
THE ROLE OF AFRICAN SUPRA-NATIONAL/REGIONAL PARLIAMENTS IN PROMOTING CONSTITUTIONALISM AND DEMOCRATIC GOVERNANCE.

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Abstract

The emergence of regional parliamentary assemblies in Africa had been on the increase since the mid-twentieth century. This research paper reviewed on the role of African supra-national/regional parliaments in promoting constitutionalism and democratic governance. Using the doctrinal research methodology, the paper reviewed the history and evolution of constitutionalism and democratic governance in Africa and examined the role of a selection of regional parliaments in promoting constitutionalism and democratic governance. It was found that although regional parliaments had made remarkable attempts at achieving the objectives of their establishment, they had no enabling institutional and legal framework to contribute meaningfully to regional socio-economic growth, political integration and development. Amongst other things, it was concluded that there was need for the election of members of parliament to be by universal suffrage. There was also need for their various instruments of establishment to be amended to provide the necessary legal empowerments to make laws that are binding on the executive arm of the regional organizations, to secure a consolidated and independent source of funding for the parliaments, and to create a distinction between the parliaments' constitutive and complementary functions.

Keywords: Regional Parliaments, Constitutionalism, Democratic Governance, Africa.

Introduction

Government is universally accepted to be a necessity, since man cannot fully realise himself, his creativity, his dignity and his whole personality, except within an ordered society¹. Yet the necessity for government creates its own problem for man, the problem of how to limit the arbitrariness inherent in government, and to ensure that its powers are to be used for the good of society.² It is this limiting of the arbitrariness of political power that is expressed in the concept of constitutionalism. Furthermore, constitutionalism may be viewed as a government limited by the law³. According to Ladan⁴, this means that the constitution is supreme, and it binds every state authority established and exercising power under the constitution, including the powers to enact legislations, interpret the law and the enforcement of it⁵. No word is more susceptible of a variety of controversial interpretations than democracy,⁶ but perhaps the definition with the greatest universality of acceptance is that democracy is a government of the people, by the people, for the people⁷. The underlying idea is the popular basis of government, the idea that government rests upon the consent of the governed, given by means of elections, in which the franchise is universal for both men and women, and that it exists for their benefit⁸.

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¹ B.O. Nwabueze, *Constitutionalism in Emergent States* (C.Hurst & Co (Publishers) Ltd, 1973), 1.

² *Ibid.*

³ M.T. Ladan, *Introduction to Jurisprudence: Classic and Islamic*, (Malthouse Publications, 2006) 221, in Kamal Da'ud, 'Constitutionalism, Democracy and National Development in Nigeria' [2012] (3), *Abuja Journal of Public and International Law*; 212.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Op.cit.*, B.O. Nwabueze, 1.

⁷ *Ibid.*

⁸ *Op. Cit.*

In the words of Nwebo, democratic governance implies the democratic use of political, economic and administrative powers at all levels of governance to deal appropriately with the problems facing a country.⁹ By Olowo and Sako's definition, 'governance' refers to 'a system of values, policies and institutions by which a society manages its economic, political and social affairs, through interaction within and among the state, civil society and private sector.'¹⁰ Placed in the context of the constitutional state, governance is about the use of power and authority and how a country manages its affairs. This can be interpreted at many different levels, from the state down to the local community or household. The governance analysis here considers all the mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests and exercise their rights and obligations. It concerns the way that people mediate their differences, make decisions and exact policies that affect the public, as well as economic and social development.¹¹ Governance therefore is about relationships between citizen and the state, relationships whose success or failure may reflect the legitimacy of the operators of state power. A parliament is a multi-member institution that performs four main functions within a political system: representation, legislation, control of the executive, leadership recruitment and socialization.¹² Parliaments usually operate at the level of the nation-state, but they are also found in supra-national organizations¹³. Several regional international organizations, mainly in Europe, Latin America and Africa, have established parliamentary assemblies.¹⁴

