



Chapter 5

Findings and Analysis

Chapter two laid out certain parameters, which were intended as a guide to the analysis in this thesis. Firstly, it noted some questions which will serve to guide the development of analytical themes and findings:

1. What is the collective choice problem that PAP serves to resolve?
2. Who are the institutional designers of PAP and how can their motivations in designing PAP be best interpreted (rational or non-rational)?
3. Is there evidence of long-term as against short term decision making goals of the designers?
4. Are there institutional arrangements which are emerging that
 - show intentional or unanticipated outcomes by designers
 - may result in PAP's gaining influence over time and thus effectiveness as a regional integrative institution?
 - may limit PAP's influence and thus stunt the growth of the PAP?

These questions were fundamentally geared towards answering the main research question: “*To what extent could the definitive role of the Pan African Parliament influence decision-making in the African Union?*” It was argued from the beginning of the methodology that the journey to answering the research question will begin with finding out what the definitive role of the Pan African Parliament is. It was also argued that of particular relevance to interrogating the definitive role of the PAP in African regionalism is the concept of functionality. Accordingly, taking into account the parallels evident in the institutionalised model of African Union integration and that of the European Union, it was logical to consider some of the theories that have developed over time in observing the development of European regional institutions. It was noticed that



literature was rife with theories which tried to explain the role of institutions of regional integration in deepening integration. These theories and concepts mirror different schools of thought which try to explain deepening integration in Europe for the past 50 years. While some accredit Europe's deepening integration to the ability of nation states to consciously abnegate some levels of sovereignty, others attribute Europe's deepening integration to the ability of the institutions of integration to acquire power from the centre. The disposition in this school of thought, which was relevant to this thesis nevertheless, were those theories that tried to explain how regional integration institutions emerge, grow and acquire supranational status.

Working to grasp these theories provided a challenge with regards to this study, especially if Africa's different political and social context as reviewed in Chapter four is considered. Africa's model of regionalism, which is modelled on the European institutional style, the highly intergovernmental and centralised African integration space, as well as the perennial challenge of capacity, provided a fresh research opportunity to check these theories against this work. Therefore, in order to answer the research question, this thesis had to investigate the emergence of the PAP, taking into account the concept of functionality, as well as how rational considerations can some times be absorbed in more historical and cultural factors when making decisions on institutional design.

In chapter three, the theoretical framework showed that a functionality premise views institutional function (what an institution does) as the intended consequences of institutional designers. Functionalist arguments also indicate that actors who are instrumental in developing institutions, base institutional designs (features and arrangement) on deliberate well thought out, far-sighted or long term vision. Institutions as a result, emerge as a solution to a collective choice problem. In interrogating functionality, the thesis also investigated other arguments that speak contrary to the more rational prescripts of functionality. For instance Pierson (2000:477) suggests that, while institutional effects (outcomes) may be seen as intended consequences of the designer's action, when examining the functionalist approach terms such as instrumental, farsighted



and intended should be further interrogated. This is because, sometimes institutional designers are inspired by more unintentional factors rooted in socio-cultural and historical antecedents. As such the question of who designed the PAP and motivations that inspired them is imperative.

That is why the case study section of the thesis probed the environment of PAP's emergence, examining the governance and leadership terrain of African continental politics, both before and leading up to the emergence of the PAP. The research also attempted to identify and discuss who the designers of PAP are, taking into account the history and principles of the old OAU and the transformation of Africa's regionalism path towards the formation of the African Union. The reason for this in depth interrogation of background was to isolate not only who PAP's designers are, but also to find out the intentions and motivation that informed the design of a democratic institution like PAP. In particular, the research set out to learn if these intentions and motivations were based on instrumental, long term considerations, or if PAP emerged based more on normative values like its appropriateness. Finding out the basis for the decision to institute PAP it was reasoned, could possibly unearth the definitive role of the PAP and show gaps that could either grow or stagnate this institution in the future.

Thematic framework

The objective of the analytical framework was to provide themes for analysis which will help in answering the research question. These themes were developed for the purpose of analysis on PAP's role in the decision-making of the African Union. In Chapter 2 the analytical framework was represented thus:

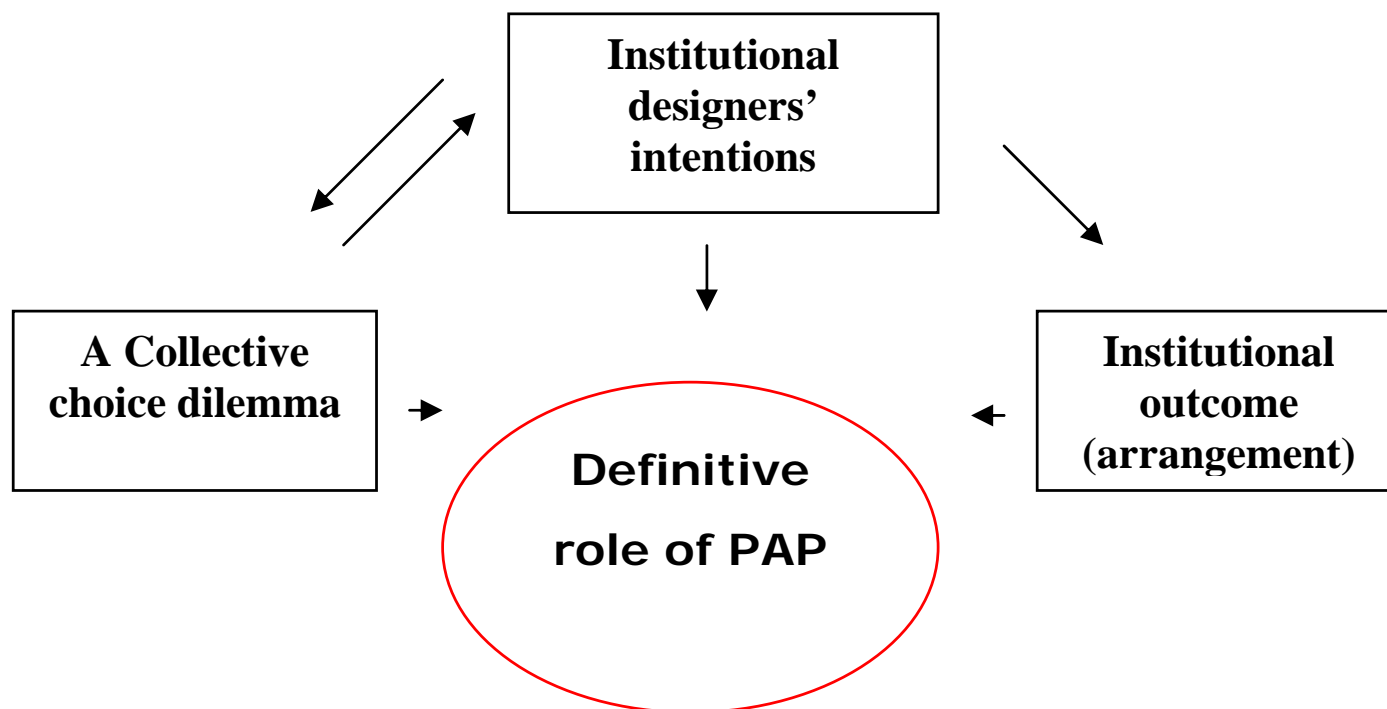


Figure 5.5: Analytical framework (Configuration mine, 2008©)

From the above, the themes for analysis will deal with findings on the collective choice dilemma that the emergence of PAP seeks to address, who the designers of PAP are and what their intentions are, these two themes could shed some light on the next theme which is the institutional arrangement because institutional arrangements are assumed to reflect the intentions of institutional designers. The culminating objective is to give indications of the definitive role of the PAP, thus final theme examines the definitive role of the PAP by investigating how the first three themes tie into this role. Based on the findings, the thesis could possibly add to knowledge by identifying some of the growth potentials and limitations of the Pan African Parliament.

Theme 1: A Collective Choice dilemma

As argued before, functionalists maintain that influential actors in the polity, will most likely base institutional designs on deliberate well thought out far-sighted vision. Based on this supposition, it has been argued that institutions exist to serve those very functions that are intended by designers. Although there are limitations to this view, which is derived from rational choice prescripts, functionality perhaps, more than any other view,



opens the way for discussions on collective choice dilemma. This is because institutional function implies the resolution of a collective choice dilemma. For instance as an answer to the ten year African economic melt down of the 1970s, two economic instruments emerged at the end of that end, the OAU 1979 Lagos Plan of Action (LPA) and the Final Act of Lagos (1980).

In international relations, regional systems are made up of many members with differing ideological and political leanings representing equally diverse groups. This state of affairs will logically entail a multiplicity of interests and motivations in matters that concern the group. Nevertheless, rationality assumes that when people come together in a group for a particular policy purpose, individual peculiarities are often put aside for the overall productiveness of the group. Therefore, if taken simplistically, the decision to reform the OAU and establish the Pan African Parliament as one of the organs of the new regional system, can be seen a resolution of a collective choice dilemma. The PAP emerged as a result of the collective agreement of AU member states on the best way to tackle African integration and governance going in the 21st century. Nonetheless, the issue of collective choice dilemma is not as simplistic, therefore the next section will go into more detail on collective choice dilemma in PAP emergence and the issues that impact on it.

Findings

This discussion focuses on the problem that the establishment of PAP seeks to address. It is argued that there are two major issues that confronted African leadership at the turn of the century which informed the move to accelerate the implementation of the Abuja treaty and the establishment of its institutions. These were the threat and limitations facing African integration in the form of globalisation with its come-in or stay-out nature and the growth of new regionalism in response to globalisation. Second was the failure of previous African collective efforts in achieving effective development for the continent.



A collective response to globalisation and Africa's past failure at regional integration and development

It has been established that the perspective of global restructuring as is seen by many globalisation watchers is actually premised on the neo-liberalism principles of Northern States. It has also been suggested that the process of globalisation as well as the international systems that govern and arbitrate in these process, have a general drift towards the economic and political principles set out by the hegemonies of the North. Ultimately, for underdeveloped and developing economies like Latin America and Africa, globalisation is inescapable. Thus, these economies have to adjust their approaches to development in such a way to adapt to the come-in or stay-out globalisation trend that is neo-liberalism.

Some authors argue that the growth of regionalism beginning in the 1990s was a reaction to the challenge of globalisation and hegemony within the global community (Hettne 2002:30; Joffe 2001: xiv). From Latin America to the Eastern Asian Tigers, collective responses to globalisation manifested and grew in regional groupings like the Mercosur in the Americas and the Association of Southeast Asian Nations (ASEAN) in Asia. Although regionalism efforts were not new to Africa, its old regionalism was no less interested in the function of integrative African institutions than on politically focused institutions aimed at nationalistic ideals. The result of this old regionalism can be seen in the failed collective economic recovery efforts of the past. Hence, African states needed a solution to these challenges in light of the unique challenges and the dictates of the global environment.

This point of view was acknowledged by African heads of state as early as the 1990 OAU summit in the declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World (OAU 1990). In it, the perennial problems of food and human security, debt burden and infrastructural deterioration were highlighted as well as the need for the move toward the stability and democratisation of African states. It was in that same summit that the Assembly of Heads of State and



Government, the highest decision making body in African regional integration system, passed the resolution to institute the African Economic Community, providing for specifically and for the first time, the establishment of a Pan-African Assembly(OAU 1991). Accordingly in 1991, the Abuja Treaty was signed, setting up the first legislative provision for the establishment of the Pan African Parliament. Nevertheless, with all its laudable provisions, the Abuja treaty remained relevant only in paper until 1999, at the threshold of the new millennium. Globalisation coupled with a corresponding growth of regionalism and the failed attempts at African collective economic recovery efforts, cemented the need to reform the OAU.

The 1999 OAU Algiers summit provided the way forward as African leaders decided to implement the provisions of the 1991 Abuja Treaty on the African Economic Community (OAU 1999a). This decision was re-enforced when at Gaddafi's behest, in 1999, an extraordinary session of the Assembly of Heads of State and Government was convened in Sirte, Libya. Running on the coattails of proposals submitted by Gaddafi on a United States of Africa, Mbeki's economic recovery plan and Obasanjo's Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA), this meeting resulted in the decision to establish the African Union (OAU 1999b). It also decided to accelerate the establishment of the institutions provided for in the Abuja Treaty, resulting in the enhanced effort to establish the Pan African Parliament.

Analysis

So far, the above discussion has attempted to identify the collective choice dilemma that the establishment of the PAP seeks to address. Globalisation and its dictates in the light of the failure of Africa's past attempts at collective economic development, peace and security and human security, provided a challenge for African leaders going into an uncertain and new millennium. In 1999, after detailed consideration of the docile, ineffective OAU and the failure of its provisions to make necessary impact in African regionalism and globalisation, African leaders unanimously began to consider the need for more assertive institutions. Consequently, the AU emerged premised on good



governance/democratic principles, sound economic prescripts and a continental peace and security mechanism.

