

Normative Supranationalism and Good Governance in Africa: The Nexus of Regional Parliaments and Democratic Legitimacy

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Abstract

Elections serve a dual function; they are the ultimate expression of democracy and a tool for political representation and accountability. The conduct of an election is therefore used as a yardstick to measure democracy. It is puzzling that the EAC and the ECOWAS parliaments do not have elections, yet claim to be institutions of representation, with the ability to conduct accountability and promote democracy. Furthermore, most parliaments in Africa exist in an environment of declining democratic performance, increased military coups, and continued scholarly pessimism on the ability of international parliamentary institutions (IPIs) to contribute meaningfully to the quest for democracy, making the research question ineluctable.

Existing literature on international parliamentary institutions offers theoretical explanations for their creation, especially debates on institutional learning, adaptation, and diffusion. Rational institutionalist theories on the other hand struggle to explain why African states continue to establish democratic institutions but remain undemocratic. Rational institutionalists argue that institutions are created to solve functional problems struggle to explain the continued creation of parliaments in Africa and the corresponding decline in democratic rankings. Further, they posit that there is little evidence to address how the parliaments that have been created and imbued with the normative mandate of accountability conduct accountability.

Literature on democratic deficit establishes a link between election of parliaments and accountability. This has led to scholarly euphoria for accountability particularly focusing on the European Parliament and its' efforts; unfortunately, because they do not have elections, regional parliaments in Africa are yet to benefit from this enthusiasm. This thesis contributes an original empirical argument and confirms theoretical preposition on international parliamentary institutions and the nature of delegation. In assessing the interaction between multi-level governance and supranational delegation, the thesis answers how the two regional parliaments provide accountability without election. Using both qualitative and quantitative methods of research, I find that despite the challenges posed by multi-level governance, the blame game occasion on overlapping competencies due to increased actorness, and the obvious information asymmetry associated with supranational delegation. Both parliaments use a variety of tools to promote accountability and to enhance their performance. The thesis recommends a reduction in MLG coupled with enhanced interaction with domestic state machinery for accountability.

Additionally, the effect of the regional parliaments on democracy will be felt and will solve the democracy conundrum.

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Abbreviations

| | |
|--------|---|
| AU | African Union |
| EALA | East African Legislative Assembly |
| ECOWAS | Economic Community of West African States |
| EP | European Parliament |
| EU | European Union |
| IO | International organization |
| IPI | International parliamentary institution |
| IPU | Inter parliamentary Union. |
| MLG | Multi-Level Governance |
| M.S. I | Multi Stakeholder Initiatives |
| P.A. | Principal agent |
| RO | Regional Organization |
| UN | United Nations |
| UNECA | United Nations Economic Commission for Africa |

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Chapter 1

Introduction and Background of the Study

While the rationale for the creation and empowerment of parliaments by democratic and non-democratic states remains ambivalent, their purpose as agents of legitimation, accountability, democracy and good governance is uncontested (Barkan, 2009; Lenz et al., 2019; Mumford, 2018a, 2021b; Santiso, 2001; Schimmelfennig et al., 2020). A parliament is defined as the legislative arm of government as well as the institution closest to the citizenry, and as a symbol of popular representation of those who elect them (Hague et al., 2016; McCormick et al., 2019). Democratic parliaments perform functions varying from representation, deliberation, legislation, authorizing expenditure, making governments and oversight (Agora, 2023; Barkan, 2009; McCormick et al., 2019). Representation is concerned with questions of how the legislature comes into office and how they are held accountable and perceived by their constituents. Existing research on representation examines its mechanisms including those for delegation and initiatives used to ensure throughput legitimacy of the citizens affected by decision making processes. The deliberative role of parliaments consists of holding discussions on issues of both public and national concern; held in different forums including through committees-based legislature and plenary sessions. Parliaments are also involved in legislation and the processes of passing bills into laws, often involving several readings before approval. The oversight role is akin to oversight over the budget, including authorizing and approving government expenditure as well as general oversight and holding the executives accountable (Harwood, 2020; McCormick et al., 2019). The functions performed by a parliament depend on the powers it has been given and often vary from one parliament to the other. However, the most important role of a parliament in a parliamentary system is not legislation, but making and breaking a government (McCormick et al., 2019; Przeworski et al., 1999).

The gist of this research is to address how international parliamentary institutions (in short IPIs) contribute to democratic enhancement. This thesis examines democracy through the parliamentary function of representation and accountability with specific focus on two IPIs: EALA and ECOWAS. It begins its focus on representation through delegation using the principal agent theory. It argues that states engage in supranational delegation to help solve functional problems, and address legitimacy concerns. Through supranational delegation, states establish IPIs and give

them parliamentary functions similar to those of the national parliaments. To further understand how democracy is promoted using representation, this thesis examines the mechanisms of representation, with a focus on election. It considers representation to be a consequence of supranational delegation achieved through election and, while elections help to achieve accountability, they also contribute to democracy.

Because supranational delegation introduces new complexities to the principal agent theory of delegation, made especially by introducing multiple principles, discussion on agency related challenges are required (Citi & Jensen, 2022; Tallberg, 2002). It confirms the paradox in existing literature on supranational delegation. Owing to the complexities of multiple principles, it is imperative to rely on domestic/state mechanisms of accountability to effectively tackle the democratic deficit at the supranational level. Furthermore, the research makes a connection between Multi-Level Governance (in short MLG) as an exacerbator of agency loss. It also looks at other mechanisms of addressing agency loss especially where representation and delegation with election is not conceivable.

Both vertical and horizontal forms of accountability are presented. The objective of this explorative study of parliamentary functions of representation and accountability is to establish how without conducting elections,¹ the EALA and ECOWAS parliaments still represent their constituents and promote democracy and good governance by conducting accountability. The focus is on representation and accountability because these two functions have remained unhinged

¹ Election for this research is centered on two contestable assumptions; first that during campaigns, politicians will always sell policy related incentives before the election and commit to them after the election. Secondly, voter's decisions are informed, and they use their vote to punish or reward the incumbent government; such that the policy outcome of a period becomes the status quo for the next election. This position is problematic because it relies on political representatives being concerned with their reputation and wanting to keep campaign promises and that politicians are concerned about being credible and would want to invest in their credibility by keeping the policy promises. The assumptions are also mute as they assume that accountability is goal-based and that the interest of the voter and that of the politician are aligned. Also, the presumption that the politician will only pursue the interests of the voter and not his or her own is often not the case. Furthermore, assumptions that the voter is informed of all the policy interest of the politician, is never an accurate preposition. The problematic and contestable assumption although mentioned, are not the focus of this research, the inducing consequence of voting is. The focus of this research relies on the inducing effect of voting because it triggers accountability. The form of accountability bias for this research assumes the voters can accurately judge the politicians through evaluating the implementation of the campaign policies and the politicians are also induced to implement their promises as they are eager to appear in good books with the voter in time for the next election, see (Manin, B. (2020). Democracy Accountability and Representation. In.

despite the evolution of parliaments as an institution (A. Obaidullah, 2019) and they remain the central agents of democracy and good governance.

There are other ways of political representation, and not just through vertical accountability between the voter and the politician (March, 1995; Olsen, 2013; Przeworski et al., 1999). This research explores other types of accountability tools prevalent in parliamentary democracy. Details about the workings of an array of accountability tools ranging from commissions of inquiry, interpellations, sensitization campaigns, parliamentary question and answer sessions are presented.² Exploring other tools of accountability is paramount because the two-case study IPIs (EALA and ECOWAS) do not have elections as understood in the traditional sense. Although established in a non-traditional environment, EALA and ECOWAS parliaments are assigned in their constituting documents the mandate to represent their citizenry, to conduct oversight and to promote good governance and democracy. However, they do not have the ability to conduct direct elections of their members. It is therefore important to uncover what tools the two-case IPIs have and use to realize accountability, promote democracy and good governance.

1.1 Research puzzle and statement of the problem

Legitimacy concerns are the *raison d'être* for military coups (Collier & Hoeffler, 2005; Gaub, 2016). The years preceding the 2020 worldwide Covid-19 pandemic saw military coups and unconstitutional changes in government making a comeback all over the world (Chin, 2021), with indices indicating that coups predating the pandemic were not a monopoly of the African continent (IDEA, 2018; Zamfir, 2021).³ Moreover, it is manifest that of the 10 military coups (7 successful and three attempts) that were experienced during the Covid-19 pandemic period occurred in Africa (Chin, 2021; Chin & Kirkpatrick, 2023).

The occurrence of coups in Africa is appalling because they took place within the context of an influx of democratic institutions. Africa boasts of having established over 3 dozen continental,⁴

² See detailed discussion in chapter 5, 6 and 7 of the thesis.

³ See GSD-I Reports - Global state of democracy in focus: an overview, available at <https://www.idea.int/publications/catalogue/global-state-democracy-indices-overview?lang=en> and European Parliaments report on State of democracy in sub Saharan Africa, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690647/EPRS_BRI\(2021\)690647_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690647/EPRS_BRI(2021)690647_EN.pdf) accessed on 6/20/2023.

⁴ See Inter Parliamentary Union data on parliaments available on <https://www.ipu.org/national-parliaments> accessed on 6/20/2023.

regional and domestic parliaments (IPU, 2024). Parliaments are among the most outstanding institutions of democracy and play a critical role in ensuring legitimacy in terms of oversight and representation function (I.P.U, 2023; Nijzink et al., 2006; Norton, 1990; Schimmelfennig et al., 2020).

As representatives of citizens', concerns, and interests' parliaments provide a link between government and the people; parliaments also promote citizens' understanding of governments' work and thereby embody the will of the citizens. The centrality of parliaments and their representative role is what contributes to democracy and good governance. What all parliaments established in Africa have in common is their normative commitment and determination to protect and promote democracy, good governance, and the rule of law (Jancic, 2019; Terlinden, 2004). At least in their legal documents this commitment is expressed in black and white. It is surprising that a continent with the highest number of institutions tasked to defend democracy suffers from the highest number of coups d'état and perennial decline in rankings of democracy and good governance. Beyond the rhetoric of tanks and heavy artillery, it is imperative to examine efforts and commitments of IPIs on the African continent to explain how they promote democracy and good governance.

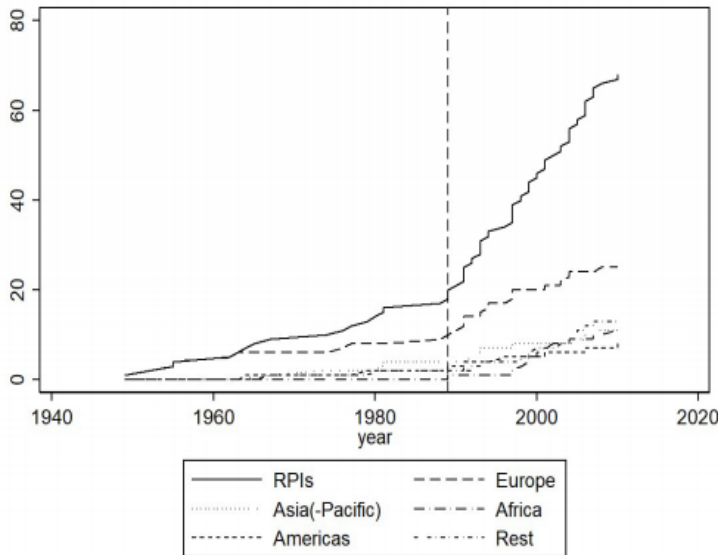
1.1.1 Democracy and Parliaments

International Parliamentary Institutions (IPIs) are some of the regional institutions that have mushroomed because of an increase in the number of international and regional organizations (Šabič, 2013). IPIs are generally defined as transnational bodies composed of a membership elected or nominated from the member states to an international organization or an intergovernmental organization (Kissling, 2011; Łuszczuk, 2015; Schimmelfennig et al., 2020; Szabó, 2021).

Since the creation of the first IPI in 1889, there has been a rise in numbers. Additionally, as the IPIs numbers increase, so does their scope and rights. To put this increase in conceivable perspective, only 40 IPIs existed before 1990, between 1990 and 1999 however, the number rose to 51, and after 1999 to date, the number stands at a total of 68 including the newly established IPIs (Jancic, 2019; Kissling, 2011; Schimmelfennig et al., 2020). While Europe and Latin America are credited with the increase in IPIs, Africa took the lead in the 1990s and is responsible for most of IPI's growth in terms of numbers (Jancic, 2019; Šabič, 2008; Schimmelfennig et al., 2020).

Figure 1: Number of regional parliamentary institutions in macro-regions since 1949

Source: (Cofelice, 2019)



The interest in IPIs in Africa is remarkable because their development is linked to the fact that traditionally, parliaments are the gold standard of democracy, good governance and rule of law (Buchanan & Koehane, 2006). In their full glory, traditional parliaments perform various functions including representation, legislation, oversight and scrutiny of the budget among others. Often the kind of function they perform depends on the democratic level of the government forming them (Malamud & Stavridis, 2011). Despite there being an obvious predetermined function of parliaments, existing literature on IPIs also shows that they are created to establish legitimacy and obtain recognition for themselves and their respective international organizations' right to rule. Moreover, once established, IPIs have the benefit of securing member state voluntary compliance with the laws of an international organization, rather than compliance based on coercion or self-interest (Lenz et al., 2019; Lenz & Viola, 2017; Schimmelfennig et al., 2020; Terlinden, 2004).

Alongside their establishment to address legitimacy concerns, IPIs are also established by international organizations (in short IOs) to fill the democratic deficit and address the governance problems inherent in regional IOs (Navarro, 2010; Plottka & Müller, 2020; Schimmelfennig et al., 2020; Suchman, 1995; Terlinden, 2004). Because of their legitimacy enhancing properties, IPIs are commonly referred to as institutions of representation (Hellwig & Samuels, 2008; Prewitt, 1970; Schimmelfennig et al., 2020) and through mechanisms of accountability they are able to

promote democracy and good governance (Bovens, 2010; Bovens et al., 2008; Olsen, 2013; Serban, 2023).

This research uses existing literature on the role of parliaments in general and that of IPIs in particular to provide answers to questions of why IPIs are created in Africa. Moreover, it also examines how IPIs perform the functions they purport to be endowed with. This scholarly interest is provoked by social concerns seeking to understand why a continent with the highest number of parliaments in the world also ranks dismally in democratic rankings.

This research therefore combined two ideas: (i) how delegation through election helps parliaments achieve representation and political accountability and (ii) which election by extension promotes democracy. The ideas grow from the classical role of parliaments as institutions of representation and democracy. It is inspired by the fact that Africa has the most parliaments in the world, and all bear the mandate and function of representing the people, promoting democracy and good governance. However, it is bewildering that these parliaments and especially the IPIs investigated in this study do not conduct election.

1.2 Research Questions

In this research, I seek to answer the following questions:

1. How do the African IPIs; EALA and the ECOWAS community parliament promote democracy and good governance without direct election?
2. How do these IPIs (EALA and the ECOWAS community parliament) perform the functions of representation and accountability?
3. In what ways does multi-level governance interfere with the conduct of representation and accountability within the IPIs?

In this study, election is chosen as the mechanism to evaluate accountability. Election is at the heart of this study because it is unique and creates opportunities for both ex-ante accountability, where one looks at a political candidate's promises before they assume office, and ex-post accountability which evaluates a candidate's track record after assuming office (Przeworski, 1991; Strøm, 2000). The primacy of election as a classical tool of accountability is because of election campaigns and the conduct of voting. Voters respond to the incentives and policy promises of the politicians and voters decide based on the policies they most favor. Voting also acts as an inducer

of behavior where, on one hand, a duty is created requiring the elected MP to either explain or justify an action and, on the other hand, the electorate has a corresponding duty to either reward by re-electing or punish by replacing MPs (Ashworth, 2012; Baron et al., 2012; Laver & Shepsle, 1999; Strøm, 2000). Here, election becomes a tool of accountability: while voting for someone is construed as a reward; simultaneously it is a punishment for the one not voted for. This assumption is apt especially because election relies on enforcing a “duty of care” where person A is accountable to B, if A is obliged to explain and justify his (or her) actions to B, or if A may suffer sanctions if his (or her) conduct, or explanation for it, is found wanting by B (Bergman et al., 2005; Bovens, 2010; Keohane, 2005b; Laver & Shepsle, 1999; Manin, 2020; Mulgan, 2000; Schedler, 1999; Weale, 2011).