Parliaments at both national and regional levels, as necessary institutions for the promotion of constitutionalism and democratic governance cannot be overstressed. Through their traditional legislative oversight and representative functions and powers, parliaments exert influence on policy making processes and subsequent execution, in order to ensure the effective realization of the objectives of governments at both national and supra national levels.¹⁵ In the 21st century, there is growing interest more than ever before in issues related to democratic governance and the promotion of democratic culture and practices, building and/or strengthening governance institutions and inculcating political pluralism and tolerance.¹⁶ This is a reflection of the increasing acceptance of the fact that democracy and good governance are not a luxury, but a fundamental requirement to achieve sustainable development. Parliaments as one of the key state institutions in a democratic system of governance have a critical role to play in promoting democracy and good governance. As the democratically elected representatives of the people, parliaments have the honourable task to ensure government by the people and for the people. In the performance of their key functions of legislation, representation and oversight parliaments can actively engage in the

⁹ O.E. Nwebo, *Critical constitutional issues in Nigeria*, (Revised edn, versatile Publishers 2011), 222.

¹⁰ Dr. Olowo & S. Sako (eds) *Better governance and public policy: Capacity building for democratic renewal in Africa* (2002) 37 in Morris K. Mbondenyi & Tom Ojinda *constitutionalism and Democratic Governance in Africa; contemporary perspective from sub-saharan Africa*, (2013 pretoria University law press) 319.

¹¹ World Bank *Sub-Saharan Africa: From crisis to sustainable development*, (1989) 6; World Bank *Annual Report, 1997* (1997). See also World Bank *World Development Report 1999/2000. Entering the twenty-first century* (2000) 3i DFID *Government development and democratic politics* (2007) 6. In Morris K. Mbondenyi & Tom Ojinda *constitutionalism and Democratic Governance in Africa; contemporary perspective from sub-saharan Africa*, (2013 pretoria University law press) 319.

¹² A. Malamud and J. Stavridis, 'Parliaments and Parliamentarians as international Actors' (2011), the Ashgate Research Compasion, [http://books.google.com.ng/books?hll=en&lr=7id=8830cwAAQBAJ&oi=fid&pg=PT=regionalparliaments in Africa=false](http://books.google.com.ng/books?hll=en&lr=7id=8830cwAAQBAJ&oi=fid&pg=PT=regionalparliaments%20in%20Africa=false), assessed 29.8.2018.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Alam, A., 'Importance and Role of Regional Organisations' available at, ><http://www.scribd.com/document/37995239/importance-and-role-of-regional-organisation>< assessed 21.6.2018.

¹⁶ S. Adejumbi, 'The Role of Parliament in Promoting Good Governance', (Economic Commission for Africa 2010/2011 Work Program for Governance and Public Administration Division) 3.

development and implementation of laws, policies and practices that promote democracy and good governance.¹⁷

This paper concerns itself primarily with the review of the regional parliaments in Africa, with a view at discovering whether they have played any sufficient role in promoting constitutionalism and democratic governance among member states. In achieving this goal, the writer would look to see whether there are laws/treaties in these regional organizations which promote constitutionalism and democratic governance and whether their parliaments have played any significant and effective role in ensuring that member states observe the principles of constitutionalism.

Regional Parliaments in Africa

Over the years, especially since the mid-1990s, regional parliamentary assemblies have become part of the efforts at socio-economic integration, democratic governance and political globalization. This explains the increasing formation and institutionalization of regional parliaments across the continent, such as:

- i. Southern Africa Development Parliamentary Forum (SADC-PF) formed in 1997.
- ii. The Economic Community of West African States Parliament (ECOWAS) formed in March 2000.
- iii. The East African Legislative Assembly (EALA) July 2000.
- iv. The Pan-African Parliament, March 2004.

