



AFRICAN PARLIAMENT OBJECTIVES, POWERS AND MEMBERSHIP

FARAH ABDIKARIM HERSI

farahabdikarim7@gmail.com

Near East University, Law department, TRNC, 10 Mersin, TR-99040 Lefkosia, Türkiye

PROF. DR. SANGAR DAWOOD MOHAMMED AMRI

sangar.amri@neu.edu.tr

Near East University, Law department, TRNC, 10 Mersin, TR-99040 Lefkosia, Türkiye

ABSTRACT

The African Parliament, or the Pan-African Parliament, was formed to become the legislative body of the African Union, which is one of the eight bodies of the Union. The need arose for it so that the Union would have a parliament alongside its other bodies similar to the European Parliament. In the late last century, and especially in the conference held in the Nigerian capital, Abuja, the conference resulted in the African Economic Community Treaty, and its work continued until the founding law of the Union was issued, which dealt with the objectives for which the Parliament was formed. It also indicated that its powers would be detailed in a later protocol, which is what was actually issued in the Protocol to the African Economic Community Treaty relating to the African Parliament. As the Parliament's objectives address various important areas for the Union and for African countries and peoples, such as promoting security, peace, democracy, the rule of law, human rights, economic cooperation, and achieving self-sufficiency for the people of the continent, they are closer to wishful thinking than reality and are difficult to achieve given the African reality. These objectives cannot be separated. Regarding the limited powers of Parliament, which become an obstacle to achieving these poisoned goals, what indicates their limitations is what is stated in the Protocol, which is that Parliament has the authority to express its opinion on any issue related to the Union, either on its own initiative or at the request of the Conference or any other policy-making bodies and to submit any Recommendations he deems appropriate relate to him, just as the issue of parliamentary membership is not based on sound foundations in terms of proportional representation, as well as the methods for acquiring it. In this regard, it is better to try to make some comparisons on the subject of goals, powers and representation in relation to regional parliaments or parliamentary unions, and we will find out if they are The methods they have are consistent or different from those of international parliaments, and among the most important of these parliaments are the International Parliament and the European Parliament, which were established a long time before the African Parliament, and they have precedence, leadership, and successful experience in many important aspects.

Keywords: Pan-African Parliament - African Union - Abuja Treaty - Protocol - Constitutive Act - Powers - Objectives - Membership - Immunity.

1. Introduction

The Pan-African Parliament dates back to the developments witnessed by the African Union at the end of the twentieth century through gradual legal mechanisms by shifting from the African Unity Organization to the current African Union, which eventually led to the establishment of the African Economic Community, after the adoption and signing of the Treaty establishing the African Economic Community (Abuja Treaty) on June 3, 1991, and the Sirte Declaration in 1999



called for accelerating the establishment of the institutions stipulated in the Abuja Treaty, and the People's Action Program was envisioned. As a platform through which African peoples, not states or leaders, can be represented in decision-making processes affecting the continent. Several years later, the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament was adopted in the Libyan city of Sirte in 2001, and entered into force in 2003. After the work, the African Union issued in Addis Ababa and adopted the Protocol to the Constitutive Act of the African Union on the Pan-African Parliament in 2014, but it did not enter into force. Yet, as the required number of simple majorities of the member states of the African Union did not validate it, the Assembly of the African Union at its third ordinary session in Addis Ababa, Ethiopia in July 2004 was briefed on the successful launch of the Pan-African Parliament on March 18 of the same year, and African leaders congratulated the new elected Speaker of the Parliament and her four deputies, and decided to make the seat of the Parliament in South Africa.

The treaty considered the Pan-African Parliament as one of the main organs of the African Union, and the aim of its establishment is to move to the peoples of the entire African continent as an advisory body and legislative body, and to become a platform for its will and promote its issues, and it is the only grouping that includes all member states of the African Union. After the promulgation of the Constitutive Act of the African Union, which clarified that the Parliament is working to ensure the full participation of the African peoples in the development and economic integration of the continent, the promotion of human rights, the consolidation of democratic institutions and culture, ensuring transparency of good governance and working to promote and coordinate the policies, programs and activities of the regional economic communities, and can also make recommendations on the budget of the African Union. Indeed, the Protocol of the Pan-African Parliament also imposes on the new institution, among other things, facilitating the effective implementation of the policies and objectives of the African Union in accordance with the Protocol of the Pan-African Parliament some of the main objectives for which the programmed is sponsored. These objectives are, inter alia, theoretically determined to place the Programmed Plan of Action at the heart of the main processes relating to the emerging political, governance and economic structure of the African continent. In this regard, the Protocol specifically affirms that the Pan-African Parliament may examine, debate or express an opinion on any matter and make any recommendations it may deem. Furthermore, the Pan-African Parliament is empowered to require OAU/IEG officials to attend its sessions, provide documents or assist in the performance of its duties. In theory, the parliament appears to have enough room to maneuver to shape and direct its own agenda on key issues affecting the continent, and since it is also empowered to request briefings and reports from the organs of the African Union, a key component of oversight and accountability for any parliamentary body, it seems that the parliament may have sufficient authority to make a substantive contribution towards achieving its mandate and vision. The membership of the parliament differs from the membership of national parliaments, the new member is nominated by the national parliament in equal proportions, as it does not take into account the size of the population of the state, and it means that small and sparsely populated countries such as Seychelles and Sao Tome and Principe, where they are equal to countries that have a high population density such as Nigeria and Ethiopia in terms of the number of members of parliament who represent them in the African Parliament according to the text of the ECOWAS protocol. From these angles, the Pan-African Parliament has points of intersection and consensus with regional parliaments or parliamentary unions and groupings in the world such as the International Parliament, the European Parliament, the Arab Parliament and others, and we will address them with some comparison from these aspects that affect the aspects of goals, powers and membership.



2.1 Importance of the study

The importance of the study is evident through the importance of the subject under study, so that the objectives, competencies and membership of the African Parliament, which is one of the organs of the African Union and its role as a legislative wing of the Union, as well as the study in topics that deal with the objectives and competencies of the Union, make those interested in the Parliament and the African Union familiar with these aspects, especially in light of the growing role played by the Parliament in the African arena and its clear impact on the political, economic and social aspects, which did not take their right from adequate research, specifically when linking them. He pointed out the role of the organs of the African Union, where it is important to know whether these objectives are applicable, as well as the tools and means available in their implementation, whether legal, political or financial means, as well as knowing the size of the powers enjoyed by the parliament, especially important aspects such as legislation, oversight and ratification of the Union's budget, and no less important is to know how membership is carried out, and on what legal and procedural bases, as well as the issue of immunity and privileges guaranteed against deputies of the African Parliament.

3.1 The problem of the study

To study this topic in detail, it was necessary to raise the following problem, as it raises the problem in very important aspects to be understood, which is what are the objectives of the African Parliament for which it was established and the areas it covers, and given the reality of African countries that are exhausted by tyranny and the absence of democracy, there is concern about the possibility of turning it into reality, as well as its powers and knowing its limits, and revealing the extent to which the Parliament can possess sufficient authority to serve issues of concern to the African peoples, and all this has been drawn by the Union. African through treaties, the Constitutive Act and protocols related to Parliament, and also the problem lies how to obtain membership of Parliament and the reasons for its loss, immunity and privileges enjoyed by a member of Parliament and this leads us to the main questions in the research, and above all this is based on the correct representation between countries in terms of size and density.

4.1 Study questions

Based on the problem of the previous study, the study questions are as follows:

1. What are the objectives of the Pan-African Parliament that it seeks to achieve, to what extent can they be achieved on the ground, what is their source, and why should the Parliament facilitate the implementation of the objectives of the African Union?
2. Does Parliament have full powers to implement the objectives set for it, what are the limits of these powers, and what is the standard followed in implementing them?
3. How is membership of Parliament acquired, is membership based on proportional representation in relation to the size and population of States, what is the role of the National Parliament in them, what privileges and immunity does a member enjoy, and the circumstances of stripping a member of a member and immunity?



5.1 Objectives of the study

1. Clarifying the concept of the objectives of the parliament and the areas in which it focuses, and because setting goals carefully makes it easier for us to jump into thinking about how to implement them on the ground and because they deal with important and often followed areas.
2. Defining the concept of parliamentary powers, and knowing what is meant by the powers of such a parliament as it is a regional parliament in which many countries are members gather.
3. Identify the types of legislative and non-legislative powers, because it is important to the extent to which the parliament has legislative powers, what kind of powers it has and the type of laws it legislates, as well as the non-legislative powers that parliament has such as accounting, control and legislation.
4. Disclosure of the methods of obtaining membership of Parliament, and whether they can be obtained by direct election of the member, or by appointment by the country to which he belongs.

6.1 Research hypothesis:

Based on the problem of the research and its questions, the research assumes that it is necessary to clarify to what extent the objectives of the Parliament are not applicable, the powers of the limited, and the membership of the African Parliament does not reflect the size of the population of the country represented, because of these aspects of ambiguity and the absence of extensive studies, where those interested in parliamentary work need more reconciliation of what the African Parliament and other regional and global parliamentary groupings have.