I use this conceptualization of election as the standard mode of assessment for other accountability tools and mechanisms evaluated in this study as well. This conceptualization is used in latter chapters to explain how election (and other mechanisms of delegation and accountability are used) is utilized as a mechanism of accountability and how it is relied on as a global yardstick to measure the existence of democracy and good governance (Cheema, 2005; Goodwin-Gill, 2006; Katz, 1997; Przeworski, 1991).

Further, the choice of using election is justified especially because election is a distinct tool of accountability and the process that sets the ball rolling for parliamentary representation (Cheibub et al., 2010; Gudina, 2011). Accountability and representation are therefore examined as the parliamentary functions that contribute to democracy and good governance (Agere, 2000; Johnston, 2006; Khotami, 2017; Olsen, 2013).

It is an enigma that all regional parliaments within the African continent do not have election as a mode of representation and accountability yet still claim to conduct accountability and promote democracy. To buttress the importance of election as a tool of accountability, this research asserts that democracy and good governance cannot be removed from representation and accountability. Furthermore, perhaps the absence of the tool is the cause of dismal performance in global indices. In fact, as the number of parliamentary institutions increases in Africa, the continent’s ranking in democratic indices declines. For example, rankings and scores conducted by agencies such as Freedom House continue to show that within the last two decades there is in Africa either a decline

in democracy or a maintenance of status quo (bad situations remaining bad and some instances of decline from bad to worse). This position is indicated in Figure 2 below.

Figure 2: Freedom rating regional averages (FreedomHouse, 2020)

Source: Freedom House website 2020

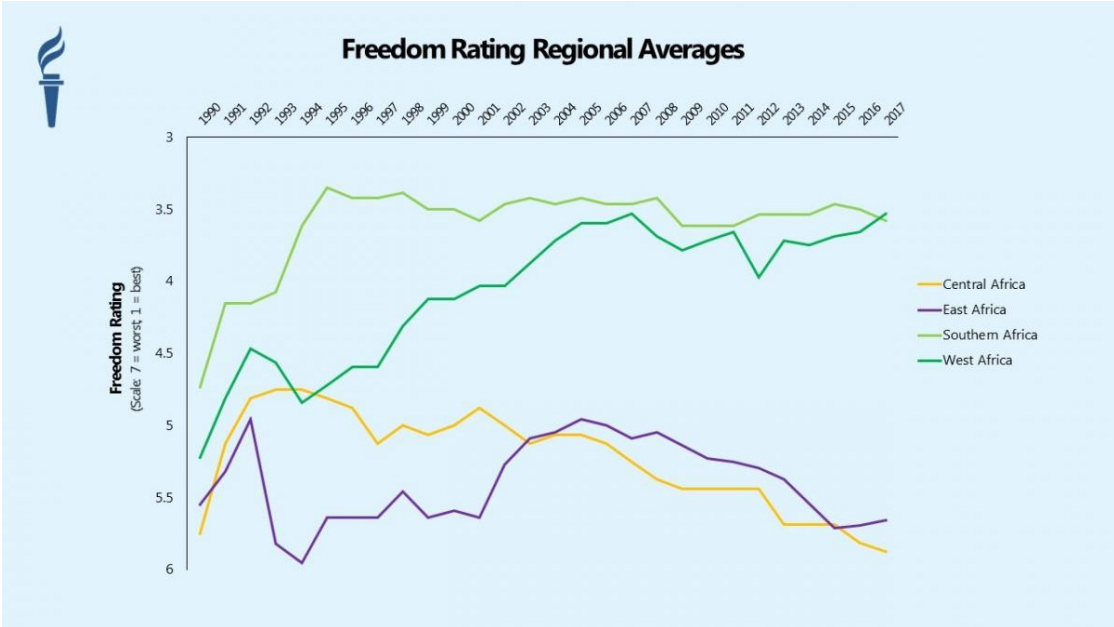
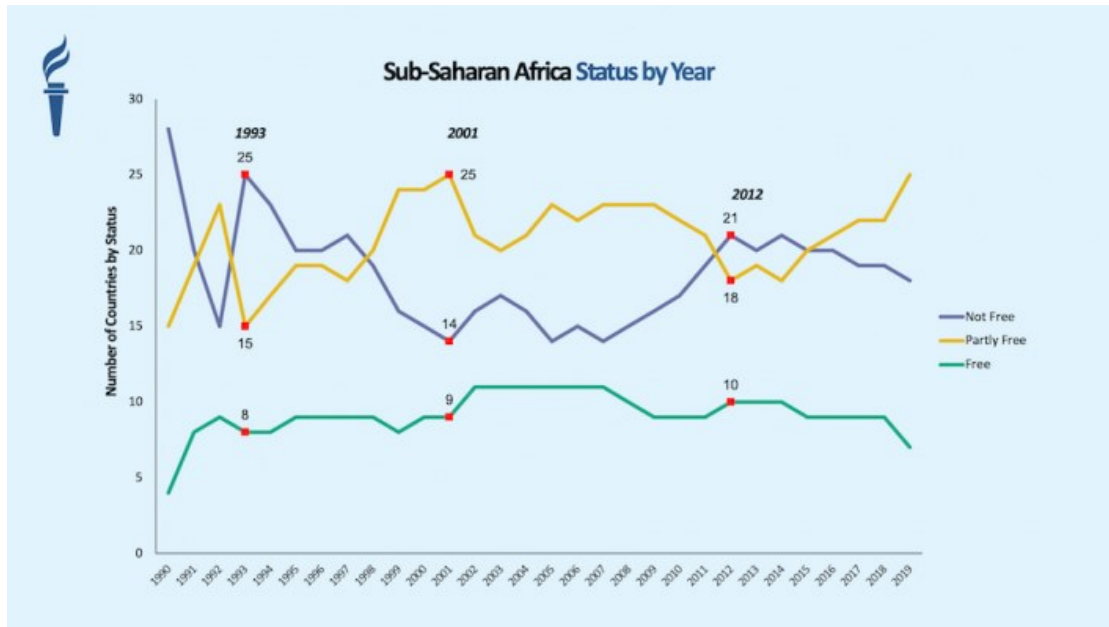


Figure 3 shows democracy ratings for countries in sub Saharan Africa

Figure 3: Sub-Saharan Africa status by year

Source: Freedom House 2020



It is expected that the increase in number of parliaments in Africa and especially IPIs should at least yield some democratic dividend and improve the rankings of the continent and the IPIs' member states in indices of democracy and good governance. Contrary to that, the parliaments are created but not empowered with the single most celebrated tool of accountability: election.

The claims of regional parliaments to promote democracy and good governance while lacking the central tool (election) are baffling. Even more so since the situation contradicts existing literature on parliamentary studies that place election as a vital tool of not just horizontal and vertical accountability (Diamond & Morlino, 2004), but also its ability to generate political representation. Scholarly literature advances debates that celebrate election as the yardstick for accountability, democracy, and good governance.

It is bewildering that the IPIs of EALA and the ECOWAS parliaments purport to have the mandate of promoting democracy and good governance, but they are not constituted via direct election. The situation goes against all expectations held by scholarly literature, whereby through the mechanism of election, a parliament is first held accountable by the electorate as principal. This accountability

chain extends to other indirectly appointed agents, ultimately spilling over and strengthening democracy and good governance.

This remarkable phenomenon calls to question the nature of delegation at the IPI level and seeks to uncover how IPIs in Africa promote democracy and good governance without conducting elections; a phenomenon yet to elicit scholarly interest. Although there are articles and publications on single IPIs within the continent, and comparisons of a few of them, generally existing literature on the African institutions are rare and those that exist do not focus on how IPIs operate ((Jancic, 2019; Kissling, 2011; Terlinden, 2004). In addition, there is overwhelming scholarly skepticism on the roles and workings of the existing IPIs in Africa.

Existing skepticism questions the work of IPIs to the extent of dismissing their effectiveness. With the exception of the European Parliament and the East African Legislative Assembly which both enjoy legislative competencies, a considerable number of African IPIs are often referred to as consultative bodies in relation to their respective international organizations (Cofelice, 2019; Rocabert et al., 2014; Rocabert et al., 2018; Schimmelfennig et al., 2020). In addition to the misunderstanding on how IPIs work, their decision making competencies are also questioned; their workings are termed as lacking direct influence on the actual decision making processes (Sabic, 2008; Schimmelfennig et al., 2020).

It is imperative to hold these parliaments to their own standards as expressed in their respective legal documents, principles, norms, and implied aspirations. As such, this research seeks to uncover how regional parliaments in Africa promote democracy and good governance without conducting elections.

This study is neither legal nor political, in fact it is not idiographic. It is explorative and falls somewhere between a legal analysis and an empirical explanation. To political scientists it may be theoretically wanting as it does not provide generalizations that theory treasures; and to legal experts it may offer overwhelming empirical depths. Whatever the case I simultaneously offer an explanatory account with theory positioning, and through the empirical discovery I highlight other tools these parliaments use to conduct accountability and promote democracy. The exploratory elements of this thesis not only provide empirical evidence of tools used to supplement the lack of direct election, it also critically examines whether the IPIs have the requisite funding, powers, and

competencies to help them conduct the function of accountability. This endeavor is undertaken with the hopes of arriving at solutions that will improve their works and ultimately the democratic standings of the continent.

1.3 Research assumptions

The research assumptions are built on two ideas: First, the more institutions are tasked with safeguarding democracy, the better the democratic performance of the member states and their respective regional blocks. This idea is based on data from democratic rankings of countries and regions. Second, it is analytically useful to compare the functioning of IPIs with the functioning of domestic parliaments. Consequently, the research settles on the following assumptions:

- Although the case study IPIs have the same functions as their domestic counterparts, they cannot perform the function of accountability as their domestic counterparts do.
- Multi-level governance reduces the effectiveness of the function of accountability such that: strong MLG translates to weak accountability mechanisms and weak MLG translates to higher accountability.

The working hypothesis is that the two-case IPIs – EALA and ECOWAS, unlike their domestic counterparts – cannot effectively perform the function of accountability as envisioned in the theory of representative democracy. This is especially due to the nature of supranational delegation and its embeddedness in multi-level governance. Hence, an increase in the effectiveness of accountability function means a decrease in multi-level governance. A decrease in the effectiveness of the accountability function means an increase in multi-level governance.

1.4 Justification of case studies

The choice of EALA and ECOWAS is on a most similar basis and especially since they are both IPIs in the sense that they have been created within the context of regional integration and as bodies belonging to regional organizations. Both are also institutions arising out of supranationalism, legal and political. They are both representative organs of the citizenry and are tasked with the function of promoting democracy and good governance, enmeshed in supranational delegation and embedded in multi-level governance in their decision-making process and most importantly both parliaments lack election.

What is eminently clear is that despite their minor differences in institutional structures, these two IPIs studied share the two core parliamentary functions of promoting democracy and good governance using the mechanisms of representation, oversight and ensuring accountability. These two are also the most active IPIs in Africa. Even though there have been many studies on parliamentary scrutiny, the studies have not covered IPIs and how they promote democracy in Africa as they are considered too young to form the basis of analysis (Jancic, 2019). Furthermore, various studies focus on international parliaments from an economic integration and international relations perspective, while my research adds on the limited literature on international parliaments from a parliamentary studies perspective. This research seeks to fill this glaring gap.

1.5 Case description

This research constitutes a case study of two IPIs established and recognized by the African Union under the African Regional Economic Communities— The ECOWAS Parliament, an institution of the Economic Community of West African States (ECOWAS), and the East African Legislative Assembly (EALA), which belongs to the East African Community (EAC). The ECOWAS parliament also known as the Community Parliament was established by the Authority of Heads of State and Government of ECOWAS on the 6th of August 1994 when the protocol on the Parliament was signed (herein after referred to as the Protocol). The community parliament also finds its legal basis from the ECOWAS Treaty which in Article 6 lists the parliament as an institution of the ECOWAS Community, and in Article 13 establishes the parliament. Coming into force in March 2000 this Protocol provides for the structure, composition competence and powers of the parliament. Of interest is the reference to *legitimacy* in the ECOWAS Treaty. It stipulates that the objective of establishing the Community Parliament is to achieve legitimacy of the actions of the ECOWAS Community, which actions are taken on behalf of the community citizens. Further the ECOWAS Community parliament in the treaty self-proclaims aspirations of operating and playing the traditional role of the parliament (preamble of ECOWAS Treaty).

On the other hand, the East African Legislative assembly (hereinafter referred to as EALA or the Assembly), is the independent legislative arm of the East African Community. Article 9 of the Treaty for the establishment of the East African Community establishes the East African Legislative Assembly as an organ of the Community.

In terms of functions, the ECOWAS Parliament was created to promote and defend principles of democracy, accountability and good governance as cemented in Article 4(I) of the supplementary act relating to the enhancement of powers of the ECOWAS parliament. The parliament has other explicit objectives: the strengthening of representative democracy in the community, promotion of practices of accountability and the promotion and defending of democracy rule of law, transparency, accountability, and good governance. Similarly, the East African Community's parliament EALA, obtains its governance mandate by implied construction. This is because although the Treaty establishing the East African Community is silent on the oversight function of the East African Legislative Assembly (EALA), in Article 6 it speaks of promotion of good governance and adherence to the principle of democracy, accountability, and transparency. EALA has listed its mission to do oversight and represent the people of East Africa and further adds transparency and accountability as one of its core values.

The election of members of ECOWAS Parliament and those of EALA are similar in that their processes are hybrid, i.e., not direct, and multi-level in nature. Although the ECOWAS Parliament nominates its MPs from individuals who are already members of the member state's national assemblies while the EAC's EALA only draws its members by nominating candidates who are not part of its partner state's national assemblies, in effect both the ECOWAS Parliament and the EALA rely on *nomilection* to get their respective members.

The choice of EALA and ECOWAS Parliament for this research is because they are both IPIs in the sense that they have been created within the context of regional integration and both are organs of regional organizations, they are both representative institutions of the citizenry and are tasked with the function of accountability. They both do not have direct election and are enmeshed in multi-level governance in their decision-making processes.

1.6 Outline of the thesis structure

Chapter 1 introduces the research by giving a general background of the study, it briefly introduces the reader to the challenge of democracy and good governance in Africa. It hints at IPIs, which are parliaments established by at least three states belonging to an international organization and being established as a response to the democratic deficit of the continent. It briefly mentions classical parliamentary roles and how they operate through the mechanism of election as both a means to political representation and an end to accountability. The chapter also sets the pace for

understanding the research problem and puzzle and highlights the research questions and assumptions as well as offering justifications to the study including offering a brief case description of the case study regional parliaments.

Chapter 2 answers two sub questions: (1) Why are regional parliaments created? (2) What informs their creation? It develops a theoretical understanding of IPIs and especially in relation to the EALA and the ECOWAS Parliament. Using theories of integration, political science and international relations, this chapter develops a theory triad that explains the reasons why IPIs are created and what function they perform. Furthermore, the chapter explains IPI creation using rational choice institutionalism, liberal institutionalism, and diffusion theory. The chapter argues that IPIs are first a creation of nation states involved in cooperation and desirous of solving common problems (democracy). Owing to increased interaction, pooling, and delegation there is contestation which eventually justifies the creation of IPIs. These theoretical reasons converge on the fact that IPIs are established following the logic of appropriateness that widely values their creation and especially the benefits they possess in creating legitimacy and securing voluntary compliance with organizational norms. Chapter 2 also confirms the establishment of African IPIs to be in congruence with literature on diffusion including mechanisms of influence, i.e., either directly, indirectly, or through manipulation. It argues that there is evidence of EU influence and adoption of EU institutional design on the creation of the ECOWAS Parliament and the EALA. This research further makes arguments to support the assertion that beyond diffusion, the two-case IPIs parliaments have a democratic mandate.

Chapter 3 presents literature on IPIs through their definitions and establishing their roles and functions. The chapter confirms the consensus that through delegation, IPIs obtain their function as institutions of representation and accountability. These functions are also performed by EALA and the ECOWAS Parliament. The chapter proceeds to highlight how representation occurs at the parliamentary level and argues that it is through delegation using the principal agent theory. The delegation to parliaments is discussed using the mechanism of election. Special bias is made on election as it allows for parliamentary selection and as a tool for vertical accountability. The overall discussion is that accountability is a parliamentary function based on a relationship that expects an agent to render an account, provide information and face the consequences of either reward or punishment. Chapter 3 also mentions the challenges of delegation including agency loss, which is

further exacerbated by the reliance on MLG. Most importantly, the chapter concludes with the conviction that accountability is a manifold concept not limited to election and has different tools of execution. However, although various forms of accountability exist, they face a common agency related challenge. This section also acknowledges the existence of multi-level governance as a method of decision-making present at the supranational level, and that it presents unique challenges to the conduct of accountability.