The Role of African Parliaments in Promoting Constitutionalism and Democratic Governance

The Pan-African Parliament

Article 17 of the African Union Constitutive Act established the Pan-African Parliament¹⁸ in March 2004. It is also referred to as the African Parliament. It is one of the nine organs provided for in the treaty establishing the African Economic Community that was signed in Abuja, Nigeria, in 1991. The PAP is, in principle, the legislative body of the African Union.¹⁹ Basically, the establishment of PAP is considered as a step forward in ensuring that the African Union acts as a common platform for all the peoples of Africa, and grass root organizations to get more involved in the discussions and decision making on the problems and challenges facing the continent.²⁰ Within the period of its existence, the PAP has made some remarkable progress in the African continent in line with its statutory obligations. It has taken on matters and discusses that were geared towards ameliorating the challenges of governance in Africa, which include:

Observer Missions

According to a Republic of Zambia National Assembly report, some of the observation missions have been to Darfur, Sudan, Chad, Central African Republic, Democratic Republic of Congo, Somalia, Cote d'Ivoire, and Saharawi Arab Democratic Republic among others.²¹

¹⁷ *Ibid.*

¹⁸ PAP

¹⁹ U.M. Ogbonnaya and K. Ogujiuba, "Regional Parliamentary Assemblies in Africa: Challenges of Legitimacy and Status of Operation (2015), *The Journal of Legislative Studies*.

²⁰ *Op. Cit.*

²¹ Republic of Zambia National Assembly Report on the Ninth Ordinary session of the PAP held from 5th to 16th May, 2008, in P.N.T. Chilufya, *Evolving Pan-African Parliament: an Assessment of its Role, Constraints and Prospect in African Politics*, available at >www.academia.edu< accessed 21/9/2018

Darfur Fact Finding Mission:

The PAP, in one of its first real conflict resolution activities sent a seven personnel fact finding mission to Darfur in 2004, headed by Ugandan member, Abdul Kantuntu. Like in all subsequent missions, Mashele observes an emerging pattern that PAP uses. These are:

- i. Identify a problem (conflict) in a country;
- ii. Dispatch a fact-finding mission that later tables a report to the parliament for discussion;
- iii. Make a recommendation or statements to organs of the Act or parties to the conflict;
- iv. Formulate and advocate positions regarding conflicts or governance situations in African countries.²²

During the teams' stay at Darfur, they had intensive coverage of the ground and had conferences with various actors of the government, residents, business missions and neighbours, especially Chad.²³ Each of the stakeholders they talked to had a different version of the causes of conflict as expected. Secretary of the delegation Halifa Sallah noted that none of the opposition groups advocated the secession of Darfur from main land Sudan. They called for a new Sudan where power and resources will be shared without distinction to race, tribe or religion.²⁴

The PAP mission discovered four important aspects of the conflict. These are military, insecurity, the humanitarian disaster and the AU presence, despite Sudanese government's ambivalence among others. The mission also met a number of humanitarian groups trying to cushion internally displaced peoples and refugees especially on the border in Chad.²⁵ During the mission's stay in Darfur, they confirmed the role and involvement of the AU in ensuring that peace and stability was restored. The AU mission was termed AU mission to Sudan,²⁶ which comprised about seven thousand persons. The AMIS initiative was commended as being a pro-active effort before conflict was determined to be serious as to warrant internal interference as the constitutive Act dictates.²⁷

After these findings, PAP mission came up with a report which they tabled in the parliament for debate in line with their rules of procedure and mandate. After debate, they made recommendations to the AU. The PAP made four notable recommendations to the AU. These include:

- i) The need for a standing committee of PAP to develop and maintain a policy of constructive engagement with all sectors in Darfur.
- ii) The need for PAP to establish a trust fund in collaboration with the AU and other donors for humanitarian assistance to populations in conflict.
- iii) They urged the AU to take specific actions to arrest the situation in Darfur and influence the government of Sudan to find ways of quantifying and qualifying losses as well as improving the mandate of the peace keeping missions to include protecting the population.²⁸

While such PAP missions and recommendations were not enough to solve conflicts such as Darfur, it is important to acknowledge the partnership aspect of conflict resolution the PAP used. There

²² P. Mashele, *The PAP with Legislative Powers: what will happen in P.N.T. Chilufya*, Op. Cit.