7.1 Study Methodology:

This study relies on several approaches, including: analytical, comparative and historical, and we resorted to the historical approach in order to shed light on the historical development of the African Parliament in general and the African Union in general. The analytical method will be to analyze the African parliamentary system as well as the analysis of the treaties that established it, defined its powers and developed its administrative organization, and then we use the comparative method to make a comparison with leading regional parliaments such as the European Parliament and the Arab Parliament.

8.1 Division of the study:

Based on the above, the study is divided into three sections, the first section covers the objectives of the African Parliament, and the groups that market are divided into areas seeking to address them, while the second section deals with the powers of the Parliament, and the only ones that drew her treaties and protocols, while the third and last section deals with the membership of Parliament, and the immunity and privileges of members and the loss of membership.



Objectives of the Pan-African Parliament

The Protocol to the African Economic Community Treaty clarified¹ the objectives of the Pan-African Parliament, which it must seek to turn into a concrete reality, and these objectives are multiple², but upon scrutiny, it seems to you that for the areas they address, they can be collected and divided into groups according to the core issues that it hopes to achieve and for which the Parliament was established, and although they are many and varied, they can be divided into linked groups according to the direction in which they cover, because of the consensus or Proximity to the issues dealt with and on the basis of the Protocol to the ECOWAS Treaty, the objectives are according to these groups and classification,³ which we detail as follows.

1.2 Doesn't have to be a good idea. Objectives of the Parliament on the promotion of democracy and human rights

This group of goals has been classified because of its first degree of convergence in the areas it addresses, which is that democracy and human rights in Africa or in the whole world are inseparable, where if one of them exists, the other is found and vice versa, and these goals in this group are:

1.1.2 Promotion of human rights and democracy principles in Africa

The principle of human and peoples' rights shall be strengthened in order to consolidate the process of democratic construction and complete the establishment of the rule of law and the consolidation of democratic gains and the effective integration of human rights principles through the enactment of a public policy in this area, the Parliament shall prepare the Plan of Action in the field of democracy and human rights, which is important in African States⁴.

The importance lies in responding to the development in the field of human rights at the international level, represented mainly by the development of a number of optional protocols and documents aimed at the development of human rights, including the recommendations of the World Conference on Human Rights in Vienna in 1993, one of which stressed the need for each State to consider the desire to formulate a national plan of action outlining the steps by which the State will work to improve the promotion and protection of human rights. This dynamic has led the African Union to develop His own plans in the field of human rights⁵.

(1) Oliver C. Ruppel & Larissa-Jane Houston (The Pan-African Parliament of the African Union: Composition, Mandate and Partnerships, And Its Quest for Sustainable Develop) Page 7.

(2) Bonolo Ramadi Kinocilia, The Pan-African Parliament and African Union Human Rights Actors, Civil Society and National Human Rights Institutions: The Importance of Collaboration, 2013, 13 AHRLJ 302-323 African Human Right Law Journal, Page 302.

(3) BRIEFING The Pan-African Parliament: Getting Ready for the 2017 AU-EU Summit, Directorate-General for External Policies Policy Department, European Parliament. Page 4.

First⁴ paragraph, article II, Protocol of the African Economic Community relating to the Pan-African Parliament, 2001.

5 Ahmed Mohamed Ahmed Matar, The Role of the United Nations in the Protection of Human Rights, International Journal of Publishing, Research and Studies, Vol. IV, Issue Forty-One, 2023, p. 138.



The Union urges its members to develop national strategies that place the promotion and protection of human rights at the centre of public policies by having a coherent framework that allows for coordination of the various processes and measures aimed at improving knowledge and disseminating, promoting, respecting and strengthening human rights and citizenship⁶.

In addition to benefiting from experts in the field of human rights through the launch of a broad process of collective reflection and consultation, and by organizing a series of consultative meetings at the continent level with various actors concerned with human rights and with international actors, the main objective of which was to exchange visions and identify the principles on which the plan will be based, and based on the broad debate that these principles witnessed, it focused on respect and guarantee of human rights, equality and non-discrimination, comprehensiveness of human rights, the rule of law, the supremacy of international standards over the law. Internal.

Close to this, the European Parliament, although the main purpose of its establishment is the economy, but under the European Convention for the Protection of Human Rights and Fundamental Freedoms promulgated by the Council of Europe in 1950, has become one of the tasks of the European Parliament to protect democracy and human rights.⁷

Respect for human rights and fundamental freedoms and the principle of periodic and genuine *suffrage are essential elements of democracy, enshrined in the Universal Declaration of Human Rights and further developed in the International Covenant on Civil and Political Rights, which enshrines a wide range of political rights and civil liberties on which genuine democracies are based*⁸.

The rights enshrined in the International Covenant on Economic, Social and Cultural Rights and in subsequent human rights treaties covering the rights of groups (such as indigenous peoples, minorities and persons with disabilities) are equally necessary for democracy as they ensure equitable distribution of wealth and equality and equity with regard to access to civil and political rights.

Directing national and regional efforts to consolidate democracy and the rule of law, The Rule of Law and Democracy Unit is the focal point for democracy activities in the Office of the High Commissioner for Human Rights and works to develop operational concepts and strategies to promote democracy and provide guidance and support to democratic institutions through technical cooperation activities and partnership with United Nations stakeholders, in particular the United Nations Democracy Fund, the Department of Political Affairs and the Working Group on Democracy provides legal and expert advice, as appropriate, to OHCHR field operations on relevant issues such as respect for participatory rights in the context of free and fair elections,

6 Khairy Abdul Razek Jassim, African Union (Origin - Structural - Challenges), vol. 8, No. 31-32, Center for International Studies, University of Baghdad, 2006, p. 52.

(7) Tsegaye Demeke, The new Pan-African Parliament: Prospects and challenges in view of the experience of the European Parliament, 2004, African Human Rights Law Journal, page 61.

(8) Joseph Q. Martinelli (Challenges of The African Union Mission in Sudan: Grounded Theory Case Study 2004-2007 From the Perspective of Us Senior Officials), 2017, A Dissertation Submitted to The Graduate Faculty in Partial Fulfillment of The Requirements for The Degree of Doctor of Philosophy, University of Oklahoma Graduate College. USA, Page 17.



draft legislation on national referendums and training activities, the rule of law, 9 including ensuring the rule of law, improving efficiency and accountability in the public sector, addressing corruption, and key elements of a framework in which economies can thrive¹⁰.

2.1.2 Promote good governance , transparency and accountability in Member States

Good governance or governance The progressive global recognition of the need for good governance has only emerged since the nineties onwards, and although there are different meanings of the term good governance, the term is generally associated with the political, economic and social goals that are necessary for the development of African countries, and therefore good governance is the process by which public institutions manage public affairs and manage public resources in a manner that promotes the rule of law and the realization of human rights, whether civil or political, economic rights. In 1996, the International Monetary Fund (IMF) announced the promotion of good governance in all its aspects¹¹.

The term "good governance" is now commonly used by national and international development organizations, although its meaning and scope are not always clear.¹²

Accountability and transparency are two interrelated concepts related to good governance and wise management, and accountability and transparency are considered one of the basic foundations of democracy and sound governance, which helps create an environment that promotes integrity and real accountability in government institutions. For the Parliament, accountability and transparency must be the cornerstone of all its activities and operations, and in the European Parliament there is an accurate and transparent accounting system that shows how financial and other resources granted to the Parliament are used, including remuneration. and salaries, expenses and other costs¹³.

Accountability and transparency in Parliament can be achieved through a range of effective procedures and policies, including the preparation of periodic reports explaining the use of financial and other resources granted to Parliament, the organization of periodic meetings of parliamentary committees to discuss budgets and periodic financial reports, ensuring periodic evaluation of the financial and administrative performance of the parliament, and enhancing transparency and access to information by publishing information on the Parliament's activities, budget and other reports on the Parliament's website. Using modern technological tools such as electronic accounting programs to manage financial resources and others in a transparent

9 Muhannad Abdul Wahid Al-Nadawi, *The African Union and Dispute Resolution, "A Case Study of Somalia"*, First Edition, Al-Arabi for Publishing and Distribution, Cairo, 2015, p. 21.

10 Democracy and Human Rights: The Role of the United Nations, Discussion Paper, International Foundation for Democracy and Elections, 2013, p. 21.

(11) The 2002- 2022 Anniversary, African Union Handbook. 2022. African Union Commission and New Zealand Crown Copyright Reserved 2022. Page 114.

12 Sharaf Muhammad Ali Al-Mizil, *The Historical Roots of the Factors Affecting the Democratic Transition in the Arab Spring Countries (2010-2019)*, Volume IV, Thirty-ninth Edition, International Journal of Publishing, Research and Studies, 2023, p. 15.

13 Mohammed Abed Al-Jabri, *Democracy and Human Rights*, UNESCO, No. 95, Kitab newspaper, 1996, p. 8.



and accurate manner, and to ensure that there are clear and systematic procedures for dealing with complaints and reports related to corruption and financial manipulation in Parliament.

