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## Evolution of Ecowas Parliament and the Prospect of Legislative Integration of West Africa: A Study in Legal History

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It appears the legislative and judicial organs of the ECOWAS and their activities are not yet known to the majority of citizens of the West African States. Some politicians who aspire to represent their people at the National Assembly may not be aware of the existence of ECOWAS Parliament and ECOWAS Court of Justice until they get into the Legislative House. Similarly, some security and law enforcement agencies seem not to be aware of these institutions and their functions. The likely consequences of this ignorance are exploitation, intimidation, human rights abuses, delay and denial of justice by government officials or by the citizens themselves. The aim of this study, therefore, is to create awareness about the ECOWAS Parliament. To achieve this aim, the study set five objectives, namely, to examine why the establishment of Parliament was delayed; analyse the steps taken to establish the Parliament; discuss composition, jurisdiction, election and immunity of members; discuss its Standing Committee and analyse the challenges and prospects of the Parliament. Using historical descriptive approach, the study interrogates a combination of primary and secondary sources of information and reveals, among other things, that the Parliament is one of the newest arms of the ECOWAS. Its establishment was delayed because the maiden ECOWAS Treaty (1975) did not make provision for it. Many Members-States, including Nigeria, were under military rule; just as many were not ready to surrender their legislative and political sovereignty. The Parliament is facing some challenges, including its advisory role status without powers to make laws. However, the Parliament will serve as a forum for conflict resolution and promoter of democracy in West Africa.

### Introduction

The aim of this article is to provide general information about the ECOWAS Parliament. It has been observed that discussions about West African regional integration have generally focussed on social, economic<sup>1</sup>, political and security<sup>2</sup> factors necessary for integration and its benefits. For instance, Akinyeye has written on regional security and integration of the ECOWAS<sup>3</sup>, while Babajim Peters<sup>4</sup> analyse the ECOWAS defence Pact and its problems and prospect. Osarhieme Osadolor's "The Evolution of Policy of Security and Defence in ECOWAS" explores the key challenge of security and defence in West Africa which created on overwhelming need for the adoption of policy by the ECOWAS for conflict management.<sup>5</sup> A Nigerian diplomat, M. Munu writing about the future and prospect of the ECOWAS stated: "it is difficult, if not impossible to predict with any degree of certainty, what the future holds for ECOWAS because of the volatile political and economic nature of the sub-region"<sup>6</sup>. Munu, however, predicted what ECOWAS would likely achieve in the areas of agriculture, market integration, and telecommunication, transportation, security, immigration banking and currying.<sup>7</sup> Certainly, nothing was predicted about legal, judicial and legislative developments in the ECOWAS. As Guy Martin<sup>8</sup> had rightly observed ever since African countries became independent in the early 1960s, they have consistently pursued policies of regional co-operation and integration as a means of promoting socio-economic development and of reducing their dependency on the former metropoles. The need to integration become necessary because of all the developing regions of the world, Africa is by far, the poorest, least developed and most heterogeneous.

Specifically, a number of studies have been carried out on the ECOWAS and ECOWAS Parliament in recent time. Kizito and Patrick examine the role of the Parliament on economic integration of Africa with focus on the ECOWAS Parliament. They compare the activities of the ECOWAS Parliament to similar Parliaments in the globe such as the Europeans Parliament, the Pan-African Parliament, the Caribbean Parliament, the East African Parliament and the Southern African Parliament. They conclude that unlike other Parliaments in the globe, the ECOWAS Parliament was only a consultative and advisory body and that it lacked legislative powers. The consequences of this, according to the

authors, were that trade between Member-States was still far from what it ought to be while the movement of persons within the West African Sub-region was yet to be fully realised. They further pointed out that single currency and a common position in trade with other regional blocs had still remained huge challenges<sup>9</sup>.

Kumahia discussed the role of the ECOWAS Parliament in promoting good governance. He gave overviews of the ECOWAS Parliament and examined the challenges the ECOWAS Parliament was facing in its attempt to promote good governance among Member-States. He revealed that ECOWAS Parliament had achieved some great successes in the area of ensuring democracy, popular participation, human rights and peace and security. He, however, agreed that the Parliament lacked legislative powers to make laws for the community. The author also critiqued the mode of recruitment of members of the Parliament which was only through indirect election from national Parliaments. He said the mode of election had raised the questions about accountability and legitimacy of the ECOWAS Parliamentarians<sup>10</sup>. In his “Role of the Pan-African Parliament (PAP) in African Regionalism”, Ogochukwu concluded that despite its legal importance in terms of African Union (AU) Constitutive Acts, the PAP in practice played no effective role in AU decision-making; and that, as a consultative body, the PAP had made no impact whatsoever in the decisions of the AU<sup>11</sup>.

Assessing the achievement and challenges of the ECOWAS at 40 years, Major General Akwa, Commandant of KAIPTC stated that ECOWAS had managed to ensure visa-free access to all its Member-States by every citizen of the Community. He said that The Protocol on Free Movement allows for visa-free movement with the Community for up to 90 days and that the Protocol on the Right of Residence guaranteed a longer term stay in another country and modalities to take up paid and unpaid employment. He further stated that the Protocol on the Right of Establishment guaranteed opportunities for citizens of the community to set up businesses. The Commandant, however, lamented that the full maximization of these arrangements hinged on the responses of Member-States, the obstacle to residence permit still persisted and that in many of the Member-States it was not every economic sector that was open to citizens of other ECOWAS member-States<sup>12</sup>.