Chapter 4 touches on the methods and framework for analyzing the data collected for answering the research questions. It justifies the use of different methods of data collection used in the study, it justifies the advantage of using structured interviews, note-taking and recording of interviews to ensure accuracy of data collected. The chapter also discusses the choice of conducting an explorative and explanatory case study to explain the phenomenon identified in the literature and observed in the field.

Chapter 5 and **chapter 6** are respectively dedicated to each of the case study regional parliaments. Chapter 5 presents data collected from conducting interviews with respondents at the EALA and chapter 6 contains data collected from the ECOWAS Parliament. Each chapter gives a brief history of the IPI and its establishment; it also gives an overview of the constitutional and legal provisions empowering the respective parliament to act as an agent of its respective citizenry. Each chapter presents an overview of the data obtained quantitatively following field interviews with respondents either working as either MPs or as administrative staff of the IPIs. Each chapter offers explanations on how the two IPIs carry out the function of representation and accountability and how multi-level governance interplays with the function of accountability. They also highlight the agency-related problems identified in Chapter 3 and make a connection to them and how each parliament has adopted methods of addressing the agency loss which cumulatively contribute to the promotion of democracy.

Chapter 7 brings together chapters 5 and 6 in a comparative manner. It combines the tools under study and analyzes them, focusing on delegation, agency loss and the interplay of MLG and how it manifests between each tool of accountability used by the parliaments. It summarizes the empirical data on a comparative basis and draws conclusions that MLG reduces the effectiveness of the parliament's ability to conduct accountability.

Chapter 8 summarizes the chapters of the research, reviews the evidence provided by the empirical cases and answers the research puzzle. It then summarizes the unique contribution of the thesis and draws conclusions, as well as setting out recommendations and areas for further research.

Chapter 2

Theoretical Foundations

2.1 Introduction

Institutions are defined as formal rules, compliance procedures and standard operating practices that help structure relationships (Farrell, 2018; March & Olsen, 1983; North, 1990). In this thesis the term institutions denote rules that force one to behave in a certain way – provided others behave in the same way. Here institutions are a product of choice, and this research uses theories to explain not only how these institutions are adopted, but also how they are influenced, and the mechanisms used to influence them.

Various reasons explain the motive behind the creation of IPIs. Some scholars argue, for instance, that states establish IPIs as a legitimation strategy (Schimmelfennig et al., 2020). Others claim that they are a result of normative emulation (Lenz, 2013), while others argue that they are created out of states' desire to solve functional problems, states wanting to fit in with others, with the most pronounced reason for the establishment of IPIs being their creation as a result of diffusion.

Diffusion is when norms including those of democracy and good governance diffuse from one region to the other because of the assumption that in order to make a regional and/or an international organizations legitimate, one needs to adopt appropriate mechanisms of accountability and citizen participation and perhaps establish institutions of representation like parliaments (Held, 2004; Lenz, 2013; McMahon & Baker, 2006; Nanz & Steffek, 2004; Rittberger & Schroeder, 2016). In addition, scholars argue that these norms of democracy diffuse using various mechanisms including competition, emulation, learning and lesson drawing (Moravcsik, 2000; Pevehouse, 2005; Risse, 2016).

This thesis adopts the argument that international institutions are established out of a legitimation strategy (Lenz & Viola, 2017; Tallberg & Zürn, 2019; Zürn, 2000, 2012). It contends that organizations are established as a rational choice decision where states seek to follow the logic of appropriateness and consequences (March & Olsen, 2004) and enhance the social legitimacy of their participants.

The theoretical position is also informed by neo-liberal institutionalists who argue that international institutions are established out of a desire to solve common problems, and that institutions can also be established as a response to increased contestation because of increased delegation.

The neo-liberal argument on solving functional problems, especially those caused by delegation, is particularly important because in section 2.4 of this chapter I critically review supranational delegation and its problems. Therefore, I confirm in latter sections of the thesis that international institutions, including IPIs, are created by states to solve the common problem of legitimacy.

To neo-liberal institutionalists due to increased delegation there is increased contestation and demands for answerability from those who benefit from the delegated authority; hence, this push and pull results into the establishment of international institutions (including institutions of representation) (Keohane, 2005a; Lenz & Marks, 2016). Using these theoretical arguments, I argue that the creation of institutions of representation and the adoption of norms of democracy is in response to increased contestation and influenced by diffusion.

This chapter sets out to answer the question of which theory explains the creation of international parliaments. This question is likened to why states do cooperate, adopt international norms, and establish international institutions. Answers to these questions are also informed by theories that explain regional integration, especially those that inform the establishment of regional parliaments as IPI (Malamud and Schmitter, 2007).

To develop a solid argument, the thesis relies on a theory triad, which incorporates theories of international relations, regional integration, and political science to explain the phenomenon of IPI. This research holds that because of increased delegation at the supranational level, there is increased contestation that the supranational level lacks legitimacy which lack of legitimacy necessitates the creation of IPIs. IPIs are therefore created out of a rational choice selection to address legitimacy concerns of democratic deficit at the supranational level. To explain the establishment of international institutions this research follows a rational choice selection, neo-functionalism, and neo-liberal institutionalism approach which views the creation of international parliamentary institutions as a response to address common problems herein identified as democratic deficit.

The choice of multiple theories is carefully selected to the IPIs context, a single theory cannot give a sufficient picture of regional integration and regionalism. Also, the use of multiple theories to explain how IPIs came about is supported by scholarly patterns that allow one to adopt both endogenous and exogenous factors to explain the occurrence and existence of a region and a regional institution (Söderbaum, 2015; Börzel, 2016).

The theoretical groundings used reflect those which describe economic cooperation experienced in the EU. Yet, this is not detrimental since these theories, although biased to the processes in Europe, have been exported globally to explain similar phenomena including regionalism and regional institution building in Africa (Asante, 2016). Also, the reference to Eurocentric theories of integration is benign and necessitated by the direct and indirect influence of the EU leading to diffusion of both normative standards of democracy and EU style institutions like the regional parliaments in Africa (Hartmann, 2016; Risse, 2016). Although it is a well-known fact that because of its financial and administrative capacities the EU stands out in its pursuit for cooperation and influence (Panke & Stapel, 2023). This research is cognizant of the fact that there are attempts to explain African regionalism outside the EU influence (see, for example, (Aning, 1999), and that European models are often rejected when used to explain integration outside Europe (see (Acharya, 2016). Discerning the extent of EU influence on African regionalism or establishing whether there are other stronger sources of influence to African supranational institutions is beyond the scope of this research. The thesis asserts that there is sufficient literature that points to the EU as a source of influence to African supranational institutions and especially the International parliamentary institution including the case study IPIs in this thesis (for detailed discussion see (Schimmelfennig et al., 2020).

Therefore, although classical theories of regional integration are focused on European integration and deliver explanations that ensure a functioning international system that would guarantee peaceful relations amongst European states, the same have been exported to explain integration around the world (Biira 2017) – Africa included. This thesis combines arguments of neofunctionalism and rational choice institutionalism to explain the creation of IPIs.

In a nutshell this chapter argues that IPIs are institutions created by rational actors involved in cooperation and at high levels of pooling and delegation. The chapter then proceeds to establish a link between an increase in delegation and a corresponding increase in contestation. This is

because the more states delegate power to international organizations, the more resistance is generated. Contestation results in criticisms including that the international organization lacks legitimacy to make collective binding decisions. Because IO's are desirous of fitting in with other IO in a similar environment and concerned about their reputation and wanting to be associated with democratic principles they adopt norms of democracy and not only create parliaments but also establish mechanisms of representation and accountability to gain legitimacy (Kingah & Cofelice, 2012; Strøm, 2000). The research adopts the creation of IPIs as a process that begins with delegation through legal provisions which is followed by establishment of administrative institutions.

To this end, it is the premise of this research that international parliaments are created because of the desire to make cooperation between states better, coupled with influence from external and internal actors with the general aim of finding solutions for common problems (Grieco, 1988; Keohane et al., 1988; Wiener & Diez, 2009). This research uses the creation of parliaments as a quest to attain legitimacy and the conduct of election as a mechanism used to address legitimacy concerns by allowing citizen participation in the selection process as well as establishing accountability mechanisms. The choice of election as a mechanism of accountability follows academic discourse. It prioritizes election and goes as far as determining the conduct of election as the global indicator of democracy (Katz, 1997; Schedler, 2002).

This theoretical chapter further sets the foundation of this thesis and contributes to academic discourse on what influences the establishment of regional parliaments in Africa and their functions. Further, the chapter establishes the quest for legitimacy, the desire to conform to other institutions in a similar institutional environment, promotion of democracy and good governance, which influenced the creation of the EALA and ECOWAS Parliament. This influence occurred through diffusion, emulation, and mimicry. What is puzzling, however, is that these IPIs exist, and their existence can be theoretically explained. They defy literature in how parliaments should carry out their representation and accountability function where they rely on local and state mechanisms for enforcement of their accountability mechanisms. Although this chapter finds theoretical explanations, these explanations are later found to be empirically problematic when tested against primary data. The nature of delegation, the problems of delegation and what the literature proposes

as solutions to delegation when examined using the case study parliaments reveal a different narrative.

2.2 What theory explains the creations of international parliamentary institutions (IPIs)?

According to rational choice institutionalists (Koremenos et al., 2001; Mitchell, 1994) and liberal intergovernmentalism (Moravcsik, 1993), states chose and design institutions to further their own interests. The interest-based scholarship also argues that cooperation is also based on the desire to solve problems (Mitrany, 1998; Panke, 2020; Panke & Starkmann, 2020). From this an inference can be drawn that cooperation for whatever reason, self-interest or problem-solving, results in the establishment of an IPI.

Neo-functionalists offer a simple reason for the creation of IPIs. To them, regional integration promotes continued cooperation of states. This creates a demand for nations to continue interacting, and in return the continued interaction results to path dependency (Farrell, 2018; Neuss, 2007; North, 1990; Nye, 1970; Schmitter, 1969) and, ultimately, to the creation of international organizations and institutions (Schreyögg & Sydow, 2009).

In explaining why nations cooperate and create international institutions, three things stand out under neo-functionalism: Increased interaction, which creates path dependency amongst states, automatic eventuality, and external forces influencing the decision-making trajectory, spillover and expansion into other areas of interaction (Lindberg, 1963; Malamud, 2001; Schmitter, 2004). To neo-functionalists, the more nations interact, the more they make decisions that are similar. This continued interaction results to path dependency meaning that what happened before will affect the possible outcomes of a sequence of events occurring again (Schmitter, 2004). Based on the conception that earlier events influence later events, international institutions are created by nations who are members of a regional integration arrangement. These members inform the creation of other IO by nations in a similar regional integration arrangement.

When looking at the reason why IPIs are created, neo functionalist arguments on path dependency and spillover are like rational choice institutionalist and their arguments on the role of external influence. To both neo-functionalists and rational choice institutionalists, increased interaction between actors in the global arena creates an environment where the original goal can only be assured by taking further action. Taking further action in turn creates further conditions and the

need for more cooperation (Lindberg, 1963), resulting to a transfer of domestic alliances and loyalties to a central power. Because of this, scholarly literature on influence maintains that external actors drive and shape the development of regional institutions. For example, the existence of rich literature on external funding as a core instrument of influence on regional institutions (Jolliff Scott, 2020; Söderbaum, 2016; Stapel et al., 2023).

The external funding arguments in assuming a transaction cost approach give further explanations on how influence occurs and how it can lead to the creation of IPIs and promotion of democracy. The transaction cost approach presumes that instead of working with regional organizations with a small set of competencies, donors seek to reduce transaction costs by targeting regional organizations whose competencies are broad (extend to among others good governance) making the R.O better equipped to attend to donor demands (Stapel et al., 2023). A further stretch to this argument includes explanations of funding and regime types where a nexus is established between funding and democratic states. Here it is argued that donors prefer to fund regions comprising democratic membership (Bermeo, 2011; Dietrich & Wright, 2015). This is especially true following the arguments that the long-term impact of external funding is only felt in regional organizations composed of democratic states which exercise respect for political and civil liberties (Neumayer, 2003; Svensson, 1999). The effect of funding is that an I.O will create an IPI because it would help the I.O attract more funding.

Liberal institutionalism and the logic of appropriate arguments also explain why an IPI would be created. To liberal institutionalists, states are not only non-unitary actors, but they are also impressed and influenced by their desire to fit in with their peers. The peer influence pushes them to comply with international rules (March & Olsen, 2004). Logic of appropriateness interprets state action as driven by its social environment where actors will follow rules of appropriateness and exemplary behavior organized into institutions. Further, the logic of appropriateness proclaims that the preferences and behavior of nations are shaped by ideational factors (identities, values, norms, and knowledge), which are institutionalized in their social environment, and to which states as actors chose to meet social expectations by joining these institutions and following the ethos, values, and norms to gain legitimacy (March and Olsen 2004).

Following this narrative, the creation of an IPI from a liberal institutionalist perspective would be a rational thing to do amongst states seeking legitimacy (Schimmelfennig et al., 2020). Because

other states involved in cooperation arrangements have also established a parliament, it is appropriate to establish one to be considered legitimate.

This research also recognizes insights of the democratic peace scholarship who establish a nexus between democratic states and cooperation in regional integration (Panke, 2020). To them democratic states, in contrast to autocracies, are more inclined to further cooperation in regional integration including the establishment of regional institutions like IPIs.

From the foregoing discussion it appears that neo functionalism and institutionalism (both rational choice institutionalism and neo liberal institutionalism) enjoy a symbiotic relationship and experience an overlap in explaining why IPIs are created. They both converge on the premise that states involved in increased cooperation create a need to further cooperate and develop the goal of acting appropriate, of adopting rules and establishing institutions. Both theoretical positions also consider the creation of international institutions to be a consequence of collective action to solve common problems. Cooperation in one area spills on to other areas and eventually to the creation of supranational organizations. This research attempts to explain how spillover cooperation eventually leads to the creation of international institutions. The next section presents arguments for diffusion as a mechanism of cooperation and adoption of norms that lead to the establishment of supranational institutions.

2.3 Diffusion and the establishment of international parliamentary institutions (IPIs)

To gain legitimacy, actors establish IPIs through the process of diffusion (Lenz, 2013; McMahon & Baker, 2006; Polillo & Guillén, 2005). Diffusion is defined as a ‘process where the prior adoption of a trait or a practice in a population alters the probability of adoption for remaining non-adopters’ (Borzel & Risse 2012; Risse, 2016; Strang, 1991; Strang & Meyer, 1993). This definition of diffusion is like explanations under the logic of appropriateness described above. Adopting this reasoning means that regional organizations establish IPIs because democratic norms and institutional designs of IPIs have diffused. Such diffusion can occur using three mechanisms: directly, indirectly and through manipulation (Risse, 2016).

Diffusion is said to be *direct* when creation of IPIs by a regional organization is influenced directly by an agents who actively promotes certain policies or institutional models in other regional organizations. Diffusion can also occur *indirectly* when these agents look for institutional designs

used to solve certain similar problems in other regions, and then mimic the behavior of their peers by establishing similar institutions. It can also occur indirectly by way of competition where actors compete with each other to meet certain pre-established performance criterias (Meyer & Rowan, 1977).

Finally, diffusion through manipulation can occur where promoters of institutional models influence actors into adopting their own ideas. These agents use positive incentives to offer rewards in the form of financial or technical assistance. For example donor funders by preferring to fund democratic countries, have influenced the spread of democratic norms (Panke & Starkmann, 2020). Or it can impose costs through sanctions as a negative incentive. For example, a regional organization like the European Union will attach competitive conditionality such as market access and/ or aid to influence decision making towards establishment of an IPI in other regions.

My study is closely related to liberal institutionalists' arguments on the logic of appropriateness. Using this narrative, diffusion would be seen to occur as a voluntary response through *logic of appropriateness*. Accordingly, diffusion happens via socialization and persuasion; actors strive to meet social expectations of a given organizational environment and establish regional institutions. Here, establishment of a regional institution by a regional organization is influenced either by processes of negotiation and/or persuasion with actors convincing one another about the validity and the benefits of regional cooperation including the establishment of regional institutions (Börzel & Risse, 2016; March & Olsen, 2004; Risse, 2016). Consequently, actors who have already established a regional parliament would be able to convince by highlighting the advantages of having one to those yet to do so.

