

The Pan-African Parliament (PAP): Issues, Challenges and Prospects

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Abstract

This paper explores the issues and challenges confronting the Pan-African Parliament (PAP) as well as the prospects of galvanizing its potentials in delivering its mandate. The paper utilizes secondary materials as its sources of data collection and analysis. It is prefaced with a conceptual clarification of the term “treaty” in order to place the reader on a reasonable pedestal to gain a quick understanding of the raison d’ tre of Treaty establishing African Economic Community relating to the Pan-African Parliament. The paper reviews the structures of the PAP and acknowledged some of its achievements, to wit: passage of series of Resolutions to back up its decisions at plenary sessions; intervention in crisis-ridden countries; provision of employment opportunities to hitherto jobless youths at its Secretariat; and the creation of the African Peer Review Mechanism (APRM). Furthermore, the paper highlights some of the challenges facing the PAP, chief, among which are: “sit-tight syndrome” afflicting some incumbent presidents of Member States, endemic corruption; paucity of funds to run the PAP; irregular meetings of its Standing Committees; and lack of political will to enforce its Resolutions. To address these challenges, the paper contends that the PAP should: i) put necessary machinery in motion towards enforcing its Resolutions; ii) ensure that the meetings of its Standing Committees are held quarterly as opposed to bi-annually; and iii) that the problems of “sit-tight syndrome”, corruption as well as electoral malpractices should be tackled effectively. The paper concludes that the potentials of achieving the purpose for which it was established if all critical elements involved in its activities are committed to the realization of its objectives.

Keywords: African Union (AU), Pan-African Parliament (PAP), African Economic Community (AEC), African Peer Review Mechanism (APRM), Resolutions

Introduction:

The paper opens with a conceptual clarification of the term “treaty”. This is done against the background of the subject matter of our treatise. This is followed by an analysis of the structure of the PAP vis-à-vis its modus operandi. The challenges and prospects of the body serve as the meat of the subsequent discussion while its achievements within the short time of its existence form the thrust of the next segment. The curtain is drawn on the paper with recommendations on how the PAP would address its challenges.

What is a Treaty?

Entering into treaties is one of the attributes of an independent state. Considering the fact that no country could be an island unto itself, countries forge relationships with others in the international system to advance their course. These relationships are, more often than not forged in the areas of trade, foreign relations, environment, communications, etc. Even

though this state of affairs has been the case since the end of the World War II, it could be stated that the advent of globalization which has given rise to advancement in information communication technology, has led to seemingly independent states to become independent based on comparative advantage. On the strength of the foregoing, sovereign nations now enter into one form of treaty, agreement, convention or protocol with others. There is no denying the fact that these relationships have impacted on the economic, social or political well-being of the states in question.

Article 2 of the Vienna Convention on the Law of Treaties (1969), defines a treaty as:

An international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument, or in two or more related instruments and whatever its particular designation.

Similarly, CAP. T20, Treaties (Making and Procedure, etc), 1993, of Nigeria interprets treaty to mean:

Instruments whereby an obligation under international law is undertaken between the Federation and any other country and includes “conventions”, “Act”, “general acts”, “Protocols”, “agreements” and *modi-vivendi*”, whether they are bilateral or multi-lateral in nature.

Nevertheless, Shaw (1997) opines that inspite of how a treaty is defined, such definition must not lose sight of the basic principles of a treaty, namely, that treaties are binding on the actors to them and must be performed in good faith.

Treaties are of two types. The first is bilateral agreement. A bilateral agreement is defined as “an agreement formed by an exchange of a promise in which the promise of one party is the consideration supporting the promise of one party” (Legal Dictionary, Retrieved). An example of such treaty that readily comes to mind is the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other resources in areas of exclusive zones of the two states (Ratification and Enforcement) Act, 2005.

Another type of treaty is known as multi-lateral treaty. This is a written agreement between three or more foreign states establishing the rights and obligations between the parties. When sovereign states enter into these kinds of treaties, such unions result to the convocation of international conferences mostly under the watch of international organizations such as the United Nations or the African Union. The treaty under scrutiny went through this crucible before it was finally signed into law.