There must also be an independent financial controller who shall monitor and monitor the financial and other resources granted to Parliament, prepare periodic financial and administrative reports and submit them to the relevant parliamentary committees, and provide the public with the necessary information on the activities of Parliament and the use of financial and other resources¹⁴.

2.2 Objectives about politics, security and peace

This set of interrelated principles has been classified as focusing heavily on political, security and public peace aspects, and we will address them as follows:

2.2.1 Strengthening peace, security and stability on the continent

The role of the Pan-African Parliament in achieving peace, security and stability on the African continent is vital and necessary, and its role is to promote peace and security throughout the African continent, and the Parliament seeks to achieve this goal by encouraging dialogue, understanding and cooperation among¹⁵ member States, promoting arbitration, mediation and the peaceful settlement of disputes, as well as supporting arbitration, mediation and the peaceful settlement of disputes on the African continent, through dialogues between member States and armed groups, and promoting cooperation. among Member States in this regard¹⁶.

As well as security cooperation among member States in various fields, including combating terrorism and violent extremism, strengthening border security and combating cross-border crimes¹⁷, cultural cooperation that the Pan-African Parliament seeks to strengthen among member States on the African continent, through support for African culture and heritage, understanding and cultural cooperation among member States, as well as self-reliance as well as achieving economic recovery leading to a more prosperous future for the peoples of Africa¹⁸.

14 Parliaments: Roles and Responsibilities in Good Security Sector Governance, DCAF undated, p. 3.

15 Abdisalam Aziz, The African Union's Cooperation with the United Nations in the Settlement of African Conflicts, *Journal of Communication in Economics, Administration and Law*, 2016, p. 38.

16 Sixth paragraph, article III, Constitutive Act of the African Union.

17 Gilbert Khadi gal, *East Africa: Security and the Legacy of Fragility*, First Edition, No. 86, Emirates Center for Strategic Studies and Research, Abu Dhabi, United Arab Emirates, 2009, p. 9.

18 Report of the Peace and Security Council on its activities and the situation of peace and security in Africa, African Union Conference, eighth ordinary session, January Addis Ababa, Ethiopia, 2007, p. 4.



As for regional integration and cooperation, the African Parliament seeks to achieve this goal through regional and bilateral cooperation among member States and the promotion of trade, investment and economic development^{19, 20}.

2.2.2 Facilitate the effective implementation of OAU/AEC policies and objectives and ultimately the policies and objectives of the African Union

Among the important objectives of the African Parliament is to play a pivotal role and be a tool by all means to implement the policies and objectives of the African Union, because the objectives of the Parliament fall within the framework of the general objectives of the Union, and the policies of the Union, so what are the objectives of the African Union to confirm? Article III of the Constitutive Act of the African Union stipulates that the African Union has achieved a set of objectives contained in the Constitutive Act of the Union, namely achieving greater unity and solidarity among African peoples and states, defending the sovereignty, territory and independence of all African countries, accelerating the political, economic and social integration of Africa, as well as promoting peace, security and stability in the African continent, consolidating the democratic system and its institutions, promoting popular participation and good governance, and protecting human and peoples' rights. In accordance with the African Charter on Human and Peoples' Rights, as well as the relevant instruments, create the necessary conditions that will enable the continent to play its appropriate role in the global economy and negotiations between countries and accelerate the development of the continent especially through research in science and technology.

3.2.2 Familiarize the African peoples with the objectives and policies aimed at the integration of the African continent within the framework of the establishment of the African Union

In view of what comes to light, integration and integration in the African continent and the awareness and pursuit of these States in a form of integration among themselves do not reflect the real reality in international relations, especially after the Second World War, where their economic problems are increasing and deepening among the countries of the world.²¹ African peoples are a diverse and rich society of more than one billion people across the African continent, where they face significant challenges in the areas of poverty, ignorance, armed conflicts and other social, economic and political problems.

Policies and objectives aimed at integrating the African continent within the framework of the African Union are aimed at strengthening cooperation, integration and sustainable development of the continent. These objectives include strengthening regional unity and integration among the countries of the African continent, through the promotion of economic, social and political cooperation among member states, the African Union aims to promote economic development in the continent, works to develop infrastructure, promote investment and promote trade among member states, enhance security and stability, the African Union works to achieve

(19) <https://pap.au.int/en/about> (visited on 1, August 2023)

The 20 second paragraph of article II stipulates that "the Parliament shall achieve the following objectives: participation in the formation of awareness among the Arab peoples of the process of joint Arab action and contribution to the strengthening of security, peace and stability in the Arab region."

(21) Ogochukwu Iraola Nnewi, *The Role of the Pan African Parliament in African Regionalism (2004-2006): an Institutional Perspective*, A thesis submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy (PhD) Public Affairs School of Public Management and Administration in the Faculty of Economic and Management Sciences University of Pretoria, 2008, Page 57.



Security and stability in the continent, by strengthening dialogue and security cooperation among member states and addressing organized crime and terrorism, the African Union seeks to strengthen democracy and human rights on the continent, and works to encourage member states to promote public freedoms and provide equal opportunities for all, environmental protection and climate change, the African Union works to protect the environment and meet the challenges of climate change in the continent, and seeks to promote sustainable development and improve the quality of life and the environment on the continent.⁽²²⁾

In the diaspora, African migrants play an important role in promoting these goals and policies through their participation in dialogue, cooperation and solidarity with the African continent and with their countries of origin, and African migrants can contribute to facing the challenges facing the African continent, and play an effective role in promoting economic cooperation and achieving sustainable development, by promoting investment and trade between African countries and other countries.

In general, African peoples and the African diaspora work in solidarity in establishing platforms for cooperation between the countries of the African continent and other countries, and to achieve sustainable development and prosperity for all peoples of the continent, and African migrants can contribute to the adoption of dialogue and understanding between different cultures and religions, and play an important role in promoting awareness of the importance of sustainable development and environmental preservation in the African continent and beyond.

The African Union aims to promote economic, political and cultural integration among African States and to unite their efforts to achieve sustainable development, peace and security on the continent, and to this end, several initiatives have been launched to integrate the African continent within the framework²³ of the African Union, including the establishment of the African Free Trade Area, the launch of the University of the African Union, and the realization of the African Union's Vision 2063.

In general, the integration of the African continent within the framework of the African Union is aimed at achieving sustainable development, peace and security on the continent, and these initiatives are expected to contribute to the achievement of these goals in the long term.²⁴

The Charter of this organization stipulates the need to strengthen and strengthen economic cooperation among member states in order to achieve the desired goal behind the establishment of this organization in order to achieve a better life for the peoples of Africa, reading the charter of the organization reveals that priority is given to political goals over economic goals, which is partly because once political freedom is achieved, processes towards rapid economic growth will be achieved automatically.

However, the fragile conditions of most of the economies of African countries after independence made them weak countries looking to stand again and strongly, but achieving this desired economic growth will only be possible through strong blocs among them, as despite the availability of conditions and elements of real and effective integration in the African continent, as well as the awareness of these countries and their quest for regional integration

(22) Ogochukwu Kwezi, the challenges of post- 1990 regional integration in Africa: Pan African Parliament, Centre of Policy Studies, Johannesburg, South Africa, 2009, Page7.

23 Protocol to the African Economic Community Treaty relating to the Pan-African Parliament, 2001.

24 Sally Youssef and Kawthar Mubarak, op. cit., p. 5.



and integration, but the harvest of these endeavors remains modest and depends on providing a real will to achieve the desired goal, and it is not clear how This integration can be achieved and the obstacles behind this failure can be achieved, and the Arab Maghreb Union can be considered a model for African integration.

3.2. On the areas of economic and development cooperation

This group of objectives aims to focus on certain areas, especially cooperation in the economic and development fields, where the strong link between them is not hidden, where the economy and development are inseparable, and one cannot be achieved without the other, and an entrance to economic advancement and self-sufficiency.

1.3.2 Contribute to building a more prosperous future for African peoples by promoting collective self-support and economic recovery

Vocational education and training represent the best step towards achieving collective self-sufficiency and economic advancement and are of great importance in building a prosperous future for African peoples, and this can be achieved through several measures that include promoting education and vocational training for African youth and women, providing job opportunities and support for small and medium enterprises, encouraging entrepreneurship and innovation, and establishing local and international partnerships to improve employment opportunities and improve economic growth, through the development of infrastructure and basic services such as health, education, water and sanitation. Attracting investment in vital sectors such as agriculture, industry, tourism, mining and renewable energy is very important, regulating internal and regional trade and economic cooperation among African countries, negotiating from foreign parties on the best ways to attract foreign direct investment and develop African exports, improving the business environment and providing appropriate legal and tax protection for investors, effective planning in sustainable development, conservation of natural resources and biodiversity and adaptation to climate change, and continued social, economic, environmental and cultural sustainability²⁵.

These actions can only be achieved through local and international partnerships, cooperation among states, international organizations and civil society, the provision of financial, technical and technical support, training and exchange of knowledge and experiences, and through these efforts, building a prosperous future for African peoples and improving the quality of life and sustainable development in the African continent can be achieved.⁽²⁶⁾

The²⁵ Role of Parliament in the Implementation of Sustainable Development Goals (Parliamentary Guide), Islamic Bank, UNDP and Parliamentarians Against Corruption, 2016, p. 21.

