accountable because it is dependent on the AU executive for financial support or resources to conduct its work. The lack of control over its own budget, as well as of budgetary oversight of the AU, further demonstrates the limits to the effectiveness and efficiency of PAP.

Binding powers

The issue of PAP's lack of legislative powers remains one of the key weaknesses of the institution. Although Article 2 of the PAP Protocol clearly states that PAP shall evolve into having full legislative powers, this will depend on an amendment to the present Protocol. The fact that it is meant to 'evolve' effectively marks this as an indeterminate period and leaves the decision (to transform the institution) to the discretion of member states (meaning the executive and not citizens). PAP is left with 'consultative and advisory powers only' (PAP Protocol 2001).

Two implications flow from this analysis. First, PAP often makes decisions, passes resolutions and makes recommendations for the attention of the AU organs and structures, but the AU may choose to consider them or not. Second, PAP's decisions do not have binding force and, as such, they cannot be enforced. Without the binding force, PAP will effectively be reduced a 'talk shop'.

Although the PAP Protocol stipulates that the ultimate aim is for PAP to be vested with full legislative powers, it does not provide any clarity on how PAP's decisions are going to be taken seriously by other AU organs and structures. This leaves a vexing question: how is PAP going to become effective or be taken seriously? Thus, at the end of its first term, it may be difficult to positively appraise PAP's efficacy.

Election and independence of PAP members

Another challenge facing PAP relates to the selection and independence of its members. In this regard, it has been noted that PAP members are not directly elected but nominated from amongst sitting members of national parliaments or representative structures. Furthermore, it has been argued that, for PAP to become a legitimate representative forum, its members would need to be elected directly via universal suffrage by African citizens. This would not only call for an amendment to the PAP Protocol but would also require the amendment and harmonisation of legal regulations among member states (PAP Report 2006).

However, the challenge facing many African countries is that many do not have parliamentary structures in place. Many do not have a political culture fostering independent representation, deliberative fora, or hold credible elections.

Indeed, many African countries have only held elections that have been characterised by irregularities and violence. This raises the fundamental question about whether principles and values for holding free and fair elections will ever take root in Africa; if not, what is the implication for extending the suffrage to the whole continent?

Similarly, if there is a lack of political culture or electoral democracy in some member states, how effective will such members be within PAP committees? Can they hold the African leaders accountable when they have not or cannot do so in their respective countries? Critics often point to this very fact, arguing that since PAP members are nominated or appointed, such practices do not foster the requisite independence, and members often owe allegiance to those who put them in their current positions in the first place.

Conclusion

Halfway through its first term, the Pan-African Parliament is at the foot of a very steep hill. It faces the challenge of demonstrating that it can facilitate continental integration and provide a common platform for African people and their organisations. This is critical in view of the general pessimism and criticism of Africa and its institutions because of their failure to realise their goals and objectives.

There is still opportunity and room for the Pan-African Parliament to become a relevant, effective institution within the AU architecture

From the foregoing discussion, it should be apparent that PAP is confronted with various challenges and obstacles. It has been noted that, in view of the traditional role of parliaments, PAP does not have a clearly defined role and position within the emerging African peace and security architecture. As a result, this affects its ability to work and cooperate with other AU organs and structures.

The argument articulated in this paper is that the current state of affairs is primarily the result of the decision by the African leaders to accelerate the PAP implementation process instead of following a gradual and phased approach. The result is the creation of an institutionally weak and ineffectual body that has little effect on other AU organs and structures or its processes.

There is still opportunity and room for the Pan-African Parliament to become a relevant, effective institution within the AU architecture but this depends primarily on PAP exploiting the little space it has to its own advantage. In this regard, PAP should utilise the space created by the various provisions contained in the PAP Protocol, AU Constitutive Act (Art 5, 17), and the Protocol relating to the Peace and Security Council (Art 18). PAP needs to fully engage with other continental institutions, especially AU organs, and should request representation or production of reports from AU officials and AU organs in line with the limited mandate it currently has.

Equally significantly, the body should effectively exercise its oversight function within the limited powers granted to it by various protocols and treaties. Doing so will ensure that PAP contributes effectively and positively towards the vision and the objectives for which it was established. PAP must be more visible to the citizens it hopes to serve. Unfortunately, neither the decision taken under the Sirte Declaration nor the processes towards integration of the continent can be reversed or wished away. Rather, it is critical that PAP is given the capacity to carry out its objectives. What is required is the commitment by all member states, including officials of the AU, to practically demonstrate their political will to realise the continental vision.

NOTES

- 1 The discussions led to the signing of the Treaty Establishing the African Economic Community, in Abuja, Nigeria, on June 1991. This treaty became popularly known as the Abuja Treaty.
- 2 Other organs stipulated by the Abuja Treaty include: The Assembly of Heads of State and Government; the Council of Ministers; the Economic and Social Commission; the Court of Justice; the General Secretariat; and the Specialised Technical Committees.
- 3 Adopted as the Sirte Declaration by the Fourth Extraordinary Session of the Assembly of Heads of State and Government of the Organisation of African Unity, meeting in Sirte, Libya, 1999.
- 4 The 36th Ordinary Summit of the Organisation of African Unity met in Lomé, Togo, 2000.
- 5 *The Pan African Parliament's Contribution to the Grand Debate on the African Union Government*, delivered at the Ninth Ordinary Session of the African Union, Accra, Ghana, 2007.
- 6 See Article 18 (1-3) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, adopted in Durban, South Africa, 2002.

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ABOUT THIS PAPER

Regarded by many as one of the most important organs of the African Union, the Pan-African Parliament was inaugurated in 2004. The establishment of this continental parliament was perceived by many as a giant step towards democracy and good governance in Africa. However, much of the enthusiasm and glamour that was apparent at the inauguration seem subdued as the Pan-African Parliament started to deal with the very complex issues that haunt the African continent. It soon became clear that even this important institution is struggling with a variety of challenges and obstacles, ranging from its lack of legislative powers to power relations between the Pan-African Parliament and the African Union Commission. This paper attempts to provide an overview of the PAP in its first term and tries to identify some of the factors that contributed to the peculiar position in which the PAP finds itself today.

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At the time of writing this paper, GERHARD HUGO was a junior researcher in the Regional Programme at the ISS. He is currently busy with his Masters in Security Studies at the University of Pretoria. The author would like to thank Saki Mpanyane, a senior researcher in the Regional Programme for the valuable contribution that he made to this paper.

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