As a result of these developments, the PAP emerged as an African collective effort to foster human rights, human security and good governance issues by integrating the grassroots in the decision making of the AU. This argument resonates with some of the early views on institutional growth where the Pan African Parliament emerged on the grand bargaining scale through an “upgrading of common interests” (Haas 1961:368). In this case, as Schmitter (1969:162) attempts to explain, members “...unequally satisfied with their attainment of these goals attempt to resolve their dissatisfaction either by resorting to collaboration in another, related sector...or by intensifying their commitment to the original sector... or both. “ This implies a spillover of tasks and power to new institutions as the resolution of a collective choice dilemma. Unlike in the early years of the formation of the OAU stressed in this thesis, in this particular process there was a greater sense of mutual collectivism in the commitment by member states to forge a new body as noted in the Sirte declaration:

“Having discussed frankly and extensively on how to proceed with the strengthening of the unity of our continent and its peoples, in the light of those proposals, and bearing in mind the current situation on the Continent, we decide to: Establish an African Union, in conformity with the ultimate objectives of the Charter of our Continental Organisation and the provisions of the Treaty establishing the African Economic Community.” (OAU 1999b: 2)

The mutual collective agreement from members to finally prioritise the establishment of the Pan African Parliament was the culmination of intent since 1990 noted in several declarations and policy instruments. Examples are the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World(OAU 1990) the African Charter for Popular Participation in development and transformation and the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA). The Pan African Parliament was a resolution that stemmed from



the perennial challenge of democracy, good governance, human security and human rights in African leadership. These issues had come into prominence with the mounting pressure from the effects of globalization, and the pressure from the international community. Finally, this first theme attempted to show how the PAP emerged based a collective choice dilemma that found its resolution in the development of a new continental governance and integration system. Principal was the question of globalisation and how best to focus and locate Africa in the rapidly changing global order, especially in light of the failed attempts at collective integration efforts.

Theme 2: Designers and intentions

As seen in theme one, the external environment of African regionalism had a huge influence in the two main treaty decisions (Abuja Treaty; Constitutive Act of the AU) that both conceived and produced the PAP. In the 1990s a new wave of regionalism gripped the world. Pressing internal needs and external pressure to conform to the come in or stay out nature of globalisation, and the collapse of communism meant that to avoid global marginalisation, Africa as a collective, needed a new integration strategy. Therefore in 1991, the Assembly of Heads of State and Government decided that the Abuja treaty, with its pro-democracy institutions represented this strategy. In effect, this was important in order to be seen as a possible player in the fast changing world order, especially in the light of African external problems like international debt (Mukisa & Thompson 1995: 59). However, it was not until 1999, that OAU transformation became more palpable. This was made possible by recipe of globalisation and regionalism mixed with a changing African leadership terrain with the emergence of some transformative and influential African leaders. In this case one can say that the foreign policy interests of three African heads of state (Obasanjo, Mbeki and Gaddafi), in particular catalysed the transformation of the OAU into the AU, resulting in the establishment of the Pan African Parliament as one of the organs of the AU. This transformation also augured well for leaders of smaller African states who saw this as opportunity to become equal players and beneficiaries in the hitherto lopsided regional integration landscape.



PAP designers can be grouped into two, the principal designers as the politically inspired Assembly of Heads of State and Government and their representatives and the secondary designers as the technocratic UNECA. Although the motivations and intentions of the two groups of PAP designers are different, both the technocratic UNECA and the political Assembly of Heads of State and Government or their representatives seemed to gravitate between the rational scale of decision making and more the idealistic range. Rationality entails weighing up the means/end implications of a decision.

The UNECA operates largely based on instrumental concerns in light of its more technical role in integration, making it more likely to think in the long term. African heads of state are largely motivated by short term considerations. In spite of this likelihood to think in the short term, it can be argued that considering the 2001 PAP Protocol, African heads of state in designing PAP were guided by logical considerations, resulting in the manipulation of the PAP 2001 Protocol provisions to suit concerns on sovereignty. Nevertheless, a closer observation of the 1999 declarations and the negotiations resulting in the formation of the African Union will show that decisions of African leaders were laced with a cautious sense of commitment to the tenet of democracy and good governance. This argument is based on the demands of a changing global environment, the emergence of African leaders and the actual initiation of the processes that led to the reform of the OAU, with the first ever promise to voluntarily “give power” by the AU Constitutive Act (AU 2000:3). This represents a departure from of past commitments of African leaders exemplified in the OAU charter, and it differs from the intents of African heads of state in adopting the Abuja Treaty 1991, which can be dismissed as the hitherto perennial blend of rhetoric aimed at self preservation. These points are dealt with in greater detail in the discussions that follow below.

Findings

The following detail the findings of this research in terms of who the designers of PAP are. These are findings of this thesis as represented in the summary above. It will look in



detail at why the heads of state and government of Africa and the UNECA are the principal and secondary designers of PAP respectively.

Politicians: African Heads of State and their representatives as principal designers

It was not until the late the 1990s that, prodded by certain dominant African heads of state, African leaders began to consider the need for regional transformation. Theories that border on hegemonies indicate that dominant actors within a regional system, lead to collectively desirable outcomes for all the parties involved (William 1994:30). However, from the study so far, there seems to be reluctance by both scholars and African political elite to acknowledge the existence of a political hegemony within Africa. For instance, the 1960s early negotiations for the OAU, saw certain countries such as Guinea, Ethiopia, Ivory Coast and Nigeria lead the mediation and diplomatic processes, yet, not one of these countries not even radical Ghana could lay claim to hegemony. The sense of common struggles as well as the pressures of a growing neo-liberal economic world system made the view of a globally marginalised Africa united together against the world rather appealing. This makes the idea of hegemony a delicate and sensitive topic for African leaders.

Nevertheless, with a world so different from what it was in the 1960s and 1990s and considering the developments that led to the formation of the African Union in 2000, the influence of certain nations cannot be disputed. That is why in chapter 4 I delved into the African foreign policy interests of Obasanjo, Mbeki and Gaddafi, three African leaders who emerged with proposals to change African regionalism as the sun set on the 20th century.

At the Algiers and Sirte Extraordinary Summit in 1999, newly elected leaders Mbeki and Obasanjo as well as an enthusiastic Gaddafi tabled their African integration proposals and principles, all of which pointed to the need to transcend the usual rhetoric of African integration and aspire to the supranational imperatives of integration. For Mbeki, it was



the institutionalisation of good economic and fiscal governance to tackle the reality of globalisation. Mbeki's idea of good governance meant the creation of institutions with certain levels of supranationality, to promote democracy and human rights. Obasanjo's interest lay in the institutionalisation of a peace and human security mechanism within the continent, through the "Conference on Security, Stability, Development and Co-operation in Africa" (CSSDCA) or the Kampala document, as a precursor to genuine African development. The Kampala document as a policy document drew attention to the link between peace and security and popular participation in Africa and emphasised the need for a common African Agenda towards peace (ALF¹²: 1991). In the years leading up to the reform of the OAU and subsequently after the establishment of the African Union, the issue of supranationality remained a focus of debate. This was more so in 1999, with the resurrection of the United States of Africa idea by the Libyan president Muammar Gaddafi. Although Gaddafi's idea of an African state did not materialise, it seemed his idea was acknowledged as the inspiration for the "frank" and "extensive" deliberations that led to the decision to proceed hastily with the process of establishing the African Union (OAU 1999b: 2).

Therefore, riding on the back of the proposals of Obasanjo's CSSDCA document, Mbeki's African economic renaissance plans and Gaddafi's vehement proposal on the United States of Africa, a compromise resulted in the decision to replace the OAU at the Sirte conference of 1999 (Tieku 2004:261). Smaller states in the region also saw the new African experiment as an opportunity to disperse the powers of strong states within the region to supranational institutions of the new AU. The idea that certain individual heads of state brought about the much needed reform in the OAU ties in with Grugel and Hout (1999:4) view on regionalism as state action in response to the vision of relatively autonomous states in the region. As a result it can be argued that the concerted and sometimes assertive effort by certain influential African leaders like Mbeki, Obasanjo, and Gaddafi to push for more legitimacy for African integration, resulted in the acceleration of and re-commitment in 1999 to build strong democratic and economic integration institutions. Accordingly, if African leaders by signing the treaties and

¹² See reference: Africa Leadership Forum



protocols that established the PAP are its designers, Obasanjo, Mbeki and Gaddafi are its anchor-designers as they provided the impetus that catalysed the emergence of the Pan African Parliament

Technocrats: the UNECA as designer

In the early 1990s, the UNECA organised the International Conference on Popular Participation in Arusha Tanzania, a joint effort between the UNECA and civil society organisations in Africa (UNECA 1990). The Arusha Charter on popular participation in development and transformation, which emerged from the conference was critical in the drafting of the Abuja Treaty which introduced the Pan African Parliament as an African integration institution. According to Asante (2001:5), the Abuja Treaty which provides for the establishment of the Pan African Parliament reflects the core principles contained in the UNECA's African charter for popular participation in development and transformation.

Neo-functionalists regard experts or technocrats as the drivers of deepening integration, especially as decision making becomes more complex at the member state level. Integration scholar Haas (1964:9) in fact proposes that the disharmony and conflict that comes with political authority can be avoided if technocrats and experts are put in charge of integration. Although there are arguments which question this reliance on experts as drivers of integration (Simon 1967:98), the central argument of tasks over power, is that it fosters agreement where there could have been political deadlocks. Contrary to this view, the role of the UNECA as designer of AU institutions seems to be more concentrated on its technical and knowledge expertise. This is because, so far as decision making goes African leaders hold the power in the highly statist setting of African integration.

This scenario perhaps indicates why, treaties, declarations, protocols and conventions in the African integration space, sound and look good on paper, but are not carried through



in practice. Accordingly, although the 1970 Lagos plan of Action (LPA); the 1991 Abuja Treaty and the 2000 Constitutive Act of the African Union, provide for democratic, participatory leadership in African integration, there was little political will to adhere to the conditions of the technocrat inspired plan. The technocrats (UNECA) propose and the politicians (African heads of state) dispose. Moreover, consider that regardless of the development of the Abuja treaty and its signing into effect by African heads of state, the UNECA could not make decisions about the implementation of the plan.

Analysis

This analysis aims to interrogate the intentions behind the decision to establish the PAP. Bearing in mind the theoretical standpoints on macro and micro integration processes, like institutionalism and intergovernmentalism prescripts, as well as the institutional, policy and governance framework of African regionalism, the following deductions were made in the determination of PAP designers and their motives. It will also investigate the motivations and intent that may have guided the Assembly of Heads of State and Government of Africa in particular to sign the treaty that set up the democratic institutions of the AU (the PAP being one of them) despite the threat this represents as far as sovereignty issues are concerned.

Motivations and intent in the emergence of PAP

It was argued in the chapter 4 review of African regional integration efforts that for years scholars of African integration, have probed the commitment of African leaders to African integration as bothering on the rhetorical, emotional and symbolical (Nye 1965: 872; de Waal 2002: 463; Franke 2007). The reason for this as presented in scholarship was due to the highly emotive content, symbolism and ideology of African regionalism efforts. Those early commitments were labelled as symbolic, rhetorical and emotive, resulting in the proliferation of dysfunctional institutions of integration, more detrimental



to African integration than beneficial. However, this study also showed that from the late 1990s, there seemed to be a deviation from this stance as noted by certain scholars (Mistry 2000:556; Asante 2001:5; Tieku 2004; Bach 1999:1; Ethier 2001:4; Lindberg 2006:120). Thus this thesis argues that the emergence of new democratic governments in Africa in the late 1990s, as well as the reality of globalisation which has fomented the re-birth of regionalism efforts across the globe among other factors, engendered more action and commitment to African integration by African leaders. In particular the thesis examined the efforts of African leaders like Obasanjo, Mbeki and Gaddafi in this light. Nevertheless, it is yet too early to call on how these commitments to African unity, (largely due to the realisation of the global realities of our time) differ from those that followed early on after the independence of African States.

Having identified the designers of PAP, it will be important to reconsider the decision to establish the PAP in order to find out how and what interests, motivations and intentions drove these decisions. This is because to fully test the rational choice argument it will be important to see how far PAP's present institutional arrangement is a reflection of a calculated long term strategy by its designers, in particular African heads of state who decided on and signed the relevant legal documents.