Although much research works have been conducted on the ECOWAS Parliament, none has traced the evolution of the legislative arm and its inherent problems embedded on the ECOWAS Treaty and the Protocol relating to the Community Parliament. The present study seeks to fill this gap. It must be stressed that without legal, judicial and legislative factors and their benefits, the aims of integration may be difficult to achieve. The legal, judicial and legislative arms of the ECOWAS would not only make laws but facilitate the implementation of protocols, rules and regulations such as laws on free movement of persons, goods, residence and establishment of enterprises in Member-States. For instance, since 1982, scholars<sup>13</sup> and lawyers like R.C. Chhangani who observed that the ECOWAS Protocol on Free Movement of Persons which removed legal barrier for the Community citizens to enter and move freely within any Member-States of the ECOWAS had warned against the consequences of influx of illegal immigrants into Nigeria<sup>14</sup>. In another article, Chhangani noted that “[t]he massive and unprecedented immigration of foreigners from the West African countries, especially from Ghana, Benin and Togo to Nigeria, has created socio-economic, and many legal problems.”<sup>15</sup> It is hoped that the ECOWAS Parliament will help make law to take care of such socio-economic issues.

The article is split into eight sections. Section one is a review of the existing literature on ECOWAS Parliament. Section two is the conceptual framework upon which the study is based. Section three examines reasons why there was a delay in the establishment of the Parliament, while section four analyses the steps taken to establish the Parliament. Section six discusses the composition and jurisdiction. Section seven examines the procedure for the election of Members and the Speaker as well as immunity of the Members. Section eight discusses the Standing Committees, while section nine analyses the challenges and prospects of the Parliament. Finally, section ten conveys the summary and conclusion of the study.

### **Conceptual Framework**

This study is predicated on the concept of the “international integration”. Several scholars have defined international integration in various ways. Haas<sup>16</sup> and Leon Lindberg<sup>17</sup> conceptualise international integration as an incubator-style process, whereby existing political

systems continuously “forgo the desire and ability to conduct key foreign and domestic policies independently of each other, seeking instead to make joint decisions or to delegate the decision making process to new central organs”. Using the integration of Europe as an example, Haas<sup>18</sup> defines integration as “the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities toward a new and larger centre, whose institutions possess or demand jurisdiction over the pre-existing national states.” Undoubtedly, the history of the ECOWAS formation is a history of Nigeria's persuasion of other West African States to come together as one economic, political, judicial and legislative bloc. According to Haas, integration can lead to “a terminal condition called *political community*” of several nation-states. This article will show how the ECOWAS Parliament, like the Community Court of Justice, would lead the sub-regional international organisation to a “political community”. In another study, Haas writes that the term “integration” refers to “a process whereby the quality of relations among autonomous social units (kinship group, tribes, cities, trade unions, trade associations, political parties) change in such a way as to erode the autonomy of each and make it part of a larger aggregate.”<sup>19</sup> Singer<sup>20</sup> concluded that economic integration is likely to be more successful when such a union is made up of countries of equal economic importance and that the existence of a relatively advanced member may give rise to fears of domination among some members. Singer's theory of integration may apply to Nigeria vis-à-vis other West African countries that were entertaining fears that Nigerian would dominate them. It has been shown how Nigeria with her rich natural endowments, larger size and population, was able to forge the integration of West Africa without dominating the membership of ECOWAS Member-countries<sup>21</sup>. It will also be shown in the present study how Nigeria has refused to dominate the legislative arm of the ECOWAS.

Jacob and Toscano suggest a definition of integration based on the notion of the existence of a certain amount of cohesiveness within the group under study.<sup>22</sup> In their view, the degree of cohesion can be effectively elicited by measuring the proportion of public oriented, cooperative, corporate activities undertaken by members of a grouping, constantly bearing in mind the relative importance of these activities to the survival of

the entities involved. Historically, there were and still are numerous evidence of cohesiveness among the West African States before the ECOWAS was formed in 1975. Bassey<sup>23</sup> has listed some of such cohesive and integrative organisations to include the West African Court of Appeal (WACA), West African Students' Union (WASU), the West African Currency Board (WACB), National Council of British West Africa (NCBWA), West African Monetary Union (WAMU), *Banque Centrale des Etats de l'Afrique Occidentale* (BCEAO) and *Afrique Occidentale Française* (OAF).

Taking a political approach of the theory of economic integration, Nwabuzor opines that “the process of economic integration does appear to be a classic example of a continuous exercise of conflict resolution.”<sup>24</sup> He maintains that conflicts in integrative experiments arise in sharing the benefits and costs of integration. Thus, international economic integration may take slightly different forms according to the extent of surrender of national sovereignty by member countries.<sup>25</sup> A free trade area, for example, eliminates import tariffs and other restrictive measures on imports from member-countries, which are free to maintain, on an individual basis, their restrictive measures on imports from non-member countries. Customs Union is a higher level of international integration. At this level of integration, the customs union, in addition to eliminating tariff and other barriers on imports from member-countries, provides for a common structure of tariff rates on imports from non-member countries. Thus, a customs union incorporates a common external tariff wall against imports from countries outside the union. A common market, in addition to the characteristics of a customs union, provides for the mobility of factors of production within the union.