Although the literature presents four mechanisms of diffusion, indirect methods seen through emulation and competition have received widespread recognition. For example, diffusion through emulation increases legitimacy when states who want to be members of an international community in good standing, seek regional cooperation to fight common problems such as unconstitutional change of power, improve human rights standing, institute the rule of law; therefore, they may look around for institutional solutions which they then emulate. As mentioned earlier, emulation in this scenario is akin to liberal institutionalists prepositions on logic of appropriateness (March & Olsen, 2004). It occurs because of the increased interaction and

cooperation between international organizations, resulting in the prior adoption of a trait or practice in one international organization herein the creation of an IPI influencing the probability of adoption for remaining non-adopter state (Lenz, 2013; Risse, 2016). Consequently, following the logic of appropriateness, an IPI developed in one region – including its norms, policies, practices, and ideas – would influence the creation of an IPI by another international organization elsewhere via the mechanism of emulation.

This diffusion can also occur through competition and learning. Learning as described by Lenz is the process, in which policymakers change their conceptions and cause-effect relationships based on the study of other organizations' (Lenz 2013, 3). Here emulation denotes a process in which others are inspired and copy the ideas and practices of dominant pioneers, which ideas and practices are perceived as the standard of appropriate behavior. Using this interpretation, the decision to create an IPI is a result of learning from activities such as benchmarking strategies. Emulation would therefore entail a copy paste or a copy adjust to the policies, style, and strategy of an already existing regional organization that has established an IPI. Rittberger presents a similar argument for the European Parliament and the development of representative democracy at the EU level which is the result of copy-and-paste from the national model of parliamentary democracy in the EU member states (Rittberger, 2007, 2012).

Although there are various outcomes of diffusion such as contestation and total rejection (Acharya, 2016), or a welcome adoption of institutions designs and policies from one organization to the other, one common outcome has been to increase the legitimacy of regional organizations (Bache & Olsson, 2001; Polillo & Guillén, 2005). For example, both the SADC (Weiland, 2006) and the Mercosur (Duina, 2007) regions are recognized as emulation of the EU common market design for reasons of legitimacy. Here, legitimacy is seen as a social concept conferred by others based on the subjective belief that the institutions are socially acceptable and in congruence with the norms of appropriate behavior of those evaluating it (Biermann, 2017; Deephouse & Suchman, 2008; Suchman, 1995).

Emulation creates a spillover effect. It is assumed that once an international organization is created, it will ultimately lead to increased interaction and delegation, and as a result translate into advocacy for increase of power and authority of that international organization. With increased interaction

and delegation, there is increased contestation and demands for legitimacy resulting in the establishment of an IPI (Rocabert , Schimmelfennig et al. 2018).

To this end, emulation confirms the spillover effect of neo functionalism. It contributes to the assumption that once an international organization or an inter-governmental institution is formed the creation of an IPI is the next logical step. This spillover can also be seen with the rise in democratic norms held by the membership of an international organization influencing and propelling the establishment of IPIs (Lipps 2021). In this vein, the more the membership of an international organization is comprised of states which have adopted norms of democracy, the higher the likelihood is that an IPI will be created.

2.4 Creation of IPIs and supranational delegation

Parliaments in general are a manifestation of modern-day representative democracy (Schimmelfennig et al., 2020; Strøm, 2000). Through delegation, parliaments are authorized to act for their constituents and to perform oversight, which ultimately helps in promoting democracy. Citizens benefit from delegation by increasing their capacity and competence for decision making.⁵ As a result, parliaments are seen as institutions of democracy; and they are adopted by international organizations to address the democratic deficit. To achieve the legitimacy objective, IPIs thus assume the representative function by analogy to national parliaments (Rocabert,et al., 2018). Although the nature of delegation differs at the national from the supranational, these parliaments are endowed with similar functions. By mimicking the works of national parliaments, IPIs give citizens a sense of ownership and access to international organizations and in return the government obtains the democratic image of parliaments. In so doing, the establishment of IPIs, international organizations and their member states can meet the democratic demands of both domestic and international actors and create the appearance of democratic legitimacy (Schimmelfennig et al., 2020). This scholarly discussion on delegation and the creation of IPI is made within the context of regional integration. Delegation in this context is just as that in the state context, where it is understood as a transfer from constitutional “principal” to administrative “agent”. Supranational delegation in integration system is however slightly unique and differs from

⁵ See chapter 3 below with detailed discussions on parliaments and representation.

that of the state by virtue of the member states and their electorates both serving as principals (Lindseth, 1999, 637).

In integration, supranational delegation is also considered as a tool of governance (Pollack 2003, 2006). Rational-choice theorists argue that supranational delegation occurs when member states, as multiple principals, seek to reduce the transaction costs of their cooperation and to enhance the credibility of their treaty commitments by delegating significant normative authority to relatively autonomous supranational bodies as their agents. The rational choice arguments lay in contrast to the constructivist approaches, which pay attention to the cultural dimension of delegation. To them supranational delegation is a result of constitutional struggle and contestation (Lindseth, 2004, 2010) and follows the “logic of appropriateness” (March & Olsen, 1989, 1998, 2009).

Following these two schools of thought, supranational delegation can be considered as constitutional legitimacy entailing the adoption of legal documents that confer power to create other institutions and for them to make rules (Rubin, 1989, 380-385). This normative delegation is then subject to substantive parameters and procedural mechanisms of oversight to ensure that pre-commitment is in line with the original legislative enactment.

Therefore, supranational delegation occurs when states establish treaties and rules of procedure which serve to address contestation and oversight their treaty commitments. This perspective falls within the principal agent construct under constructivism than the rational choice narrative (Lindseth, 2010, 54f.; cf. also Hurd, 2007). Detailed discussions on supranational delegation are found in the succeeding chapter. However, one key attribute that sets it apart from domestic delegation is the fact that it establishes multiple principals as a characteristic of delegation, which multiple actorness within integration is a challenge for democratic governance as it presents a possibility of a larger number of possible “veto players” (Tsebelis, 2002).

In addition to establishing multiple veto principles, supranational delegation in integration presents other unique challenges, such as establishing a disconnect between regulatory power and democratic and constitutional legitimacy. Supranational delegation also exhibits a paradoxical combination of autonomy from, and yet dependence upon, national oversight mechanisms.

These mechanisms include, most importantly, collective oversight of the supranational policy process by national executives and reliance on national parliamentary scrutiny of supranational

action. This paradox is justified as the problematic nature of supranational delegation has never been considered to enjoy an autonomous democratic and constitutional legitimacy of its own (Lindseth, 2006). Although problematic, it serves as a crucial function of legitimation because it bridges the disconnect between power and authority and is the ultimate source of legitimacy. Furthermore, this feature of supranational delegation is what allows it to stand out as a unique type of delegation as compared to their national counterparts (cf. Lake & McCubbins, 2006).

When reviewing agency-related challenges of delegation, both the national and supranational forms of delegation experience similar problems. First, having multiple principals creates incentives for broad delegations of power to supranational agents, precisely to allow the agents to address and perhaps overcome the coordination and cooperation problems created by multiple principals. Second, is the change from principal to agent; for example, when principals become agents responsible for implementation.

Chapter 3 presents enhanced discussions on delegation and agency related problems and chapters 5, 6 and 7 present empirical data on these challenges. Furthermore, they show how to address these integration and supranational delegation-related challenges. Mechanisms of national oversight over the integration process have been developed, even if imperfectly, to do the work of reconciliation. The interplay between normative authorization and domestic administrative oversight will be seen in discussions in chapter 7 where discussions on how both case study parliaments use their principals (nation states) and agents in conducting oversight. The EALA and the ECOWAS community parliament both rely on the relationship with national parliaments as a mechanism for oversight. These alongside other discussions on delegation follow in the preceding discussions. The succeeding section now delves on how supranational delegation and the creation of IPI is a quest to address legitimacy concerns.

2.5 Legitimacy and international parliamentary institutions

Alongside the theoretical propositions made in the preceding discussions above, academic literature presents four main reasons for the creation of IPIs; first, is the *efficiency enhancing hypothesis* which assumes that IPIs are created by states to enhance problem solving capabilities reduce the transactional costs associated with decision making and this results into efficiency enhancing effects (Rittberger, 2005). Secondly, if the *policy seeking hypothesis* assumes that political elites will create IPIs to provide favorable policies which they prefer to serve them.

Thirdly, *the inter-institutional bargaining hypothesis* holds that IPIs are created with foresight in mind either to induce favorable concessions from member states, or to form institutional alliances that sway inter-governmental negotiations in their favor. Lastly, the *legitimacy seeking hypothesis* draws its arguments from cultural practices of an institution and a society; it argues that international organizations are what they are because of cultural practices, and they primarily exist because they are highly valued and socially legitimated within the environment where they exist (Rittberger, 2005; Cofelice, 2018). This research rests on the legitimacy seeking hypothesis as the key factor influencing the creation of IPIs. I argue that the creation of IPIs is part of a legitimacy seeking agenda. Legitimacy is here defined as a perception or assumption that the actions of an entity are desirable proper or appropriate within some socially constructed system, norms, values and beliefs (Suchman, 1995).

There seems to be consensus that legitimacy is a social concept fueled by perception (see, for example, (Biermann, 2017; Suchman, 1995; Walgenbach & Meyer, 2008). Accordingly, legitimacy is dynamic and open to contestation. There exists fundamental disagreement in its definition. Karl Friedrichs for instance, defines legitimacy by answering the question of whether an actor is believed to be legitimate based on being in good title by those subject to it (Karl Fredrich as referenced in Hyde, 1983). Answering this question results in defining legitimacy as an institution's ability to have outputs compatible with societies' patterns (Stillman, 1974). This definition is criticized by authors who distance the definition of legitimacy from the desires and perception of the people (Polin, 1963). Polin (1963), for instance, argues that legitimacy is not dependent on the opinion of the people, but on other governments, and that the opinions of a nation about its governments' legitimacy are neither necessary nor sufficient to make a government legitimate. Others argue that legitimacy is a social construct bound to specific audiences, and because its depends on perception of different stakeholders based in different cultural and temporal settings, it is often open to contestation (Walgenbach & Meyer, 2008).

In addition to multiple definitions, several dimensions of legitimacy exist. Different authors combine various elements to arrive at an understanding legitimacy. For example, scholars present a combination of behavioral consent of rules and cognitive orientation to rules (Stryker, 1994), or a combination of knowledge of a venture plus its acceptance (Aldrich & Fiol, 1994), or a combination of normative, cognitive and cultural legitimacy (Archibald, 2004). These

combinations show divergent understandings and approaches to comprehending and conceptualizing legitimacy.

Nevertheless, scholarly consensus exists that various dimensions can be included in definitions of legitimacy (Suchman, 1995). Three things must be considered: perception of the subjects, legitimacy of action, and consent (Deephouse & Suchman, 2008; Lenz et al., 2019).

Because of this trend, this research settles on defining legitimacy as a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, and beliefs. Simply put, legitimacy is conformity between the actions of the legitimated entity and the shared beliefs of some social group. Legitimacy therefore leads to the creation of social validity and acceptance of an institution with political authority of the right to rule amongst the governed (Suchman, 1995; Deephouse & Suchman, 2008).

Within the parliamentary context, legitimacy is interpreted to mean that decision-makers are recognized to have authority delegated by those who are subject to their decisions (Giesen, 2017). Although this conceptualization maintains the contested notion that legitimacy is a perception issue, I argue that perception should be included alongside other elements and should not be treated in isolation from elements such as legality of action and consent. The risk of leaving out perception or of treating it as an isolated element opens the risk and potential of misrepresentation of legitimacy (Beetham, 1991). Therefore, an institution will be legitimate not only because people perceive it to be, but because it can be justified in terms of societal norms and beliefs. This additional criterion safeguards an institution by ensuring it complies with people's beliefs, conforms to values and standards and normative expectations. The adoption of legitimacy as a combination of perceptive and normative appropriateness is inspired by the philosophical works of John Locke, Thomas Hobbs, and Immanuel Kant, who all make insightful contributions on principles of social contract, which in its broad terms denotes that legitimacy of the government relies on consent of the governed.

The existence of a social contract means that those being governed have issued consent to those governing and this results in legitimacy. Max Weber adds that legitimacy can be secured through adoption of norms of appropriate behavior, where there exists a system of formal laws to control

the action of leaders. Academic literature builds on to the philosophical debates of social contract and proposes that the more governments delegate and pool authority, the more the power and authority of the international organizations increase and this in turn increases contestation of legitimacy. An increase in authority translates to an increase in legitimation pressure – a problem which is solved by the creation of parliaments (Kissling, 2011; Lenz et al., 2019; Morse & Keohane, 2014).

Legitimacy therefore is not just a concept that confirms consent of the governed but is also used to address democratic deficit and improves democracy (Lenz et al., 2019; Rocabert et al., 2019; Plottka & Müller, 2020). Against this background, the establishment of IPIs is the result of states' desire to create the appearance of democratic governance and hence address legitimacy concerns (Schimmelfennig et al., 2020).

Moving away from the problem-solving narrative that justifies the creation of an IPI, lies the logic of appropriateness argument. Here the cognitive model of comparative legitimacy considers the creation of IPIs as a normal feature of IOs which in turn creates pressure for non-compliant IOs to create an IPI. This cognitive model of legitimacy also feeds from perceptions of whether the IO is considered by relevant audiences within similar settings as being compliant with institutional commonalities observable within those IO's (Lenz & Viola, 2017; Suchman, 1995). Recognition helps the image of the IO to appear appropriate between its organizational peers and standards of legitimate behavior, especially because policymakers are sensitive to contestation and fear the accusation of failing to comply with acceptable norms of democracy. Hence, they seek to avoid shame and or ridicule by establishing an IPI in order to be accepted (Deephouse & Suchman, 2008). Because parliaments are widely believed to be institutions of democracy, recognition is therefore obtained by establishing an IPI because it is widely accepted as the standard of democratic legitimacy (Buchanan, 1999, 2018).

The creation of an IPI at this instance is not only seen as a symbolic act, but the cognitive element is also useful as IPIs are readily accepted as institutions that promote democracy and good governance. Because of this assumption, IPIs through their scrutiny function have the benefit of ensuring and keeping the body with delegated authority accountable. Moreover, the establishment of an IPI has benefits including the recognition that the IO (being observed) rather than being engrossed in other forms of governance, is embedded in democracy and this in turn reduces its

opposition and criticism. Creation of IPIs also help generate an impression that the governments of member states belonging to the IO establishing an IPI are concerned with addressing governance failures and act as a response to governance skeptics (Schimmelfennig et al., 2020; Suchman, 1995).

In addition to ensuring an institution's ability to being recognized as having the right to rule, and to show that a 'government' is committed to democratic norms and procedures, legitimacy also bears the advantage of generating voluntary compliance, as well as establishing institutional stability and continuity (Biermann, 2017; Buchanan & Koehane, 2006; Tallberg & Zürn, 2019).

Based on this debate, we can identify two models of legitimacy, either the congruent or the cognitive models of legitimacy (Lenz et al., 2019; Lenz & Viola, 2017). The *congruence model* posits that legitimacy exists when the people's beliefs and normative expectations are synchronized; a lack of legitimacy (*incongruence*) exists when the people's beliefs are not in line with the people's expectations and the laws are in place. The consequence of incongruence is legitimacy loss and reduced support for the organization as well as increased pressure for change and calls to re-establish congruence (Biermann, 2017; Deephouse & Suchman, 2008).

In assessing whether there is congruence, legitimacy judgements are based on an evaluation between an organizations feature and the underlying norms and features of its stakeholders (Fiske & Taylor, 1991; Kahneman, 2003) – resembling a peer to peer comparison. It is an inward looking and self-referential assessment of an institution where the key identifier is the organizational features and the standard of appropriateness held by relevant organizational stakeholders. Congruence legitimacy judgements are arrived at by evaluating perceptions and are seen to exist, for example, where the features of a parliament, its rules of procedure and laws correspond with those of other parliaments, social laws, norms, and values (Lenz et al., 2019). The congruence model is also captured in what is presented in the literature as cognitive legitimacy (Lenz & Viola, 2017) which presupposes a comparison between the organizational features of one institution to the organizational features of peer others.