Chapter 4 considered the designers' environment in terms of the African and global political economy at the time of the signing of the major treaties that introduced the PAP. This is because in theory, there is an existing link between the structure of the polity and how it affects collective behaviour (Hall and Taylor 1996:937). It was therefore necessary to use context (policy, social and political) to infer the motivations that guided decisions in the continental sphere such as how certain policy legacies in the OAU, national political leanings and the prescripts of the international community may have contributed in structuring decision making in the African integration. This is because rational prescripts would suggest that the present PAP institutional arrangement is the outcome intended by African leaders. However, considerations in this light will take cognisance of these concerns:



1. The contemplations and acceptance of the long term implications of the Pan African Parliament assuming full legislative powers
2. That having a Pan African Parliament entailed the recognition that to make this institution viable as a legislative making body, a level of sovereignty may be abrogated.
3. That if this abrogation was not tenable, this institution may potentially become a white elephant institution of African integration, stifled in terms of playing its role in legislating African development and human security matters and in harmonising African integration policies and pronouncements to deepen integration.
4. The cost implications of setting up these institutions especially in terms of the financial and human capital required to make these institutions viable.

This then implies certain growth implications for PAP if this is the case. It is argued that the commitments or intentions behind the establishment of the new initiatives in African regionalism and by that the Pan African Parliament, need to be interrogated. This is because, in order to avoid the inertia that has characterised African institutional integration thus far, it will be important to examine how far African leaders have moved away from rhetoric and symbolism in the reformed African Union and its democratic organs. To answer this, the next section attempts to weigh intentions and motivations, by interrogating the import of the legal instruments that ushered in the Pan African Parliament (PAP).

Intentions and motivations: The treaty establishing the African Economic Community 1991 (Abuja Treaty)

The Abuja treaty is relevant to this discussion in so far as it is the foundational treaty that provides for the establishment of the Pan African Parliament. The treaty positions the Pan African Parliament as an integral institution in the journey towards an African Economic Community (AEC). Incidentally, the Constitutive Act ushering in the African Union incorporates the institutions and principles of the Abuja Treaty. Still, the Abuja Treaty



remained in limbo for about 10 years after its signing. But, in signing the treaty, African leaders were agreeing to all the conditions and implications of the treaty. It is argued here that the value of the Abuja Treaty with its laborious and costly six staged plan for an African Economic Community as well as its pro democracy institutions (OAU 1991:10), had more rhetorical than genuine significance to most African leaders at the 1991 Abuja Summit. Internal governance issues and the non-interference culture of the OAU are some of the reasons for this argument. These are explained in detail in the following discussions.

First of all, the long term plans provided by the Abuja treaty goals (37 years to achieve the African Economic Community), augured well for African heads of state especially in countries with little stability in terms of regime change. This suggestion is made based on the leadership terrain in Africa between 1990 and 1991, which was composed of a large number of unstable states. There were illegitimate autocratic governments in Africa, with few democracies in Botswana and Cape Verde. These illegitimate governments included the military Junta in Nigeria, Ghana, Benin, Burkina Faso, Burundi, and Central African Republic; life presidents in the Gambia, Gabon, Togo, Angola, Malawi, and Equatorial Guinea and long drawn civil unrests in the Democratic Republic of Congo, Angola, Ethiopia/Eritrea, Sudan and Somalia and up start wars in Liberia and Sierra Leone. Moreover, there were more pressing internal problems aggravated by the heavy debt burden and the dire economic constraints of the Structural Adjustment Programme (SAP) of the International Monetary Fund (IMF). This was coupled with the repressive, embezzlement of state resources by the many African dictators and political instability. For instance, Nigeria's military President Ibrahim Babangida had just the year before in 1990 executed 68 Nigerian master minds of the Gideon Orka Coup between July and September of 1990 (New York Times 1990). For that reason, adopting a complicated and costly integration plan, with a long implementation span, meant that in the short term these heads of state could pursue more pressing national uncertainties of leadership.

In this manner, moved by local and external pressures, African leaders were content to support a plan that incorporated the values of the new economic and democratic world



order, but which at the same time did not represent an immediate threat to their sovereignty. Thus, short term rather than long term interests may have motivated the adoption of the Abuja plan and that the UNECA inspired Abuja Treaty was adopted based more on its appropriateness to please the international community and institutions, than on the practicality of it based on a genuine care for the future. This is because while the democratic provisions of the treaty posed a governance challenge for some African heads of state, the non-intrusiveness of the long term provisions were of even more benefit to the heads of state at the time.

Furthermore, the OAU institutional culture of non-interference in the national affairs of member states entrenched in Article 3 of the OAU founding charter, created a huge gap in terms of the ideal and the practicable. In this sense, while the provisions of the Abuja treaty provided the ideal situation that was perceived for African integration, the article 3 principles of OAU provided a loophole making members unaccountable should they not follow treaty provisions. Even in the new dispensation of the AU and notwithstanding the amendments in the Constitutive Act of the AU to accommodate more AU intervention at certain levels of internal conflict, the traditional thread of non-interference seems to have survived as a policy of the AU.

Finally, while the instrumentality and farsightedness of the UNECA is seen in the six staged plan of the Abuja Treaty, the same cannot be said of the decision by the Assembly to adopt the Abuja Treaty, especially with its supranational prone institutions. With short term challenges like the preservation of internal political power and national economic mismanagement, the Assembly of African Leaders lacked genuine interest in the issues at hand. As such the democratic values of the Abuja Treaty were irrelevant as decision making at this time was aimed at maximising short term gains. Based on this, it seems that African leaders did not adopt the Abuja Treaty based strictly on the potential of such a plan to change the lives of African people, as there seemed to be no genuine interest in the future. Taking this trend of thought, it can be inferred that in adopting the Abuja Treaty, as against rejecting it out right, history, culture and ideology may have inspired



again, the traditional “rhetoric” of African Unity. Little wonder that the plans of the Abuja Treaty remained in limbo for years until 1999.

Intentions and Motivations: post Abuja Treaty

Unlike in 1991, African leaders by the end of the 20th century were more concerned and interested about the outcome they wanted from African regionalism going into the 21st century. It seemed that this level of engagement will spell more instrumental and committable decision making. With the buzz of the new millennium in 1999 there was pressure on African leaders to forge stronger continental unity, especially with the growth of regional trade blocks and with the international community watching. These developments necessitated the call for reform in the OAU and the establishment of certain democratic institutions of integration. It is argued that this pressure to reform African Unity moved away from the usual rhetorical allegiance for two reasons: globalisation and the emergence of certain continental leaders at the time.

In 1999, the emergence and re-emergence of regional leaders in traditional regional power houses like Nigeria, Libya and South Africa, and their individual foreign policy designs, inspired a sense of legitimacy (especially in the international community) to the renewed promotion of the African Economic Community with its proposed institutions. The collapse of the past initiatives in continental governance and Africa’s plethora of challenges may have necessitated the hands on approach of African leadership in the matters at hand. So it is suggested that there was greater lucidity in the decision to reform.

Accordingly, in 1999, in Sirte Libya, motivated by the challenges and opportunities buried in the prospect of the new millennium, the international political and economic pressures for reform, as well as the renaissance enthusiasm of certain leaders of middle power Africa states, African heads of state agreed to proceed with the transformation of the OAU. As a result, in Lomé in 2000, the Assembly of Heads of State and Government adopted the Constitutive Act of the African Union. From the Sirte declaration to the signing of the Constitutive Act of the African Union, African leaders seemed to show a



renewed commitment to African regional integration. Nevertheless, the issue here is how this commitment differs from that of their predecessors in the formation of the OAU and subsequent treaties, protocols and conventions of the OAU. This question is deemed necessary in considering that designers' intentions are reflected in the institutions they create. In this way greater commitment means a genuine care for the future, which in turn will be reflected in the nature of the design of the AU legal and institutional arrangements. In this case, these legal instruments will provide for a PAP with sufficient legal and institutional leeway to accommodate growth.

There are suggestions that PAP designers may not have given much thought to the long term consequences of establishing an African Parliament, (personal Communication, 28th September 2007). This is because with the sovereignty and non-interference culture of African collective efforts so far, the establishment of these new AU institutions entailed again, a test on the willingness of African member states to relinquish certain levels of sovereignty and become pliable in the hands of a supranational continental system. This view is however debatable and the following analysis of the legal provisions that establish the PAP will show that more than in the past, there was judicious consideration in the decision to establish PAP and other AU organs. An in depth analysis of the post 1991 legislation relating to the PAP supports this view as will be seen subsequently.

The Constitutive Act of the African Union: In 1999 at the extraordinary summit in Sirte Libya, the Assembly of Heads of State and Government made a decision to:

“Ensure the speedy establishment of all the institutions provided for in the Abuja Treaty; such as the African Central Bank, the African Monetary Union, the African Court of Justice and in particular, the Pan-African Parliament. We aim to establish that Parliament by the year 2000, to provide a common platform for our peoples and their grass-root organizations to be more involved in discussions and decision-making on the problems and challenges facing our continent”
(EAHG/Draft/Decl. (IV) Rev.1) (OAU 1999b:2)



This view is expressed later in the 2000 Constitutive Act of the African Union where the heads of state, not only acknowledged the same values of participatory decision making in the AU but also stated their determination to equip these institutions with supranational potential. Therefore African heads of state determined to:

“...take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them discharge their respective mandates effectively”. (AU 2000:3)

In this decision African heads of state committed themselves to not only establish and strengthen common institutions as is seen in the OAU Charter (OAU 1963a:2) but to afford or grant these institutions powers as necessary to fulfil effectively their mandates. In this way, unlike the emphasis on the limits of powers institutions as is contained in the OAU charter and the Abuja Treaty (OAU 1991:13), the Constitutive Act by this clause engages the issue of voluntary abnegation of powers to supranational institutions.

This view is further authenticated by scrutinising the nature of institutions mentioned in the Sirte declaration and provided for in the AU Constitutive Act. These are institutions like the Pan African Parliament, the Peace and Security Council and the African Court of Justice and Human Rights which are geared to uphold the tenets of good governance, democratic leadership and the preservation of human security and rights in Africa. As a result, their powers ought to escape national and continental politics, and by so doing, should have supranational potential. The Pan African Parliament for instance should be like any national Parliament and should “exercise legislative, budgetary and supervisory powers to enable them to play a fundamental political role...” (Demeke 2004:55). Yet, exercising these functions will put pressure on the non-interference culture of the OAU.

In the statement above, the heads of state seem to recognise the need to strengthen institutions like the PAP and provide ‘necessary powers’ to PAP. The heads of state in doing so seem to acknowledge that only when they begin to delegate decision making powers to the institutions of the AU like PAP, can these institutions fulfil their respective



mandates in driving regional economic integration and security. It then follows that as a legislative organ, the Pan African Parliament's role ought to develop into a supranational one.

In further interrogating this issue, it must be acknowledged that the Constitutive Act in engaging the possibility of voluntary surrendering of certain powers represents a milestone in the efforts in African integration. Even so, the question is whether PAP designers not only acknowledge the need to give necessary powers to institutions like the PAP, but also whether the designers are equipped for the implications and challenges of regional institutions like the PAP acquiring supranational status. Prior to the Sirte declaration, for more than 30 years, the main principle that governed African integration was rhetoric, possibly driven by the culture of non-interference (OAU 1963a; 1963b). Accordingly, in terms of this decision to establish regional institutions with the potential to undermine state sovereignty, the issue of whether this was a rational decision or one based more on appropriateness should be interrogated.

The next section may provide some answers. Here it is argued that the provisions of the Protocol to the treaty establishing the African Economic Community relating to the Pan African Parliament show that there was calculation and reason in the decision to establish the Pan African Parliament.

Beyond rhetoric: The Protocol to the Treaty establishing the African Economic Community relating to the Pan African Parliament (PAP Protocol)

After the decision to speedily set up all the relevant institutions provided for by the Abuja Treaty, in 2001, the PAP Protocol was adopted by African heads of state. If the Abuja Treaty and the Constitutive Act thereafter provide the broad agenda for the establishment of the PAP, the Protocol is the legal framework that defines the powers, functions and the organisational arrangement of the PAP. From the provisions of the 2001 Protocol establishing the Pan African Parliament, it seemed that the transformation exuberance for



the new millennium, which informed the Sirte declaration and the Constitutive Act settled into rational stock taking. It is equally argued that the Protocol shows a calculating and weighted decision making of African heads of state for the following reasons.

In calculating the import of having an institution like the PAP, the heads of state duly acknowledged that there will be long term implications and consequences in establishing the PAP: “conscious of the obligations and legal implications for member states of the need to establish the Pan African Parliament...” (AU 2001:2). In this light, PAP designers were aware of the fact that as a legislative body, the PAP can make legislations which each African state is expected to comply with even if these laws may impede on some issues of political preservation and contrast with national interests. They acknowledge that the Pan African Parliament will by so doing, play an oversight role over the executive.