(26) Abdelsalam Mohammed Yussef, state building challenges in Libya During the post Gaddafi transition period, PhD theses, institution of graduate studies, department of political science and international relations, Near East University, Nicosia, 2022, Page 69.



2.3.2 Facilitating cooperation and development in Africa

The theoretical framework of the African Development Initiative After gaining independence, African States rushed to search for ways to get out of the economic, social and political crises that the continent was experiencing.²⁷

Through the New Initiative for Africa's Development (NEPAD),²⁸ the African Union was established in 2001 in order to break the link with the past and initiate new policies different from those adopted by the Organization of African Unity. A partnership with Africa in its development based on its African programmed, it is an opportunity to establish new cooperative relations based on collective responsibility for African development²⁹.

Obstacles to development in Africa There are obstacles, obstacles and difficulties to the realization of the right to development, both in the international community and in African States, as the international system continues to use international institutions and control international economic relations and the order of interests, influence and power, that is, the relations of hegemony suffered by millions of people and a large number of peoples suffering under the yoke of dependence and domination³⁰.

It seems that the difficulty of political negotiation between the conflicting forces to redistribute social benefits in particular and the political position in society in general is one of the most important obstacles to development in Africa, there is a consensus by a number of experts concerned with African affairs that the most prominent reasons for Africa's loss of opportunities for progress are the absence of democratic systems, and the absence of good governance systems in many African countries, which led to the spread of corruption, tribalism and ethnic conflicts that crossed themselves in a series of conflicts. Under these deteriorating conditions, African elites have found a way to live only through emigration, known as brain drain, and there is no doubt that this migration reduces the number of educated cadres capable of actively participating in development from African countries.

In a world based on global development competition and openness, sustainable and renewable development can only be achieved with the participation of all forces in society, especially the poor classes, which requires primarily eradicating illiteracy of members of the poor classes, not only alphabetically and arithmetically, but by grafting their programs with an applied and practical behavioral component related to the requirements of work, production, life and their dealings, improving technical education and vocational training, including in general education craft and vocational skills related to the needs of the labor market, and improving and developing small enterprise systems under policy guidance. These small enterprises are the most capable of absorbing and absorbing the surplus labor that most African countries suffer from, Improving health and educational services directed to areas inhabited by the poor, in a way that qualifies them and prepares them to play their productive role and participate in development, Encouraging and motivating large and medium enterprises to play their social

27 Sami Mohamed Sayegh, *Economic and Trade Cooperation between Africa and the Arab World, "Between the Challenges of Reality and the Opportunities for Building the Future"*, Rabat, Kingdom of Morocco, 2012, p. 11.

28 Sally Youssef and Kawthar Mubarak, *The Role and Future of NEPAD in the African Continent*, Arab Democratic Center, <https://democraticac.de/?p=48402/> AM 21:9, 23/16/7., 2017, p. 3.

29 Protocol of the African Economic Community on the Pan-African Parliament, 2001.

30 Khairy Abdel Razek Jassim, *op. cit.*, p. 56.



and developmental role to improve the capabilities and opportunities of taking the hand of the poor classes, through tax and institutional incentives, As well as developing the values of social and institutional control and employing them to achieve the synergy of poor communities, the social capital owned by poor communities can be developed through awareness, productive and economic incentives and community participation.

Political empowerment of the poor through the development of their political awareness, activating their participation and involvement in elections and political work, and developing their belonging to currents, gatherings, civil institutions and parties that adopt their causes and defend their interests, and through the development of their solidarity and concerted efforts in collective positions, actions and projects that increase the strength of their influence on their factional, local and national reality, The demands described above are based on reducing the activities of unproductive spending and inflation in the government apparatus, in curbing corruption and the role of unproductive activities, in generating income and to Maximizing the role of productive activities and processes, especially transformational.

3.3.2 Consolidation of continental solidarity and creation of a sense of common destiny among African peoples

Enhancing the sense of solidarity and building a spirit of feeling and common destiny among the peoples of the continent is among the most important goals of the parliament, and the way to this passes through the work of the parliamentarian to enhance cooperation and integration among its member states, as well as through supporting trade and investment and achieving economic, social and political integration among African countries, and the parliament also seeks to strengthen understanding and cultural cooperation among the member states of the continent, through supporting African culture and heritage, understanding and cultural cooperation between countries, and political and diplomatic dialogue. among Member States, through dialogues among Member States and the promotion of political and diplomatic cooperation among them³¹.

4.3.2 Facilitating cooperation between the African regional economic communities and their parliamentary forums

Creating cooperation between regional economic communities and their members in the African Parliament is one of the most important goals that the Parliament seeks to achieve, and its role in this is to promote economic and trade integration among the regional economic communities in the continent, by supporting trade and investment exchange and achieving economic integration among African countries, and Africa's contribution to global trade is still weak, and trade in goods represents the largest share of the continent's international trade, although trade in services has increased rapidly over recent decades. Trade as African countries built has shrunk dramatically.

It also prepares support for economic and development policies that contribute to cooperation between regional economic communities and their members, through the adoption of the necessary laws and legislation that seek to enhance economic and trade integration and improve the living conditions of the population, as well as dialogue and understanding between regional economic communities and their members, through the establishment of dialogues between member states and political and diplomatic cooperation between them, and also plays

31 Protocol of the African Economic Community on the Pan-African Parliament, 2001.



good governance in member states and regional economic communities, through the control of the executive authority. and legislative and governance and ensure that laws and regulations are properly applied.

Transparency and the fight against corruption are very important in the regional economic communities and their members, by monitoring accounts and financial reports and ensuring that the necessary information is available to the public, and in these ways the Pan-African Parliament seeks to create cooperation between the regional economic communities and their members, promote economic and trade integration and improve the living conditions of the population on the African continent³².

The talk on this point focused on explaining the steps that must be taken by the political and legal frameworks to pave the way for Arab-African economic and trade cooperation, then trying to provide a preliminary presentation on the priorities and opportunities available to enhance this cooperation, with reference to some of the priorities proposed to be adopted in the same field by the private sector, as well as identifying some successful experiences in the field of overcoming some obstacles to cooperation in general.

In the face of these obstacles mentioned above, a central question arises related to the issue of Arab-African cooperation: Is there a way for some short-term practical steps that can stimulate cooperation at the present time and prepare it to achieve promising breakthroughs in the future? The answer to this question is in the affirmative, as we can talk about many areas and practical steps that can be taken in order to promote and stimulate cooperation.

Powers of the Pan-African Parliament

The Constitutive Act of the African Union in order to determine and form the African Parliament and its validity to a subsequent protocol, and the protocol³³ was issued the African Economic Community Treaty, which entered into force in 2003, and did not mention that the Parliament has legislative powers, but only its advisory role in matters clarified by the protocol and we will detail them soon, but in 2014 the African Union adopted the Protocol to the Constitutive Act of the African Union related to the African Parliament, but it has not yet entered into force, and this protocol gives the Parliament the authority The most important problem arises in the extent to which the non-legislative powers of Parliament affect the general rules of parliamentary systems, especially in the field of cooperation between agencies, so we decided to highlight those non-legislative powers of Parliament with a comparison with other regional parliaments³⁴.

³² Muhammad Abed al-Jabri, op. cit., p.

³³ Article XVII of the Constitutive Act of the African Union stipulates that "1. To ensure the full participation of the African peoples in the economic development and integration of the continent, a Pan-African Parliament shall be established. 2. The composition, powers, functions and organization of the Pan-African Parliament shall be determined in a special protocol.

(34) Jakkie Cilliers, (Transformation of the Pan-African Parliament A path to a legislative body), African Security Review journal, 2016, Page 5.



The fact that the Parliament is one of the eight organs 35 of the African Union () was supposed to assume the legislative task of the Union, and like it the Arab Parliament 36 also has limited powers with regard to legislation in the Arab League, and these non-legislative powers can be launched for the Parliament because it is the important topics it deals with in order to indicate the discretionary power enjoyed by the Parliament and its members vis-à-vis the powers granted to it and highlights the importance of examining those powers to find out an important fact for the Parliament ⁽³⁷⁾.

The Protocol extended the mandate of the Pan-African Parliament to include political matters but granted the institution only advisory functions ⁽³⁸⁾, 39 although it was envisaged that the People's Action Agenda should evolve into an institution with full legislative powers, the Pan-African Parliament could currently examine, debate or express an opinion on any matter and make any recommendations it deems appropriate.

However, the Pan-African Parliament does not have the authority to appoint or control the African Union Commission or its officials and does not have budgetary powers, although it may discuss its budget and budget before its approval, where Article XI of the Protocol dealt with this aspect in detail and the Protocol calls those powers the authorities, which are as follows:

1.3 Authority to express opinions and make recommendations

1.1.3 Opinion authority

The Protocol gives the Parliament the power to discuss, debate or express its opinion on any matter either on its own initiative or at the request of the Congress or other policy-making organs and to make any recommendations it deems appropriate regarding, inter alia, matters relating to respect for human rights and the strengthening of democratic institutions and culture as well as the strengthening of good governance and the rule of law. Other, the issues relating to respect for human rights, the promotion of democracy, the promotion of good governance and the rule of law whether this important provision can be interpreted to include the authority to form commissions of inquiry, however, are not clear in the text of the Protocol⁴⁰.