The cognitive model of legitimacy involves comparison between two organizations, with one as the observer organization and the other as the core organization bearing features of an exemplary reference organization (Fiske & Taylor, 1991; Kahneman, 2003; Lenz et al., 2019; Lenz & Viola,

2017). The cognitive model deduces what is missing from the observer as witnessed in the exemplar organization, it entails negative comparative connotations. This means that two organizations within the same organizational environment are put against each other to create a perception of legitimacy or legitimacy deficit (Biermann, 2017; Lenz et al., 2019; Meyer & Rowan, 1977).

Although legitimacy literature celebrates it as a concept of social and normative elements (Buchanan & Keohane, 2006; Keohane, 2011), democratic legitimation does not only involve a binary system of perception and normative congruence as the necessary elements, but it also considers the output, input, and throughput components as essential ingredients to determining legitimacy (Bernstein, 2004; Dellmuth & Tallberg, 2022; Scharpf, 1998; Schmidt, 2010; Schmidt, 2013; Scholte & Tallberg, 2018; Tallberg et al., 2018).

To establish legitimacy one must consider activities and/or processes of legitimation (Biermann, 2017; Zürn, 2012). Thus, to establish that an organization has legitimacy one considers input legitimacy by analyzing the way decisions are made, especially the democratic procedures within which citizens' voices enter political processes or citizens' participation in political processes. One must also consider output legitimacy and analyze the outcome and performance of the decisions that promote common welfare of citizens. Finally, when evaluating throughput legitimacy, one reviews governance processes such as accountability and transparency and instances that allow citizen participation as a response to citizen concerns (Bernstein, 2004; Scharpf, 1998; Schmidt, 2013; Tallberg et al., 2018). The input, output and throughput distinction not only show that legitimacy is a process-based criterion, but it also shows that the perception of legitimacy can be gained and lost at different stages.

Although the literature present a distinction between input, output and throughput legitimacy, establishing a distinction may not be of any effect especially because they arrive at the same goal which is having the right to rule (Bernstein, 2004; Buchanan & Keohane, 2006). This insignificance in distinction is seen debates which subsume throughput into input legitimacy (Schimmelfennig et al., 2020).

For the purpose of this thesis a bias is made on input legitimacy as subsumed with throughput legitimacy. The rationale is that both are processes and criteria that allow participation of those

affected by decisions of an organization (Scharpf, 1999; Schimmelfennig et al., 2020; Schmidt, 2013).

Following this logic, my study critically evaluates different mechanisms of accountability existing after delegation has occurred. The succeeding chapter 3 will also examine election as a tool of delegation as well as a mechanism of input/throughput legitimacy. This exercise will help confirm the research assumptions especially because the conceptualization of legitimacy here is understood beyond perceptions and establishing normative and social rights of enacted rules. Yet, in my study legitimacy extends to citizen participation and attempts made at securing compliance to the rules by attaching benefits for conforming and costs for non-conformity. This bias is also justified owing to the proximity of input legitimacy to democracy, especially because legitimacy achieved by the conduct of electoral accountability which is widely thought to be the gold standard for democracy (Buchanan & Keohane, 2006).

Input legitimacy receives center stage not only because of its contribution to democracy but because its existence rationalizes the establishment of parliaments which are the core institution of representative democracy and social legitimation (Strøm, 2000). This is further buttressed by the fact that IOs only thrive when they are perceived to be legitimate (Buchanan & Keohane, 2006; Tallberg & Zürn, 2019) and establishment of IPIs is a response to legitimacy concerns.

The decline of parliaments, their control and authority over governments as well as citizen participation through election is a core ingredient in the mushrooming literature of democratic deficit (Follesdal & Hix, 2006). This is less prominent at the national level, where the existence of parliamentary institution is epitomized as the gold standard for democratic legitimacy, (Schimmelfennig et al., 2020). It is therefore possible to assume that the creation of an IPI is perceived as a legitimation strategy of an IO owing to the low levels of contestations at the domestic level because of the existence of parliaments.

Ideally, parliaments are created as institutions of input legitimacy with a mandate to represent a diverse range of political preferences. The selection of parliamentary representatives occurs by delegation through universal suffrage. Besides representation, parliaments are created to hold the executive accountable. And of all political institutions, parliaments have the greatest claim to

providing democratic legitimacy (Follesdal & Hix, 2006; A. Obaidullah, 2019; Schimmelfennig et al., 2020).

Recognition is the primary benefit of establishing parliaments, so much so that even authoritarian and non-democratic governments establish them such as China, or Arab countries, to name just a few. By establishing a parliament, an organization benefits from being perceived by relevant stakeholders as being in compliance with international standards of democracy (Suchman, 1995). Recognition bears the fruits of enhancing cooperation with similar audiences, improving reputation with external audiences that an institution is associated with acceptable standards of democracy (Buchanan, 1999) and is thus in good standing with the community. For instance, parliaments in established democracies create delegations with parliaments from non-democratic countries to discuss policy issues and exchange practices. From the perspective of a democratic parliament this is seen as a mechanism for norm diffusion which should improve the democratic quality of less democratic parliaments. The establishment of an IPI creates opportunities for alignment with international standards of democracy and in turn reduces the frequency of contestation (Meyer & Rowan, 1977). The foregoing discussion has established theoretical reasons for the creation of IPIs. These reasons are summarized in Figure 4 and Table 1. The succeeding section seeks to examine whether these reasons fit within the narrative of the African IPIs.

Figure 4: Creation of an IPI: A graphical representation of theoretical arguments

Figure 4 and Table 1 show the different theoretical strands that inform the creation of regional parliaments.

Source: Author's own

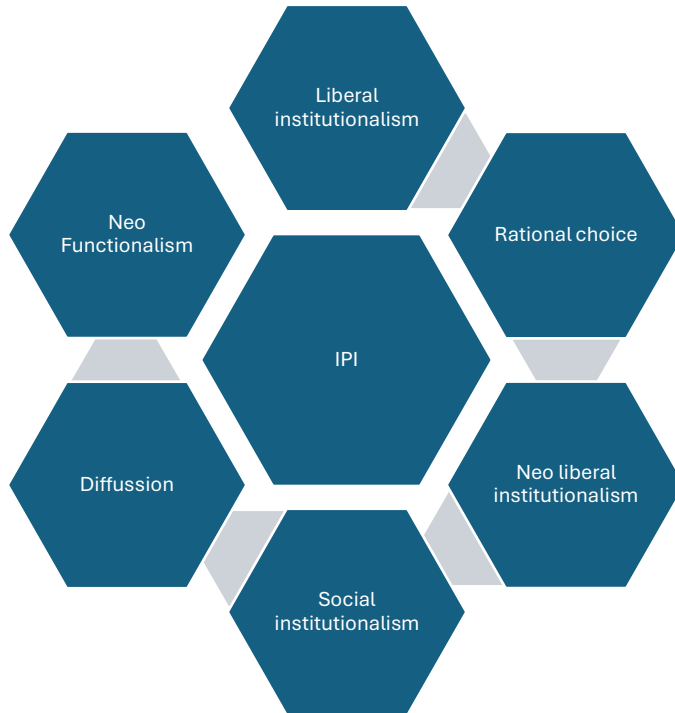


Table 1: Creation of IPI: Theoretical arguments

Source: Author's own

| No. | Theory | Key theoretical argument used |
|-----|-------------------------------|--|
| 1. | Rational choice | Logic of appropriateness. 1) Using a cost benefit analysis, states conclude that it is appropriate to establish an IPI |
| 2. | Sociological Institutionalism | Legitimation strategy. 1) States establish IPI to create the appearance of legitimacy. |
| 3. | Neo Liberal Institutionalism | Desire to solve common problems and desire to address increase in contestation. 1) States delegate and because of increased delegation a common problem of lack of legitimacy to the delegated arises. 2) IPI is thus created to solve the legitimacy problem. |

| | | |
|----|--------------------------|--|
| 4. | Neo-Functionalism | Increased interaction and Spillover effect. 1) The more states cooperate in one area the more cooperation leads to cooperation in other areas. 2) Cooperation leads to a spillover and ultimately results in the creation of an IPI |
| 5. | Liberal institutionalism | Logic of appropriateness. 1) An IPI will be established because others have one. 2) It is therefore appropriate to have an IPI to appear legitimate. |
| 6. | Diffusion | IPI are created because of diffusion. Diffusion occurs through, 1) Direct mechanisms - promotion of a specific IPI Model 2) Indirect mechanisms - agents look elsewhere to find a design used by others to solve a similar problem they have. Here agents copy, paste, mimic, or emulate others. 3) Manipulation - agents use positive and/or negative offers to influence the creation of an IPI |

2.6 African IPIs: how supranationalism influences both establishment and functions of parliaments

The theoretical section of this chapter has focused on finding explanations as to why international parliamentary institutions were created in Africa. It links the adoption of supranational norms of democracy with legitimacy of the international organization (IO) creating them. The chapter also presents diffusion as the mechanism through which these supranational norms seeking to establish legitimacy were adopted.

It is important to note that within the African context, supranationalism and the concept of ‘a region’ is synonymous. In Africa, supranationalism implies the existence of a multi-level governance structure that grants regional institutions the powers to exercise binding and authoritative powers over member states. It ensures that member states transfer powers to regional institutions. Such powers include norm and policy-making competencies as well as recognition of common values and principles. As such, within the African continent supranationalism is the essence of regional integration and the creation of regions (Fagbayibo, 2022; Rosamond, 2000).

Literature on supranationalism presents it as both a political and legal concept (Weiler, 1981). As a legal concept, it manifests itself through norm adoption and as a political concept, it entails evaluating how decisions are made and how through the attribution of powers IOs and their institutions function (Hay, 1966). Literature posits that to establish if an IO is supranational or not, one may (1) review whether it exercises autonomy over its member states, (2) has authority to make decisions and pass laws, and (3) whether the laws it makes have a binding effect on the member states (Büthe, 2016; Fagbayibo, 2013; Leuffen, 2022 #722; Leuffen et al., 2022; Tsebelis & Garrett, 2001; Weiler, 1981).

The theoretical chapter confirms the adoption of norms to be an act of supranationalism. Therefore, this research asserts that supranationalism exists through norm adoption (in this case the adoption of the norms of democracy and subsequent establishment of supranational institution-the international parliaments). Since literature on supranationalism also characterize it by how an institution functions (Eriksen & Fossum, 2002; Fagbayibo, 2013; Mamadouh, 1998; Tallberg, 2002), and to understand the functioning of democracy as a supranational norm in Africa, this research examines how the case study IPIs through their functions promote democracy. It begins to do so by tracing the genesis of supranationalism through the prism of regional integration. Later on, in chapter 5 and 6 supranationalism is evaluated by assessing the functioning of the IPIs. This is necessary as it not only establishes a holistic understanding of the IPI workings, but it also establishes a nexus between how the parliaments were created and how they function.

Supranationalism in Africa; efforts through regional integration

In Africa, supranationalism first presents itself as a legal process encompassing adoption of laws that bring nations together (regional integration) (Fagbayibo, 2022). Regional integration in Africa occurs under the auspice of the Treaty for the establishment of African economic communities. Through this treaty, the Regional Economic Communities (RECs) are established. Currently the African Union recognizes 8 REC⁶ each of which developed autonomously with some developing prior to establishment of the African Union (AU). Each REC is considered a pillar and building block of the AU. That means their work builds into the tapestry of the larger continental integration

⁶ See moratorium for recognition of African regional economic communities available at, https://archives.au.int/bitstream/handle/123456789/938/Assembly%20AU%20Dec%20112%20%28VII%29%20_E.PDF?sequence=1&isAllowed=y accessed on 22/01/2025

agenda. Essentially, as building blocks of the African Union, any activity the RECs undertake towards integration is considered action towards realization of the African Unions continental agenda (Gerhard Erasmus, 2022; Oppong, 2011).⁷

Normative Supranationalism can thus be summed up as a process that occurs simultaneously at both the continental level and at the regional level. Within the continent, regional integration allows supranationalism to occur through adoption of legislation, common principals and common values. Two of the eight recognized RECs are under study in this research: the EAC and the ECOWAS.

For the ECOWAS and the EAC, supranationalism is seen through the adoption and ratification of key legal instruments, the recognition of common values and principles as well as the establishment of parliament as an institution of democracy⁸. Also, to both IOs, supranationalism is politically interpreted as a tool of legitimacy and arsenal for strengthening decisions of the authority of heads of state and governments. Supranationalism makes the decisions of both communities binding and immediately applicable to member states (Schimmelfennig et al., 2020).

The discussions in the preceding section will begin by confirming the theory and how it manifests itself within the continent. The discussions inform the literature in chapter 2. Chapter 2 evaluates supranationalism from how accountability and representation occur. The goal is to establish a narrative that captures how the parliaments under study contribute to democracy and good governance.

As will be demonstrated in latter chapters, supranationalism not only affected how democracy diffused within the two regions, but it also affected how the two parliaments contextualized the norm. Although the EAC and ECOWAS are said to have adopted democracy as a supranational norm through diffusion, both organizations not only borrowed the ideas about accountability and representation (to establish legitimacy) they also fitted them into their parliamentary traditions and practices through the concept of nomilections. While looking at how supranationalism functions at the two regional organizations, empirical data in chapter 7 demonstrates that the two organizations adjusted the copied/diffused norm. This parliamentary behavior is common and often regarded as adopting processes unique to prevailing conditions (Elkins & Simmons, 2005). This is a common institutional behavior and finds itself presented in literature as “goodness of fit” (Goodin, 1996) or what Acharya typifies as “norm localization” (Acharya, 2004).

⁷ For example, in the economic side, it is expected that in the early stages RECs are to establish Free Trade Area and then Customs Unions, following which a continental customs union is to be established. The growth is strategic and at some point, upon realizing the continental agenda the recs will disappear.

⁸ See Article 4 of the ECOWAS treaty

African IPIs theory confirmation

Regional organizations in Africa as a response to legitimacy pressure and concerns – created IPS. (Schimmelfennig, Winzen et al. 2020). Scholars also associate their creation with the democratic quality of states forming the membership of the ROs (Kingah & Cofelica, 2012; Börzel et al., 2013; Risse, 2015).

The scholarly literature considers that the promotion of democracy did not begin at the domestic state level, but that it moved from global waves of democracy especially the third wave of democratization which occurred alongside de-colonization processes as proposed by Samuel Huntington. This research does not differ from the democratic wave argument, but it adds influence (either direct or indirect) as the key reason leading to the creation of African regional parliaments. Such that following the diffusion and influence argument, democratization in Africa was organized by both continental and regional level actors and finally to the national actors.

Using this analogy, the literature in the preceding theoretical section can be used to demonstrate existence of evidence to confirm that African regional parliaments were created due to legitimacy concerns, internal pressure derived from governance failure and external influence that generate desires for IOs to appear democratic in order to obtain support from international actors.

Democratization when combined with influence is best explained using Samuel Huntington's views on democratization. Although his position considers democratization as a process that begins with state led initiatives, diffusion theory for the African narrative, proposes an inverse of the narrative. Despite this, and when we look at the timing described by Huntington of when democratization occurred, Africa still benefits from his narrative. This benefit follows his view of African countries as part of the second and third wave which occurred after WWII and in the 1990s'.

For the African continent, the 1990s presents a period of heightened external influence that generated pressure for democratization. Calls for democratization within the continent resulted to creation of African IPIs. This external pressure is seen in the presence of former colonial powers, the United Nations through its peace keeping missions, the Bretton Woods institutions and aid conditionalities – all of which are cited to have heavily influenced governance transformation and

institutional change within the African Union and the African continent (Hartmann, 2016). Other actors such as powerful hegemonic states like South Africa and Nigeria as well as influential individuals like former South African president Thabo Mbeki have helped advance the ideas and norms that drove regionalism and democratization (Tieku, 2004). These external actors are most instrumental in making calls for reforms on, for example, the 1990s governance challenges that the African continent was facing. External pressure from former colonial powers, the United Nations peace keeping forces, and the Bretton Woods institutions led to democratization and transformation of the 1963 Organization of African Unity (OAU) to the 2000 African Union (AU) that had to address the continents' conflicts and to regenerate its commitment to democratic principles (Coleman, 2011; Hartmann, 2016).