Overview of the PAP:

The Treaty to establish African Economic Community relating to the Pan-African Parliament came into force on June, 3rd 1991, when Heads of states of member-states of the then organization of African Unity (OAU), now the African Union (AU), met and signed it as a binding document.

The aim of the PAP, principally, is to have a platform or institution that enjoys full legislative powers whose members are elected through universal suffrage. The objectives of the body, inter alia, are to facilitate the effective implementation of the policies and objectives of the

AU and the African Economic Community (AEC); “to promote the principles of human rights and democracy in Africa”; and “to encourage good governance, transparency and accountability in Member States”.

The seat of the PAP shall always be determined by the Assembly and shall be located in the territory of any States Party to the Protocol. At the invitation of any Member State, however, the Parliament may convene in that Member State. Its media of communication are African languages, Arabic, English, French and Portuguese. Parliamentarian who withdraws from the Community loses membership of the PAP while the Court of Justice interprets its Resolutions. Ratification of the Treaty by members are based on their constitutional procedures while the instrument of ratification is deposited with the Secretary-General of the AU. The Protocol of the PAP entered into force after thirty days of its ratification; amendment to it shall be by the decision of two-thirds of majority of the Assembly while its review is every five years of its entry into force which is done by a conference of State Parties to the Protocol.

An overview of the Treaty indicates it has twenty-five (25) clauses, an explanatory note and a schedule.

Representation in the PAP is on equality basis of five persons per State with one of them, a female while the diversity of political opinions in each National Assembly shall be strictly adhered to.

Members of the PAP are elected or designated by their National Assemblies or deliberative organs of the Member States. The commencement of the first term of the PAP is determined by its Assembly at its first session. The term of office of a parliamentarian is predicated on term of office of his National Assembly while vacancy of the seat of a member is at it applies to the National Parliament. Members vote in their personal and independent capacity and are also precluded from occupying any other office whether in the executive or judicial arms of their governments. The privileges and immunities which members are to enjoy are in line with the ones “extended to representatives of Member-States under the General Convention on the privileges and immunities of GAU and the Vienna Convention on Diplomatic Relations”. Also, allowance which members shall be paid shall be in tandem with the expenses they incur in the course of official duties.

Within its first term in existence within which period it functions in advisory and consultative capacity, the PAP shall, among other functions, discuss its budget and the budget of the Community and make recommendations prior to the approval of the Assembly”; “promotes the programmes and objectives of the AU and AEC in the constituencies of Member-States; and “adopts its rules of Procedures, elect its own President and propose to the council and the Assembly the size and nature of the support staff of the Pan-African Parliament.

With regard to the organogram of the PAP, the Treaty also recognizes the creation of such offices as the President, four Vice Presidents, ranked in order of first, second, third and fourth in accordance with the results of the vote and subsequently by rotation. Similarly, there are positions of a clerk and two deputy clerks.

The plenary sessions of the PAP are presided by the President while in his absence, one of the vice Presidents takes charge. The mode of voting, removal or suspension of officers as well

as formation of committees, are, to a great extent, in line with what obtains at the respective National Parliaments.

The Secretariat of the AU was designated as the seat of the PAP until when a permanent secretariat was built in South Africa. The chairperson of the AU shall preside at the inaugural sitting of the PAP to elect officers. Its budgets are drawn by itself and shall constitute an integral part of the budgets of the AU and AEC.

ISSUES, CHALLENGES AD PROSPECTS

In order to appreciate the issues and the challenges facing the PAP, it would not be out of place to situate them within the framework of the general objectives/functions that drive it. The general objectives of the PAP are to:

- ❖ Facilitate the effective implementation of the policies and objectives of the AU/AEC and ultimately the AU;
- ❖ Promote the principles of human rights and democracy in Africa;
- ❖ Encourage good governance, transparency and accountability in Member States;
- ❖ Familiarize the people of Africa with the objectives and policies aimed at integrating the African continent within the framework of the establishment of the African Union;
- ❖ Promote peace, security and stability;
- ❖ Contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- ❖ Facilitate co-operation and development in Africa;
- ❖ Strengthen continental solidarity and build a sense of common destiny among the peoples of Africa; and
- ❖ Facilitate co-operation among Regional Economic Communities and their Parliamentary form (www.panafricanparliament.org.)