By contrast, the European Parliament exercises democratic control over all activities of society, this power that was originally applied the activities of the Commission were extended only to the Council and the bodies responsible for foreign and security policy to facilitate this supervision, the European Parliament can establish a temporary commission of inquiry, this

The 35 eight organs of the African Union include the Conference, the Executive Council, the Pan-African Parliament, the African Court of Justice, the Standing Committee, the Committee of Representatives, the Specialized Technical Committees to deal with specialized sectoral issues and financial institutions.

Article 36 IV of the rules of procedure of the Arab Parliament stipulates that "the General Secretariat shall send specific draft laws and collective Arab agreements before submitting them to the Arab League to express their opinions, suggestions and amendments."

37 Marcus Burkenroad, *Designing the Legislative Power (A Practical Guide to Building Constitutions)*, International Foundation for Democracy and Elections, p.

38 Protocol to the African Economic Community Treaty relating to the Pan-African Parliament, 2001.

39 Alaa Musleh Al-Kayed, *Parliament, Ministry of Political and Parliamentary Affairs, Hashemite Kingdom of Jordan*, 2011, p. 27.

(40) Pan-African Parliament, *One Africa One Voice, Strategic Plan 2019-2023*, Midrand South Africa, Page 10.



important supervisory mandate was not only a long-standing practice but also acquired legal form.

3.1.2 Making recommendations in achieving the objectives of the Union

To make recommendations aimed at contributing to the achievement of the objectives of the Organization of African Unity, in particular the African Economic Community, and to draw attention to the challenges faced in the process of African integration as well as strategies to address them; The African Union is composed of a number of bodies and organs that work to implement⁴¹ the objectives of the Union in various fields, among which are the African Commission, a body of the African Union responsible for the implementation of the strategic objectives of the Union in the areas of Political, economic, social and cultural, as well as the African Development Bank, a regional bank of the African Union that aims to finance development projects on the African continent and support economic and social development on the continent, The African Economic and Social Council, a body of the African Union aimed at promoting economic and social cooperation among the countries of the African continent, The African Commission on Human and Peoples' Rights, a body of the African Union concerned with the protection of human rights and the promotion of democracy on the African continent, African Telecommunications is a body of the African Union that aims to promote cooperation and integration in the field of telecommunications in the African continent, these are some of the bodies and organs of the African Union, and there are many other bodies and organs that work to achieve the objectives of the Union in various fields.

2.3 Discuss and recommend the budget of Parliament and the ECOWAS before the Conference approves them

1.2.3 Discussion of the budget of Parliament and the budget of the Economic Community

The protocol states that the annual budget of the Pan-African Parliament forms an integral part of the budget of the African Union, and must be drawn up in accordance with the financial affairs of the African Union rules approved by the Assembly, and the Parliament begins to exercise legislative powers. In other words, the Pan-African Parliament prepares the proposed draft budget and participates in its discussion only to express an opinion or recommendation means that the portfolio chains are still under the control of the Assembly, which will eventually approve the budget. This arrangement does not allow for a lot of freedom for Parliament to prepare.

3.2.2 and make recommendations on them before they are approved by the Conference

The European Parliament can approve the annual budget of the European Union which covers spending in all areas and programs in which the Union participates, the European Parliament is much broader budget powers, the European Parliament and the Council are two arms in the power to legislate and debate the budget, in other words they share the debate on public finances just as they share the legislative power by exercising its budget power, the European Parliament expresses its political priorities, has the final say on most expenditures in the annual budget, such as He can also reject the budget if he believes it does not meet the needs of the Union, and he has already exercised this power on at least two occasions so far, so the budget

41 Article XI stipulates that he may: 2. To discuss and make recommendations thereon its budget and that of the Community before they are approved by the Conference.



power is one of the crucial tools for anyone - a national or regional parliamentary institution - that the Pan-African Parliament deserves to achieve in the future.

3.3 Working towards the harmonization and harmonization of the laws of the Member States of Parliament

Harmonization is the process of verifying acceptable limits for international unification but does not necessarily amount to the vision of full uniformity, and although each member state of the Union has the primary responsibility for regulating most matters within its jurisdiction, and therefore each has its own laws, harmonization aims to:

1. Establish consistency in laws, regulations, standards and practices, so that the same rules apply to companies operating in more than one member state, so that companies in one country do not receive an economic advantage over those in another different rules.
2. Reduce regulatory and compliance burdens for companies operating at the national or transnational level.
3. The objective of the African Union to achieve uniformity in the laws of member States is to facilitate free trade and protect citizens⁴².

4.3 Request that OAU/AEC officials attend its courses, prepare documents and assist him in the performance of his duties

Those in charge of the executive authority in the African Union are required to use their powers and powers, whether in general political terms or in terms of the interests of the African peoples to attend the sessions of the Parliament and one of the basics of this attendance with documents, as it leads to real discussions ending with recommendations issued by Parliament, and this is intended to inquire about his conduct in a matter of public affairs, it is a clarification tinged with accusation or criticism of one of the public actions carried out by officials.⁽⁴³⁾

Accordingly, the request to attend does not limit the discussion between the official and a limited number, but other members of the Council may participate in it, as it raises serious research and real discussions that continue even if the interpellator changes his interrogation, every deputy has the right to adopt the interpellation that the author retracted, and then the Council continues the discussion in it, and this is what is included in the Egyptian Constitution, the rules of procedure of the People's Assembly, the amended Palestinian Basic Law of 2005 and the rules of procedure of the Parliament.

5.3 Strengthening the programmes and objectives of the OAU or the African Economic Community in the constituencies of member States

They are to achieve greater unity and solidarity among African peoples and countries, to defend the sovereignty, territory and independence of all African States, to accelerate the political, economic and social integration of Africa⁴⁴, to promote peace, security and stability on the African continent, to consolidate the democratic system and its institutions, to promote popular participation and good governance, to protect human and peoples' rights in accordance with

42 Khairi Abdel Razek Jassim, op. cit., p. 69.

43 Sixth paragraph, article XI, ECOWAS Protocol on the Pan-African Parliament.

44 Khairi Abdel Razek Jassim, op. cit., p. 59.



the African Charter on Human and Peoples' Rights, as well as the relevant instruments, and to create the necessary conditions that will enable the continent to play its role. and accelerate the development of the continent, in particular through research in science and technology⁴⁵.

6.3 Enhanced coordination and harmonization of policies, procedures, programmes and activities of the regional economic communities and parliamentary forums of Africa

In it, many areas of policy are divided, however, the African Union does not control unlike most countries in foreign policy or security and peaceful policy within the continent, and these areas are primarily subject to the control of the member states of the African Union, despite the occurrence of a certain amount of cooperation and organized coordination in these areas, and in order for the Union to take substantive measures in these areas, all member states must give their consent, and the African Union treaties declare that the Union is based on The basis of democratic representation⁴⁶.

7.3 Adoption of its rules of procedure, election of its President, and proposal to the Council and the Assembly of the size and nature of the staff of the Pan-African Parliament.

The importance of the internal system of the institution It allows the parliament to improve the process of accountability between presidents and employees, and thus improve the management process and achieve the goals, the internal system achieves a sense of security and stability for employees and officials, which is reflected in the level of well-being in parliamentary work, and then the level of production, effectiveness, and efficiency, in order to achieve the objectives of parliament, and its development, and this rules of procedure are ratified by parliament after reading by the committee in charge of preparing it, and sent to the plenary session for adoption and then published this rules of procedure on the site Electronic Parliament.

In the end, the protocol gives the parliament to carry out any other tasks it deems appropriate to achieve the objectives contained in Article III thereof, according to the emerging circumstances, the parliament may take any step it deems to serve the achievement of the objectives of the African Parliament, and these steps are discretionary and leave to the parliament to decide, the estimate means the multiplicity of decisions available under the command of the disposer owner and the possibility of choosing the decision that he pleases, and the discretionary power almost takes legislative activity and there is no responsibility on the legislator in regulating any subject The discretionary power of the legislator does not differ from the discretionary power of the administration in its nature, but differs in its degree, i.e. its breadth.⁴⁷

Membership in Parliament

Seats in the Pan-African Parliament were not based on strict mathematical proportionality, and smaller member states would have had little or could have been deprived of representation altogether, thus ensuring fair and balanced representation that would take

⁴⁵ Muhannad Abdul Wahid al-Nadawi, op. cit., p. 22.

⁴⁶ Assessment of Progress in Regional Integration in Africa, Economic and Social Council, United Nations, Dakar (in-person and online), 2022, p. 16.

⁴⁷ Jafari Naima, The Relationship between the Executive and the Legislative Authority in Maghreb Constitutional Systems, Ramah for Research and Studies, 2022, p. 159.



into account the population size of all member states. It should be one of the issues that the Pan-African Parliament needs to address in the future.