For Kizito and Patrick of the National Institute for Legislative Studies, Abuja, international economic integration refers to a decision or process whereby two or more countries combine into a larger economic region by removing discontinuities and discriminations existing along national frontiers, and by establishing certain elements of cooperation and co-ordinations between them<sup>26</sup>. These authors agree with Tinbergen that international integration may be negative or positive. According to these scholars, negative integration relates to those aspects of international economic integration which involves the removal of discrimination and

restriction on the movement of goods among the member countries. On the other hand, positive integration involves the modification of existing institutions and policy instruments and the adoption of new ones in order to remove market distortions within the economic region. They conclude that whether economic integration is negative or positive, it aims at free movement of goods and factors of production and removal of discrimination among nations in a regional group.<sup>27</sup> Both economists and political scientists agree on the following ranking of international economic integrative experiments:

- i. Free Trade Area: This aims at the abolition of tariffs and quantitative trade restrictions in the area, but leaves each nation still in control of its tariff against countries outside the free trade era.
- ii. Customs Union: In addition all the aims of the free trade era, the customs union further agrees to equalise tariff against outsiders.
- iii. Common Market: The aims of the common market include those of the customs union, as well as further agreement to remove most factor-movement restrictions among member-states.
- iv. Economic Union: It frees factor and commodity movement while further envisaging some harmonisation of national economic policies.
- v. Total Economic Unification: This aims at the unification of the monetary fiscal, social and counter-cyclical policies under the supervision of a supranational organisation.<sup>28</sup>

Viewed in the light of a ranking system, it becomes clear that each type of international economic integrative experiment is in fact representative of a differential level of political commitment, consequent to a politically advantageous assessment of the attendant loss of sovereignty over these important economic decisions.<sup>29</sup> In other words, whatever form economic integration takes, there exists certain common features such as the surrender of some amount of national sovereignty to new supranational institutions, and an element of tariff discrimination against non-members in the conduct of international trade. Presently, ECOWAS appears to be at the level of economic union, being the fourth rank of integration process. Above literature review shows that attention was hitherto paid only to economic integration as enshrined in the maiden ECOWAS Treaty (1975). Not even a mention was made of political, legislative and judicial

integration of the sub-region in the first treaty. This explains in part the reason for the paucity of information about the legislative body, which is a new arm of the ECOWAS, inaugurated in December 2000. It also explains why many citizens of West Africa are not aware of its existence.

#### Reasons for Delay of Establishment of ECOWAS Parliament

One of the criticisms of the 1975 Treaty was that it did not make provisions for a legislative assembly in the ECOWAS. In 1994, while comparing the ECOWAS with the then EEC, the ECOWAS Executive Secretary lamented that:

“...unlike the EEC, ECOWAS has no institutions remotely resembling the European Commission in terms of power and authority. Nor is there an ECOWAS Parliament as there is the European Parliament, which is exercising advisory and supervisory powers over the organs of the EEC”.<sup>30</sup>

It was even suggested pessimistically that “the absence of a legislative assembly in the ECOWAS, similar to that of the East African Community demonstrates an unwillingness on the part of the West African Heads of State to integrate politically”<sup>31</sup> and that “that which is to avoid what President Tolbert regarded as “an unnecessary rocking of the existing superstructures and understanding”.<sup>32</sup>

As a major force behind the draft treaty and one country that persuaded other Member-States to adopt it on May 28, 1995, Nigeria was not unaware of the omission of the provision for Community Parliament. It is reasonable to argue that Nigeria deliberately avoided this aspect of political integration at this initial stage because of fear of domination which some Member-states were harbouring against Nigeria. So, what Nigeria emphasised at that time was economic aspect of integration which it hoped to use to achieve political, judicial and legislative integration of West Africa. Perhaps, Nigeria would have failed in its integration efforts if it had emphasised political unification of West Africa right from the beginning. Any keen observer of developments in the ECOWAS would agree that Member-states were not willing and are still very reluctant to surrender their national sovereignty to the new supranational institutions such as the Organisation of African Unity (OAU) now African Union, ECOWAS,

ECOWAS Parliament or ECOWAS Court of Justice. The question of supranationality then was out of the question. It should also be added that Nigeria led other Member-States to follow the classical rank ordering of economic integration experiment<sup>33</sup> which includes free trade area, customs union, common - market, economic union and total economic unification of the integrating region. Guided by her traditional functionalist approach, Nigeria concentrated efforts on the first integration objectives as they gradually move up the integration ladder.