To drive its objectives, the PAP created ten Committees in tandem with the Specialized Technical Committees created by the AU. The Committees cover Rural Economy, Agriculture, Natural Resources and Environment; Monetary and Financial Affairs; Trade Customs and Immigration Matters; Cooperation, International Relation and Conflict Resolutions; Transport, Industry, Communications, Energy, Science and Technology; Health, Labour and Social Affairs; Education, Culture, Tourism and Human Resources; Gender, Family, Youth and People with Disability; Justice and Human Rights; and Rules, Privileges and Discipline. Rule 22 (5) stipulates that each Committee shall be made up of thirty members. The committees hold their statutory meeting bi-annually in March and August, respectively, and may hold emergency meetings when the need arises.

Beside the ten Standing Committees, the PAP also has a ad-hoc Committee known as Committee on Administration Financial Evaluation (CAFÉ), established through a PAP Plenary Resolution which was adopted in May 2012. The Committee “probes and suggests solutions on matters related to the institutional, administrative and financial shortcomings

identified in the PAP” (See Resolution passed at the Regional Parliamentary Meeting held at the Rivers State House of Assembly, Port Harcourt, Nigeria, from 5th to 6th December, 2012).

The PAP, within the short period of its existence has made some remarkable progress in the African continent in line with its statutory obligations.

It has taken on matters and issues that were geared toward ameliorating the challenges of governance in Africa. One area though which its activities found expression is in the Resolutions it passed to dress these challenges. For instance, seven Resolutions aimed at improving the well-being of the African continent had been passed by its 3rd Ordinary Session These Resolutions were passed as part of its oversight functions. The Resolutions are:

(1) **Resolution on signing of adherence to the African Peer Review Mechanism (PAP_Res.001/05).**

This Resolution was intended to draw the attention of Member States which had not implemented the policies and programmes of the African Union with regard to signing of the African Peer Review Mechanism (APRM) on the issues of democracy and good governance in Africa.

(2) **Resolution on the development of a continental code of conduct on the use and exploitation of National Resources and Environmental Protection (PAP-Res.002/05).**

The Resolution frowned at the rampant and unplanned exploitation of Africa’s natural resources, and therefore, recommended the development of a continental Code of Conduct on the Use and Exploitation of the National Resources with each Member State making an annual report to the African Union on its level of compliance with the Code of Conduct while Member States are required to adopt a corresponding programmes to be designed by the African Union on environmental protection and efficient utilization of the natural resources.

(3) **Resolution on the Appreciation of the Intervention of the Chairperson of the African Union in the Togo crisis (PAP-Res.003/05).**

The Resolution was a commendation of the supportive role played by the President Olusegun Obasanjo, then Chairperson of the AU, on the resolution of the constitutional crisis in Togo with the attempted military coup d’ etat after the death of President Gnassingbe Eyadema. In line with the Africa Union Declaration of July 2000 in the Unconstitutional changes of Governments, the AU intervened in the crisis and the coup was nipped in the bud.

(4) **Resolution on the Appreciation of the Work of Mr. Kofi Annan, the Secretary-General to the United Nations (PAP_Res.004/05).**

The Resolution commended Mr. Kofi Annan, Secretary-General to the United State on his achievements and strives he made which were in line with the purposes of the UN as enshrined in its Charter.

(5) **Resolution relating to the Presidential Elections in Togo in 24th April, 2005 (PAP_Res.005/05).**

The Resolution appealed to the Government and people of Togo to ensure that the Presidential election scheduled to hold on 24th April, 2005, was peaceful, free and

transparent in accordance with the entreaties by several regional institutions and the AU that intervened in the constitutional crisis.