1.4 Check membership in Parliament

The Pan-African Parliament shall be composed of two hundred and seventy-five deputies⁴⁸, elected by the legislatures of each of them by each equal Member State represented by five members, at least one of whom must be a woman, who shall be elected or appointed by the respective national parliaments or any other deliberative organs from among their members and reflecting the diversity of political choices, The Protocol establishing it has been ratified by five members for each Member State, including at least one woman and representing a diversity of political views. in their national parliament or deliberative organs⁴⁹.

The term of office of a parliamentarian shall correspond to that of his or her national parliament or other deliberative organ that has elected or appointed the member of parliament, such proportional representation shall grant smaller countries the same rights, access and opportunities to be heard and participate in African affairs in direct elections, and the protocol provides that the pan-African parliament will eventually evolve into an institution with full legislative powers⁽⁵⁰⁾ Its members are elected by universal adult suffrage at a time that may be decided by member states, and it is not known when direct elections will begin, because it is clear that the peoples of Africa will not elect representatives to the Pan-African Parliament, at least not in the near future.

The composition of the Pan-African Parliament poses some difficulties and dilemmas, one of which is the acceptance of the principle of representation by an equal number of delegates from each member state of the parliament regardless of the size of its population, on the contrary, the agreements that established the European Union give the parliament recognition of differences in proportions in population sizes from different member states in order to ensure adequate representation of the peoples of these countries.

However, the division of seats in the European Parliament was not based on strict mathematical proportionality, and it also meant that smaller member States would have had little or could

(48) <https://pap.au.int/en/about> (تاريخ الزيارة, 15 July 2023)

49 Article IV of the Economic Community Protocol on the formation of Parliament stipulates that:

During the transition period, the member states of the Pan-African Parliament are represented by an equal number of members. Each Member State shall be represented by five (5) members of the Pan-African Parliament, including at least one woman.

The representation of each Member State shall reflect the diversity of political views in each national parliament or other deliberative organ.

50 Article II of the ECOWAS Protocol on the Pan-African Parliament states, when dealing with the establishment of the Pan-African Parliament:

The Member States hereby establish the Pan-African Parliament, and by virtue of this Protocol its composition, functions, powers and organization.

Members of Parliament represent all African peoples.

The ultimate goal of the Pan-African Parliament is to transform it into an institution with full legislative powers whose members are elected by universal suffrage. However, until the Member States decide otherwise to amend this Protocol, the Pan-African Parliament shall remain:

An institution with advisory powers only.

The members of the Pan-African Parliament shall be appointed in accordance with the provisions of Article 4 of this Protocol."



have been deprived of representation altogether and thus ensuring fair and balanced representation that would take into account the calculation of the population size of all member States must be one of the issues that the Pan-African Parliament needs to address in the future⁵¹.

Similarly, the European Parliament did not have a direct legitimate popularity, i.e. MEPs were not directly elected but were delegated by the national parliaments of the member states, until the situation changed when the first direct elections to the European Parliament were held in June 1979.

This means that despite direct popularity, participation ensures greater transparency, legitimacy and participation, and the direct election of MEPs by universal suffrage was introduced a quarter of a century after the existence of the European Parliament, however, with regard to the European Parliament, while achieving its direct elections by universal suffrage in a year in itself was a major constitutional change that paved the way for far-reaching subsequent changes, direct elections were expected to provide the prospect of a strong parliament, representing more divided societies with powers. Greater and a wider role, with greater popular control and greater popular influence, creating a new class of elected representatives in Europe.

The European Parliament consists of seven hundred and five deputies representing more than five hundred million citizens of the twenty-seven member states of the enlarged European Union after Britain's decision to leave the Union, and since that year members are elected by direct universal suffrage for five years, and then the former French Minister of Health Simon Ville was chosen as the first female president of the parliament, and seats are allocated according to the population in each of the member states, and just over a third of its members are women, and members are not assembled European Parliament by nationality, but by political affiliations.

Since the entry into force of the Maastricht Treaty of 1993, all European citizens have been able to stand for Parliament or vote even from outside their home country, i.e. even from another European country in which they reside⁵².

One of the characteristics of the European Parliament is that it moves away from the traditional forms of governmental and opposition parties that exist in traditional parliaments, and organizes within it eight major parliamentary blocs belonging to European parties, as well as some independent members, which distinguishes them from similar institutions such as those

Protocol 51 to the Constitutive Act of the Union relating to the Pan-African Parliament, which has not yet entered into force, article IV stipulates:

"Each party shall be represented in the Pan-African Parliament by an equal number of deputies until the Congress decides otherwise.

The membership in the Pan-African Parliament consists of five elected members from each State Party.

At least two elected members must be women. Any delegation that does not comply with this requirement will not have the right of accreditation to representation in Parliament.

(52) The Treaty Establishing the European Coal and Steel Community (ECSC) was signed in Paris by Belgium, France, Italy, the Federal Republic of Germany, Luxembourg and The Netherlands. It entered into force for a 50-year period; [http://www.europarl.europa.eu/parliament/archive/staticDisplay.do?Id=\(1, August 2023\)](http://www.europarl.europa.eu/parliament/archive/staticDisplay.do?Id=(1, August 2023)).



of the appointed Parliamentary Assembly of the Council of Europe or the Pan-African Parliament⁵³.

As an elected body, Parliament began drafting proposals regarding the functioning of the European Union, for example in 1984, and inspired by its previous work on the political community, drafted the "Draft Treaty of the Foundation of the European Union also known as the "Spinelli Plan" after its rapporteur Altiero Spinelli, the European Parliament. Although not adopted, many ideas were later implemented through other treaties, moreover, Parliament began to hold a vote on the chairmen of the proposed committees from the eighties, before granting any formal veto.

Since it became an elected body the membership of the European Parliament expanded once new countries joined (membership was also adjusted upwards in 1994 after German reunification, after which the Treaty of Nice imposed a maximum number of members to be elected like other institutions, a seat or seat for Parliament was not yet determined, provisional arrangements put Parliament in Strasbourg, while the Committee and the Council had two seats in Brussels, in 1985, the Parliament wishing to be closer to these institutions By building a second chamber in Brussels and moving some of his work there, despite protests from some countries the European Council eventually reached a final agreement in 1992. He stated that the parliament would retain its official seat in Strasbourg where twelve sessions would be held a year, but with all other parliamentary activities in Brussels this two-resolution arrangement was challenged by the parliament, but was later enshrined in the Treaty of Amsterdam the locations of the institution to this day remain a source of contention.

Parliament gained more powers from successive treaties i.e. by expanding ordinary legislative procedures, and in 1999, Parliament was forced to resign the Santer Commission, and Parliament had refused to approve the group's budget due to allegations of fraud and mismanagement in the Commission, the two main parties took on the dynamic of government and opposition for the first time during the crisis that ended with the resignation of the Commission en masse, the first of any forced resignation in the face of imminent censure from Parliament.

2.4 Oath performance

Under Article VII of the Rules of Procedure of Parliament, a Parliament's term of office begins when he takes the oath of office or makes a formal declaration during a plenary session of Parliament at the first session, after the election and before the commencement of any other session.⁵⁴

(53) Julien Navarro, the Pan African Parliament in the strategic partnership between the EU and the Africa: Winner and loser? 2008. Page 7.

Article 54 VII states that the wording of the oath reads as follows: "I will perform my duties as a member of the Pan-African Parliament to the best of my best, with honor and dignity in the service of the peoples of Africa; I will be faithful and assume genuine loyalty to the African Union and my will to preserve, protect and defend the Constitutive Act of the African Union.



In the event of re-election or reappointment by the National Parliament or any other deliberative organ, the Pan-African Parliament shall again take the oath in accordance with the provisions of the preceding sub-rule, shall take the oath referred to in the second paragraph of the Rules of Procedure. A member returning from the Bureau or Bureaus shall not be excluded from continuing to perform his functions until the end of his term of office.

3.4 Seat vacancy

All parliaments because the seat of a member of parliament is vacant due to many reasons, hence we know legally as defined by the protocol of the Economic Community⁽⁵⁵⁾ as well as the rules of procedure of the parliament and these are the reasons, the seat of a member of the Pan-African Parliament becomes vacant in the following cases:⁵⁶

- a) Death.
- b) Submit the resignation in writing to the President.
- c) Inability to perform his/her duties for reasons related to physical or mental disability.
- d) In case of isolation due to misconduct.
- e) In the event of suspension of his membership in the relevant National Parliament or another deliberative organ.
- f) If summoned by the National Parliament or another deliberative organ.
- g) In the event of suspension of his membership in the Pan-African Parliament in accordance with the provisions of Article XIX of this Protocol, which in the event of his country withdraws from the membership of the African Economic Community.

4.4 Immunity and privileges of members

Members of the Pan-African Parliament enjoy parliamentary immunity like other parliamentarians, which means that they may not be prosecuted while carrying out their parliamentary duties, but their immunity can be lifted if they commit serious crimes, and the various committees of the Pan-African Parliament are responsible for monitoring the performance of the Pan-African Parliament governments in member states, legislating legislation of interest to African peoples, and promoting cooperation and coordination among the member states of the African Union.