Thus, Nigeria's economic diplomacy sought to achieve political and legislative integration of West Africa through economic means. Nigeria never lost sight of this strategy. It should be admitted, however, that the main objective of the ECOWAS arose out of the desire of governments to find a formula for accelerating economic growth within the sub-region. As Professor E. J. Usoro rightly observes, "although the objectives, as stated is economic, the motivation was principally political, a reaction against the economic consequences of the long period of political dependence on European countries".<sup>34</sup> Aaron T. Gana supports this view when he writes: ECOWAS is seen as an assault on the neo-colonial division of Africa into Francophone and Anglophone Africa. It is seen as a solution to the political limbo in which the continent finds itself vis-à-vis the rest of the world".<sup>35</sup> It is, therefore, not out of place to state as Gana has done, that economics seemed to have played a secondary role in the calculations of Nigeria's leaders in championing the establishment of a regional common market. The potential political gains of economic integration appeared to be of greater significance to the Nigerian leaders. It has been officially stated that "integration as a political weapon certainly featured prominently in the calculations of the Nigerian leaders" and to do otherwise would have been "inconsistent with their avowed functionalist approach to unity"<sup>36</sup> of the West African sub region. Therefore, by first placing emphasis on economic objectives of integration, Nigeria's economic diplomacy was in line with the theory of international integration, which holds that economic integration would ultimately produce political unity.<sup>37</sup>

Above all, the prolonged military rule in almost all the West African States, including Nigeria, was a factor that contributed to the delay in establishing the legislative arm of the ECOWAS. For instance, Nigeria was under military rule from 1966 to 1979 and from 1984 to 1999.<sup>38</sup> A

Parliament can only operate under civilian rule and not military administration. By law, Members of the Parliament are elected from the national assemblies of the ECOWAS Member-States. It was only after Nigeria had returned to democracy that it fought for the inauguration of the Parliament in year 2000.

It is instructive to note that the agreement by Member-States to strengthen ECOWAS politically, legislatively and judicially by accepting to establish ECOWAS Parliament and Court of Justice, is vindication of the theory of international integration earlier discussed above. The rest of this section is devoted to explanation of facts concerning the Community Parliament.

### **Establishment of ECOWAS Parliament**

Unlike the ECOWAS Court of Justice that has the Consular Courts and West African Court of Appeal (WACA) as its antecedents,<sup>39</sup> the ECOWAS Parliament has had no such predecessors or precursors. In other words, there is no evidence to show that there had been a common legislative body where West African States met to deliberate on matter affecting them or to make law for themselves. The idea of establishing ECOWAS Parliament was initiated by the Nigerian Military President Ibrahim Babangida at the Abuja Summit held from 4<sup>th</sup> to 6<sup>th</sup> July, 1991. President Abdou Diouf of Senegal was a co-initiator of the idea of the establishment of a West African Parliament. At the Abuja Summit, President Abdou Diouf admonished his counter Heads of States and Government thus: "we should try to organise a better relationship between our people",<sup>40</sup> in order to allow them to participate in the elaboration and implementation of the policies and programmes of integration designed for their benefit. Before this date, the Committee of Eminent Persons under the chairmanship of General Yakubu Gowon, had in April 1991, identified the weaknesses and omissions of the 1975 Treaty including the absence of supra-nationality and provisions dealing with co-operating in political and defence matters. After having made such diagnosis, the Committee of Eminent Persons in conjunction with Nigerian authorities agreed to revise the treaty so as to, among other things, "introduce new provisions to cover relevant areas of (political) co-operation and integration not included in the 1975 Treaty".<sup>41</sup> Article 56 of the *Revised Treaty* states "in pursuit of the

integration objectives of the Community, Member-states undertake to co-operate on political matters, and in particular, to make appropriate measures to ensure effective application of the provisions of this treaty.<sup>42</sup> A decisive step was taken towards this end with the inclusion in the Revised ECOWAS Treaty of Article 13, which stipulates:

"There is hereby established a Parliament of the Community. The method of election of the members of the Community Parliament, its composition, functions, powers and organisation shall be defined in a protocol relating thereto."<sup>43</sup>

As a follow up to the implementation of this provision, Nigeria convened a meeting of ECOWAS Ministers of Justice in Lagos in April 1994. This meeting hammered out a draft protocol relating to the Community Parliament. The draft Protocol was considered by the 35<sup>th</sup> Sessions of the Council of Ministers which in turn recommended its adoption by the Heads of State and Government at the 17<sup>th</sup> ECOWAS Summit in Abuja in August 1994.<sup>44</sup>

The ECOWAS Heads of State took certain factors into consideration while adopting the protocol<sup>45</sup>. They were aware that the integration of Member-States into a viable regional Community required for the settlement of issues, the political will of Member-States to take all necessary measures for the success of such an enterprise. The Heads of State were convinced that the Community Parliament as a forum for dialogue, consultation and consensus for Representatives of the people of the Community can effectively promote integration. Lastly, the West African leaders recalled the ECOWAS Declaration on Political Principles adopted by the Authority of Heads of States and Government at its fourteenth Ordinary Session held in Abuja from 4-5 July, 1991.

Surprisingly, despite the overwhelming enthusiasm expressed by many Heads of States and Government, the establishment of an ECOWAS Parliament had been an idea in the air for a long time. It became a reality nine years after the ideas was first initiated in Nigeria in 1991. As stated above, a decisive step was taken towards this end with the inclusion in the Revised ECOWAS Treaty of Article 13 which provides for the establishment of a Parliament.

Although, the protocol relating to the Community Parliament was adopted by the Heads of State and Government at the 17<sup>th</sup> ECOWAS Summit in Abuja 1994, it did not enter into force until six years later. The main reason for this delay was that the Protocol was not ratified by the required at least nine (9) signatory-states in accordance with the constitutional regulations in force in each of the signatory States.<sup>46</sup> Another reason for the delay was the prolonged military rule in Nigeria which was, and still is the Member and initiator of the Parliament. Absolutely, without political stability in Nigeria, the ECOWAS would not have existed nor function effectively.