(6) **Resolution on the dispatch of the Pan-African Parliament Peace Mission to Cote D' Ivoire at the beginning of May 2005 (PAP_Res.006/05).**

The Resolution mandated the Peace Mission set up by the PAP to visit Cote d' Ivoire in May, 2005 and make an assessment of the conflict in the country and report back at plenary.

(7) **Resolution on congratulating H. E. Thabo Mbeki, President of the Republic of South Africa, on his success in achieving a Peace Agreement between the warring parties in Cote d' Ivoire (PAP_Res.007/05).**

The Resolution appreciated H.E. President Thabo Mbeki of South Africa for successfully resolving the conflict in Cote d' Ivoire and also for his exemplary commitment to peace in the African continent.

The afore-stated achievements are just a tip of the iceberg with regard to the remarkable landmarks which the PAP recorded in its bid to offer a better lease of life to the peoples of the African continent. However, a flip of the other divide shows that the PAP still grapples with a coterie of challenges. These challenges are legion. While some are natural, others seem to be man-made. A few examples will suffice.

First is the endemic problem of “sit-tight syndrome”. Africa parades the highest number of heads of countries that have stayed longest in office. At the last count, Africa has an unenviable distinction of having about eleven presidents that have been in office with the least ruling for 15 years. Among these sit-tight Presidents are Theodoro Obiang Nguema of Equatorial Guinea (36 years); Jose Eduardo Dos Santos of Angola (36 years); Robert Mugabe of Zimbabwe (36 years); Paul Biya of Cameroon (33 years); Yoweri Museveni of Uganda (30 years); Omar Al-Bashir (26 years); Idrissa Deby of Chad (25 years); Isaiiah Afwerki of Eritrea (22 years); Yahya Jammeh of Gambia (21 years); Dennis Sason Nguesso of Republic of Congo (18 years); and Paul Kageme of Rwanda (15 years).

It is disheartening to state that while these countries have their representatives in the PAP and profess the sanctity of the ballot box in the determination and choice of the leadership of their respective countries, back home, their sitting presidents alter their constitutions at will in the middle of their tenures to enable them run for office anew. This development contradicts the general objectives of the PAP and calls for urgent steps by the PAP to address it.

Closely related to the foregoing is the incidence of corruptions which is said to have eaten deep into the fabric of the Africa society. A report of published by Transparency International in its 2015 edition of Corruption Perception index fingered five African countries of Somalia, Sudan, South Sudan, Libya and Eritrea among the ten most corrupt countries, in the world. It is a huge irony that while most of these countries default in the payment of their subscriptions to the AU, their scarce resources are cornered into private use by their leaders. Yet, the PAP has done nothing to address this situation.

Another challenge facing the PAP is electoral malpractices. While elections in advanced countries are non-events that could take place as planned by electoral bodies without and cry and accusation of massive rigging, elections in Africa are seen as “life and death” events and are regarded as zero-sum game where the winner takes all. Elections in Africa are seen as

wars in another form and, therefore, all material arsenal in the armory required in conventional warfare are unleashed on opponents in order to “teach him a lesson”. The litany of litigations that arise at every electoral exercise is a tragic pointer to the bitterness and vehemence that characterize elections in Africa.

The challenges facing the PAP are enormous. For instance, while it is true that the PAP has churned out series of Resolutions to address issues of concern to her, it is also a fact that it is grappling with the difficulty of how to implement its Resolutions as well as how these Resolutions could be enforced by the authorities or persons they are directed at. This challenge also faces National Parliament, to lesser or higher degree.

Similarly, the Committees of the PAP inundate the secretariat of the PAP with complaints of inadequacy of professional staff and office spaces for their meetings. Needless to state that the Committees are ineffective on account of some logistical problems such as paucity of funds to help in the execution of their assignments.

These and many more are the challenges facing the PAP in its attempt to deliver on its mandate. Be that as it may, the PAP has delivered some benefits to the Member States since its inception.