Nevertheless, it must be remembered that the AU Assembly of Heads of State and Government is and has been a highly centralised decision making organ. Secondly, there is the legacy of non-interference in the OAU to consider as well as the long duration given for achievement of treaty goals (the 37 year clause of the Abuja Treaty’s timeline for full powers of the Pan African Parliament). The argument is that institutional legacies such as these played a role, conscious or unconscious in the nature of the emergent PAP. Historical institutionalists are of the view that past institutional legacies tend to shape future decisions. In fact Hall and Taylor (1996: 940) argue that “institutions are resistant to redesign ultimately because they structure the very choices about reform the individual is likely to make”. Historical and cultural factors in this way sway choices to the familiarity of an existing policy structure. This is reflected in the ethos of non-interference which has dictated African relations for decades. Its influence is resilient as African heads of state pay homage to it in the Protocol by “...considering the principles and objectives stated in the Charter of the Organisation of African Unity” (AU 2001). Consequently, it will seem only logical that while recognising the full legislative role that the Pan African Parliament is meant to play, short term considerations entailed that African leaders will try to protect their sovereignty and political ambitions. As a result,



the noble objective of bottom up participatory decision making in the AU pushed by some in the rank of African leaders, was restrained by a limiting clause which holds a lot of promise for non-interference.

Taking these arguments into consideration, there is little wonder that the definitive clause that established PAP in Article 2 (3) of the Protocol reads that:

“the ultimate aim of the Pan African Parliament shall be to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage. However, until such a time as the Member states decide otherwise by an amendment of this Protocol: the Pan African Parliament shall have consultative and advisory powers only; and the members of the Pan African Parliament shall be appointed as provided for in Article 4 of this Protocol.”

Along these lines, Article 2 (3) effectively, puts a check on the Pan African Parliament acquiring legislative, budgetary, and supervisory powers. The inaugural session of the Pan African Parliament took place in Addis Ababa Ethiopia, in March 2004,. Since then the PAP has had eight ordinary sessions and passed more than 26 resolutions and made 30 recommendations (2006 personal information, PAP website).However, not one of the recommendations of the Pan African Parliament has been recognised by the African heads of state in their decisions.

According to articles 24 and 25 of the PAP Protocol, after the first five years of the entry into force, there ought to be review in see the operation and effectiveness of the Protocol. According to the Protocol this is to ensure that the objectives, purposes and vision of the Protocol are being realised and are meeting the “evolving needs” of the African Continent (AU 2001). A two thirds majority decision of the Assembly will make amendments to the Protocol. The PAP has begun its struggle for survival. It is the nature of institutions to protect themselves and develop a life of their own. At the end of its second ordinary session between September and October 2004, the PAP was already recommending a review of its Protocol, so as to establish a clear time limit for the first



term of the PAP, going as far as suggesting a first term of 5 years (PAP 2004). The PAP in the same session resolved to strengthen the parameters of its oversight rule. While the timeline for the review of the Protocol is provided for in Articles 24 and 25 of the Protocol, there is little institutional capacity and support currently for this review to result in considerable change.

The nature of these recommendations and resolutions, reflect the determination by PAP to acquire powers fast. Cilliers & Mashele (2004:75) capture this urgency by the PAP to fully exploit these first term powers to pave the way past a ceremonial role. Although PAP is just in its fourth year, it is unlikely that a review will result in the devolution of much power to the PAP by the African heads of state. This is because there is a clear difference between the strength of these powers on paper and the strength of the powers as manifested in the influence exerted by PAP on the key decision making organs of the AU. It is going to be a long arduous journey for the PAP in this light.

In terms of the decisions to reform the AU and establish AU institutions, African heads of state moved beyond rhetoric and so far, most of the AU institutions provided for in the Constitutive Act have been established. Even so, the crux of the matter is the arrangements that the institutions are showing, as this in turn is dictated by designers and represents perhaps, designers' intent. Do these institutions have the ability to escape institutional dysfunction? Initially, it seemed that these institutions and PAP in particular will be different from past initiatives in terms of their function and powers. However, the manifested design of PAP as seen in its Protocol sets a different tone in terms of PAP's role in the AU. Presently, the PAP is seen as a talk forum, an advisory body of the AU. In fact there are suggestions that PAP has been designed more like the advisory Parliamentary Assembly of the Council of Europe than the European Parliament (Clerk, personal communication 28th September 2007). Summarily, there seem to be evidence of both a rational process as well as decision making based on the familiarity of institutionalised historical and cultural factors. Firstly, in signing the Abuja treaty that introduced the Pan African Parliament in 1991, there seemed to be no commitment by African leaders to the implementation of the treaty. This is attributable to the solely short



term considerations about pressing domestic constraints (autocratic leadership, war, coups and economic hardships), the highly centralised nature of decision-making in the OAU, as well as the non-interference culture of the OAU. In twenty first century Africa, these issues still pose a distraction and African leaders still have short term interests. Also, there is no debating that African heads of state still hold issues of national sovereignty sacrosanct. It is then important to consider why African heads of state have not only legally provided for the internationalisation of governance and human security issues in the continent, but also established institutions to support them, especially seeing the challenge this is likely to pose for national autonomy. What changed with the Sirte declaration, the Constitutive Act of the African Union and the Protocol that establishes the PAP is that African heads of state this time were faced with and approaching new millennium, a highly globalised world and a crop of African leaders eager and ready to stamp their influence in African integration. Thus, despite the long term implications of such a venture, decided to begin the journey, albeit reluctant to go full throttle. This strategy resulted in the creation of a potentially dynamic democratic institution, but with a safety latch (in legislation) to hold in this potential for as long as African heads of state deem fit thus removing the immediate threat to state autonomy. The issue now is whether Africa can risk stalling integration.

In conclusion, the PAP exists exactly in the form that its designers wanted. It is an indeterminate state especially in terms of its powers. This has significance in terms of the future existence and growth of PAP. Theme two has established that PAP's present institutional form represents the deliberate, calculated considerations of its designers (African heads of state) albeit informed by a strong institutional heritage from the old order. Consequently, in acknowledging the consequences of giving supranationality status to AU institutions the PAP was established with conditions. By so doing, African leaders showed a calculating and long-term disposition oddly informed by short term political concerns and a strong sense of allegiance to the old OAU culture. Taking a thread from the first two themes, theme three will inspect how these designer's intentions as shown manifest in PAP's institutional arrangements. Theme three will show how legislation in form of PAP Protocol, Rules of Procedure and other AU conventions have



shaped the functions of the PAP in budgeting, policymaking, organising, human resources and control in the AU.

Theme 3: Institutional arrangements

It ought to be first stressed that PAP's institutional arrangements must be dealt with within the context of the equally nascent AU. This is because, taking cognisance of an AU system in the process of growth will put discussions in perspective, especially as it concerns the role that past legacies can play in building new institutions within the AU and the emerging opportunities that abound in a growing AU which its institutions can exploit to advance their survival and grow their influence. By so doing, one can better put the findings on PAP's institutional arrangement in context.

It has been suggested that the Pan African Parliament represents a transcending of OAU rhetorical legacy in terms of institution building. That notwithstanding, this premise must be seen in light of the institutional and political trappings which threaten to annihilate it. There is no doubt that in the PAP Protocol, African heads of state succumbed to the pervasive dependence on centralised statist form of African integration as well as the long held sovereignty principles of non- interference. As a result, the PAP Protocol set certain limitations on the PAP in terms of its powers. Discussions so far show that these limitations are indeed the calculated intentions of PAP's designers who were more interested in maximising their own short term goals. The subsequent analysis of the institutional arrangement of the PAP will further reveal how far these limitations have gone.

Findings and Analysis

Chapter four gave a detailed description of the organisational and operational make up of PAP, by scrutinising the legislation and in-practice provisions of PAP's functional make



up. This section critically examines the implications of some of these provisions in terms of PAP's potential influence in the African Union and African regionalism.

1. Parliamentary budgetary oversight role: Authority and responsibilities

From discussions and evidence on the administrative design of the PAP in chapter four, the Parliament has not managed to exert authority in the determination of its own budget, consequently, oversight powers in terms of AU budgetary arrangements is also a challenge. Budgetary and financial responsibilities in the African Union are shared between the African Union Commission and the advisory sub-committee on Administrative, Budgetary and Financial matters of the Permanent Representative Committee (EC 2004b: EC 2005a). From the records of Executive Council decisions from 2004-2007, there is no record that the budgetary and financial process in relation to the PAP has changed even with PAP's recommendations on budgetary reform.

Presently in terms of its budget, the PAP reports to the Permanent Representatives Committee. This is despite the fact that within the legislative framework of the AU, PAP is not obligated to report to the Permanent Representative Committee on budgetary matters (OAU 2000a; OAU 2001a; AU 2002c). Indeed the PAP by provision in Article 11 (2) of the Protocol is set up to be the final gatekeeper and provide recommendations on the AU budget before it is sent to the Assembly by the Executive Council for approval (OAU 2001a). In practice, this is not happening. However, this is not for want of asking. In reality, at the 5th session of the Parliament in 2006, the PAP added to previous calls through its recommendations to have a direct input in AU budget (PAP 2006f). In fact as discussed in chapter four, the powers of the PAP was more undermined when the Permanent Representatives Committee took the position of judge and jury by instigating an audit into the PAP and providing unflattering reports of financial misuse. The Executive Council duly approved this report and also approved the recommendation of the PRC to sanction PAP Members of Parliament(MPs). In session debates after the



reprimand from the Executive Council, PAP members pointed out a lack of inter-institutional communication between the PAP and other organs of the AU. In this case, the PAP had made no input in, or any contributions to the deliberations of the PRC which produced the report (Hailu: 2007). In fact, there seems to be marked undermining of the role of PAP on budgetary matters, a situation that some MPs regard as double standards, with the Executive Council regarding some AU organs more highly than others (Bame: 2007) This financial squabble reveals the locus of budgetary powers, which is certainly not in the Pan African Parliament.

The recommendations of the PRC demonstrate a gap which exists in the AU organisational structure in terms of responsibilities, determination of procedures for work and formal lines of communication. This is perhaps more evident if one considers that the AU itself has no approved organisational structure. As for the PAP, its draft organogram is yet to be considered and approved by the Executive Council (Clerk, personal communication, 28th September 2007). This lack of organisational clarity is also captured in two points made by the Parliament during deliberations on the finance fiasco (Hailu: 2007)

1. The importance of the provisions of the Protocol to the Treaty establishing the AEC relating to PAP in terms of the liberties reposed in PAP's budgetary functions.
2. The lack of co-ordination and complementarity between organs in this case, the PRC advisory sub-committee on Administrative, Budgetary and Financial matters of the Permanent Representative Council and the PAP Permanent Committee on Monetary and Financial Affairs.

Presently, the AU Assembly through the Executive Council controls the financial resources of the AU. The AU Commission and the Permanent Representatives Committee (PRC) control the disbursement of AU allocations to the various AU organs. The PAP plays no role in the budget of the AU. Certainly, the Pan African Parliament has begun its struggle for institutional growth and relevance in the AU. As can be inferred, this struggle is enmeshed in the culture of an African Union which like the OAU, is still



fully entrenched in a highly intergovernmental and centralized structure reinforced on the premise of state sovereignty. Consequently, it seems that the traditional decision making organs of the AU don't know how to approach the concept and practicality of the Pan African Parliament.

This struggle is not new as the issue of sovereignty of states also played a huge role in the way EU institutions approached integration. For instance because of the sovereignty/supranational dichotomy, the EU Commission and the European Parliament have never been able to overcome some weaknesses in enforcement. Therefore, from the 1950s the European Parliament endured a gruelling and gradual progression from consultative, to co-operation and then to co-decision procedure in EU decision making, with varying levels of resistance from the Council and the Commission. The European Parliament's experience shows a rough road ahead for the PAP. However, how the PAP navigates this road is crucial to its potential for success in the future.

2. Policy making role of PAP

As described in Chapter four, PAP policy agenda is set by the Bureau of the PAP, the Specialised Technical Committees and the Parliament itself. The Specialized Technical Committees represent technically, a direct policy link between the PAP committees and the AU decision making system (PAP 2004: 24; AU 2000a:10). Of course the PAP Bureau can source integration policy issues from the Commission and possibly from the Executive Council. Yet, the direct AU sectoral policy source that the Specialized Technical Committees represent is crucial to the PAP in terms of its role in AU policy and institutional harmonization. Nevertheless, the Specialised Technical Committees of the AU are still in the process of being instituted (EC: 2006g; EC: 2007a). Therefore, presently, there is no direct policy making interface between the PAP committees and the AU, except one counts the vague policy relationship the PAP has with the AU Commission.



This is a challenging situation because whatever the source of proposals, ideally, PAP committees should be “...gatekeepers in their respective jurisdictions... repositories of policy expertise... policy incubators and possess disproportionate control over the agenda in their policy domains” (Shepsle & Weingast 1987:85). Nonetheless, the above description of committee powers is a huge expectation for the PAP committees to fulfil because the PAP has to first deal with its inability to establish any level of jurisdiction in the AU decision making system as highlighted in its own SWOT analysis (PAP 2005a). Therefore, PAP committees have to compete for significance with the competing sectoral policy nodes in the AU like the conference of AU sectoral ministers, the RECs sectoral policies areas, the sub-committees of the Permanent Representative Committees (PRC), the AU Commission departments and the soon to be established Specialised Technical Committees. Additionally, PAP committees, battle for policy reference points due to the non-defined relationships and institutional distance between the committees and other corresponding policy nodes in the AU.