²³ P.N.T. Chilufya, Op.Cit

²⁴ Halifa Sallah: *Africa Lesson on the PAP's mission to Darfur*, May, 2007, in P.N.T. Chilufya, *Ibid.*

²⁵ *Ibid.*

²⁶ AMIS.

²⁷ *Ibid.*

²⁸ Op.cit.

was some form of participatory approach to the conflict resolution involving parties in dialogue to get bare facts first hand.²⁹

One may enquire what practically had been done to ameliorate the conditions of the suffering people. Not much could be identified as progress based on PAP's mission, except the new face of the peace keeping mission that included boosting of the limited Nations joint forces with AU forces.

Election Observer Missions: the case of Zimbabwe:

The election observer mission to Zimbabwe was composed of nineteen members of PAP drawn from a dispersed array of regional representation. It was supported by staff members from PAP and from the Electoral Institute of Southern Africa.³⁰

The mission had set itself objectives based on its mandate. The mandate was to make an important objective assessment of the electoral process in Zimbabwe.³¹ The report indicated that the atmosphere prevalent in the country, at the time, did not give rise to the conduct of free, fair and credible elections. According to PAP, interim statement on the run-off elections, they condemned the polls as not being the will of the Zimbabwean people. They recommended that South African Development Commission leaders working together with the AU needed to engage the broader political leadership in Zimbabwe into a negotiated settlement.³²

According to Chilufya, the PAP was again presented with excellent opportunity to show its relevance and practical action in fulfilling its objectives. As per its tradition it prepared a report for debate in parliament and came up with resolutions and recommended action to the AU assembly of Heads of States and Governments for further action.³³

Pan-African Parliament's challenges and Prospects:

Challenges:

Some of the challenges facing the evolving PAP as it strives to assume its proper role in African politics include lack of legislative powers and lack of capacity to enforce decisions, issues of state sovereignty, publicity, mode of electing PAP members and lack of adequate funding.

ECOWAS Parliament

By virtue to Article 13 of ECOWAS Revised Treaty of 24 July 1993, the ECOWAS Parliament was established in West Africa with its headquarters in Abuja, Nigeria, and entered into force on 14 March, 2000, though it was signed on 6 August 1994.³⁴ Fundamentally, the vision of the ECOWAS Parliament aligns well with that of the mother body, ECOWAS. In its 2011-2015 strategic plan, the parliament focuses principally on all matters relating to regional integration

²⁹ *Op. Cit.*

³⁰ Republic of Zambia National Assembly, Report on the Ninth Ordinary Session of the PAP held from 5th to 6th May, 2008, 21.

³¹ *Ibid.*

³² *Op. Cit.*

³³ *Ibid.*

³⁴ U.M. Ogbonnaya and K. Ogujiuba, "Regional Parliamentary Assemblies in Africa: Challenges of Legitimacy and Status of Operation (2015), The Journal of Legislative Studies, DoI:101080/13572334.2015.1083753, <http://dx.doi.org/10:1080/135723572334.2015.1083753>.

through promotion of democracy, human rights, solidarity, equity, peace, justice and good governance.³⁵

Following the sustained request by the ECOWAS Parliament for the enhancement of its powers and functions, the ECOWAS Supplementary Act was adopted by the 46th ordinary session of the ECOWAS Authority of Heads of States and Governments in Abuja in December 2016.³⁶ The supplementary Act now bestows on the community parliament enhanced competences, such that it can now be involved in the enactment of all community Acts, adoption of the community budget, oversight functions and other legislative activities.

