African Regional Parliaments / Parliamentary Bodies as Engines of Integration: Current State and Challenges

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The political dimension of regional integration on the continent has experienced new emphasis since the late 1990s. A strong call for good governance, accountability and transparency pushed for what is now referred to as the "third phase of regional integration", including the drive to establish regional parliamentary assemblies (RAs)[1] of different sorts. This paper focuses on three of these assemblies:

- ECOWAS introduced a parliament in its revised treaty of 1993. However, while the Protocol for the ECOWAS-Parliament[2] (ECOWAS-P) was signed in 1994, it only entered into force in March 2000. The ECOWAS-P held its first session in January 2001.

- The East African Legislative Assembly (EALA) was inaugurated in November 2001. Its creation had been stipulated in the new EAC Treaty signed in 1999. EALA is the second attempt to set up a regional assembly in Eastern Africa. The earlier RA had collapsed with the first East African Community in 1977.

- Under discussion since the 1993 "Windhoek Initiative", and formally launched in July 1996, the SADC-Parliamentary Forum is the oldest of these regional parliamentary structures. However, its mandate is restricted due to its status as a parliamentary forum. Plans to transform it into a fully-fledged regional parliament, which have been substantiated into a draft protocol, were put on hold at the SADC Summit in Mauritius, partly in order to move in step with the development of the Pan-African Parliament (PAP).

Inaugurated on March 18, 2004, the Pan-African Parliament's geographical scope includes that of all the sub-regional parliaments, but the relationship between the different multi-lateral parliamentary bodies has not been defined to date.

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[1] "RAs" will hereafter be used to describe the sum of regional parliamentary assemblies covered in this paper, i.e. primarily ECOWAS-P, SADC-PF, and EALA. IPU-IGAD, REPAC and the PAP are also part of this definition.
[2] See Annex 1 for member states of RAs.

Far less established than the other RAs are the <u>Inter-Parliamentary Union of IGAD Member States</u> (IPU-IGAD), founded in February 2004, REPAC, the <u>Network of Parliamentarians of the Economic Community of Central African States</u> (ECCAS) and the <u>Parliament of UEMOA</u> (P-UEMOA), whose founding protocol were adopted in 2002 and 2003 respectively.

Regional Parliamentary Assemblies and Regional Integration

In the course of the Masai Mara Conference in May 2004, Prof. Wanyande (2004) of Kenya rightly depicted the role of Regional Parliamentary Assemblies as both "<u>products and participants</u>" of regional integration. They are established regional organs, and at the same time, RAs have a potential to shape the continuing process of regional integration.

The same, one may add, applies with regard to the <u>democratisation</u> of trans-national, regional politics. RAs are an important, established element in it, and potential promoters of democratisation at the same time. The latter reaches even beyond the regional back to the national level. The further enhancement of their democratic nature (as in electoral procedures, modes of representation, MPs' constituency relations, etc.) can be assumed to reinforce RAs' stand both as products and as participants of regional integration.

Engines of Integration: Current State and Challenges

Let me first give you a quick tour of the main observations made at the Masai Mara Conference last year, taking stock of and critically reflecting on the role that African regional parliaments and parliamentary assemblies currently have. Generally speaking, the *formal* powers of all RAs are unfortunately quite limited. In some instances, their predominant role as advisory bodies includes weak functions of parliamentary oversight and budgetary control. But so far, EALA is the only RA which fulfils – albeit very limited – law-making functions, the primary role of parliaments in the national sphere. The RAs' powers include:

<u>Advisory</u>: The scope of these functions is constrained both in terms of contents and competencies. All RAs have the right to consult on matters relating to the respective regional integration scheme, particularly if they concern the treaties and certain policy fields that usually form the supposed areas of cooperation and integration and are therefore outlined in the founding documents. The latter include issues such as human rights and fundamental freedoms of citizens, interconnection of energy networks and telecommunications systems, media cooperation, etc. <u>Advisory competencies</u> range from debates, consultations,

recommendations, proposals, to inquiries. Set aside the wording, two questions determine the strength of these advisory rights: Is it obligatory for regional executives and the inter-governmental decision-making bodies (Councils and Summits) to consult the RAs, and will their opinion have to be observed? In fact, both EALA and the ECOWAS-P need to be consulted in certain important areas (which the latter requested to be broadened). In addition, all RAs have the right to make recommendations to the executive level on their own initiative. EALA may even request the Council to submit proposals on matters that require action in the view of the assembly, an option it has exercised five times so far. However, none of the executive bodies of the regional organizations is *obliged* to pay attention to these different types of advice.[3]

Investigative Powers: The ECOWAS-P (Eze 2004: 8), IPU-IGAD and REPAC practically have no oversight roles. Similarly, the SADC-PF constitution legally does not permit the assembly to monitor SADC and the executive branches of national governments in the region (SADC-PF 2000: 16). It would first have to be transformed into a regional parliament with the necessary empowering legal provisions.

RAs can invite anybody to address their plenaries, and Eastern African Heads of State have followed such an invitation at different times. The PAP can "request" officials of the AU to attend its sessions or to produce documents (AU 2001: Article 11/15). However, none of these rights have a practical value if invited officials refuse cooperation.

Only EALA has the right to pose parliamentary questions to the executives. However, in case of conflict, EALA's powers to investigate thoroughly and to hold the executive accountable remain very limited. None of the RAs has the right to set up special investigation committees.

Budgetary Oversight: Ordinary parliaments exert a lot of their influence by providing checks and balances on the executive's spending and guiding the allocation of funds. SADC-PF has the right to scrutinise and make recommendations on the budget of SADC and the Executive Secretary's annual report, including SADC's audited accounts. However, none of these recommendation have to be taken into account (SADC-PF 1995: Art.8 (3. vii, viii)). EALA on its part needs to discuss and approve the EAC budget, and shall consider and debate on annual and audit reports (Eze 2004: 6). However, this does not include entitlements to draw up or revise budgets, which effectively reduces the assembly to a "rubber stamping institution" (Morara 2001: 2). The ECOWAS-P issued a resolution in September 2002 calling for the

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[3] Eze 2004: 5-7; ECOWAS 1994; IPU-IGAD 2004; EALA Clerks Chambers 2004: 2; SADC-PF 2000: 16; AU 2001: Art.11 (11); ECCAS 2002: Art.6

enhancement of its powers to make consultation on the adoption of the community budget obligatory (ECOWAS-P 2002).

Law-making: EALA is the only RA with a role in law-making, which – apart from advisory and oversight functions – forms the third major pillar of RAs' powers. However, these legislative rights are seriously constrained, too: EALA can only put forward and vote on motions and bills if they have no cost implications to any fund of the community. This gravely impairs the scope and relevance of potential laws. Furthermore, the Summit of Heads of State and Government has an effective veto right over EALA's legislation (EAC 1999: Art. 59-64).

The ECOWAS-P has commenced reviewing, revising and amending the Revised ECOWAS Treaty so as to enable it to carry out legislative functions (Secretariat of IPU-IGAD 2004: 5). The PAP, too, shall be vested with certain legislative powers in the future, but these remain to be defined and will not be applied during its first term of existence (AU 2001: Art.11).

Enforcement: In areas where they are equipped with competencies, RAs lack powers to enforce their decisions and achieve compliance by the member states and the regional executives. The assemblies cannot impose sanctions or other incentives (Wanyande 2004: 15/16). In the area of lawmaking, this deficit further aggravated by the almost complete absence of effective regional judiciaries to review the actions of the regional bodies in accordance with laws and basic documents.