Influence played a central role in the 1990s' as it not only promoted democracy, it also advocated for the adoption of institutions of democracy. In addition, IOs like the European Union (which is, in fact, more than a "normal" IO) are well known to frequently pursue cooperation with other ROs (Panke & Stapel, 2023). EU's influence has extended outside Europe, and it has been cited as a direct institutional influencer including the promotion of regional parliaments in Africa (Hartmann, 2016; Kingah & Cofelice, 2012; Pietrangeli, 2016).

The EU, using indirect methods influenced African regionalism. It employed, for example, trade incentives within the regimes of economic partnership agreements between it and Africa, the Caribbean and Pacific countries whose trade incentives included provisions for the promotion of democracy and good governance (Hartmann, 2016; Risse, 2016). Indeed, the influence of the EU in African ROs led to adoption as an official strategy, of the EU-style institutionalization by most of the African ROs (Pietrangeli, 2016; Söderbaum, 2016). The EU used various mechanisms. In addition to trade incentives, it also used persuasion through political dialogue, and established of regional strategic and indicative programs for norm socialization within Africa (Haastrup, 2013). Through these mechanisms the diffusion of norms of democracy and good governance as well as emulation of institutional designs from the EU to Africa occurred.

To confirm that diffusion indeed did occur and influenced regionalism in Africa in general and especially within the case study regional parliaments, the East African Community, for example, is cited to have "downloaded" the EU model for several of its institutions. In fact, its East African Legislative assembly (EALA) is said to be modeled after the European Parliament (Risse, 2016).

Diffusion also played a supporting role in the creation of the ECOWAS community parliament (Schimmelfennig et al., 2020). In deciding to establish the ECOWAS Parliament, the ECOWAS actors drew inspiration from other IOs like the East African Community whose parliament had existed before and from the European Community (Tokuta, 1984; Schimmelfennig et al. 2020). This research's reference to the EU institutions is an outstanding example that confirms existing literature of the EUs position as an exemplar institution that influenced and informed the adoption of parliaments as an institution of democracy.

Further, this research also accepts that the use of EU-related theories and reference to EU influence on African regionalism introduces Eurocentric baggage (Mumford, 2021a), which diminishes the usefulness of ROs in Africa (Acharya, 2014). While it is essential to conceptualize regionalization with specific regions in mind, to address this potential malady, later chapters of my study use empirical data that attempts to revive the Afrocentric narrative of studying and analyzing African ROs. It is necessary to mention that the alternatives proposed by scholars such as Mumford e.g., accepting that African ROs are established to create a shared community – using the phrase defining us and the other, empowering us in relation to the other, as well as preserving and regulating us as the motivation for African regionalism (Mumford, 2021a). Her proposals fundamentally share similarities with theoretical propositions similar to those that explain the EU integration process and ideology such as common identity and concepts of creating a security community. I am weary of the scholarly trend on calls that propose a rethinking of regionalism to encompass the African context without offering many contributions to the field. My study does not contest that it is important to use context specific ideas to conceptualize African regionalism; in fact, it does so in its empirical chapter.

This research however, acknowledges, that the existing conceptualization of African regionalism – especially those that view it as a quest to alleviate countries from colonial masters, establishing a shared identity aiming at creating solutions to common problems, and the adoption of formal institutions to signal credible commitments (Mumford, 2021a) – are all based on theoretical arguments of rational choice institutionalists who argue that institutions are used by states to enhance cooperation and improve bargaining power during international negotiations (Abbott & Snidal, 1998).

The fact that African ROs are created out of desires to solve governance challenges and create African solutions for African problems also finds inspiration from theoretical arguments that institutions are created as solution to collective problems generated by complex interdependence (Lenz & Marks, 2016). This is similar to the constructivist arguments which posit that increased interaction leads to increased interdependence resulting to creation of a security community (Adler & Barnett, 1996) whose security interdependence leads to regional governance for democracy (Lenz & Marks, 2016).

I, therefore, argue that in addition to influence the establishment of IPIs in Africa also occurred through diffusion of institutional designs (Risse, 2016). The diffusion of norms and policies was expected to promote and strengthen the democratic nature of the ROs. Moreover, because parliaments are considered to be institutions of democracy (Rittberger, 2005; Börzel & Risse, 2012; Kingah & Cofelica, 2012), African ROs opted to establish IPI to create the appearance of being democratic (Schimmelfennig et al., 2020).

The literature on legitimacy and how it spilled over from one RO to the other confirms my research assumptions that ROs in Africa created IPIs out of their desire to address common problems of governance, and due to influence from external and internal sources. The usage of various mechanisms of diffusion resulted in the adoption of both norms of democracy and institutional designs like those found in the EU (Risse, 2016). With the adoption of democracy as a concept of regional governance, institutional jurisdiction extends from the regional level to promotion of standards of governance at the national level (Börzel et al., 2013). The assumption is that regional efforts influence the domestic and vice versa, hence ultimately leading to a general improvement in democratic practices at the state level (Kingah and Cofelica 2012).

These prepositions are especially true for the case study IPIs of the ECOWAS parliament and the East African legislative assembly which since their establishment until to date, both have adopted promotion of democracy and good governance as essential to their mandate.

As mentioned before, African IPIs are established under the regional arrangements recognized by the African union under the auspice of the treaty for the establishment of the African regional economic communities. It is this research position that establishment follows the influence, legitimacy and democratization narrative and cumulatively through diffusion the ECOWAS and

the EAC and their regional parliaments were created. Although the creation of these parliaments is a result of supranational norms adopted at the regional and continental levels, each parliament has also gone ahead and adopted supranational norms and functions for the promotion of democracy.

Article 6(1)(c) and Article 13 of the ECOWAS Treaty (Revised ECOWAS Treaty, 1993) establishes the ECOWAS Parliament as one of the institutions of ECOWAS. Article 2 of the ECOWAS Parliament Protocol states that the ECOWAS Parliament is expected to represent the peoples of the Community. The ECOWAS parliament aspires to have its members of parliament (MPs) elected and, moreover, to be elected by direct universal suffrage (Art 7(1) ECOWAS Parliament Protocol). However, because the ECOWAS parliament is still “in transition” at present, its MPs are *de facto* still appointed by the national legislative assemblies of the 15 ECOWAS member States.

The Treaty establishing the EAC – as amended in 2006 and 2007 – establishes the East African Legislative Assembly (in short EALA) as the legislative organ of the East African Community and the representative of the EAC citizenry. EALA is also imbued with a wide range of functions, including legislation and oversight on all matters that fall within the Community’s work including debating and approving the community budget (Art 49(2) EAC Treaty). EALA’s membership is elected by the national assemblies of the eight member states (and must not be sitting members of the national parliaments). It is composed of nine sitting MPs per partner state and 12 ex-officio members, including ministers of EAC affairs and their deputies, as well as the EAC Executive Secretary and EAC Counsel.

The assumption that the two levels of governance, i.e., the regional and domestic, influence each other is manifest in, for example, the adoption of similar norms and of mechanism for the promotion of democracy and good governance. For instance, the regional parliaments aspire to operate as their domestic counterparts and adopt functions like their domestic counterparts. This influence is also seen in the selection of membership of both IPAs that feeds from their domestic counterparts and relies on domestic processes of nomination and election of delegates to the parliaments.

The existence of these parliaments conforms to literature that they were created as a result of supranationalism and within the context of regional integration. They also help confirm the central role of influence (both external and internal) in their creation. Consequently, by having the function of promoting democracy and good governance both parliaments confirm two positions; the existence of legal aspects of norm supranationalism as well as theoretical position that IOs establish IPIs to legitimate themselves (Lenz et al., 2019).

The succeeding chapter to this section comprising a review of literature. It will demonstrate that although democracy and good governance are supranational norms adopted by parliaments, latter discussions will show variation in how the functions operate.

Literature in chapter 3 will highlight that IPIs are established to mimic domestic parliamentary institutions and provide democratic legitimacy by holding governments accountable (Hellwig & Samuels, 2008). Chapter 3 will also show that to examine the functioning of democracy and accountability scholars propose election. The conduct of elections is used to select representatives, as well as to hold them accountable and by extension promote democracy. This review of literature is done with hindsight information that the two parliaments EAC and ECOWAS do not conduct elections.

Latter sections of the study (see chapters 5, 6 and 7) will provide evidence to show how the two IPIs have created solutions to their lack of direct elections. The chapters will demonstrate how the two IPIs use domestic oversight mechanisms to aid in addressing legitimacy concerns. The actions of the IPIs are in conformity with the scholarly literature on norm localization and institutional adaptation as well as the uniqueness of supranational delegation. The discussion in these three chapters will help dispel the growing criticism on IPIs in general and African IPI as specific agents of democracy. For example, the two case study parliaments exist within a field of widespread skepticism. They are criticized as lacking efficiency enhancing abilities; with limited powers and resources especially towards the conduct of oversight and accountability (Jancic, 2019; Schimmelfennig et al., 2020).

In latter sections I argue that the existing scholarly skepticism on IPIs' role in promoting democracy and good governance by using election is misplaced. If correctly contextualized and in this case when placed within regional integration, and when the adaptations made to the functions

on account of being supranational are welcomed by scholars the functional dynamics of these parliaments can remedy the existing criticism. The continued narrative of scholarly reluctance to accept the democratic abilities of both these parliaments on account of their lack of direct election of its members can be remedied based on the empirical data availed by my research.

2.7 Conclusion

This chapter sought to establish a theoretical understanding of why IPIs in general and of EALA and the ECOWAS community parliament in particular were created. The chapter presented various theoretical reasons for the establishment of IPIs, using neo-functionalism, liberal and rational choice institutionalism. Based on these theoretical strands, I argue that IPIs are created because of three reasons: first, they are created out of rational decisions by states who are desirous to solve common problems; second, they are created because states want to fit in with their peers, and third, they are created to enhance legitimacy of state actions. I claim that IPIs are created by states who are involved in cooperation. Increased interaction, pooling and delegation causes contestation justifying the creation of IPIs. The chapter also confirms that their creation is influenced either directly, indirectly or through manipulation. Discussions on diffusion showed how external actors can influence the establishment of IPIs. Having adopted legitimacy as the central reason for establishment of IPIs, the chapter highlighted how legitimacy exists and what its characteristics are. The chapter also highlighted supranationalism and how it affects the adoption of norms of democracy and using regional integration, and the creation of international parliaments. It concluded by reviewing the case study and positioning them with the theory. It found that the case study IPIs are indeed part of a legitimation strategy, and their establishment was by diffusion. The succeeding chapter discusses how after norms of democracy have diffused and IPIs are created the next step is empowering them with traditional functions typically associated with parliaments. Literature reviewed in the succeeding section is an extension of norm supranationalism and looks at how supranational norms operate. It begins with discussion on what traditional parliamentary functions are and how the functions are key to promotion of democracy work. It highlights how delegation, representation and accountability differ on account of supranationalism.

Chapter 3

Literature Review on IPIs

3.1 Introduction

Supranational delegation is a significant component of international organizations (Bradley & Kelley, 2008). It occurs beyond the traditional confines of the nation state, it is a form of cooperation between states who confer authority to international bodies and authorizes them to make decisions and take actions on their behalf (Abbott et al., 2000; Bradley & Kelley, 2008; Hawkins et al., 2006a; Tallberg, 2002).

This study uses the principal agent theory to explain supranational delegation. Supranational delegation means transfer of authority from the state to an IO. The principal agent theory presents delegation at the national level and delegation at the supranational level as a similar occurrence (Hawkins et al., 2006b; Lindseth, 2014; Tallberg, 2002). The similarity lies in the motives for delegation, the mechanisms which overlap between the two levels, and in the effects (Hawkins et al., 2006b). For this reason, I employ principal agent theory to explain supranational delegation to parliaments. Previous discussions (see chapter 2) addressed theoretical reasons for cooperation and delegation which subsequently lead to creation of IOs. Rational choice institutionalists argue based on a cost benefit analysis: the principal is most likely to cooperate when the expected benefits of cooperation outweigh the costs (Majone, 1999; Tallberg, 2002).

While these reasons remain as justifications for the establishment of IOs, they also explain supranational delegation. This chapter carries on the cooperation conversation by highlighting reasons that motivate states to delegate to IPIs. The chapter discusses reasons such as, delegation to parliaments so as to provide solutions for collective action problems and delegation because parliaments offer efficiency enhancing benefits especially where delegation allows a specialized agent to use their expertise, time and knowledge to help in the execution of a decision (Hawkins et al., 2006a; Majone, 1999).

This chapter holds that although delegation is beneficial, out of constitutional and democratic commitments associated with the national level, it is problematic and raises legitimacy concerns especially when the principal and the agent do not share similar interests (Lindseth, 2014; Majone, 1999). It also confirms that IPIs are established to address agency loss at the supranational level,

here the research uses the legitimacy seeking hypothesis to argue that IOs establish IPIs because parliaments in general are considered institutions of democracy (Rittberger 2005, Börzel and Risse 2012, Kingah and Cofelica 2012). The ROs in Africa specifically establish IPI to address legitimacy concerns and create the appearance of being democratic (Schimmelfennig et al., 2020). The legitimacy seeking hypothesis is further linked to the parliaments function of representation especially because parliaments are considered institutions of democracy because of their representative component (Lupia, 2003; Müller et al., 2003).

The representative role of parliament exhibits delegation from the citizens to the parliament and from the parliament to the government and further from the state to the IO. The research also confirms that representative democracy therefore, implies a chain of delegation from the voter to the representative with the sole purpose of the representative being able to pursue his/her constituents purpose, and not his/her own (Pitkin, 1967). Representative democracy not only bestows responsibility but also establishes a corresponding need for accountability by the representative to the voter (McCrone & Kuklinski, 1979; Strøm, 2000).

In this chapter I argue that by establishing IPIs, IOs gain legitimacy and by empowering these parliaments as representatives of their constituents – including mandating them to conduct accountability – IOs are able to address agency concerns.

The literature reviewed in this chapter thus examines the parliamentary function key to the promotion of democracy and good governance. It theoretically explores how delegation occurs through parliamentary representation and further how accountability is used to address agency loss. This includes discussion of what delegation is, what functions delegation seeks to serve as well as its costs. Most importantly, it includes a discussion of election as an essential mechanism of delegation. This is justified by the fact that election serves a dual-purpose: on the one hand, they aid in delegation and the selection process that chose a political representative; on the other hand, they also secure accountability. Lastly, debates on election are also necessitated by their universal usage as a yardstick and determinant of the existence of democracy. The quality of the electoral process (i.e., free, and fair, universal) is widely considered to be an indicator of the quality of democracy. The instrument of election is chosen because the literature presents it as a tool of accountability that helps address agency loss. Discussions of election and the lack thereof contribute to the narrative that parliament establish other mechanisms of accountability including

question and answer sessions, interpellations committees of inquiry etc. to help minimize agency loss.

Using principal agent theory, this chapter addresses the questions of how delegation to parliaments occurs. It holds discussions on challenges to delegation including agency loss and holds that although literature proposes control measures like accountability to counter agency loss, the same remains problematic because of multi-level governance. The discussions herein are empirically tested in latter chapters.

3.2 International Parliamentary Institution and supranational delegation

Although parliaments are ubiquitous to any jurisdiction that claims to be democratic (Norton, 1990), this statement remains contentious especially when non-democracies establish parliaments (Allmark, 2012; Mumford, 2018b). This contention might fuel the lack of consensus in defining an IPI. Terms such as *international parliamentary assemblies*, *international parliamentary institutions*, *regional parliamentary associations and assemblies* are often used to refer to these specific political institutions. To address this definitional ambiguity, and informed by international relations' literature (Cofelice, 2012, 2016, 2019; Cutler, 2013; Giesen, 2017; Kissling, 2011; Rocabert et al., 2019), in this thesis I define an IPI as a parliamentary institution either attached to an IO or itself constituting an organ of an IO whose membership comprises at least three member states. This definition is in alignment with Kissling's categorization of GRINGOS⁹ and Cutler's

⁹ First, there are *GRINGOs*' - Government Run or government inspired Non-Governmental Organization. The membership of GRINGO is limited exclusively to parliamentarians who are a part of national legislative branches. The membership is inspired by individual effort of the elected Member of Parliament to promote their own political or economic interest. Using research and information they lobby government on specific issues to help come up with solutions to specific problems. Examples of *GRINGO* are Parliamentarians for Global Action (PGA) and the Commonwealth Parliamentary Association. Although the membership of gringo is from state parliaments, they are independent of the state. CLOSELY related to GRINGOS are *QUANGOs*'; Quasi-Non-Governmental Organizations, *QUANGOs* ARE privately organized state administrative units. QUANGOs are state controlled and obtain their legal basis from state agencies. And finally, there is *GONGOs*' -Government Organized Non-Governmental organizations which are independent organizations that are dependent on state funding. ***International or regional parliamentary specialized agencies (IRPSA)*** which are agencies integrated into an international governmental organization system. The distinguishing feature of IRPSA is its Membership which comprises parliaments an example is the North Atlantic Treaty Organization Parliamentary Assembly and the Central American Parliament (PARLACEN).

definition of IPIs (Cutler, 2013; Kissling, 2011). Their works inform the four criteria of analyzing what an IPI is. For purposes of this research an IPI is an institution that

1. has relations with either an IO or an RO. To fit into this categorization, one must first establish whether the IPI is created within the context of any such organization, or whether the parliament is an organ of such an organization.
2. has a legal basis which creates and names it as a parliament within the confines of a Treaty, a protocol, an Act of parliament or a constitution.
3. has an international membership, i.e., the members of the IPI are drawn from a minimum of three states and these three states belong to an IO or RO establishing the parliament.
4. has a parliamentary agenda, including having a parliamentary mandate to carry out at least three of the five core functions of a parliament.