ECOWAS Parliament has been playing supportive role in the peaceful resolution of regional crises. For instance, it helped in the resolution of the Gambian crises and Guinea-Bissau crises, the security challenges in Mali and armed insurgency in Northern Nigeria, and other parts of the West African region through its discussions and recommendations on urgent matters affecting democracy, health and youth in the region.³⁷ The enhancement of the powers of the community Parliament is in tandem with the fundamental principles of democracy, international best practices, the ECOWAS Revised Treaty, and the New Article 13 of the Supplementary Protocol.³⁸ This makes ECOWAS more people oriented and focused especially towards the promotion of constitutionalism and human rights and the actualization of regional integration. It has been observed that the ECOWAS countries suffer setbacks in relation to economic growth and development due to poor governance, weak institutions as well as issues relating to security challenges which are factored in unemployment, corruption, poverty and failure on the part of the government to provide basic services to the people.³⁹

The most significant issue that brought the idea of establishing ECOWAS was based on the desire to have member states cooperate among themselves for the purpose of promoting economic cooperation and integration. Some of the achievements ECOWAS parliament has recorded especially in promoting peace, security, democracy, good governance and accountability of West African States are:

- a. According to the report of the fourth meeting of the conference of committees' Bureaux of the fourth legislature held on 9th February, 2017, at ECOWAS parliament in Abuja, Federal Republic of Nigeria, the Hon. Speaker ECOWAS parliament paid a glowing tribute to the people of Gambia for their political maturity during the post electoral crises in the Republic of Gambia, following the presidential election held in December 2016. He expressed his warmest congratulations to the ECOWAS Heads of States for the various efforts they made in the peaceful resolution of the post-electoral crises. He also commended the parliament for issuing a resolution, during its extra ordinary session or the political solution in the Gambia.
- b. The ECOWAS Parliament also condemned in strong terms, the judicial detention of Saadogo Salfou, member of the national delegation of Burkina Faso to ECOWAS Parliament. The authorities/government of Burkina Faso arrested Sawadogo Salifuo,

³⁵ Karuombe, B., The role of Parliament in regional integration- The missing Link. In U.M. Ogonnaya and K. Ogujiuba, "Regional Parliamentary Assemblies in Africa: Challenges of Legitimacy and Status of Operation (2015), The Journal of Legislative Studies.

³⁶ ECOWAS P, 2011, IB, available at ><https://www.google.com/search?q=ECOWAS+ie+utf-8&outf-8client=firfe-a-b=ab&gfe-rd=cr&acr=08eg=Qyk3wubuAomP8wfykw><. accessed on 20. 9. 2021

³⁷ Ibid.

³⁸ I. Omipida 'ECOWAS Parliament: As Ekweremadu Exist Amid Accolades' <http://www.opinionnigeria.com/ecowas-parliament-as-ekweremadu-exist-amid-accolades-by-ismailomipidan/#sthash.po0Au4wx.tmp2BBE3.dpbs> accessed on 20.9.2021

³⁹ Ibid.

despite the parliamentary immunity Honourable members of the ECOWAS parliament enjoy in all the community member states, as enshrined in Article 20 of the Supplementary Act. In reaction, the parliament sent a parliamentary mission to Burkina Faso to meet with the authorities.⁴⁰ In the words of Conteh⁴¹ in an opening speech he made on behalf of the permanent representatives of ECOWAS member states at the opening ceremony of the ECOWAS parliament's session in Abuja on 10 May, 2017, he expressed profound thanks and gratitude to the ECOWAS parliament for the supportive role it continues to play in the peaceful resolution of regional crises,⁴² which included but were not limited to the parliament's role in resolving the Gambian crises, and ongoing efforts to solve renewed tensions in Guinea-Bissau, and the security challenges in Mali and Northern Nigeria.