1.4.4 The concept of parliamentary immunity

It is a kind of legal protection granted by the protocol to parliamentarians as a kind of political and legal protection so that the deputy can perform his parliamentary function in full away from any influence from any party on members of parliament through encouragement or intimidation, and national laws have guaranteed members of their parliaments special immunity in some provisions in force in criminal legislation, in two cases, the first is not to hold members of the House of Representatives accountable for the ideas and opinions they express in their work in parliament or in its committees, which is The so-called parliamentary

Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament, by law; International, peace, stability and all the objectives of the Pan-African Parliament. So, God helped me (in the case of an oath);

55 Article V of the Protocol of the African Economic Community on the Pan-African Parliament 2001.

56 Article VIII of the Rules of Procedure of the Pan-African Parliament, amended in 2022.



irresponsibility, and the second is that no criminal proceedings may be taken against a member of the House of Representatives - except in the case of *flagrante delicto* - except with previous permission from the House of Representatives, and the immunity of a member of the House of Representatives is dropped if the crime is caught red-handed, the crime is a case in which all immunities are forfeited because the crime is confirmed and the perpetrator is known and therefore there is no suspicion or suspicion of deception and deception, and what is meant here is what is stipulated in the Code of Criminal Procedure in four cases, namely the testimony of the crime at the time of its commission, and the testimony On the crime shortly after its commission, track down the offender after the crime, watch the offender shortly after the fact and prove the crime, in non-convening sessions the permission of the Speaker must be obtained, and in criminal proceedings the permission of the Speaker must be obtained outside the session of the Council.

Members of the Pan-African Parliament enjoy parliamentary immunity and cannot be prosecuted in the exercise of their parliamentary duties, but their immunity can be waived if they commit serious crimes.⁵⁷

Article VIII of the Protocol to the EPA Treaty stipulates that in carrying out their functions in the territory of each member state, members of the Pan-African Parliament shall enjoy the immunities and privileges granted to representatives of member states under the General Convention on the Privileges and Immunities of the Organization of African Unity and the Vienna Convention on Diplomatic Relations. Privileges and immunities common to most African countries, including:

1. Legal immunity: Parliamentarians enjoy legal immunity to protect against arrest or prosecution in connection with their official business, however the scope of this immunity is determined by the constitution and law of each country.
2. Tax immunity: Parliamentarians may be offered some tax immunities, such as exemption from taxes on their salaries or certain other expenses related to their parliamentary work.
3. Material privileges: Among the material privileges enjoyed by parliamentarians in some African countries are the formal houses and cars that are usually granted to them as part of the benefits of their work.
4. Immunity Asylum: Parliamentarians also enjoy asylum immunity in some cases, allowing them to take refuge in the parliament building or in another safe place in case of a risk to their lives.
5. Special immunity: Special protections can be provided to parliamentarians in some cases, such as special escorts or international travel insurance to attend parliamentary meetings.

It must be noted that these privileges and immunities are not absolute and can be restricted by the Constitution and the law of each country, and in general, the aim of providing such immunities and privileges is to enable parliamentarians to perform their functions efficiently and effectively while protecting them.

Article 57 VIII of the Protocol of the African Economic Community relating to the Pan-African Parliament 2001



2.4.4 Privileges

These privileges relate mainly to the management and organization of the legislative institution, and the rights of members within parliament such as their right to benefit from a reward for performing their legislative and oversight function and their enjoyment of parliamentary immunity for their words and deeds, and in return the law has set some limits and controls for these privileges so that they do not depart from their legitimate framework to ensure the transparency and effectiveness of parliament, but there are many shortcomings. The gaps in the texts of constitutions, organic laws and the internal regulations of the Parliament, as well as the lack of effective application of these limits on the ground⁵⁸.

5.4 Lifting the immunity of a member of the Pan-African Parliament and its procedures

African parliamentarians enjoy parliamentary immunity in each member state and therefore a member of parliament may not be prosecuted in civil or criminal cases, nor may he be arrested, imprisoned or required to pay compensation for his statements or actions inside or outside parliament in his capacity as an African parliamentarian who is in the exercise of his duties.

1.5.4 Legality of waiver of immunity

According to its Rules of Procedure, Parliament shall have the power to waive immunity in accordance with the Rules of Procedure and the waiver of a member's immunity under Article X may only be on the basis of the commission of a criminal offence. Any request addressed to the President by the competent authority of a Member State for the waiver of a member's immunity must have been declared in Parliament and transmitted to the Standing Committee on Rules of Procedure, Privileges, Ethics and Discipline. Any request addressed to the President by a member or former⁵⁹ member of Parliament must be declared a member of the defence of privileges and immunities in Parliament and referred to the Standing Committee on Rules, Privileges, Ethics and Discipline. Any inquiry as to the scope of members' privileges and immunities by a competent authority shall be dealt with in accordance with the rules laid down on assignment under these Rules.

2.5.4 Immunity waiver procedure

to the Standing Committee on Rules of Procedure, Privileges, Ethics and Discipline of Parliament to consider applications for waiver of immunity or applications for defence of immunity and privileges without delay and in sequence in which they were submitted, the Standing Committee on Rules, Privileges, Ethics and Discipline shall recommend approval or rejection of the application for waiver of immunity. The Standing Committee on Rules, Privileges, Ethics and Discipline may be required to provide any information or interpretation that the Committee deems necessary to form an opinion on whether immunity should be waived or retained. The member concerned shall be afforded the opportunity to be heard and may produce any other written documents or evidence in support of him or her defence, in proceedings relating to the waiver, the member may be represented by another Member of Parliament or a legal representative to whom the choice shall be made at his own expense.

⁵⁸ Article X of the Rules of Procedure of the Pan-African Parliament, amended in 2022.

⁵⁹ Article XI of the Rules of Procedure of the Pan-African Parliament, amended in 2022.



When the application for waiver of immunity is made for several reasons, each issue must be the subject of a separate decision. Standing Committee on Rules, Privileges, Ethics and Discipline Matters relating to waiver shall be treated with the utmost confidentiality. The Standing Committee on Rules, Privileges, Ethics and Discipline may propose to Parliament the application of waiver of immunity only to prosecution proceedings that, until the final judgment is rendered, the member must enjoy immunity from any form of detention, pre-trial detention or any other measure that prevents him from performing his duties. The Standing Committee for Rules, Privileges, Ethics and Discipline may give a reasoned opinion on the competence of the authority concerned and the admissibility of the application, but under no circumstances shall it declare guilt or otherwise nor on whether or not the views or acts attributable to him have justifying prosecution, even if upon consideration of the application they have acquired detailed knowledge of the facts of the case. Report of the Standing Committee on Rules, Privileges and Ethics Discipline shall be the first act on the agenda of the hearing.

The Pan-African Parliament needs to prepare itself in advance, and address this properly, as the situation in which the parliamentarian lives must be prevented under the fear of being summoned or stripped of his immunity as unreasonably as possible, and indeed, this fear seems to be real as long as the national parliament is allowed to use these provisions to get rid of them from its political opponents on unjustified and questionable political grounds, therefore, the advantage of placing protective clauses in the rules of procedure of the Pan-African Parliament, which from it would effectively thwart the possibility of abuse of subpoena and protocol waiver provisions, in light of these unforeseen risks, in this regard, the rules of procedure of the Pan-African Parliament may learn and adapt to the established principles of the European Parliament discussed above.

The Protocol enshrines personal freedom of voting, independent capacity and parliamentary immunities guaranteed Members of the Pan-African Parliament, term of office. The membership of the Pan-African Parliament may be terminated if he is a citizen summoned by Parliament or other deliberative bodies. Also, the Pan-African Parliament shall have the power to waive the immunity of members in accordance with its rules of procedure. However, it is not clear from the text of the Protocol whether he is a national of the sending State. Parliament has the power to request the waiver of the immunity of its citizens. Delegate to the Pan-African Parliament, this legal loophole may make the practical application of the provisions of immunity from difficult. Text Requests from the national authorities of Member States to members. Waiver of immunity was not unusual in Europe Parliament.

The European Parliament has established a number of fundamental principles through practice, the most important of which is the non-waiver of immunity if the acts of which he is accused form part of it. In important exceptions to this general rule, the European Parliament has twice (in December 1989 and March 1990, respectively) decisions waiving the immunity of Jean-Marie Le Pen, justified by the particularly repugnant nature of the remarks he made in expressing his political opinion.

A similar controversy arose in 1991, when the Greek government requested the lifting of the immunity of two Greek MEPs, who were ministers in the previous government of Papandreou, in which cases the Parliament did not grant any waiver, and that similar requests to waive the immunity of a member of Parliament may come from member states.

In this context, the European Parliament lifted the immunity of three Catalan separatist members of the European Parliament who were wanted by the Spanish judiciary, former



members of the Catalan government, which in October 2017 tried to secede from Spain by organizing a referendum that was banned by the judiciary before the local parliament unilaterally declared the region's independence. Nine of them were sentenced to up to 13 years in prison in 2019 before the government pardoned them in 2021

The end

At the end of this topic, the Pan-African Parliament is the legislative organ of the African Union in the near future, and it is the official council for consultation and discussion among African countries, and it represents an important democratic institution in the African continent, and some important results have been reached, and we will also present some recommendations that would indicate the shortcomings that must be filled.