There isn't effective inter-institutional exchange between PAP and key institutions like the Assembly of Heads of State and Government, the Executive Council and the Permanent Representatives Committee. This lack of policy complementarity is depicted in the content of recommendations made by the PAP and the total lack of consideration or acknowledgement of any of these recommendations in the decisions made by the Executive Council. This is critical, as Article 11 (4) of the Protocol gives the PAP the mandate to not only make recommendations, but to draw attention of all stakeholders to challenges of African integration. The tables below represent an overview of recommendations from the PAP 2nd to 6th ordinary sessions on conflict, institutional and



budgetary issues and how they have passed the radar of the Executive Council/Assembly decisions between 2004-2007.

2nd ordinary session: recommendations (16th September -1st October 2004

PAP Recommendations	Core Provisions of recommendation	Executive Council Decisions 2004-2007	Assembly Decisions 2004-2007
Recommendation on the establishment of a tenure for the Pan African Parliament	Assembly to review Protocol to establish a clear term limit of 5 years	Not acknowledged. Instead in 2007, the EC decides that the amendment of Assembly, Executive Council and PRC Rules of Procedure and AUC statues be adopted (EC: 2005c; EC: 2007g	Not acknowledged
Recommendations on peace and security in Africa	President of PAP to be member of the “Panel of the Wise” of the African Union Peace and Security Council	Not acknowledged in decisions between 2004 and 2007	Not Acknowledged; The President of the PAP is not appointed to the “Panel of the Wise”, January 2007 at the 8 th AU summit (Assembly/AU/Dec 152 (VIII); PANAPress 16/03/2007).
Recommendations on the budget for the PAP	PAP Budget to be approved directly by the Executive Council and the Assembly and NOT the Permanent Representatives Committee (PRC)	Not acknowledged PRC still plays an integral role in PAP budget. its 2007 recommendations on PAP audit were endorsed by the Council(EC: 2007d)	

Table 5.1: recommendations of PAP and impact in AU decision making (2nd ordinary session)



3rd Ordinary Session: Recommendations as adopted on the 11th of April 2005

Recommendations	Core Provisions of recommendation	Executive Decisions	Council Decisions	Assembly Decisions
Recommendation on the Pan-African Parliament Peace Mission to Darfur	Use Naivasha Model in negotiations; African Mission in Sudan (AMIS) administrative structure to be developed in line with proposals in PAP report on the fact finding mission to Darfur	No acknowledgement of this report of the PAP on Sudan from 2004-2007. Rather decisions are made based solely reports and recommendations of the Peace and Security Council and African Mission In Sudan (AMIS).	No acknowledgement of this report of the PAP in decisions on Sudan from 2004-2007. Rather decisions are made based solely reports and recommendations of the Peace and Security Council and African Mission In Sudan (AMIS).	No acknowledgement
Recommendation relating to Request Directed to States who have not yet ratified the Constitutive Act of the Union and the PAP Protocol		No acknowledgement of PAP's effort on this, rather, the Commission is commended on institutional and personal effort to this end in 2005 (EX/CL Dec 180(VI)).		

Table 5.2: recommendations of PAP and impact in AU decision making (3rd ordinary session)



4th Ordinary Session as adopted 2nd December 2005

PAP Recommendations	Core Provisions of recommendation	Executive Council Decisions 2004-2007	Assembly Decisions 2004-2007
Recommendation on Peace and Security Issues in Africa	Develop a mechanism to enforce promotion of Peace, security	No acknowledgement	
Implementation of the AU and PAP Budgets	AU budget be submitted to PAP for debate before approval PAP budget should be approved by Assembly (a rejection of PRC 's role in this).	No indication of acknowledgement, rather Executive Council expressed concern at the findings of the External Auditors, and set up a PRC committee to implement finding EX/CL/Dec 235 (VII	

Table 5.3: recommendations of PAP and impact in AU decision making (4th ordinary session)



5th Ordinary Session adopted May 12th 2006

PAP Recommendations	Core Provisions of recommendation	Executive Council Decisions 2004-2007	Assembly Decisions 2004-2007
Decolonisation of the Saharawi Arab Democratic Republic	AU declare illegal, any economic activities conducted in the Saharawi by international and Moroccan companies on the basis of agreements concluded with the Government of Morocco.	No acknowledgement or decision on Saharawi between 2006 and 2007	Not acknowledged
Situation in Somalia	AU organize an Inter-Somalian Dialogue Forum, with the participation of the Transitional Government of Somalia, the Union of Islamist Courts and the different layers of the civil society	Not acknowledged	Not acknowledged, however 8 th AU summit (2007) acknowledges all efforts of the Peace and security Council (Assembly/AU Dec 142 (VIII))

Table 5.4: recommendations of PAP and impact in AU decision making (4th ordinary session)



6th Ordinary Session adopted during the session 23rd November 2006

PAP Recommendations	Core Provisions of recommendation	Executive Council Decisions 2004-2007	Assembly Decisions 2004-2007
Recommendation on the solution on the creation of the University of Africa	The creation of the University of Africa	Not acknowledged	Not Acknowledged

Table 5.5: recommendations of PAP and impact in AU decision making (4th ordinary session)

Discussion

While this is not an exhaustive list of all PAP recommendations, the ones listed in the table show that no decisions of the Executive Council has acknowledged or reflected any of PAP's recommendations or reports. This suggests three scenarios in terms of policy co-ordination and control. First, that there seems to be no channel for recommendations of PAP to reach the decision making body; second, that if this channel exists it is ineffective and third that the Assembly and Executive Council are not obligated to follow these recommendations and choose not to. It follows then that these recommendations are not considered important in the overall scheme of AU decision making. Principally, although there are three determined sources of proposals for PAP (the bureau of the Parliament; the Specialised Technical Committees and the Plenary), there seems to be no structure to parliamentary committee discussions. Recommendations do not come from a consultative process with other responsible AU organs like the Peace and Security Council although sometimes, especially in peace and security issues, there is some reference to the on-going policies and projects of the AU. Additionally, the Pan African Parliament has made several efforts in bringing the importance of it exercising its



budgetary functions to the attention of the Executive Council to no avail. In fact the PAP power over its own budget is highly limited.

From the table one can deduce that the most utilized and defined working/reporting relationship in the AU is between the Assembly, Executive Council, the Commission and the Permanent Representative Committee. Take into account that although the PAP, has recommended a review of certain aspects of its institutional functions, the Executive Council has ignored this, but has adopted the amendment of Assembly, Executive Council and PRC Rules of Procedure and the Commission's (AUC) statutes (EC 2005c EC: 2007g). To highlight this point, recently, a PAP new report reported that MPs in PAP suggested that the AU/EC seems to be favouring other organs to the detriment of the PAP (Haliu 2007).

The table also highlights the Pan African Parliament's lack of influence in peace and security issues in Africa. This is because no peace and security recommendation of the PAP has been the basis of AU decision making. To the contrary, specific recommendations such as the inclusion of the PAP president as a member of the Panel of the Wise, was ignored. The issue of peace and human and food security is one of Africa's biggest challenges and the inability of the PAP to exert pressure on AU peace and security decision making may impede on the strategic role of Africa's peoples in AU decision making.

Finally, the general nature of PAP's recommendations shows that there is no inter institutional dialogue going on between PAP committees and AU structures. Noticeably, there is a lack of in depth research in the general content of PAP recommendations. These recommendations are usually, vague, not detailed, with little sign of cross referenced policy talking points in the AU. Arguably, debates and recommendations with due reference to specific and relevant Assembly/Council decisions are more likely to "draw attention" than debates on issues that have no immediate policy significance to policy decisions taken in the Assembly/Executive Council axis. Presently, it is difficult for the PAP to compete with the biased relationship in the Executive Council/PRC/AUC policy



interface. The PAP has made little progress in the policy synergy between it and the Executive Council and consequently the Assembly. This is compounded by the fact that legislatively, although the PAP is required to draw the Assembly and Executive Council's attention to certain issues, the Assembly and Executive Council are not obligated to pay attention..

3. PAP in AU organising

Another aspect of PAP's institutional arrangement that can show the limits of PAP's influence in AU decision making as purposed by its designers can be seen in the nature of the AU organising and reporting relationships. This will entail investigating where the responsibilities of PAP lie in terms of the AU organisational system. PAP's place in terms of AU organising should be seen in the context of an emerging and untested AU. The African Union at present has not approved any organogram representing formal responsibilities, duties and relationships in the AU system, therefore, there seems to be no agreed organisational representation of AU institutional relationships. This represents an organising predicament as one sees three different interpretations of AU institutional relationships in organograms originating from the Institute of Security Studies (ISS 2005:15), the Pretoria University Law Press (PULP: 2007:144) and the Pan African Parliament strategic plan (PAP 2005a:2) as identified in Chapter 4. The inter-institutional relationships provided for in the Protocols and Statutes are interpreted differently by each of these organogram.

Organogram: African Union

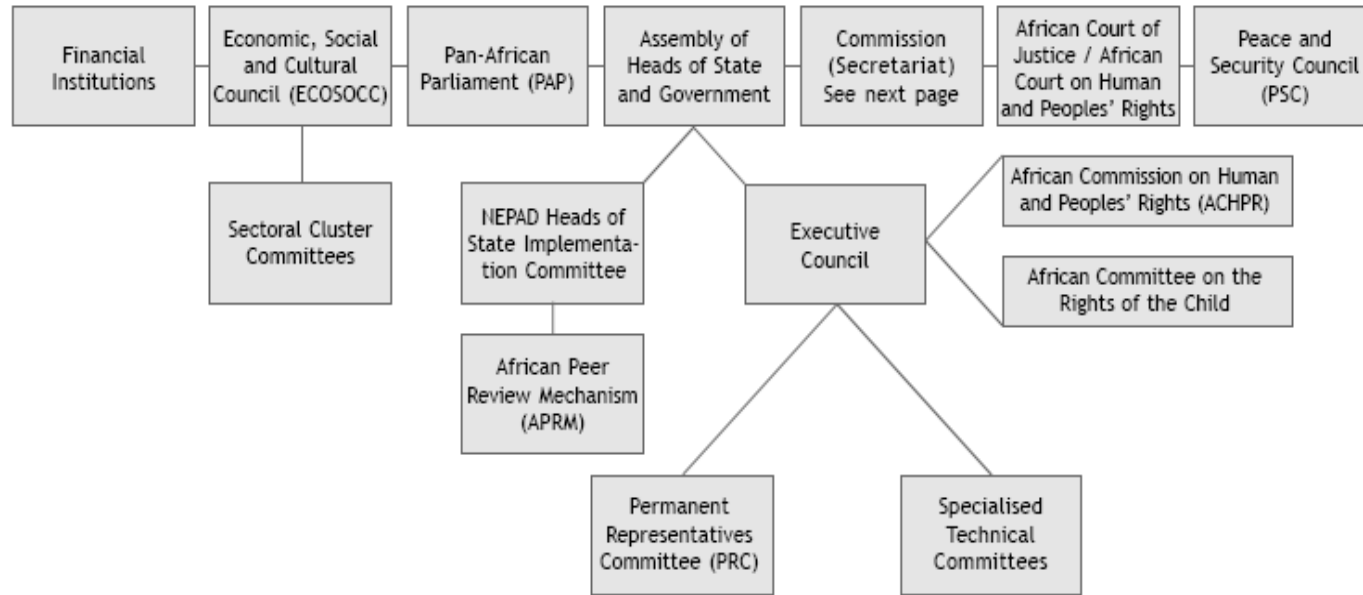


Fig.5.2: Organogram of AU institutional relationships(PULP)