It is the premise of my study that an institution being investigated when found to have the four characteristics outlined above, then that institution qualifies as an IPI. The Andean Parliament (Andino, 2020),¹⁰ the European Parliament (EU, 2020),¹¹ the Mercosur Parliament (deMaria,

International or Regional Parliamentary Organizations (IRPO); this is an organization that comprises representatives of the domestic parliaments at the regional front where national or regional parliaments dispatch delegations to them despite having a presence at the international arena, they are standalone institutions that are not part of any international or regional governmental systems as its membership is restricted to only members of these delegations. And finally, the ***Parliamentary organs of international or regional organizations POIO/POOR***; serves as organs of international, regional or Supranational Organizations. E.g. European parliament and the Pan-African Parliament. POIO and POOR are often set up or created by an international treaty for the governmental organization or by a protocol to the treaty establishing an international organization. As organs, they maintain some degree of independence in budgetary allocation. Here the membership is not used as a criteria but the attachment to either a regional or an international organization.

¹⁰ ANDEAN parliament is an organ of the Andean Community with the function of citizen representation, political control amongst other as its functions; see <https://www.parlamentoandino.org/index.php/quienes-somos/el-parlamento> accessed on 4/3/2023

¹¹ The European Parliament is an organ of the European Union and lists three major parliamentary functions: legislation, democratic scrutiny of other EU institutions including questioning the Commission and the Council, establishing and approving the EU budget; information available at, https://europa.eu/european-union/about-eu/institutions-bodies/european-parliament_en accessed on 4/3/2023.

2000)¹² the Pan African Parliament, ECOWAS Parliament (P. o. ECOWAS, 2020)¹³ and even the East African Legislative Assembly (EALA) have the four elements and hence qualify as IPIs (EALA, 2020b).¹⁴ These parliaments are endowed – albeit to a varying degree, with traditional parliamentary functions of representation, legislation, budgetary oversight, accountability and, in so doing, promoting democracy and good governance.

Other than defining an IPI with the four (relational) criteria above, IPIs can also be defined by the functions they perform. Although such a function-based approach is not an independent criterion of analysis here, it helps inform debates on the contributions of the IPI to legitimacy and democracy. Representation is the most celebrated parliamentary function that has earned it the name of being the central institutions of democracy (Beetham, 2011; Deschouwer & Depauw, 2014; Katz & Wessels, 1999; Loewenberg & Kim, 1978). In other words, this representative function (potentially) makes IPIs the foundation of democracy (Beetham, 2011; Hague et al., 2016; Katz & Wessels, 1999; Mumford, 2018a).

Parliamentary representation occurs because of delegation from the constituent/electorate to the representative (Lupia & McCubbins, 2000; Strøm, 2000). This research holds that the most compelling reason for establishment of an IPI is drawn out of the representative role which helps them address legitimacy concerns. As mentioned, the reasons for delegation to parliaments at the national level are akin to those for delegation at the supranational level (Abbott et al., 2000; Bradley & Kelley, 2008; Hawkins et al., 2006a). Similarly, other reasons explaining the establishment of IPIs overlap with those that explain establishment of national parliaments. This research does not discount reasons such as establishment to give the democratic image, meet the criteria for good governance, enhance policy-making capacities and competencies as well as to represent the people. It must be buttressed that these reasons cut across the national and the supranational level. This research will also not delve into the various objectives that justify the act of delegations. Reasons such as to satisfy the criteria for good governance, to address challenges

¹² The Mercosur parliament is an organ of the southern common market; it lists, representation, preservation of democracy, legislation, approval of the budget among others as its function; information available at <https://www.parlamentomercosur.org/innovaportal/v/150/1/parlasur/competencias.html> accessed on 4/3/2023.

¹³ The ECOWAS Parliament is an organ of the ECOWAS Community lists, strengthening representative democracy, participation in legislative processes, considering community budget among others as its functions; information available at <https://parl.ecowas.int/ecowas-parliament-at-a-glance> accessed on 4/3/2023.

¹⁴ EALA is an organ of the East African community; it lists, legislation, oversight and representation among others as its functions; information available at <https://www.eala.org/assembly/category/mandate> accessed on 4/3/2023.

of capacity and collective action problems, or simply the desire to save time and capitalize on competencies the citizens lack, and to avoid tragedy of the commons in situations where individual members of a group have incentives to behave in ways that lead to collective suboptimal outcomes, are well established in literature see (Bergman et al., 2003; Müller et al., 2003; Ostrom, 2008; Strøm, 2000). Establishment of an IPI to address the legitimacy concerns and even to mimic the domestic parliaments are, however, unique to the supranational parliament (Schimmelfennig et al., 2020; Strøm, 2000).

To understand how IPI establish legitimacy, they must be defined as institutions of representation. This allows the research to look at representation from the angle of an agency relationship between the parliament and its constituents (Loewenberg & Kim, 1978; Pitkin, 1967). Representation as a function is not only important but also unique because it remains the single most universal parliamentary function (A. T. M. Obaidullah, 2019). In addition to it manifesting itself in a variety of ways and mechanisms (Pitkin, 1967).

Representation in parliamentary democracy is essentially a chain of delegation (Müller et al., 2003), and it is through delegation that the role of parliaments as institutions of representation or agents of democracy remains undisputed (Cooper, 2013; Crum & Fossum, 2009; Katz & Wessels, 1999; Nijzink et al., 2006; Sprungk, 2013; Urbinati & Warren, 2008).

To better understand representation as a result of delegation, it is examined using agency theory, meaning an actor (agent) acts on behalf of another (principal) (Aghion & Tirole, 1997; Kiewiet & McCubbins, 1991; Lupia & McCubbins, 2000). Delegation under political representation means voluntarily giving over authority to others. The results of this kind of delegation one becomes a parliamentarian (the *agent*). Through delegation he/she can carry out his/her mandate and while doing so this allows the *principles* (voters) to have their interests present at the seat of the table (Lupia, 2003; Strøm, 2000). These interpretation of delegation follows Pitkin's definition of delegation as a form of "re-presentation which means making present again, in the literal sense of making present something which was nevertheless not present" (Pitkin, 1967, p. 8) and can be understood as *fictio juris* that somebody is present in a place from which he/she is materially absent (Pitkin, 1967; Plotke, 1997).

Both agency theory and political representation theorists consider delegation as involving an agent, who is being expected to act in the best interest of the principal and in a manner that the action of the agent is not in conflict with the interest of the principal. When the actions of the representative are at odds with the interest of the represented then the representative is called to explain (Lupia, 2003; Pitkin, 1967; Strøm, 2000).

The nature of delegation described above follows the proposition that IOs are agents of states. Where governments belonging to IOs delegate competencies to the IO so that it can represent their interest. As part of the international framework, governments also establish IPIs and empower them as agents of representation (Cofelice, 2019; Schimmelfennig et al., 2020). I argue that the previously mentioned reasons for establishment of IOs, including helping overcome costs, improve efficiency as well as provide expertise for international cooperation. These reasons overlap with the efficiency enhancing hypothesis, the legitimacy enhancing hypothesis and the policy seeking hypothesis, all of which are used to explain the establishment of and delegation to IPIs (Cofelice, 2019; Keohane, 2011; Schimmelfennig et al., 2020). All these functions involve delegation as it is through delegation that states can cede power to the IO and to the IPIs and, ultimately, benefit by increasing their credibility with other IOs and to showing their commitment.

Delegation that occurs under parliamentary democracy require some measures of control to avoid agency loss (Strøm et al., 2003). Literature on delegation argues that in addition to acting on behalf of the other, delegation requires an extended responsibility beyond the vestiges of authorization and entails a continuous dialogue between the represented and the representative (Piattoni, 2013; Urbinati, 2006). Detailed discussions on delegation and agency loss are made in the succeeding parts of this chapter.

Therefore to make delegation democratic, the principal establishes mechanisms by which they can select and control their representatives (Strøm, 2000). Under this form of democracy, the principal delegates their power to the agent; this delegation conditionally authorizes the agent to act in place of the principal. Here delegation by allowing accountability becomes democratic and changes its nature to representation. Thus, delegation is representation when there is a corresponding need for accountability (Strøm et al., 2003).

This research reiterates that although this simplified understanding of delegation and representation explains delegation that occurs at the national setting, the same is also conceivable at the supranational level. This is relevant when understood within the principal agent model which allows representation to transcend national borders. To confirm this, Moravcsik (1993) considers government representatives at the regional level to act as agents of national principals. He uses the principal agent relationship backed by oversight from national governments to explain how cooperation within the European Union is possible by delegating to EU institutions (Moravcsik, 1993). His reference to oversight by national governments symbolizes the acknowledgement that the constituencies retain power to punish and /or reward the agent. Similarly, the principal agent nature of representation is used by Majone to explain the EU being democratic. To Majone, supranational delegation flows from the national constituencies to the government representatives and, finally, to the supranational EU level, delegation then flows in the reverse direction of accountability and requires the supranational explain themselves to the national (Majone, 1998, 2002).

It is the premise of this study that parliamentary democracy connotes an indirect chain of delegation from the voter as the principal to the agent. Only the voters directly elect their representatives and all other agents are indirectly elected including those at the supranational level (Müller et al., 2003). Before delving into accountability, the next section explores the methods of securing representation.

3.3 Delegation and agency loss

Although the principal agent theory of delegation when analyzed using the mechanism of election may appear straight forward, it is problematic at both the national and the supranational levels because of agency loss. The fruits of delegation include, among others, enhancing capacity of decision-making. However, principals have no influence over what the agent does, and instances of agents pursuing policy that differs from those of the principal and serve their own interests are not new (Kiewiet & McCubbins, 1991; Lupia, 2003; Przeworski et al., 1999; Shleifer & Vishny, 1998). The model of selection via election is particularly faulty as it leads to agency loss which

occurs when an agent – i.e. an elected MP – decides to sell his/her own agenda as opposed to those of the principal¹⁵ (Piattoni, 2013; Pollack, 2003; Strøm, 2000).

The literature on agency loss depicts it as a phenomenon occurring in two forms: moral hazard or adverse selection; both enable agency loss (Bergman et al., 2003; Bradley & Kelley, 2008; Lupia & McCubbins, 2000; Müller et al., 2003; Strøm, 2000). This is particularly the case when principals complain of being uninformed by the agent, and to receiving information that is either too little, insufficient, or too late (Bergman, 2000; Strøm, 2000).

Under adverse selection, agency loss occurs when the principal does not know the agent well enough. For example, details about the agent's skills and competencies as well as the agent's moral standing are not fully disclosed to the principal. This affects the principal's ability to select a loyal agent who will not deviate from the preferences of the principal. Agency loss under moral hazard occurs when the principal lacks information about what the agent is doing. This makes it difficult for the principal to keep the agent honest and diligent through mechanisms of control (Bergman, 2000; Lupia, 2003; Lupia & McCubbins, 2000; Müller et al., 2003; Shleifer & Vishny, 1998; Strøm, 2000). The character of agency loss changes at the supranational level because delegation often results in multiple agents and multiple principals. Agency loss manifests itself in the form of "agency games" where agents position principles against each other to avoid being answerable (Bovens, 2007). Literature presents these games as multi-level games with the biggest challenge occurring in instances where the national principals simply shirk responsibility to hold the agents accountable (Bendor et al., 2001; Piattoni, 2013). The uniqueness of supranational delegation is that it offers an extra layer to the already problematic agency concerns. In classical delegation, having one agent poses as a risk of responsibility shirking, having multiple agents comes with the risk of both shirking and freeloading on each other's efforts (Bendor et al., 2001).

The conflict between the interest of those who delegate and the agents to whom tasks are delegated poses the greatest risk (Kiewiet & McCubbins, 1991; Strøm, 2000). To ensure that the preferences of the agent and of the principal align, literature proposes establishing measures to monitor and constrain the agent and ensure synergy of interests (Holmstrom, 1980; Kiewiet & McCubbins, 1991; Powell & Powell Jr, 2000; Strøm, 2000; Strøm et al., 2003). This is especially necessary for

¹⁵ There are a series of administrative solutions that literature proposes to address agency loss, which I cannot discuss in detail here.

delegation that occurs at the supranational level where multiple persons and multiple jurisdictions lead to parento-sub optimal outcomes, it is necessary to establish ex-ante and ex-post information control instruments requiring the agent to provide information and reasons for actions. These procedural tools will help address agency loss and specifically provide controls over the agent and make the agents preferences align to the principal (Bendor et al., 2001; Holmstrom, 1980).

Although there are more institutional and administrative constraints that come with delegation, this study focuses on agency loss. Such loss is not only a challenge to delegation but also to accountability. Furthermore, the use of MLG at the supranational level adds complexities to delegation and agency loss alike, and MLG changes the character of delegation and accountability at the supranational level.

The choice of delegation and accountability is particularly important as these two functions contribute to democracy and good governance (Strøm et al., 2003). The use of election as a tool of delegation and accountability are discussed below.

3.4 Delegation through election

Political science scholarship considers delegation as being synonymous to election and the conduct of free and fair election as synonymous to democracy (Hayat & Rosales, 2020; Mansbridge, 2003, 2010; Plotke, 1997; Schedler, 2002; Urbinati, 2000). Delegation through election ensures some degree of responsiveness by the representative to the represented whom they act on behalf (Urbinati & Warren, 2008); (Hellwig & Samuels, 2008; Shabad & Slomczynski, 2011). It's important to note that this study uses the word with representation and delegation interchangeably. The switch from delegation to representation and vice versa is because delegation to politicians leads to representation and election is the primary institution that allows for delegation as well as accountability (Powell & Powell Jr, 2000).

Election is a textbook example used to understand how the principal agent relationship operates. Under election the principal (voter) elects agents (MPs) to stand for and act on their behalf, safeguarding their interests and opinions (Urbinati & Warren, 2008). Through election, the act of voting is seen as an assignment of responsibility and a tool to either reward or sanction incumbents (Arceneaux, 2006; Ashworth, 2012; Fisher & Hobolt, 2010; Hansen et al., 2022).

In systems of parliamentary democracy election helps selecting political representation. Moreover, it is a unique tool of accountability because it presents opportunities for both ex-ante and ex-post accountability. Through the conduct of election, voters respond to the incentives and policy promises of the politicians during political campaigns and voters decide based on the policies they most favor (see succeeding discussions on election and accountability). Voting acts as an inducer of behavior where, on the one hand, a duty is created requiring the elected MPs to either explain or justify an action and, on the other hand, the electorate have a corresponding duty to either reward by re-electing or punish by replacing the MP (Ashworth, 2012; Baron et al., 2012; Laver & Shepsle, 1999; Strøm, 2000).

While assigning responsibility elections also provide opportunities for electoral accountability where through voting mechanisms the voter can evaluate a candidate's promises or retrospectively evaluate a candidate's performance and record of accomplishment and the voter is able to decide to either reward or sanction the candidate (De Vries & Giger, 2014; Hellwig & Samuels, 2008; Shabad & Slomczynski, 2011). The close relationship between election, delegation, representation and accountability advances the core assumption of this study that the three exist in a symbiotic and mutually inclusive relationship while contributing to democracy.