The Protocol was ratified at the twenty-third Summit<sup>47</sup> of the Authority of Heads of State and Government held in Abuja on 28-29 May 2000.<sup>48</sup> The Authority expressed satisfaction at the entry into force of the Protocol relating to the Community Parliament, thus making it possible to effectively establish this important Community legislative institution. Heads of State and Government requested all National Parliaments to designate their representatives to the Parliament, in accordance with the provisions of the Protocol. The Authority of Heads of States and Government was vested with the power to determine the duration of the transition period at the end of which the citizens of Member-States would elect legislators and alternate Members through universal suffrage. The Authority also decided that the headquarters of the Parliament should be chosen after due consultations among Heads of State and Government.

The Parliament was inaugurated in Bamako, Mali in December 15<sup>th</sup>-16<sup>th</sup>, 2000. The inauguration came into nine months after the Protocol for its establishment came into force following its endorsement by nine Member-States, the minimum required for it to come into force. Among the signatories were Nigeria, Ghana, Benin, Burkina Faso, The Gambia, Guinea, Mali, Senegal and Sierra Leone.<sup>49</sup> The inauguration added to the impressive array of the region's achievements during a remarkable year that had been characterised by an increasing tempo of performance, consistent with the new spirit of fast-tracking in the implementation of Community Programmes. The inauguration also came barely a month after an extraordinary meeting of the Council of Ministers shortlisted 14 candidates for the Community Court, another important ECOWAS institution, whose evolution has been discussed in another publication.<sup>50</sup>

During the two-day session in the Malian capital, the Members elected the oldest Parliamentarian from the sub-region, Oumarou Sidikou from Niger, to chair the proceedings while the youngest member from Benin was named Secretary. This was in line with the Protocol that established the Parliament. The Chairman and Secretary held office until January 2000, during elections in the various offices of the Parliament at the next session in Abuja.

### **Composition and Jurisdiction/Function of the Parliament**

As earlier stated, the protocol relating to ECOWAS Parliament was adopted by the Authority of Heads of State and Government in 6<sup>th</sup> August, 1994. It entered into force 14<sup>th</sup> March, 2002. The Protocol contains twenty-two Articles. Article 1 assigns meanings to expressions or terms as used in the document. Accordingly, “Parliament” means the Community Parliament established in accordance with Article 13 of the Revised Treaty “Member of Parliament” means one representative elected in accordance with Article 7 of the Protocol. “Representative” or “Representatives” is the title of a Member or Members of the Community Parliament. “Speakers” means the Member of the Community Parliament elected to conduct its business in accordance with Article 15 of the Protocol.

The structure, designation and seal of the Parliament are dealt with in Articles 2, 3 and 4. Structurally, the Parliament is the Assembly of the peoples of the Community. Members of Parliament are deemed to represent all the peoples of the community. They are known as “Representatives”. The House of Representatives of the people of the Community “shall be designated Community Parliament.” The seal of the Parliament was to be determined by the Authority of Heads of State and Government.

In terms of composition, Article 5 stipulates that “the Parliament shall be composed of one hundred and twenty (120) seats”<sup>51</sup>. Each Member-State is to have a guaranteed minimum of five(5) seats, the remaining forty(40) seats being shared on the basis of population. Nigeria has 18 representatives being the highest number of representatives in the Parliament followed by Ghana with eight(8) representatives, and Cote d'Ivoire with seven members. Accordingly, representation for each Member-States shall be as stipulated on the appendix annexed to this paper. Burkina Faso, Guinea, Niger, Mauritania, Senegal are entitled to six members each while Benin, Cape Verde, Guinea Bissau, Liberia, Mali,

Sierra Leone, The Gambia and Togo have five seats each because of their population, it should be noted that Mauritania left ECOWAS in 2002 thus reducing the number of seats in the Parliament to 115. However, the number and distribution of seats are subject to review. The same Article 5 provides that “whenever necessary, the number and distribution of seats shall be reviewed by the Authority on its own initiative or on the recommendation of the Parliament”.

S/N	COUNTRY	NUMBER OF SEATS ENTITLED
1.	Benin	5
2.	Burkina Faso	6
3.	Cape Verde	5
4.	Cote d'Ivoire	7
5.	Gambia	5
6.	Ghana	8
7.	Guinea	6
8.	Guinea Bissau	5
9.	Liberia	5
10.	Niger	6
11.	Mali	5
12.	Mauritania	6
13.	Nigeria	35
14.	Senegal	6
15.	Sierra Leone	5
16.	Togo	5

Table: 4.1 Countries and their Entitled Number of Seats in the Community Parliament.

The competence or jurisdiction or functions of the Parliament are outlined under Article 6 of the Protocol. The Parliament may consider matters concerning the Community, in particular issues relating to Human Rights and Fundamental Freedoms and make recommendations to the Institutions and Organs of the Community. The opinion of the Parliament shall be sought in the following area.