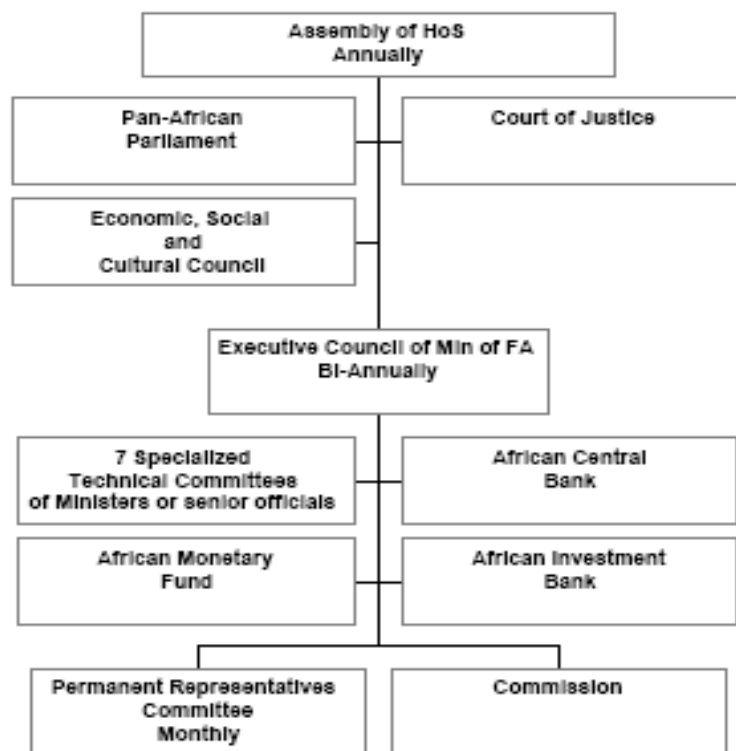
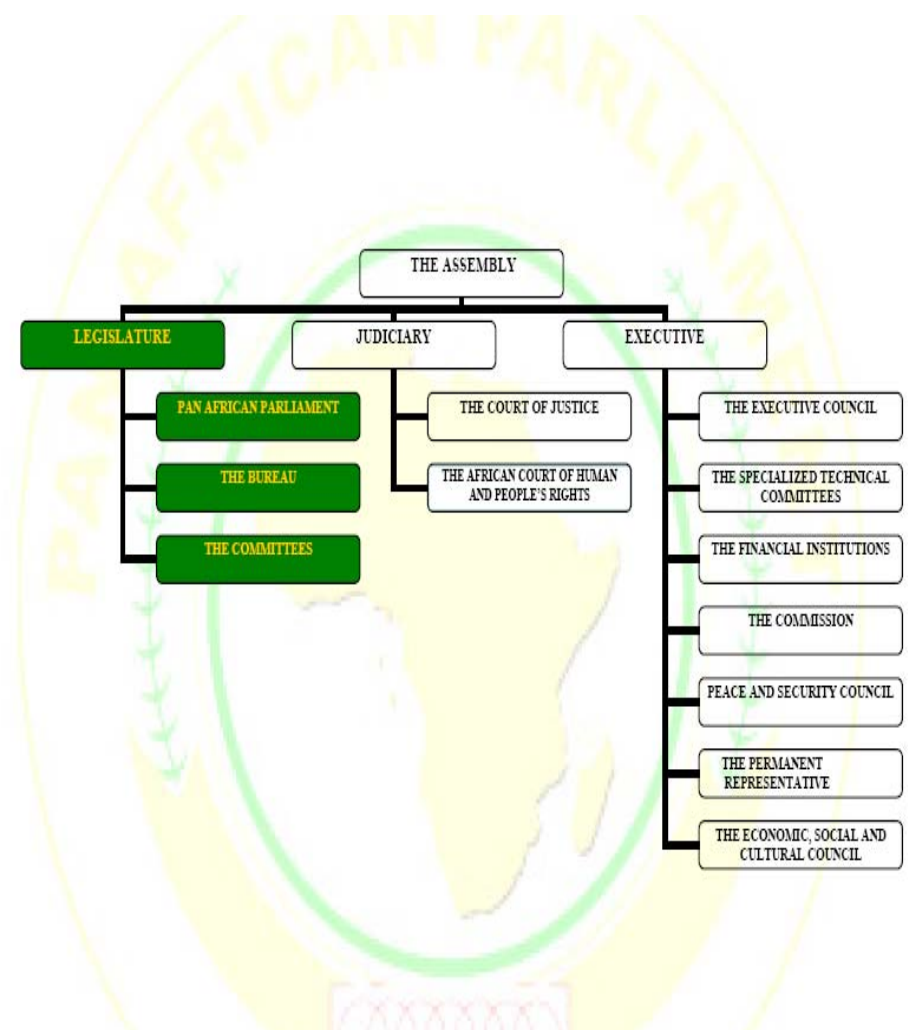


Fig 5.3 Organogram of AU institutional relationships(ISS)



Source: Compiled from the Constitutive Act of the African Union and its Protocol on Amendments by PAP

Fig 5.4 Organogram of AU(PAP)



Discussion

From the three representations, the only certain organisational representation is that of the role of the Assembly as the highest decision making body of the AU. None of the organograms accurately represents the relationships between the AU organs. According to findings from this research, the following persist:

The power of the Executive Council: The Constitutive Act of the AU gives the Assembly the legal lee-way to delegate its powers to any organ of the Union. All organograms seem to underestimate the powers of the Executive Council. So far, in practice, the Assembly has delegated most of its policy making and implementation powers to the Executive Council. The Assembly has not given this power to any other organ of the Union. Also, it is only the Executive Council that is provided for constitutionally in Article 13/2 of the AU Constitutive Act as being directly responsible to the Assembly of Heads of State and Government (AU 2000a: 9). Legally, the Executive Council may delegate any of its powers to the Specialised Technical Committees (STC) as seen in Article 13/3 of the Constitutive Act. In practice, the main tasks of decision making and organising in the AU system are limited to the Executive Council which has delegated powers principally to the Permanent Representative Committee and the African Union Commission. The Specialised Technical Committees which will be made up of sector relevant Ministers or their representatives has not been put into operation.

The imaginary powers of the PAP: Although all three of the organograms show the PAP as an institution with delegated powers from the Assembly of Heads of State and Government, in practice and by legislation this is not so. Although Rule 18 of the PAP Rules of Procedure requires the President of the Parliament to attend and report to the Assembly on the work of the Parliament (PAP 2004a: 20), the PAP Protocol does not provide direct reporting to the Assembly. In 2006, the PAP President presented the annual report of the Pan African Parliament to the Ninth Ordinary Session of the Executive Council and not the Assembly per say (PAP 2006b). As a consequence, in



practice PAP's is supervised by the Executive Council. The Executive Council seems to have delegated this supervisory authority to the Permanent Representative Committee (PRC) and in some cases to the AU Commission, so that, the PRC approves PAP's budget (AU 2002c; EC 2004b) and the AUC oversees the implementation of all AU policies. A Parliament exists to perform certain oversight functions. For the PAP to fulfil its objectives of facilitating the effective implementation of the policies and objectives of the AU as enumerated in the AU legislation, it will need to exercise oversight powers even with its current advisory roles. On the contrary, as it relates to its oversight role in sanctioning the executive, PAP's power does not exist.

However, AU legislation makes provisions for PAP's relationship with other AU organs. For instance apart from the PAP Protocol which spells out responsibilities of the PAP in terms of its oversight roles (OAU 2001a), other AU legal frameworks show PAP's oversight or supervisory relationship to organs like the ECOSOCC in rules 26, 27, 30, 34 of the Revised Rules of Procedure of the ECOSOCC (AU 2005); the Statutes of the Commission Article 3(u) (AU 2002b:4); and the Peace and Security Council in Article 18 of the PSC Protocol (AU 2002a:25-26).

Below, is an extrapolation of other AU organs the PAP has relations with based on AU legislative frameworks (Treaties and Protocols). The arrows represent the direction of reporting. The figure above shows that the PAP has oversight powers in relation to the organs of the AU especially the democratic and human rights institutions like the Peace and Security Council, the court, and the ECOSOCC. Organs like the Executive Council, the PRC, the AUC and the STC in certain areas, play a more supervisory role in terms of their relationship to the PAP. It is clear that the whole system of PAP's organisation and that of the AU is really a complex one and that this complexity may increase as the PAP grows. Therefore there is need for the parameters of reporting, co-ordination and control to be defined in the AU.

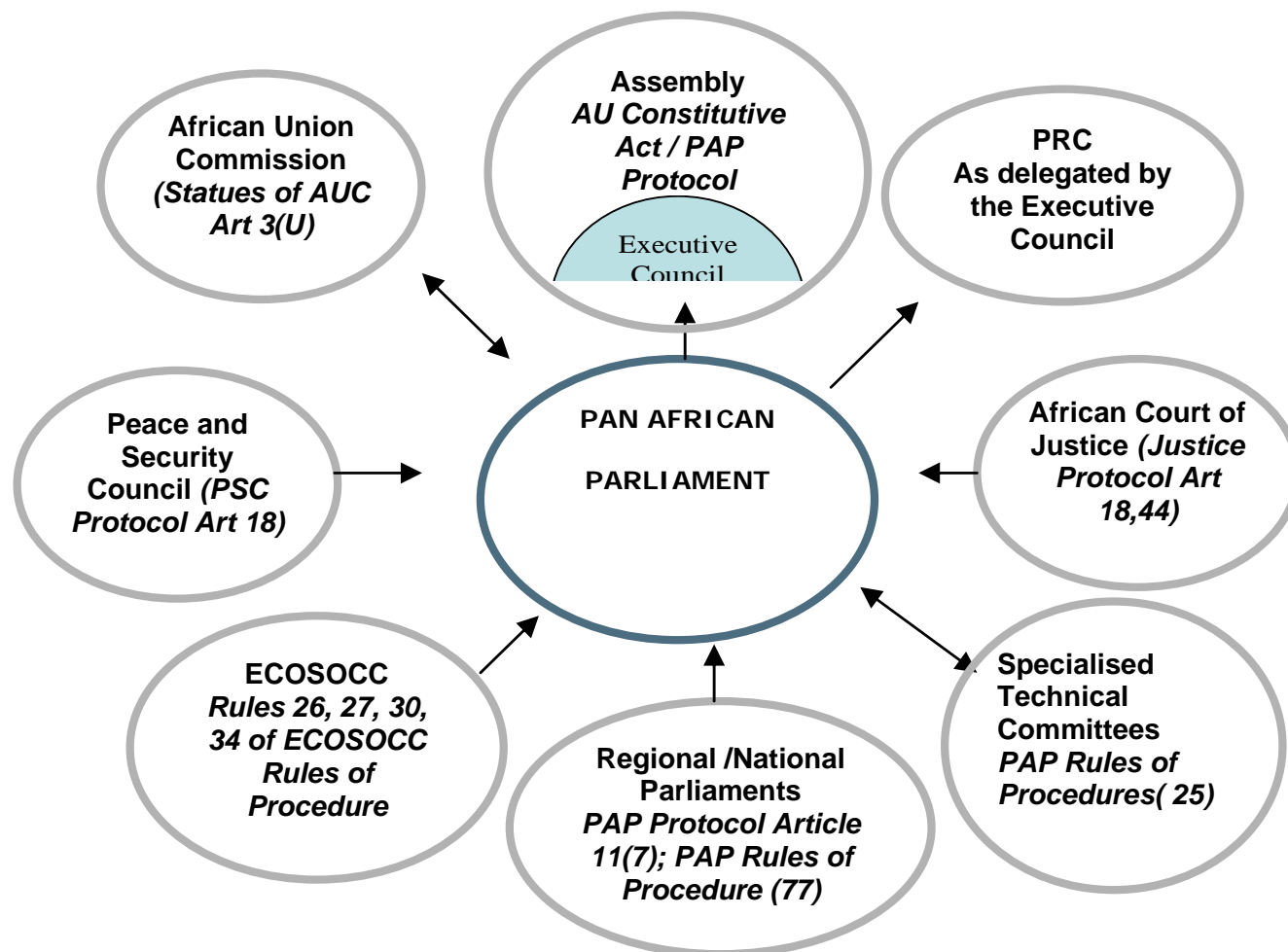


Figure 5.5 organs and legal provision on PAP's relations to AU organs.
(Configuration mine 2008©)

In terms of its relationship with extra-institutional organs in AU integration, the PAP has stressed its commitment to the objective of facilitating co-operation among RECs and their Parliamentary forums in the harmonising, and co-ordination of AU policies and programmes (PAP 2005c:57 PAP 2006d). There are certain provisions for the engagement between PAP and the different Regional Parliamentary Assemblies as provided for in rule 77 of the Rules of Procedure of the PAP (PAP 2004: 48). These include consultative meetings, visits and information dissemination through annual Parliamentary programmes and records of relevant debates and reports to permanent committees. Except for some PAP resolutions and recommendations expounding the rhetoric on the roles or expectations for the regional and national Parliaments in relation to certain human rights issues like Peace and Security(PAP 2006d) and migration (PAP 2006d), this engagement is not yet defined in practice.



Finally, there is an institutional distance between PAP and the executive which is not represented in the organograms above. Instead, the organograms seem to accord PAP direct relationship with the Assembly of Heads of State and Government. It will be argued that this is perhaps what is hoped for the PAP, because in reality, legislation does not provide this closeness and in practice PAP is far from the decision making axis of the Assembly/Executive Council/PRC/AUC. The Executive Council oversees and coordinates decision making in the whole of the African Union. The PAP in practice is so distant from this sphere of influence, that for it to have the Executive Council's ear, it has to go through the PRC or the AUC. This perhaps reflects an institutional arrangement geared towards compromising even the advisory and consultative powers of the PAP as provided for in legislation. The next section investigates the oversight component of PAP's functions.