It is the writer's observation that the input of ECOWAS parliament in the enhancement of good governance and constitutionalism may be found more in resolutions, delegations and enactment of treaties and model laws than in actual active participation, which is primarily the responsibility of the authority of Heads of States, Council of Ministers and the Security Council.

East African Legislative Assembly

The East African Assembly⁴³ which was established in 2001, is the Assembly of the East African Community,⁴⁴ an intergovernmental organization that brings together Burundi, Kenya, Uganda, Tanzania and Rwanda, and is head-quartered in Tanzania.⁴⁵ The East African Legislative Assembly establishment Treaty, which was signed on 30 November, 2009, entered into force on 7 July 2000 after it was ratified by the partner states.⁴⁶

The EALA has 52 deputies, nine per member state who are indirectly elected by the national parliaments, and seven ex-officio members.⁴⁷ The EAC treaties require that members of parliament represent the diversity of views existing in the national assemblies, and that there should be a gender balance.⁴⁸ The ex-officio members consist of the national ministers responsible for regional cooperation and the two top EAC executive. According to Terlinden, the EALA is the second attempt to set up a regional parliament in the Eastern Africa region. The earlier regional parliament had collapsed with the new EAC, the Assembly was inaugurated in November 2001 with headquarters in Arusha, United Republic of Tanzania.⁴⁹ The function of the Assembly as clearly provided in the EAC Treaty, include legislation, representation and oversight.⁵⁰ The Assembly through these functions seeks to further the fundamental objectives of the community.

⁴⁰ Report of the fourth meeting of the conference of committees Bureaux, [Parli.ecowas.int/p-content/uploads/2017/05/ENG-May-17_4e-reunion-\(B.pdf,6](http://Parli.ecowas.int/p-content/uploads/2017/05/ENG-May-17_4e-reunion-(B.pdf,6), accessed 24/9/2018.

⁴¹ A. Conteh, Liberia's Ambassador to the Federal Republic of Nigeria, Addresses ECOWAS Parliament, available at <http://allafrica.com/stories/201705120746.html> accessed 24/9/2018

⁴² *Ibid.*

⁴³ EALA

⁴⁴ EAC

⁴⁵ A. Malamud and S. Stavridis, 'Parliaments and Parliamentarians as international Actors' (2011), the Ashgate Research Companion, available at <http://books.google.com.ng/books?hl=en&lr=en&lr=8830CWAAQBAJ&oi=P8=PT=regionalparliamentin>, accessed 25/9/2018.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ U.M. Ogbonnaya and K. Ogujiuba, Regional Parliamentary Assemblies in Africa: Challenges of Legitimacy of Authority and States of operation, *Journal of Legal Studies*, available at <http://www.tandfonline.com/loi/fjls20,6> accessed 25/9/2018.

⁵⁰ *ibid.*

Among the regional parliaments in Africa, the EALA has full legislative and parliamentary powers. The Assembly is empowered by EAC Treaty to make laws binding on EAC's partner states. As part of its oversight functions, the Assembly in October 2012, mandated its legal Rules Committee to carry out an assessment of partner states' adherence to good governance principle, which is one of the cardinal principles of the East African Community.⁵¹

Basically, the Assembly has and exercise powers over member states through legislation and oversight of council of ministers. The EALA has successfully established itself into a strong and effective regional legislature and registered a number of achievements. Some of the input of EALA in the promotion of constitutionalism and good governance centered on its mandate and functions of legislation, oversights are as follows:⁵²

Resolutions made by the EALA include:

- i. A resolution seeking the appointment of an East African Peace Committee for Uganda with the mandate to bring to an end the violence in Northern Uganda in May 2003, in pursuance of Articles 123 and 124 of the Treaty.
- ii. A resolution of the Assembly urging for peaceful resolution of the conflict in Mijingo Island which has drawn members of partner states to the East African Community.⁵³