- (a) Inter-connection of the communications links between member states so as to make free movement of persons and goods effective;
- (b) Inter-connection of telecommunication systems to form an effective network with the maximum possible number of extensions to the rural areas to make them more accessible;

- (c) Inter-connection of energy network Community;
- (d) Increased co-operation in the area of radio, television and other media links within the Community and between the Community and the rest of the world, development of national communications systems to form an integrated, effective community system with its own programmes;
- (e) Public health policies for the community;
- (f) Common educational policy through harmonization of existing systems and specialization of existing universities; adjustment of education within the community to international standards;
- (g) Youth and Sports;
- (h) Scientific and technological research;
- (i) Community policy on environment;
- (j) Treaty review;
- (k) Community Citizenship;
- (l) Social integration;
- (m) Respect for human rights and fundamental freedoms in all plenitude.<sup>52</sup>

### **Elections of Members and Speaker of the Parliament**

Article 7 pertains to election, terms of office and vacancies. It provides that the representatives and their alternates shall be elected through direct universal suffrage by citizens of the Member-States. It further stipulates that pending the time Members of Parliament are elected by direct universal suffrage, the National Assembly of Member-States or their equivalent institutions or organs shall elect such Members from amongst themselves. The duration of the transitional period shall be determined by the Authority of Heads of State and Government.

Representatives and their alternates shall be eligible for re-election. Representatives shall be elected for a period of five years from the day of swearing in. Their mandates shall, without any exception, end on the last day of the legislature. For the duration of the transition period, Representatives who are not re-elected at the national level shall remain in office until the new Representatives from their respective Member-States take up their positions. Any vacant seat shall be filled by the first non-

elected candidate registered on the same list containing the name of the outgoing Member of the Parliament.<sup>53</sup>

Other highlights of the protocol cover written declaration by the Members of the Community Parliament, allowance and voting. Members of the Community Parliament shall before assuming duty, sign the written declaration which reads "I declare on my honour that I will faithfully serve the interests of the peoples of the Community and that I will not submit to any direct or indirect pressure from any Member-States or group."<sup>54</sup> Representatives are to be paid a parliamentary allowance to be fixed by the Authority of Heads of State and Government. Members of the Parliament are to vote personally and on their own conviction. They would not be bound by any instructions or mandate. The Rules of Procedure of the Parliament exceptionally authorise the delegation of vote. Where this is done, no one shall be allowed to be delegated for more than one mandate.

Article 12 of the Protocol relates to the incompatibility of Member of Parliament. It stipulates that the post of the Member of the Community Parliament shall not be held concurrently with the following:

1. Members of government, the constitutional councils, the Supreme Court of a Member-State;
2. Members of Courts and Tribunals of the Member-States;
3. Judges, Lawyers or Registrar in the Community Court of Justice and Community Court of Arbitration;
4. Member of any institution created in application of the Revised Treaty, to administer the Community's Fund or a permanent task directly connected with a serving officer in the ECOWAS Institutions, or any other post in an international organisation;
5. All other civil and public servants in Member-States.

Sessions of the Parliament covers a maximum period of three months during which the Parliament shall sit. Parliament shall meet at least twice a year in ordinary session. Sessions shall be convened by the Bureau, subject to the provisions of Article 14 of this Protocol. Parliament may also meet in Extra-Ordinary Session to discuss a specific agenda. This could be done either at the initiative of the current Chairman of the Authority, or at the express request in writing of an absolute majority of members addressed

to the speaker. The Executive Secretary should attend or ensure that he is represented at all meetings of Parliament. Article 14 provides that the first meeting of the Parliament shall be chaired by the oldest Member and that the youngest Member shall act as Secretary.

Article 14 also provides for election of a speaker. Accordingly, the Speaker of Parliament shall be elected by a two-third majority of Members of Parliament at the first round of voting by an absolute majority of voting Members at the following rounds at which two candidates who obtained the highest number of votes can be presented.<sup>55</sup>

The business of the Parliament and its organs shall be directed by the Speaker. The first official function of the speaker shall be the initiation of the election of other officers of the Bureau. Two main statutory functions of the speaker have been spelt out under Article 15. He is to direct the business of the Parliament and its organs. He presides over meetings and conducts the debates in accordance with the provisions of the Rules of Procedure (Article 15). The Parliament shall have financial autonomy.

The Bureau shall comprise a Speaker, Deputy Speaker, Treasurers and Parliamentary Secretaries. The number of Deputy Speakers, Treasurers and Parliamentary Secretaries shall be determined in accordance with the rules of procedure. The General Secretary shall be nominated by the Speaker after consultation with the Bureau. With the exception of the speaker, Members of the Bureau shall be elected for a period of one year. They shall be eligible for re-election.

Article 9 deals with immunity of Members of the Parliament. It stipulates that the Representatives shall enjoy parliamentary immunity<sup>56</sup> in all the Member-States of the Community. Therefore, no representative may be prosecuted, summoned, arrested, detained or sentenced on account of opinions expressed or vote cast by him in the exercise of his duty while parliaments is in session, and except in case of flagrante delicto, no Member can be prosecuted or arrested for criminal or penal action without clearance from the Parliament. While Parliament is on recess, and except in case of flagrante delicto, duly established suits or confirmed sentence, no Member of Parliament can be prosecuted or arrested without clearance from the Bureau of the Parliament. The Parliament can through a two-third majority vote, request from the competent authority the suspension of a detention order on or suit against a Member of Parliament.