4. PAP's control and oversight role

In a democracy, the core function of the legislature is to pass legislation on matters entrusted to it (Cloete 1998:42). This legislative role is the exercise of control by putting in place laws that govern African development. The legislature also exercises control through its oversight role in governance. The aim of control in the AU like any other governance system will be to ensure that the AU system functions in the most effective and efficient manner and to institute transparency and accountability in the development and governance of the AU.

The issue of co-ordination on the grand scale is a challenge in the AU. The RECs are a typical example of the AU's struggles in effective co-ordination (UNECA 2004:42). Then again, this does not mean that there isn't a measure of co-ordination in place within the AU institutional framework. The sectoral committees of the various organs like the PAP permanent committees, the ECOSOCC sectoral committees, the sub-committees of the Permanent Representative Committees (PRC) and the Specialised Technical Committees (STC) should be co-ordinating instruments in terms of related sectoral



policies and programmes. The hierarchical relationships between AU organs discussed previously, show a level of co-ordination from the Executive Council's role. But, the issue is that there is little co-ordination between AU institutions as these co-ordinating arrangements are limited to the internal activities of the AU institutions themselves or restricted to certain programme/sectoral areas of the various committees.

Legislation provides certain mechanisms through which the PAP can exercise its oversight functions. Articles 2, 3 and 11 of the Protocol imply that the PAP can exercise oversight, investigative, consultative and advisory powers (OAU 2001a). PAP's Rules of Procedure spell out certain mechanisms that the PAP can use in its control functions.

These are through:

1. Parliamentary question and answer time (PAP 2004: 43-45);
2. Reports to Parliament(PAP 2004:47);
3. Investigations and inspections (PAP 2004: 24) and
4. Budgetary oversight (2004a:10).

From the foregoing, advocacy, transparency and accountability should become strong competences of the PAP. In terms of budgetary oversight However, in terms of budgetary oversight the PAP has little control. Its own budget is still vetted by AU officials who are signatories of the PAP account (PAP 2005b: 6). Moreover, the tight rein of the Executive Council over the PAP budget is such that in 2006, it instituted an audit into the Pan African Parliament, and authorised the Parliament to provisionally utilize one-twelfth of its budget for the previous year until accounts are audited (EC 2007e). In terms of its investigations, the PAP has achieved little or no impact on the executive from the recommendations and resolutions it has made based on its fact finding missions to election and trouble spots in the African continent. It is clear that the PAP does not enjoy oversight over the executive. Nevertheless the PAP has made some inroads into the Commission, first with AU Commission commissioners delivering reports and presentations during PAP sessions as seen in the agenda of plenary for the 5th session (PAP 2006c: personal information), and secondly through a joint technical committee the PAP has with the AUC (Clerk, personal communication, 28th September 2007).



Finally, although the PAP may exercise certain oversight in policy implementation in the African Union through reports to it from the different AU policy organs, its inputs to these policy decisions eventually have little impact in final PRC reports and the Executive Council and Assembly decisions. Thus the crucial role that the legislature plays in sanctioning the executive has vague possibilities in the AU, hinting at the possibility that PAP designers are content for PAP to exist in legislative limbo.

5. Human resource capacity in PAP

The PAP organogram shows the technocratic or expert slant of PAP human resources needs. Technocrats and experts play a crucial role in deepening integration as pointedly manifested in literature on regional integration (Haas 1961; 1970; Schmitter 1969). Schmitter (1969:162) identifies the creative talents of political elites especially the administrators of regional institutions who take advantage of frustrations and crises to redefine or expand tasks at the centre. These experts within the integration institutions can then exploit these gaps as leverage for influence in decision making. It logically follows therefore that for the PAP, the issue of specialisation and skills will be paramount to its institutional growth. The PAP organisational system as seen in the PAP internal organogram in chapter four, makes provision for a functional organisational system which should avail PAP the knowledge and skills of expert parliamentary supervisors. However, in practice, there are challenges to implementing this.

First is the perennial problem of weak capacity and administrative services. This is compounded by highly visible hold-ups to its institutional building, of which PAP's strategic plan identified as finance, legal mandate and limited access to value added information (PAP 2005a: 28). Added to this is the problem of the insufficient support structure for the PAP committee system, the core of decision making body in the Parliament. To fill this gap, the Permanent Committees invite expert contribution in committee decision making, through special briefings, visits, workshops and seminars (PAP 2005c: 35-37). Additionally, the PAP has been concentrating efforts on capacity



building through technical partners like the German Technical Co-operation GTZ, the European Parliament the African Capacity Building Foundation as shown in the PAP strategic plan (PAP 2005a: ii). Key areas of capacity building will cover the strengthening the capacities of committees, the MPs and parliamentary support staff; enhancing the communication and outreach abilities of PAP and building the research capacity of PAP.

In spite of these institutional building efforts, the persistence of the AU institutional culture is a threat to the growth of PAP. As Taylor and Francis suggest, "...institutions are resistant to redesign ultimately because they structure the very choices about reform the individual is likely to make" (Hall and Taylor 1996: 940). Schein (1992:6) describes the pervasiveness of institutional culture as "a deeper level of assumptions and beliefs that are shared by members of an organisation that operate unconsciously and define...an organisation's view of its self and its environment". The shared collective experience of the OAU over the years has spurn a value system entrenched in the legacy of centralised power and rivalry between the OAU and institutions that show supranational promise (Franke 2007; Onwuka 1985). Therefore, notwithstanding the governance principles that the PAP represents, the highly statist and centralised culture of African institutional integrative experience threatens its very existence. Herein lies the huge hurdle for the PAP to surmount if it is to raise independent views and have them considered and adopted.

Finally, scholarship shows that the experience of deepening integration as seen in Europe's institutional example is positioned in the ability of institutions to acquire more powers from the centre (Haas 1961:367; Pierson 1996:137). This is turn is made possible by the existence of experts and technocrats, who use opportunities like constraints in decision making due to expanding tasks at the centre to redirect decision making from the centre to the periphery. In the light of this, the "dismantling" of AU institutional power culture, by the PAP, among other things, will require skills in terms of expertise and strategy. Presently, the PAP is very far from its capacity building goals as contained in its strategic plans and overcoming these institutional hurdles will be an uphill battle.



6. Procedures in the PAP

New demands on continental leadership like the commitment to human rights and security, good economic governance and democratic, accountable and transparent leadership, necessitates that integration tasks are carried out to optimise opportunities for growth. This can be achieved through efficient, effective and economic procedures. Hence, the aim of the PAP Rules of Procedure will be to ensure policy cohesion between it and the rest of the AU organs by providing authoritative instruction on work assignments, policy positions, based on the objectives of the PAP. The PAP Protocol in articles 11/8 and 12/1 (OAU 2001), gives the Pan African Parliament full powers over the content and disposition of its own Rules of Procedures. The Rules of Procedures of the PAP lays out PAP's preferences in terms of the tenure, make up and functions of the bureau and committees. It also spells out the procedures in the order of business of the house, disciplinary issues, relations with other organs and Parliaments, as well as the drafting and procedure for the budget. In this light, the PAP Rules of Procedures represents a possible space where PAP can exercise full powers and a definite opportunity to make itself relevant in the AU decision making system. In this way, the PAP can through the Rules of Procedure restrict itself in many ways, or use opportunities afforded by these rules to grow its influence in the AU. This is expounded subsequently.

First of all PAP's Rules of Procedure provides that its functional powers in the AU involve the tasks of overseeing policy formulation and implementation in the AU. This involves organising debates on RECs and AU functioning; examining and expressing an opinion on its own initiative or at the request of any of the AU organs. Other tasks are making recommendations and take resolutions on any matter relating to AU and African integration and inviting AU organs and RECs to explain any matter concerning the union.

Since inauguration, the PAP has trudged towards this mandate and has so far organised debates on a range of issues affecting the AU like NEPAD, APRM and migration (PAP 2005e; 2005f). The PAP has also adopted independent positions in certain issues, especially as they relate to governance and human rights issues, as it did in the resolution



on the unconditional release of Dr. Kizza Besigye leader of Ugandan opposition (PAP 2006a). Additionally, the PAP has issued out many recommendation and resolutions on different matters of the AU interest. The issue though is that neither the Executive Council nor the Assembly has referenced or utilised these recommendations or resolutions as basis for any decision making. This makes the PAP resemble a faulty printing press, churning out material that ends up in the trash.

Nevertheless, despite this lack of interest from the executive, the PAP, through its procedures can take opportunities in the AU system to exert itself, especially as the AU grows and tasks increase at the centre. One way to achieve this is by using its procedures to achieve policy cohesion externally and policy coherence internally. In terms of policy cohesion, rules 73-76 of the PAP stipulates reporting relationships between PAP and the decision making organs of the AU. In the rules, the PAP expects the Assembly to submit all decisions of the Assembly and the Executive Council to it. The Parliament can also invite the Assembly and the Executive Council or the Commission to explain these decisions. These are consultative powers well within PAP's Protocol provisions. Nevertheless, the PAP seems to have failed to develop an effective mechanism in getting information from these sources (if direct reporting fails), especially where some of them like the executive are used to centralised decision making. The issue is that in reality, not only has the PAP failed to have a voice in any sort of decision coming from the Executive arm, so far, it has not managed to make policy relevant recommendations to the executive .

Secondly, the nature of decision making in PAP committees can also limit the quality and quantity of committee decisions. Decision making is by consensus or a two-thirds majority as the provision of rule 22 (8) requires. The down side of this type of decision making is that consensus building is sometimes a lengthy and negotiated process, thus, complex decisions which have great potential for change may be abandoned. Secondly, consensus building takes time and thus in this form, decision making may be time-consuming. Furthermore, the quorum requirement of an absolute majority for voting in rule 22(7) may also pose a challenge due to absenteeism and high turnover of MPs. PAP



committees meet twice a year and the committee on monetary and financial affairs meets at least twice a year (PAP 2005b:6). Nevertheless the decision made by the Executive Council to have member states bear the cost of their respective MPs expenses (EC: 2004b), poses a challenge in this regard. For instance attending any meeting outside the session time table may not be possible for MPs by reason of financial constraints (PAP 2005b:4). The European Union in recognising that unanimous voting can impede progress towards integration introduced the qualified majority vote (QMV), in 1986 with the Single European Act (SEA) which reduced the pressure in consensus building.

Thirdly, PAP's Rules of Procedures marshals out the modalities for it to exercise its consultative powers through questions, investigations and reports from any organ of the AU. These activities intend that the PAP has its hand on the policy pulse of the AU at all times. It also implies that by having this hand on the pulse of the matters that matter, PAP may increase its power of voice as its recommendations will always have relevance to executive decisions. Nevertheless, this is not so as there is a gap between the ideal as represented in legislation and the practised as represented by AU institutional culture.

In conclusion this section on PAP's institutional arrangement, has tried to show that PAP's institutional arrangement may indeed be a manifestation of the intents of African leadership as a collective. These intents embody the old centralised and intergovernmental culture of the OAU. In this case, the PAP exists in supranational limbo to perform roles which have no impact in the executive decisions of a highly statist AU. So far as this is the case, the PAP poses no immediate threat to member states and African heads of state. Thus the PAP sputters and puffs in its battle to be courted by the executive, as its consultative and advisory powers has had no significance or consequence in AU decision making so far. If this is the case, and having reviewed what can be termed the institutional arrangements in the PAP, the next task of the thesis will be to consider what the definitive role of PAP is under these circumstances.



Theme 4

Answering the research question

What is the definition role of PAP considering the circumstances discussed above? This thesis argues that the Pan African Parliament emerged as a resolution to the question of globalisation and its attendant challenges in the economy and governance in weaker global economies like Africa. Accordingly, the PAP emerged through collective grand bargaining, as a democratic governance solution to “give hope to the masses of Africa to play a role in African decision making” (AU 2001; personal communication ,28th September 2007). As an instrument of democratic governance it is supposed to provide African grassroots people with the platform or voice to become part of the change that Africa so desperately needs. The thesis suggests that the PAP was established based on a genuine concern for Africa’s future coming into the 21st century. However, PAP’s Protocol produced two years after the Sirte declaration shows a calculating decision most probably influenced on one hand by short term interests and on the other by past OAU institutional legacies to bind the PAP in legislative inertia. As a result, African leaders put pen to paper and signed into existence a Pan African Parliament, whose powers they preferred to rest in the future and as a matter of fact, may remain in the future.

Permit the reiterating of a point made several times, which is that the relevance of an institution in the polity can be traced to its origins in terms of who its designers are and their intentions. That is, bearing in mind that where rational, these intentions tend to be manifested in the emergent institutional arrangement. In this light, the question of the definitive role of the Pan African Parliament goes beyond idealism embracing irrefutable realities. This section will attempt to inspect the definitive role of the Pan African Parliament by drawing on the arguments in the previous sections. To draw out PAP’s critical make up, the section will draw inferences from the theme that deals with PAP’s designers and their intentions, the theme on the collective choice problem that PAP is meant to address and the theme on PAP’s institutional arrangement.