Practical Parliamentary Activities: Some RAs have the explicit right and do pursue a number of very practical activities to promote good governance, democracy and regional integration. SADC-PF is particularly strong in that regard. The forum provides capacity building to young parliamentarians, undertakes election observation and parliamentary diplomacy missions, establishes gender standards and its members actively set the regional agenda in national parliaments (Eze 2004: 9). Similarly, the speaker of the ECOWAS-P conducted consultative peace missions in conflict areas. The assembly also has plans to involve itself in elections observation (ECOWAS-P 2002). The members of EALA have conducted "familiarization tours" to various parts of the member countries and thereby promoted EAC and EALA at the community level (EALA Clerks Chambers 2004: 2).

The core budgets of EALA and the ECOWAS-P are part of the respective budgets of their regional organizations. Administering a budget allocated from the overall budget of the regional organisation implies a high degree of dependence on regional executives and national governments, who can arbitrarily threaten the parliaments' existence or effective ability to

work. In contrast to these more established institutions, SADC-PF raises its funds from the contributions of each of the member parliaments. Although this amounts only to a total of 600.000 USD core funding, this type of "self-reliance" provides the body with a great deal of autonomy.

So far, all members of RAs are <u>elected indirectly</u> by national parliaments. Besides other advantages, these indirect elections are far cheaper than universal adult suffrage. Although the latter would clearly be preferable in terms of democratic participation, legitimacy and its "popularizing" effect, contemporary RAs in Africa so far cannot, and to some extent do not want to afford the financial implications. The ECOWAS-P is the only regional assembly whose founding document foresees such direct general elections for the future.

All RAs except EALA have their <u>members nominated and elected by and from the ranks of the national parliaments</u>. The East African MRAs are nominated by the parties represented in parliament, but the MPs themselves are excluded from candidacy. While this procedure is believed to broaden the political space (Eze 2004: 11) and might allow the assembly to focus more on its regional mandate, other observers argue that the EALA set-up leads to a disconnection between the regional body and the national assemblies at the expense of the EALA's means to push the regional agenda at the national level.

From a functional perspective, the RAs would be meant to <u>monitor the regional executives'</u> activities. However, this relationship is usually not formalised so that RAs have very limited rights to hold executive bodies accountable. The regional executive staffs tend to try and function as a guardian of the decisions of Summits and Councils for which they practically work. RAs – ultimately reflecting their relationship with the decision-making bodies and national governments – lack most means to provide effective checks and balances on the regional administrative bodies.

Likewise, RAs' <u>relationships with their respective regional decision-making bodies</u> (Summits and Councils) are rarely formalised[4]. In absence of clearly defined working relationships, the RAs' dependence on the executive bodies hinders their effective parliamentary performance. Wherever RAs do possess rights vis-à-vis the regional decision-making bodies, these do not provide for effective accountability, as outlined above.

This mismatch is particularly visible in the area of legislation. The Councils and the Summits hold legislative functions furthering their executive powers. Protocols and treaties endorsed

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[4] Exceptions: The three EAC national ministers for regional cooperation sit in EALA, albeit without voting rights. SADC-PF's executive committee holds an observer status in SADC Summits.

by Summits and Councils become international law. Except for the case of the EAC, these legislative functions are even exclusive. Such concurrent or exclusive legislative powers of the executive undermine the division of powers.

Overall, the limited powers of RAs reflect the general approach that most national governments tend to take towards political integration. Structures of contemporary African regional organisations remain primarily inter-governmental rather than supra-national (Ssempebwa 2004: 13). National governments are not or hardly willing to give up national sovereignty rights to regional levels, be it in the executive sphere or in the legislative domain. In other words, what is generally described as regional "integration" would often merely qualify as an institutionalised form of inter-governmental co-operation, which is hardly compatible with strong and independent RAs.

The current state of affairs demonstrates that African regional parliaments and parliamentary assemblies in many ways are at an infant stage of development and are far from exercising the roles that fully-fledged parliaments play in democratic setups. However, this stage must be seen as part of a larger, continuous process to complement economic integration with broader political dimension of regional integration. In this regard, regional assemblies receive measurably increased attention and have gained in significance over recent years. Ultimately, RAs are intended to assume the legislative and democratic oversight functions for regional integration organisations in the long run.