The challenge, however, is that the Assembly's powers to make laws as a regional parliament is seriously constrained, as the assembly can only put forward and vote on motions and bills which have no cost implications to the fund of the community. Again, the heads of state of the partnering states must collectively assent to them and if no assent is received such bill lapses.⁵⁴ In other words, the East African Executive can therefore be said to have a veto right over the EALA's decisions.⁵⁵

Secondly, while members of EALA are elected, it is not by direct adult suffrage. Political parties represented in the national parliaments of partner states nominate members of election to the EALA. Implicitly therefore, the nomination of members to EALA is on the basis of party affiliation. Some scholars have questioned the utility of this practice, in helping to push regional agenda at the national level. Malamud and Stavridis,⁵⁶ observed that the impact of EALA has remained negligible till date.

Southern African Development Community Parliamentary Forum

The South African Development community⁵⁷ is a regional economic community consisting of 15 countries: Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.⁵⁸ The Southern African Development Community Parliamentary Forum⁵⁹ was

⁵¹ *Ibid.*

⁵² Eight years of EALA, 2001-2009. A publication of the East African Legislative Assembly Arusha, (2009), available at >www.eala.org/uploads/EALA%20achievements-2001-2009-Annevasary%20special%20publication.pdf<.accessed 25/9/2018.

⁵³ *Op.cit.* U.M. Ogbonnaya.

⁵⁴ *Op.cit.* U.M. Ogbonnaya.

⁵⁵ *Ibid.*

⁵⁶ A. Malamud and S.Stavridis, 'Parliaments and Parliamentarians as international Actors' (2011), the Ashgate Research Companion, available at ><http://books.google.com.ng/books?hl=en&lr=en&lr=8830CWAAQBAJ&oi=&P8=PT=regionalparliamentin>< accessed 25/9/2018.

⁵⁷ SADC

⁵⁸ N.Boshoff, "south-South Research Collaboration of Countries in the Southern African Development Community, available at ><http://www.researchgate.net/publication/220365042><, accessed 26/9/2018.

⁵⁹ SADC-PF.

initiated in 1993 and ultimately approved by the SADC heads of state and government summit in 1997, in Blantyre, Malawi, as an autonomous institution of SADC, in accordance with Article 9(2) of the SADC Treaty.⁶⁰ The members of parliament are drawn from SADC member states' national parliaments. This entails a maximum of six representatives, including the presiding officer elected or appointed by the national parliament of each member state.⁶¹

The forum according to Mkandawire and Luke, is intended to provide a mechanism for ordinary citizens to engage with and have input in SADC regional policy making through their elected parliamentary representatives and, to its credit, it is considered to be one of the most important structures in the region that brings national parliaments together across party lines.⁶² The main objective of SAC-PF is to constitute a parliamentary consultative assembly, to establish a regional parliamentary framework for dialogue on issues of regional interest, to provide a platform to support and improve regional integration through parliamentary involvement, and to promote best practices in the role of parliaments in regional integration and cooperation.⁶³ Specifically, the SADC-PF among other issues, seeks to:

- i. Strengthen the implementation capacity of the SADC by involving parliamentarians in SADC activities;
- ii. Facilitate the effective implementation of SADC policies and projects, including SADC protocols and other legal instruments;
- iii. Promote the principles of human rights, gender equality and democracy within SADC region;
- iv. Provide a forum discussion on matters of common interest to SADC;
- v. Encourage good governance, transparency and accountability in the region and in operations of SADC institutions;
- vi. Facilitate the ratification and harmonisation of policies and laws, and
- vii. Familiarise the people of SADC countries with the aims and objectives of SADC.⁶⁴

Basically, the forum is a parliamentary deliberative body without legislative power.⁶⁵ As a deliberate and consultative body, its plenary assembly, which is the main policy making organ, is expected to make recommendations and give policy advice to the SADC. It also serves as an observer to SADC summits. However, there is no formal mechanism or platform to ensure the adoption of the forum's recommendations by SADC executive.⁶⁶

In its effort to enhance electoral democracy for instance, the SADC-PF's election observer mission has since 1999, monitored over 30 elections across the region and raised critical issues regarding the elections. Its norms and standards for election of 2001 were widely acknowledged as a very important and comprehensive instrument for promoting good governance in the SADC sub-region. Unfortunately, this has gone largely unnoticed by the SADC regional policymaking machinery.