The PAP has helped in strengthening the legislative arm in Nigeria, in particular and Africa, in general, through Peer Review Mechanism. This is made possible by the coming together of these parliamentarians from different National Parliaments to function in the PAP. Their cross-fertilization of ideas in the PAP affords them the opportunity to learn from one another with a view to impacting what they learnt on their individual National Parliaments.

Similarly, the PAP serves as a veritable training ground for leadership development of their respective National Parliaments. Members States see this platform as an avenue for the enhancement of human capital development of the leaderships of their National Parliaments.

Also, the establishment of the PAP has provided employment opportunities to the teeming population of the army of the unemployed, who, hitherto, were roaming the streets in search of jobs. No parliament can exist without the role of support staff who work as clerks, deputy clerks, Clerks-At-The-Table, Committee Clerks, verbatim reporters, legal officers, etc.

The establishment of the PAP has given opportunity to some countries, Nigeria, for instance, to strengthen their leadership role in Africa. These are countries which are naturally expected to provide the needed leadership direction to others in Africa. Nigeria and South Africa readily come to mind. It is not for nothing that the headquarters of the PAP is situated in South Africa while Nigeria plays prominent role in its activities. A Nigerian, Hon Bethel Amadi, is the current President of the PAP.

RECOMMENDATIONS:

Despite the modest achievements recorded by the parliamentary body as noted in this work, and also in the light of the challenges outlined, the following recommendations are hereby made in order to steer the body on the path of fulfilling its mandate.

- (1) The issue of funding should be brought to the front burner during the summits of the Africa Union. It has been observed in some quarters that most of the Member States

default in their financial obligations to the AU. As a result of this, the PAP experiences poor funding since its budget form an integral part of the budget of the AU. This state of affairs impede on its activities and performance. Beyond the budget being sourced from the AU as prescribed by the Treaty, the body should also explore other sources of funding to sustain its programmes. The leadership of the PAP should reach out to international parliamentary organizations such as the Commonwealth Parliamentary Association (CPA) for financial assistance.

- (2) Sanctions should be placed on Presidents who stay more than two tenures in office. To this end, the PAP should prevail on countries to provide a two-tenure of office in their constitution for the president in line with conventional democratic principles. This measure will certainly curb the incidence of unhealthy rivalry and opposition that seen to characterize party politics in African countries.
- (3) Similarly, sanctions should be placed on any country whose President come into office through questionable electoral process. This will serve as a check on candidates that has the tendency of rigging their ways into presidential office.
- (4) Considering that most of these Presidents use their offices to fritter away their countries' resources while their citizens wallow in abject poverty, the PAP should compel the AU to expose their corrupt President. Foreign banks and other financial institutions where these monies are deposited should be made by the PAP to return these loots.
- (5) Also, in view of the fact that about sixty percent of legislative activities at every parliament take place in the committee system, it is hereby recommended that the meetings of the Standing Committees of the PAP should be held quarterly as against bi-annually as is prescribed in the Treaty. This recommendation is borne out of the fact that it is the Committees that drive the activities of parliaments the world over.
- (6) Lastly, the PAP does not have what it takes to enforce its Resolutions. It is one thing to churn out Resolutions, it amounts to waste of funds and time if the Resolutions are not complied with by the people or authorities the Resolutions are targeted at. To this end, the PAP should be put machinery in motion toward enforcing its Resolutions.

Conclusion:

The foregoing analysis has, no doubt, shown that the PAP, as the only parliamentary body in the African continent has a place in history. The feats it has recorded within the short space of time it has been in existence bears an eloquent testament to its vision and mission as a veritable catalyst for the advancement of democratic ideals in Africa.

It may be grappling with challenges and some logistical hiccups, but if the tempo of the vision of its founders is sustained, it will certainly make a world of difference in the democratic journey of the peoples of the continent. The needed fillip for the realization of its mandate lies within the ambit of the contributions of all and sundry, and indeed, the international community to achieve these dreams.

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