How can regional parliamentary bodies/assemblies' contributions advance the pace of regional integration?

The outlined limitations mark RAs not only as products of regional integration, but also restrict them as participants of this process. Yet in spite of these circumstances, RAs strive and do assert increasingly stronger positions. This applies both to their own role as well as the push for regional integration as such.

To the extent that the dependency on the executive allows, and depending to a good deal on the will of their individual members, RAs seek to emancipate themselves from the regional executive branches. SADC-PF's outspoken aspirations to transform itself into a regional parliament are one example of this struggle. The resolution by which the ECOWAS-P in September 2002 called for the enhancement of its powers and asked for a terminal date for its transitional period is another (ECOWAS-P 2002). Likewise, EALA appears determined to broaden its mandate and to assert additional rights.

The Masai Mara conference identified a number of ways in which regional assemblies can and do promote their own role as well as the goal of further regional integration:

➢ Advisory: Deliberate on issues attending regional integration, build consensus;

➢ Law-making, where applicable, to regulate regional integration;

➢ Sensitize the public and promote a shared vision of regional integration;

➢ Strengthen working relationships (chains of information and encouragement of initiatives) between RAs and national assemblies so that the latter could press for issues that the former found difficult to achieve. (Good example: East African Parliamentary Liaison Committee for Trade Negotiations.) RAs' annual reports could be made before the whole national parliaments (instead of committees).

➢ Establish effective linkages between the RAs: Exchange of experiences, discuss precedents from other regions vis-à-vis the executive level, etc. Study tours and further regional workshops were suggested. The need was expressed to provide a learning platform (best practices) between regional organisations.

➢ Build relationships with the Pan-African Parliament in the course of the envisaged annual consultative fora and beyond.

More specifically, participants indicated areas that they wanted to address or have addressed in the follow-up of the conference. These included:

➢ Members of the ECOWAS-P stressed the need to enlarge lawmaking powers in the protocol and reported that a study to this end was underway, and a committee had been set up.

➢ EALA members pledged to increase outreach programmes to NGOs and the public. Furthermore, they pledged to enhance their role in overseeing the implementation of the EAC strategy.

➢ Delegates of the SADC-PF suggested periodic and institutionalized reporting to the national parliaments and encouraged continuous meetings of regional parliaments.

➢ There was broad agreement on the need to establish an Inter-parliamentary Union of African regional parliaments to enable members of African regional parliaments to meet regularly and share experiences.

The struggle over competencies between the executive levels and the RAs, which is a struggle for increased political integration at the same time, is certainly a lengthy and often tedious process. Given their relatively weak position, RAs can effectively only gain ground that the executive is willing to cede to them at some point. The dilemma here is between the need to demand political space on the one hand, effectively challenging the executive level, and the need to exert caution in order not to provoke unintended counter-reactions. These circumstances are perhaps best captured in the self-reflection by one member of a regional parliament: "If you are a baby and you want to learn to walk, be cautious where you go."

While it is true that RAs' capacity and formal rights are weak, their reinforcement will not be served on a silver plate. Asserting actual authority is therefore a political process more than it is technical or could be achieved within a narrow interpretation of regional assemblies' statutes. RAs can support regional integration by acting as accelerating catalysts, provided the members are willing to pick up the challenge and assert that role. Much depends on how effectively and constructively the assemblies exploit opportunities, and demand more influence, exploring both their formal rights and "classic" parliamentary functions, as well as the room for less formal, practical initiatives.

A recent essay described the functions of the Pan-African Parliament to be primarily in the area of "advocacy" for pan-African integration (Cilliers/Mashele 2004). On the same note, the paper suggested that the PAP could:

➢ develop the capacity or seek capacity to conduct or commission research on pertinent issues for further recommendation to the executive, including appropriate policy measures for its consideration;

➢ send assessment teams to countries experiencing conflict (recent Darfur PAP mission presents an important precedent here.);

➢ adopt independent positions on a range of issues without being curtailed by positions of the executives.