Searching for PAP's role in the AU

The challenges and opportunities enmeshed in the notion of participatory and democratic governance have interested African scholarship and leadership for many years. Hence the many efforts of regional actors like the UNECA and the OAU, to engage the idea of participatory governance in the affairs of the regional system from as early as 1976. Land mark documents such as the - UNECA *Revised Framework of Principles for the Implementation of the New International Order in Africa* (Adedeji 2002:38); the 1990 Arusha declaration on popular participation (UNECA 1990); the declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, (OAU 1990); and in the provisions of, and declaration on the Kampala document or the CSSDCA (OAU 2000b; Tieku 2007:32), attest to this engagement. It is important to point this out considering that all these declarations and policy instruments were at different times described as land mark decisions, which reflected the commitment of African leaders to democratic continental development (Aderinwale 2001;60; Adedji 2002:4). Notwithstanding these were all rhetorical as there was no practical move to implement participatory governance in African integration until 2004.

Tracing the journey from PAP's initial introduction in the Abuja treaty to its inauguration in 2004, it can be seen that there was a steady build up towards the institution of participatory governance in the AU. With the dismantling of communism in the 1990s and the harsh dictates of neo-liberalism and globalisation in the new millennium, African leaders were compelled to consider a new approach to continental development. This meant intensifying the notion of Africa as a collective in dealing with a new global economic and governance arrangement. One of the results of this new outlook was the decision to rapidly implement the provisions of the Abuja Treaty for participatory governance in the form of the Pan African Parliament. Moreover, a Pan African Parliament would also stand as a symbol of the much theorised African unity. In view of these arguments, what was the definitive role in instituting the PAP?



The definitive role of PAP

PAP's definitive role can be inferred from the themed discussion on PAP's origin and institutional arrangements. Based on those discussions, it will be argued that PAP's role is two-pronged, the first is PAP's ideal role as seen in the pronouncements and declarations (rhetoric) that heralded PAP's establishment, and the second is the practised role as is evidenced in the PAP Protocol and current institutional arrangement as presently constituted. At the end of this section, the definitive role of PAP will be revealed, based on the research conceptualisation of 'definitive' and on the findings based on this.

1. The ideal role

From the Sirte declarations and the stipulations on the establishment of the Pan African Parliament contained in the Abuja Treaty and the Constitutive Act of the AU, it can be argued that the definitive role of the Pan African Parliament in the AU is to provide a representative platform for ordinary Africans to participate in continental decision making through legislation. Along these lines, the PAP is supposed to perform the functions of a legislature. According to Article 2 (3) and Article 11 of the 2001 PAP Protocol, the Pan African Parliament's ultimate goal is to evolve into an institution with full legislative powers. This impression of the eventuality or future possibility of a legislative PAP, goes back to 1991. At the time Article 6(iv) of the Abuja treaty envisioned that by the end of the 37 year timeline, at the final and sixth stage of the AEC, the Pan African Parliament will be undergoing its own final implementation into a duly elected and fully legislative organ of the AU (OAU 1991). Emerging scholarship on the PAP focuses on PAP's parliamentary powers in legislation (Demeke 2004; Cilliers & Mashele 2004). Moreover, the provision of a legislative mandate in Articles 2 and 11 of the Protocol albeit throttled means that PAP is indeed meant to run like a full Parliament with legislative powers.



Thus in an ideal situation, the definitive role of PAP will be to contribute to regionalism decision making through legislation aimed at harmonising and co-ordinating laws, policies and programmes within the AU integration system. To fulfil this role the Pan African Parliament will have to acquire legislative powers. The extent of the European Parliament's powers within the EU system is at times seen in direct relation to the powers enjoyed by Parliaments of national governments of the EU. Similarly, considering recent reforms in the AU, every now and then, continental watchers and scholars (Cilliers & Mashele 2004: 75) are tempted to view the AU as representing an emerging polity. Accordingly, the AU is seen as resembling the separation of powers within a state, between the executive, the judiciary and the legislative. When considered in this manner, PAP is supposed to exert its legislative influence through the legislating and budgetary processes and through the control and supervision of the executive. However, it is argued that this role is PAP's ideal role. This is because rhetoric and idealism more than anything else seems to characterise the ambitious vision for an African legislature. This is more so, considering the challenges of leadership in Africa among other things. Little wonder that when in 2001 it became apparent that, the PAP will be established, its' establishing Protocol settled into more rational considerations in view of realistic African governance and leadership realities.

2. The Practiced Role

In 2001, PAP's designers in contemplating the Protocol instituting a working Parliament must have considered that a Parliament with real legislative powers mentioned above will entail relinquishing a considerable portion of national sovereignty. Ultimately, states prefer to know that there are still independent entities within any international grouping and will go as far as possible to protect this sense of control. Nonetheless, to truly be effective, parliamentary systems ought to have certain levels of supranationality and (as seen with the European Parliament) have on occasion, been known to have extensively tested its powers with the executive arm, in this case the European Council and the Commission (Nugent 1999: 213, Archer 2000: 62). Therefore, not unlike the member states of the EU, there is a strong pull for intergovernmental preferences when it comes to



decision making on issues of African integration. As a result, it is not unexpected that PAP designers will for as long as possible, want to limit supranational interference in decision making at the intergovernmental level. Plausibly, for PAP, this will mean putting weighty limitations on its access to and influence in decision making in the AU. The Protocol establishing the PAP does precisely that.

The Protocol explains in simple terms the objectives, functions, powers and relationships that the PAP has in the AU. Here, PAP's designers make PAP's role clear in terms of what is practicable under the circumstances. In this case, PAP's role rather than take on the potential for law making becomes advisory. This advisory role may be construed as an incremental approach to PAP's legitimacy. However, as seen in the policy, budgetary and organising arrangements discussed above, the advisory role of PAP is detached from AU decision making which takes place in the Assembly/Executive Council/PRC alignment. In this way, PAP's span of control is largely limited to its own institutional space, making it difficult to achieve its prescribed objectives of facilitating the effective implementation of the policies of the AU and facilitating co-operation among Regional Economic Communities (RECs) and Regional Parliamentary Assemblies.

It is acknowledged that PAP designers in Article 2 and 24 of the Protocol created room for a review of PAP's Protocol in view of its journey towards a full legislative institution. Nevertheless, while these provisions suggest opportunities for growth for the Pan African Parliament albeit in the long term, they essentially portend possibilities of encapsulation for PAP especially at this early stage. This is because while the advisory and consultative powers can be seen as the beginning of incremental growth for the PAP, it also can be construed as a show of a wilting exuberance that characterised the reform declarations of the OAU heads of state in 1999. Considering the near morbid legacy of the OAU, this scenario spells a problem. There are reasons for this assertion.

Wilting Political Will: To begin with, it has been argued that the integration enthusiasm that engaged African leaders like Obasanjo, Gaddafi and Mbeki at the turn of the century catalysed the decision to form the AU and its institutions. For the first time, African



heads of state made unprecedented decisions that implied a willingness to defy sovereignty concerns in certain matters like peace, security and human rights. This can be seen in the decision to establish potentially independent institutions like the Pan African Parliament, the African Court of Justice and Human Rights and the Economic, Social and Cultural Council (ECOSOCC). Additionally, the Constitutive Act amendments in Article 4h made provisions for the right of the AU, albeit conditional, to intervene in a member state and in Article 5h established the AU Peace and Security Council (AU 2003b). These Constitutive Act provisions and amendments were seen by some African integration scholars as ground breaking (Sturman 2007; 6). Yet, in the face of the amendments in Article 4h of the Constitutive Act to accommodate more AU intervention at certain levels of internal conflict (AU 2003b) and with the provision for grassroots participation in AU decision making (PAP; ECOSOCC), the traditional thread of non-interference remains unbroken in this new AU. Tiekou (2007:32-35) demonstrates the chronological breakdown of the principles of Article 4h in the AU constitutive Act, since the formation of the AU. In doing so, the author highlights the growth of anti-human security influence in the AU and the eventual lukewarm attitudes of the Obasanjo and Mbeki alignment in terms of upholding the principles of Articles 4h and 5h of the Constitutive Act. Thus it can be safe to say that the initial exuberance towards change at the breaking of a new millennium has been watered down to political apathy.

Weak financial commitments: The cost and human resource implications of the new African regional experiment are high. The African Union is in a financial quagmire. The financial reality of establishing AU institutions running in full capacity is a huge hurdle for a struggling AU to surmount. As AU member states struggle to pay their membership fees and commitments to the AU, the effect is felt in the AU system as the AU dithers on its financial commitments to its organs. This has not escaped the PAP as its first institutional objective is to strengthen its own funding capacity (PAP 2005a). The AU has had running financial issues with the PAP, ranging from freezing of PAP's fund raising efforts and cuts in PAP budgets to reprimanding the PAP for financial mismanagement (EC 2007d; Bame 2007). Additionally, the AU has not lived up to its obligations in terms of financial support to the PAP due to the failure of member states to fulfil their financial



obligations to the AU. Barely able to make basic payments for the secretariat, the PAP, relies heavily on technical support from European organisations such as the German Agency for Technical Co-operation (GTZ). Thus, financially, the reality of a fully functioning Parliament is improbable, especially in the short to medium term.

Indefinite time line: Secondly, article 11 of the Protocol states that, “the Pan-African Parliament shall be vested with legislative powers to be defined by the Assembly. However, during the first term of its existence, the Pan-African Parliament shall exercise advisory and consultative powers only”. This statement implies that the PAP will be vested with legislative powers after its first term of office. Then again, the lack of specificity in the duration of this first term gives the first term an indefinite time line. The PAP has nevertheless leapt to assume that this first term is five years as article 25 of the Protocol provides for a review of the Protocol after five years (PAP 2006). But, the five year clause is for a review of the PAP Protocol and not necessarily to grow PAP’s powers legislative or otherwise. To all intents and purposes, PAP designers were unwilling to make any definite commitments to giving it any kind of powers. Taking all these into consideration, there is no doubt that PAP’s practiced role can be described as an undefined role.



Definitive role of PAP	Legal Provisions	PAP designers intentions	Institutional arrangement	Outcome
The ideal role	Abuja Treaty	Short term, no genuine care for the future; rhetoric	Supranational body	None
	Constitutive Act (2000)	An improved concern for the future; thinking in the long term; instrumental	Supranational potential	Foundation for a founding Protocol
The practiced role	PAP Protocol	Short term concerns about sovereignty issues; growing indifference, gradualist approach Very vague;	A consultative body; No input in budget of AU; Far removed from decision making structure of the Executive Council/PRC/AUC; MPs not selected through democratic process; No time line in terms of acquiring full legislative powers; Lack of democratic representativeness in the composition of MPs; Lack of resources to carry out harmonisation plans through RPA consultative for a.	Minimal influence in AU decision making (still exclusively intergovernmental); potential to encapsulate; inertia

Table 5.5: Matrix of the PAP's definitive role



Conclusion

Taking these points into consideration, it can be seen that the initial commitment to the principles of the new AU has waned in the light of national sovereignty concerns, gross financial constraints and the perennial challenge of democratic leadership in Africa. As such, African leaders are content to leave decision making at the top. Accordingly, there is reluctance for the Assembly or Executive Council to make amendments that will increase PAP's decision making influence in the AU. In fact from the study so far, any effort from PAP to draw the executive's attention to its tasks in AU decision making seems to be selectively ignored by the AU executive. Considering the lack of will of African leaders to engage PAP at a consultative level and PAP's counter effort in stressing the need for it to be taken seriously, it is argued that Africa and the AU in particular may not be ready for PAP financially, capacity wise and most of all politically. Therefore, although it can be acknowledged that it will be ideal for PAP to have full legislative powers in the future, its feasibility remains constrained as the AU and Africa is not prepared for such an institution. So, even with the five year initial review stipulation of the Protocol, the road to acquiring powers for the PAP is an uncertain one due to the weak capacity of African integration institutions to make and carry out legislation. Additionally, the lack of political will of states to give up any level of sovereignty and the AU institutional quagmire keeps the various AU organs in confusion in terms of their mandates.

PAP's definitive role is its practiced role. PAP's definitive role was conceptualised based on the extent of rational considerations on institutional arrangements. Having weighed rationality with the realities of more historical and social influences in AU decision making, there is no doubt that from the evidence of PAP's present institutional arrangement in the AU, the definitive role of the PAP is its practiced role. This is because even in its advisory capacity, the PAP has not made any impact in AU decisions as none of its recommendations have been factored into AU decision making. In terms of its oversight role on the AU budget, the PAP does not have the final say on its own budget as the PRC first vets PAP's budget and recommends to the Executive Council. It is



argued that this role is subsumed in the intents of its designers to keep their sovereign interests alive through more intergovernmental engagement at the continental level. The final chapter as recommendation considers the possible scope of PAP's influence in its present undefined state as currently practiced, to consider possibilities for growth which are open to it at this stage.