The last Article of the Protocol being Article 22 provides that the protocol shall enter into force upon ratification by at least nine(9) signatory states in accordance with the constitutional regulations in force in each member signatory state. The protocol is annexed to the Treaty and shall form integral part thereof. The protocol; was signed in Abuja by Heads of State and Government of West Africa or their representatives. These include Late General Sani Abacha of Nigeria Nkephone Dieudonne Soglo (Benin), Ft.-Lt. Jerry John Rawlings (Ghana), Lansana Conte (Guinea), Captain Valentine Straasser (Sierra Leone), and the Prime Minister of the Republic of Togo, Edem Kodjo, Amara Essy (Cote d'Ivoire), Joao Silva (Cape Verde), Hermann Yameogo (Burkina Faso), Sana Sabally (The Gambia), David Kpomakpor (Liberia), Mrs. Sy Kadiatou Sow (Mali Rep. President), Ahmed Ouidzein (Rep. od Mauritania President), Mahamane Ousmane (Niger), Joao Vieira (Guinea Bissau), Magatte Thiam (Senegal and Edem Kodjo(Togo).<sup>57</sup> According to official report,

The ECOWAS Parliament will facilitate implementation of Community acts and decisions since its role will be to monitor, in a democratic manner, both the institutions and the decisions taken. It will also foster a greater sense of belonging to a Community in the minds of all sections of West Africa.<sup>58</sup>

#### **Standing Committees of the Parliament and their Functions:**

There are thirteen Standing Committees of the ECOWAS Parliament. These include Committee on Foreign Affairs, Cooperation, Defense and Security; Committee on Rural Development; Committee on Environment and Natural Resources; Committee on Economic Affairs, Finance and Trade; Committee on Industry and Mines; Committee on the Rights of Women and Children.<sup>59</sup> Each of these committees are granted powers and responsibilities. For instance, the Committee on Foreign Affairs, Cooperation, Defence and Security is responsible for matters relating to, among other, regional peace, stability and security through the promotion and strengthening of good neighbourliness; peaceful settlement of dispute among member states; promotion and consolidation of democratic system of governance; territorial integrity and political independence of member-states; equality of sovereign states. The Committee on Rural Development is responsible for matters relating to

development on agriculture, forestry, livestock and fisheries in order to ensure food security, increase production and productivity, and protect plant and animal species. The Committee on Environment is responsible for matters relating to air, soil and water pollution; climate change, import classification, international and regional measures and agreements aimed at protecting the environment. The Committee on Economic Affairs, Finance and Trade shall be responsible for relating matters to, among others, establishment of an economic and monetary union; promotion of better terms of trade for West African commodities and improvement of access to international markets for community products; creation of a conducive environment that will promote foreign investments in all Member-States; World Trade Organisation, UNITAD, and consideration of draft budget of the Parliament.

### Challenges and Prospects of the Parliament

As representatives of the people, the ECOWAS Parliamentarians are entitled to discuss issues concerning the welfare of the 250 million citizens of the sub-region in furtherance of the objective of integration. However, its functions are largely advisory unlike similar national or regional legislative institutions. In modern democracies, there are three basic functions of the parliament, namely law-making, oversight and representation of the people. As Kizito and Patrick have rightly noted, dynamic of modern democracy have extended the scope and functions of Parliaments to regional bodies such as ECOWAS Parliament, seeking to improve inter/intra-border trade among Member-States.<sup>60</sup> Comparing the ECOWAS Parliament with other regional or sub-regional legislative, these authors include:

In Europe, for example, the European Parliament shares equal legislative powers with the Council of European Union. This empowers the EU Parliament to adopt European laws (directives, regulations, among others). It can accept, amend or reject the content of European legislation. For some years now, the East African Legislative Assembly has been operating as a legislative body. The Southern African Development Commission Parliamentary Forum has embarked on a study to transform into a legislature. There are also studies aimed

at transforming the Pan-African Parliament into a legislature.<sup>61</sup>

One fact that the above comparison has brought to the fore is that the ECOWAS Parliament is at present a consultative and advisory institution. Unlike the legislatures in other climes, the ECOWAS Parliament is yet to make laws. In other words, it has no specific decision-making or law-making powers. Apart from the advisory role it is expected to play, the Parliament makes recommendations to the relevant institutions and arms of the Community. The resolutions of the Parliament are not binding on any national government until the resolution passed by the ECOWAS Parliament has been adopted by the relevant organs of the Community. The Parliamentarians of the ECOWAS Parliament are elected directly; they are selected by the national Parliament of Member-States. Although one may agree with some scholar that “this institutional arrangement makes the (ECOWAS) Parliament much more a deliberating body than a legislature and also means that its Members are not directly accountable to West Africans”,<sup>62</sup> a critical look at the flaws would reveal that they were deliberately allowed in the legal instrument establishing the Parliament. For instance, Article 4(2) of the Supplementary Protocol establishing the Parliament provides that the Parliament “shall be progressively enhanced from advisory to co-decision making and subsequently to a law-making role in areas to be defined by the Authority” (of Heads of State and Government). This provision has given hope that the Parliament will become a truly legislative body with all powers to make laws for the Community.