⁶⁰ *Op.cit.*, U.M. Ogbonnanya.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ U.M. Ogbonnanya and K. Ogujiuba, Regional Parliamentary Assemblies in Africa: Challenges of Legitimacy of Authority and States of operation, *Journal of Legal Studies*, available at ><http://www.tandfonline.com/loi/fjls20,6>< accessed 25/9/2018.

⁶⁴ *Ibid.*

⁶⁵ U.M. Ogbonnanya and K. Ogujiuba, Regional Parliamentary Assemblies in Africa: Challenges of States of Authority and States of operation, *Journal of Legal Studies*, available at ><http://www.tandfonline.com/loi/fjls20,6>< accessed 25/9/2018.

⁶⁶ *Ibid.*

Conclusion

According to Musavengana, the well-known and commonly understood function of regional parliaments, in the African context, is representation. Other functions and fundamental objectives of regional parliaments in Africa include promotion of constitutionalism, accountability and transparency, good governance, regional integration and the promotion of peace, security and stability.⁶⁷ However, the degree to which these functions and objectives are satisfactorily executed and achieved depends on certain factors. First is the status of operation of the parliaments, which refers to the specific mandate assigned to the parliament at establishment by its instrument of operation or statute or constitutive Act; which defines whether the parliamentary body is a consultative and advisory forum or a legislative assembly with full powers to make and repeal laws. The status of operation also contemplates the binding nature of their decisions on other organs of the government.

The second factor is the legitimacy of authority of regional parliaments. This refers to the process of composition of members of parliament and this is the most important feature of any parliament. This is the degree to which regional parliaments can independently set their own agenda, initiate policy reforms and influence regional development. In the assessment of the selected African Regional Parliamentary Assemblies, the function of promoting constitutionalism and good governance were used as criteria. The indicators used were assessed by relying predominantly on information and data from extant literature. Information presented evidently indicates that regional parliaments in Africa fail the test of legitimacy of authority and this is largely attributed to their enacting status of operation. Consequently, the full performance of their core function of representation, lawmaking and oversight, and fulfilment of their fundamental objectives remain daunting and herculean. Thus, their contributions to regional integration, economic development, good governance and political stability in their respective regions and in the African continent are rather more speculative than evidential.

Recommendations

For Africa's regional parliamentary assemblies to make meaningful contributions to regional development and integration, especially with respect to promoting constitutionalism and governance, there is need for the following to be done:

- Membership of regional parliaments must be decided by an electoral system that permits universal suffrage rather than nomination from national parliaments of member states.
- The instruments of establishment or constitutive acts must be amended to provide the necessary legal empowerments to make binding laws on the regions, approve the annual budgets of their respective RECs and exercise oversight of both their respective regional executive committees and national government.
- These amended constitutive acts will also seek to secure a consolidated and independent source of funding for regional parliaments in order to establish their financial autonomy. This will make them less dependent on the executive arms of both their national governments and their respective executive arm.
- The distinction between the parliaments' constitutive and complementary functions should be clearly defined by their instruments of establishment and operation.
- Entertaining unrealistic proposal will most likely lead to failure and irrelevancy.

⁶⁷ U.M. Ogbonnaya and K. Ogujiuba, *Regional Parliamentary Assemblies in Africa: Challenges of Legitimacy of Authority and States of operation*, *Journal of Legal Studies*, available at <http://www.tandfonline.com/loi/fjls20,6,<> accessed 25/9/2018.