These activities come at little cost, and are only a few selected examples of how RAs can further explore the political space between what is neither explicitly forbidden nor necessarily foreseen in their statutes. The evidence-based arguments derived from these activities may be used to exploit the formidable international lobbying network that RAs could represent. Exploring likely alliances of interest with relevant civil society organisations, such advocacy

could pick up issues of regional concern, addressing both the need for greater regional integration and promoting and popularizing the role of regional parliamentary assemblies at the same time. Recurring drought in West Africa, land reforms in Southern Africa or inter-communal cross-border conflicts in East Africa are only random examples for issues of pressing regional concern. Addressing some of the fundamental problems that matter to peoples' everyday lives with concrete initiatives could also boost RAs legitimacy beyond the scope of the current electoral procedures, ultimately strengthening their stance in requesting greater formal powers, too.

Furthermore, RAs may de facto exercise much greater powers and influence through these and other practical activities (election observation) than they do by their formal procedures in session. As one member of a regional assembly put it during the Masai Mara conference: "If you organise efficiently, you can go further than what is actually stipulated in the legislation."

The emphasis of the G8 Action Plan for Africa (Eid 2003), of NePAD, and of the APRM on effective parliamentary involvement in political decision-making processes provide formidable opportunities in that regard.

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Annex 1: Member States of Regional Parliamentary Assemblies

East African Legislative Assembly (EALA)	Kenya, Tanzania, Uganda
ECOWAS-Parliament (ECOWAS-P)	Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo. (Mauretania quit.)
Inter-Parliamentary Union of IGAD Member States (IPU-IGAD)	Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, Uganda.
Network of Parliamentarians of the Economic Community of Central African States (REPAC)	Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, DRC, Gabon, Equatorial Guinea, Rwanda, Sao Tomé & Principe.
Pan-African Parliament (PAP)	Each of the 54 AU member states (Africa except Morocco).
Parliament of UEMOA (P-UEMOA)	Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, Togo.
SADC-Parliamentary Forum (SADC-PF)	Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe (SADC except Seychelles and DRC).

Annex 2: List of Abbreviations and Links

ACP-EU JPA	African, Caribbean and Pacific States - European Union Joint Parliamentary Assembly, http://www.europarl.eu.int/intcoop/acp/10_01/default_en.htm
APF-NEPAD	African Parliamentarians' Forum for NEPAD
AU	African Union, http://www.africa-union.org/
CEEAC	Communauté Économique des États d'Afrique Centrale (see ECCAS), http://www.ceeac-eccas.org/
EAC	East African Community, http://www.eac.int/
EALA	East African Legislative Assembly, http://www.eac.int/eala/index.htm
ECCAS	Economic Community of Central African States (see CEEAC), http://www.ceeac-eccas.org/
ECOWAS	Economic Community Of West African States, http://www.ecowas.int/
ECOWAS-P	Economic Community Of West African States Parliament, http://www.parl.ecowas.int/
EP	European Parliament, http://www.europarl.eu.int/
FES	Friedrich-Ebert-Stiftung, http://www.fes.de/
IGAD	Intergovernmental Authority on Development, http://www.igad.org/
IPU-IGAD	Inter-Parliamentary Union of IGAD Member States
MP	Member of Parliament
MRA	Member of Regional Parliamentary Assembly
PAP	Pan-African Parliament, http://www.africa-union.org/organs/Pan-African_Parliament.htm
P-UEMOA	Parlement de l'Union Economique et Monétaire Ouest Africaine
REPAC	Réseau des Parlementaires de la CEEAC (Network of Parliamentarians of the ECCAS)
RA	Regional Assembly
SADC	Southern African Development Community, http://www.sadc.int
SADC-P	Southern African Development Community Parliament (not yet established)
SADC-PF	Southern African Development Community Parliamentary Forum, http://www.sadcpf.org/
UEMOA	Union Economique et Monétaire Ouest Africaine http://www.uemoa.int/

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