Results

1. The absence of the legislative role of the parliament, and its limitation to expressing opinion and consultation and requesting the presence of officials in the African Union to inquire about some matters and submit reports.
2. The objectives of the Pan-African Parliament are to achieve regional integration and economic and political cooperation among African States, strengthen the capacities of national parliaments on the continent, and uphold the fundamental rights and freedoms of citizens in African States.
3. The mandate of the Pan-African Parliament is to participate in the formulation of policies and strategic decisions of the continent, contribute to the determination of the continent's political and economic agenda, promote cooperation among African countries, promote economic and social development on the continent, and promote dialogue and cultural exchange between African countries and all other continents.
4. The Pan-African Parliament is formed by the membership of the States of the African Union, and in terms of members of the Parliament, an equal number of deputies are nominated from all countries, and no matter according to the size of the State. Members of the Pan-African Parliament are chosen from among the members of the national parliaments of the States members of the African Union, and the term of office of the Pan-African Parliament is five years. As an important democratic institution on the African continent, the Pan-African Parliament is an effective instrument for cooperation among the countries of the continent and the achievement of regional integration and comprehensive development in the African continent.

Recommendations:

Based on the objectives, powers and membership we talked about, here are some important recommendations about the Pan-African Parliament:

- a. Encourage the Member States of the African Union to expedite the ratification of the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament.
- b. Work on the financial independence of the parliament from the African Union, where its budget is separate and independent of the budget of the Union.
- c. Harnessing the necessary facilities for the Pan-African Parliament in implementing its objectives and those of the African Union, by providing more



resources and support to the Parliament, and increasing the number of meetings, seminars and events aimed at enhancing cooperation among African countries.

- d. Affirm the role of the Pan-African Parliament in being the effective legislative organ of the African Union, and determine the political and economic agenda of the continent, by strengthening coordination between it and the African Union and other regional organizations, and encouraging the Parliament to operate more effectively in border and disputed areas.
- e. Improve the selection process for members of the Pan-African Parliament, provide them with effective support, and promote diversity and equitable representation of all segments of the continent, by providing the necessary support to qualified candidates and providing them with the necessary capabilities to participate in the elections.
- f. Strengthening cultural and social cooperation between the countries of the African continent and among all other continents, by providing appropriate opportunities for the exchange of experiences, knowledge, technology and cultures, and promoting cultural and linguistic diversity in the African continent.
- g. Empowering the Pan-African Parliament in exercising the rights and freedoms of citizens in African countries, through the issuance of legislation and policies that protect the rights of citizens and promote social justice in the African continent.
- h. Strengthening the role of the Pan-African Parliament in achieving regional integration and comprehensive development in the African continent, by strengthening cooperation among African countries and promoting investment in infrastructure, technology, education, health and tourism in the African continent.

Bibliography

First: Treaties, Protocols and Internal Regulations:

1. African Economic Community Treaty, 1991.
2. Constitutive Act of the African Union, 2000.
3. Protocol to the African Economic Community Treaty relating to the Pan-African Parliament, 2001.
4. Rules of Procedure of the Pan-African Parliament, 2022.
5. Rules of Procedure of the Arab Parliament, 2021.
6. Maastricht Treaty of the European Union, 1991.
7. The Legal System of the Arab Parliament, 2012.

Second: Publications:

1. Muhannad Abdel Wahed Al-Nadawi, The African Union and Dispute Resolution, "A Case Study of Somalia", First Edition, Al-Arabi for Publishing and Distribution, Cairo, 2015.
2. Sami Mohamed Al-Sayegh, Economic and Trade Cooperation between Africa and the Arab World, "Between the Challenges of Reality and the Opportunities of Building the Future", Rabat, Kingdom of Morocco, 2012.

Scientific articles and reports

1. Ahmed Mohamed Ahmed Matar, The Role of the United Nations Organization in Protecting Human Rights, International Journal of Publishing, Research and Studies, Volume IV, Issue Forty-One, 2023.



2. Democracy and Human Rights: The Role of the United Nations, Discussion Paper, International Foundation for Democracy and Elections, 2013.
3. Khairy Abdul Razek Jassim, African Union (Origin - Structural - Challenges), Center for International Studies, University of Baghdad, 2006.
4. Sharaf Muhammad Ali Al-Mizil, The Historical Roots of the Factors Affecting the Democratic Transition in the Arab Spring Countries (2010-2019), Volume IV, Thirty-ninth Edition, International Journal of Publishing, Research and Studies, 2023.
5. Mohammed Abed Al-Jabri, Democracy and Human Rights, UNESCO Region, No. 95, Kitab Newspaper, 1996.
6. Parliaments: Roles and Responsibilities in Good Security Sector Governance, DCAF (DCAF), n.d.,
7. Abdissalam Aziz, African Union Cooperation with the United Nations in the Settlement of African Conflicts, Journal of Communication in Economics, Administration and Law, 2016.
8. Gilbert Khadi gal, East Africa: Security and the Legacy of Fragility, First Edition, No. 86, Emirates Center for Strategic Studies and Research, Abu Dhabi, United Arab Emirates, 2009.
9. Report of the Peace and Security Council on its activities and the situation of peace and security in Africa, African Union Conference, Eighth Ordinary Session, January Addis Ababa, Ethiopia, 2007.
10. The role of parliament in implementing the sustainable development goals (parliamentary guide), Islamic Bank, United Nations Development Program and Parliamentarians Against Corruption.2016.
11. Sally Youssef and Kawthar Mubarak, The Role and Future of NEPAD in the African Continent, Arab Democratic Center, <https://democraticac.de/?p=48402/> AM 21:9, visit 23/16/7., 2017.
12. Marcus Burnfire, Designing the Legislative Authority (A Practical Guide to Constitution-Building), International Foundation for Democracy and Elections.
13. African Economic Community Protocol on the Pan-African Parliament, 2001.
14. Alaa Musleh Al-Kayed, Parliament, Ministry of Political and Parliamentary Affairs, Hashemite Kingdom of Jordan, 2011.
15. Assessment of progress in regional integration in Africa, Economic and Social Council, United Nations, Dakar (physical and online) 2022,
16. Jafari Naima, The relationship between the executive and the legislative authority in the Maghreb constitutional systems, Ramah for Research and Studies, 2022.
17. Oliver C. Ruppel & Larissa-Jane Houston (The Pan-African Parliament of the African Union: Composition, Mandate and Partnerships, And Its Quest for Sustainable Develop).
18. Bonolo Ramadi Kinocilia, The Pan-African Parliament and African Union Human Rights Actors, Civil Society and National Human Rights Institutions: The Importance of Collaboration, 2013, 13, AHRLJ 302-323 African Human Right Law Journal.
19. BRIEFING The Pan-African Parliament: Getting Ready for the 2017 AU-EU Summit, Directorate-General for External Policies Policy Department, European Parliament.
20. Tsegaye Demeke, The new Pan-African Parliament: Prospects and challenges in view of the experience of the European Parliament, 2004, African Human Rights Law Journal.
21. Joseph Q. Martinelli (Challenges of The African Union Mission in Sudan: Grounded Theory Case Study 2004-2007 From the Perspective of Us Senior Officials), 2017, A Dissertation Submitted to The Graduate Faculty in Partial Fulfillment of the Requirements for The Degree of Doctor of Philosophy, University of Oklahoma Graduate College. USA.
22. The 2002- 2022 Anniversary, African Union Handbook. 2022. African Union Commission and New Zealand Crown Copyright Reserved 2022.



23. <https://pap.au.int/en/about> (1 august 2023)
24. Ogochukwu Iraola Nnewi, The Role of the Pan African Parliament in African Regionalism (2004-2006): An Institutional Perspective, 2008, A thesis submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy (PhD) in Public Affairs, School of Public Management and Administration in the Faculty of Economic and Management Sciences, University of Pretoria.
25. Ogochukwu Kwezi, the challenges of post- 1990 regional integration in Africa: Pan African Parliament, Centre of Policy Studies, Johannesburg, South Africa, 2009.
26. Abdelsalam Mohammed Yussef, state building challenges in Libya During the post Gaddafi transition period, PhD theses, institution of graduate studies, department of political science and international relations, Near East University, Nicosia, 2022.
27. Jakkie Cilliers, (Transformation of the Pan-African Parliament A path to a legislative body), African Security Review journal, 2016.
28. Pan-African Parliament One Africa, One Voice Strategic Plan 2019-2023, Midrand South Africa.
29. <https://pap.au.int/en/about> (تاريخ الزيارة, 15 July 2023)
30. www.europarl.europa.eu/parliament/archive/staticDisplay.do?id77&pageRank13&languageEN (1, August 2023).
31. Julien Navarro, the Pan African Parliament in the strategic partnership between the EU and the Africa: Winner and loser? 2008.