The Parliament is working hard to bail itself out of the present near powerless status. The President of ECOWAS Comission, Kadre Desire Ouedraogo and the Speaker, Senator Ike Ekweremadu had sought to enhance the powers of the ECOWAS Parliament conform to global best practices. In one of the studies<sup>63</sup> on how to transform the Parliament, the Parliamentarians proposed that:

- i. National parliaments should act as Electoral Colleges to elect ordinary citizens as representatives of the ECOWAS Parliament.
- ii. The National Parliament should be empowered to confirm the

appointments of statutory appointees so as to provide Members an opportunity to assess the capacity of those to be entrusted to administer the Community before they assume office.

- iii. Parliamentarian be integrated into the Community mechanism on conflict prevention, management resolution, peacekeeping and security.
- iv. The office of OMBUDSMAN should be established as an innovative concept to forge closer ties with ordinary citizens by formulating a channel through which their grievances may be addressed without resorting to judicial processes.

An *ad hoc* committee was set up by the Third Legislature to consider the enhancement of powers of the Parliament and advise on the best way forward. The new speaker of the Parliament, Moustapha Cisse Lo who is also the Deputy Speaker of the National Assembly of Senegal had reaffirmed in his address at the first Extraordinary Session for 2016, that enhancement of the powers of Parliament remained a priority. He noted that ECOWAS Parliament with enhanced powers would benefit the entire population of the Community. The speaker of the Fourth Legislative directed the General Secretariat to take another look at the process and provide concrete proposals on how best to get Parliament on track.<sup>64</sup>

The Fourth Legislature of the ECOWAS Parliament was inaugurated in February 2016 with Cisse Lo unanimously elected as Speaker. The emergence of the Speaker was based on the rational system in alphabetical order in accordance with the Article 15 of the Supplementary Protocol establishing the Parliament. The Chairman of the ECOWAS Heads of States and Government and President of Republic of Senegal, Macky Sall expressed confidence that the fourth Parliament would address the challenges facing the sub-region in its four years tenure. Similarly, the President of the ECOWAS Commission Kadre Ouedraogo said the inauguration of the Fourth Legislature demonstrated the people's increased participation in the progress of member-states and the realisation of the regional integration agenda. The adoption of the Supplementary Act on the Enhancement of the Powers of the ECOWAS Parliament by the Community Decision-Making Bodies was the most significant achievement of Third Legislature led by Senator Ike Ekweremadu.<sup>65</sup>

Although, the ECOWAS Parliament is not to legislate on domestic issues of Member-States, it can intervene where laws and governance in a member-state are at the detriment of the people. For instance, recently, the ECOWAS Parliament had called on Liberia to reconsider aspects of its constitution review where proposals had been made to make the country a Christian state.<sup>66</sup>

Members of the Parliament took this position following the presentation of Liberia's Country Report at the ECOWAS Parliament's ongoing 2016. Giving support to Liberia remaining a secular state, Members of Parliament noted that the aspect of defining religious differences was a sensitive one and urged that it should be put into consideration the consequences of making such decisions.<sup>67</sup> Edwin Melvin Snowe presented the Country Report on behalf of the Liberian delegation including Senators George Manneh Weah, Prince Yormie Johnson, Haja Fata Siryon of Moutserrado, Nimba and Bomi counties respectively. The Liberian Country Report gave an overview of the current state of affairs in the country including the state of Liberian economy security with emphasis on the effect of United Nations Mission in Liberia (UNMIL) drawn down. The Report also discussed the Liberian agricultural sector post Ebola health care delivery, 2017 presidential elections, human rights, press freedom, among other issues. The Report revealed that the state of the Liberian economy had experienced two major shocks, namely, the outbreak of the Ebola Virus Disease (EVD) and the decline in global commodities particularly iron ore and rubber. Representatives of the Republic of Benin, Guinea Bissau, Cape Verde and Guinea also presented their reports to the Parliament during the Ordinary Session of the Fourth ECOWAS Legislature.<sup>68</sup> The call for a Christian State may throw Liberia into another bloody conflict especially during the 2017 elections; more so as the UNMIL had departed Liberia.

## Conclusion

This paper deals with evolution of the ECOWAS Parliament. It has examined why the establishment of Parliament was delayed and analysed the steps that were taken to establish the Community Legislature and its Standing Committees. It discussed the composition, jurisdiction, election and immunity of members and examined the challenges and prospects of the Parliament. The study noted that the legal judicial and legislative factors

of integration have been ignored by scholars for a long time. It stressed that without legal, judicial and legislative factors and their benefits, the aims of integration may be difficult to achieve. The Parliament will not only legislate but also facilitate the implementation of laws the ECOWAS such as rules dealing with free movement of persons, goods, residence and establishment of enterprises in Member-States. It is hoped that the ECOWAS Parliament will help make laws to control influx of illegal immigrants and their accompanying socio-economic and security threats to Member-States.

It is also hoped that the Parliament will be serving as a forum for dialogue, consultation, representation and conflict resolution thereby helping to prevent war, promote political stability, sustain rule of law, and above all deepen liberal democracy in Member-States of the ECOWAS. All these will eventually have positive impact on economic, political, social, legislative and judicial developments of the West African sub-region. Therefore, the successful establishment and inauguration of the Community Parliament has brought ECOWAS closer to the realization of Nigeria's dream of promoting and sustaining economic, legislative, judicial and political integration of the West African sub-region.

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