Although there are complexities associated with electoral representation, such as the exclusionary character of varying electoral systems, varying electoral democracies, the problematic assumption that voters are heterogeneous and well informed in making their choices to vote, among other dynamics that reduce the prospects of electoral accountability (Gargarella, 1998; Hellwig & Samuels, 2008; Pitkin, 1967; Shabad & Slomczynski, 2011), these complexities do not take away from the research main argument that election aids in securing representation and accountability – and this help parliaments advance democracy (Beetham, 2006; Katz & Wessels, 1999; Strøm, 2000).

This position is buttressed by what Rehfeld (2006) and Pitkin (1967) refer to as political representation. They contend that political representation arises and is maintained by certain procedures and standards of authorization and accountability and acts of looking out for another's interest; often brought about by conducting free and fair elections (Pitkin, 1967; Rehfeld, 2006). The electoral processes of political representation when aligned with citizens' participation, establish the basis of democracy (Hayat & Rosales, 2020). To this end, and in stating that political

representation is at the heart of democracy, Weßels (Weßels, 2007) argues that in democracies, the link that establishes a “causal” relationship between the wishes of the people and acts of governance, are elections.

Representation is democratic if it makes political decisions responsive to the will of the people, and responsiveness is achieved through election and voting (Näsström, 2015). This phenomenon is described in Figure 5, which shows how the conduct of election leads to the establishment of political representation which allows for checks and balances through accountability with the three activities being closely interconnected.

Figure 5: Interplay of election on representation, and accountability

Source: Author’s own

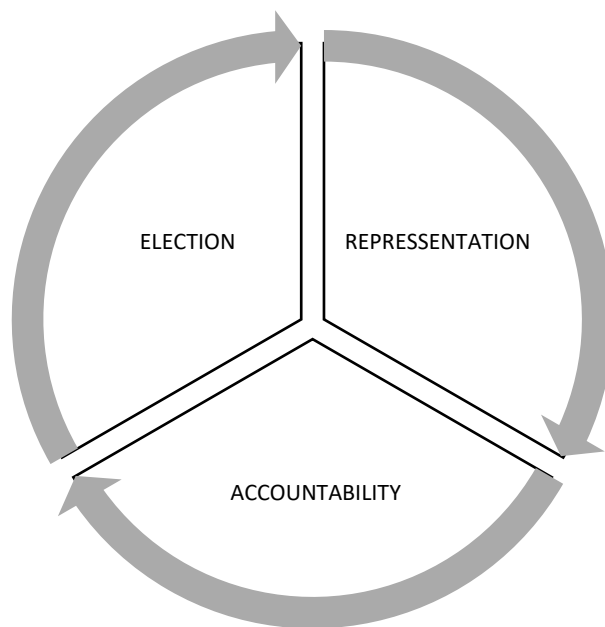


Figure 5 demonstrates that the conduct of election as an act of delegation results to political representation and for it to be democratic a corresponding relationship necessary for accountability; once elected a political representative becomes responsive to the voter as they act for the interest of the voter (Albertone, 2015; Pitkin, 1967; Saward, 2008). Accountability occurs when the principal who is represented by the agent chooses to either reward or punish the agent during the next election (Weßels, 2007).

3.4.1. Election as a tool of accountability

The former section discussed election as a tool of delegation, it also mentioned that election under parliamentary democracy serve a dual-purpose object, one to select the political representative and the other to hold the representative accountable. The following section explores how election achieves accountability of the agent to the principal.

Election continues to be the most revered form of political participation and through its campaigns and by the conduct of voting, it remains the dominant unit for determining whether a given political system is democratic or not. Election is celebrated because it allows citizen participation in governance processes and because it is an instrument of both selection and sanction and as a result of this it continues to be referred to as; the vanguard of democracy (Clarke & Foweraker, 2003; Dahl, 2020; LeDuc et al., 2002; Wojtasik, 2013), the dominant procedure of representative democracy; the medium to representation; and the central institution for political representation (Clark, 1990; Dahl, 2020; Deschouwer & Depauw, 2014; Labolo & Hamka, 2012; Manin, 1997; Słomczyński & Janicka, 2004; Wojtasik, 2013).

As a tool of democracy and good governance the importance of election kicks off during election campaigns where voters are enticed to decide on policy promises they favor and which government they want (Baron, 2018; Baron et al., 2007; Dalton et al., 2011; Deschouwer & Depauw, 2014). The competitive nature of political campaigns allows candidates to create electoral incentives that either favor the incumbent or improve the prospects of them being elected.

This also works to further disadvantage the opposition who work to incentivize voters with policies that are further from the incumbent's agenda. Once elected the incumbent will often pursue the initiatives which would pay off as a potential advantage for reelection in the next election (Baron, 2018; Deschouwer & Depauw, 2014; Goodwin-Gill, 2006; Gudina, 2011; Hellwig & Samuels, 2008; Laver & Shepsle, 1999; Mansbridge, 2003; Przeworski et al., 1999; Schedler, 2002).

Game theorists argue that during political campaigns competing agents position themselves to be the better option to their opponent. The back and forth of campaigns serve a dual-purpose mandate with campaigns ensuring selection of candidates who have charisma and bear virtues such as loyalty, and the result is having agents who have legitimacy to make decisions on behalf of the public. This process is important because it helps generate public debate and promote political

accountability (Newell & Bellour, 2002; O'Donnell, 1998; Tatar, 2013; Wojtasik, 2013). Through voting, citizens as voters delegate their power to the representatives – to become MP – with the motivation of increasing the degree and efficiency of decision making, the selection made during voting also establishes legitimacy of the agent to exercise authority and grants the citizen control over the agent exercising authority (Newell & Bellour, 2002).

As mentioned previously, the process of election amounts to delegation by virtue of transferring decision-making competencies. It also generates legitimacy of action and office and becomes a sanctioning tool when campaign promises are used as a reference point by the citizen to ensure political accountability. The assertion is that election allows competing candidates to entice the voter to vote for them. Once voted in, election presupposes the establishment of an agency relationship between the voter as the principal and the candidate resp. MP as the agent. The relationship is hierarchical with the agent bearing the political mandate being answerable to the voter. For election to be used as a mechanism for political accountability and an inducer of good behavior, the voter must be able to draw both positive and negative consequences from the representative (Pitkin, 1967; Przeworski et al., 1999; Zakaras, 2010). Positive consequences are when the political mandate is renewed and negative when mandate is revoked against the representative.

The accountability mechanism described above must be understood as a process that begins during political campaigns, where candidates not only make policy proposals, but they also explain how beneficial these policies are to the welfare of the voters. Voters in voting not only choose which policies they want, they also choose who will implement the policies and in effect which mandate the government will pursue (Baron, 2018; Deschouwer & Depauw, 2014; Manin, 1997; Przeworski et al., 1999).

The assumption in the scenario above is that the voter is making an informed decision when selecting a candidate. However, this may be problematic as it assumes that accountability is goal-based and that the interest of the voter and that of the politician are always aligned. Furthermore, this evaluation criteria by a voter not only assumes that the voters are well informed, but also that the voter knows what they are doing and can choose appropriate attributes such as loyalty to voters' interests in a representative and that the representative will make decisions on behalf of the citizen and not on self-interest.

The assumptions above are often not the case (Przeworski et al., 1999). This is especially problematic as alignment of the principals objective to the agents is never perfect (Mansbridge, 2009). Similarly, problematic questions as to whether voters really evaluate policies before voting and retrospectively at that, are common and have received wide scholarly attention (see, for example, thematic research by (Dalton et al., 2011; Naurin & Naurin, 2011; Naurin & Oscarsson, 2017; Schedler, 1998; Warren, 2014). Despite these agency-related challenges to election, existing literature on electoral accountability emphasizes that it occurs when a voter evaluates both external and internal matters pertaining to a candidate's performance.

Political accountability is similar to electoral accountability in that the voter uses the vote to assign responsibility as well as to reward or sanction incumbents (Ashworth, 2012; Fisher & Hobolt, 2010; Hansen et al., 2022; Hellwig & Samuels, 2008; Prewitt, 1970). Bidner and Francoise (2013), for example, posit that accountability is based on the person in the leader. To them the character of the leaders solely determines the choice of relationship existing between leaders and voters. They explain further that accountability is not contingent on a voter's ability to reward and or punish, but that leaders who embrace democracy and regardless of the existing policies will make the right choice, while autocratic leaders will make decisions of transgression and regardless of the consequences will refuse to account. According to them, the selection model of accountability relies on the personality of the agent and not on the motivation to be reelected, or the threat of being replaced. Consequently, because the person is considered as one with the office, a series of good leaders will raise the standard of accountability and lead voters to realize that the standards have risen and, consequently, the citizens accept only accountable leaders. Leaders can influence the permissive and the non-permissive norms of a society. The electorate will then decide on the norms to which they allow or disallow. Where bad leadership has been the order, then poor accountability structures become permissive, and the converse applies. Here accountability shifts from an institutional structure to a principal issue. Accountability is determined by the principles and virtues a leader encapsulates. Therefore, regardless of the system, a leader who is pro-democracy will account even where structures of accountability do not exist. When placed on the scale of agency loss, their argument is contentious especially because adverse selection bears the challenge that a principal is never fully aware of the agents inclination to behave and keep policy promises (Lupia, 2003; Strøm, 2000).

This position alongside the skeptical degree to which existing literature treats the potential of election to reward or sanction incumbents is of no importance to the research assumptions that election and the existence of other tools of vertical accountability presumes democracy (O'Donnell, 1998). Further, delving into questions of the real effect of election campaigns on accountability will create a different dichotomy of representative democracy that does not benefit this research position, especially the assumption that campaign promises are central to representative democracy and serve as a guide to the voter, who use it as a point of reference after the end of term and uses it to enhance decision making (Naurin, 2011) and accountability.

The central argument in this study remains that through the selection model evidenced by the cycle and processes of election, voters are well informed and able to judge the performance of the politicians, they do so by evaluating campaign incentives and ex-post facto the implementation of the campaign policies. The sanction model of election is that the politicians are also induced to implement their promises as they are eager to appear in good books with the voter in time for the next election (Esaiasson & Narud, 2013; Zakaras, 2010). This extends to single term politicians who by being members of a political party remain desirous of being in good standing beyond their term in office. The political parties are also able to exercise some degree of ex-ante control over their members (Strøm, 2000).

It is the evaluative and sanction elements of voting as well as the inducing consequence that connects election to democracy and good governance, confirming the centrality of election to be considered as the key constitutive element of a democratic regime and an indicator of democracy. The inverse of the foregoing assumption would mean that a lack of political participation and representation means a lack of democracy. Election therefore allows for delegation of political representation and promotion of democracy (Clark, 1990; Labolo & Hamka, 2012; LeDuc et al., 2002; Słomczyński & Janicka, 2004; Tatar, 2013; Wojtasik, 2013).

This research cannot buttress enough the preposition that democratic accountability is present in the cycle of political representation and is achieved through the mechanisms of election which not only empower representatives but also allows them to be held accountable for their decisions. It is solely because of these functions that voting takes primacy over other democratic practices (Dahl, 2020). Consequently, accountability achieved during election processes, post and pre, are seen to enhance democracy and good governance (Botlhale, 2012; Dalton et al., 2011; Warren, 2014).

Because representation leads to a chain of delegation and a reverse chain of accountability is created, both parliament and the citizens, therefore, have accountability as an arsenal to induce appropriate behavior between the government and the legislature and between the legislature and the electorate.

Existing literature discussed above shows that election is both a medium of representation and method of accountability (Dalton et al., 2011) which is a simultaneous instrument of selection and sanction (Mansbridge, 2009). It is also clear that accountability occurs where the principal can enforce rights and sanctions over the agent (Bergman et al., 2005; Schedler, 1999; Weale, 2011). The ability of a principal enforcing rights and sanctions over an agent classifies accountability into two, either ex-ante accountability or ex-post accountability. Where ex-ante accountability is conducted before entering into the relationship and during political campaigns and ex-post is used to gain control after entering the delegation relationship after the agent has been elected into office and has secured their seat and is seeking re-election (Bergman et al., 2005).

These two classifications lead to a further classification of either vertical or horizontal tools of accountability. The vertical tools of accountability are those that allow the citizen access to the elected while horizontal tools not only allow access between the citizens and the elected but also promote access horizontally between one institution and the other, i.e., between the regional parliament and other institutions of their respective IO.

Both ex-ante and ex-post tools of accountability must have the ability to reward or sanction the agent. This means for whether ex-ante or ex-post, vertical or horizontal must possess both the answerability and the enforcement elements as detailed in the discussions below. They must not only provide information by explaining or justifying, but the specific tool must also have the enforcement component and either reward or punish the entity or person rendering the account.

Propositions that election are the medium for democratic representation and accountability coupled with the acceptance that parliaments are the central institution of representation and democracy is clear. Elements of accountability and its ability to make an agent explain or justify their actions to the principal and the principal having the ability to reward or sanction the agent will be used to empirically examine their existence in the case study parliaments. This activity will help establish the nature of delegation and representation at the supranational level as well as aid in drawing

conclusions on whether the case study IPIs can represent and conduct accountability like their domestic counterparts.

Although this section is set to establish delegation through election, it introduced the concept of accountability through election. There exists normative congruence between two ideas: on the one hand, that parliaments are the agents of representation and accountability and, on the other hand, that election is the mechanism with which delegation, representation and accountability is realized in a democracy. Hence, the conduct of election leads to promotion of democracy and good governance. There is, however, a gap both in theoretical and in empirical explanations on how at the regional level without direct election there is promotion of democracy and good governance. The study focuses on analyzing the two IPIs using accountability. The next part of the research presents detailed discussions on what exactly accountability is and how it operates. It is imperative to have a stand-alone discussion on accountability because it will be used to assess other tools that exist in place of direct election. This is particularly important because the nature of election at the supranational level differs from that at the national level and from what is presented in literature. Accountability must therefore be understood independent of election.

3.5 Accountability

There is no universally accepted definition of accountability; its scope and meaning extends to a wide array of definitions depending on one's contextual bias (Bovens, 2007; Mulgan, 2000). Despite having definitional divergence, many scholars agree that accountability is at least a double, if not multi-faceted concept which denotes a process of being called "to account". This implies the existence of some form of hierarchical relationship requiring one to report one's actions to an authority (Bergman et al., 2003; Bovens, 2007; Bovens, 1998; Mulgan, 2000; Romzek & Dubnick, 2018).

Accountability is pegged on the existence of a relationship and a "duty of care" where person A is accountable to B, if A is obliged to explain and justify his actions to B, or if A may suffer sanctions if his conduct, or explanation for it, is found wanting by B (Bergman et al., 2005; Goetz & Jenkins, 2001; Kenney, 2003; O'donnell, 2003; Schedler, 1999; Weale, 2011). The core purpose of accountability is to make agents or subordinates act in accordance with the wishes of their principals, that is those who give them the mandate. When applied to the context of democratic governance, this creates a relationship between citizens and holders of public office, and between

elected politicians and bureaucrats. Accountability allows, for example, for the citizens to exercise some level of control over public officials and because of this, accountability is seen as a central ingredient to procedures of defining democracy (Botlhale, 2012; Przeworski et al., 1999; Schmitter & Karl, 1991; Warren, 2014).

Accountability is a two-dimensional concept with elements of answerability and enforceability. Answerability is the duty of an agent to answer and explain/justify his or her actions to a principal. It presupposes a requirement that the agent (A) must account and render an explanation to the principal (B), and where such an explanation is not found sufficient the agent faces sanctions. The second element of accountability establishes a responsibility to either reward or sanction the agent who is accounting (Schedler et al., 1999) Accountability here is either conducted ex-ante, i.e., before entering into the relationship or ex-post, meaning it is used to gain control after entering the relationship (Bergman et al., 2005; Goetz & Jenkins, 2004; Müller et al., 2003; O'Donnell, 1998; O'donnell, 2003; Przeworski et al., 1999; Schedler, 1999; Schedler et al., 1999; Schillemans, 2010).

Acknowledging that accountability is a concept that primarily must include answerability and enforceability, my study is cognizant of the fact that accountability can be disassociated from the core dimensions. In fact, many subtypes of accountability exist which do not share the common elements of answerability and enforcement (Goetz & Jenkins, 2001; Schedler, 1999; Schedler et al., 1999). For instance, we have tools of accountability that allow answerability to prevail without enforceability, and similarly those that allow enforceability without answerability (Goetz & Jenkins, 2001). This is the case in instances where answerability can still be affected without enforceability/enforcement – in short one can provide information without bearing the consequences and where one can bear the consequences without having to be answerable.¹⁶

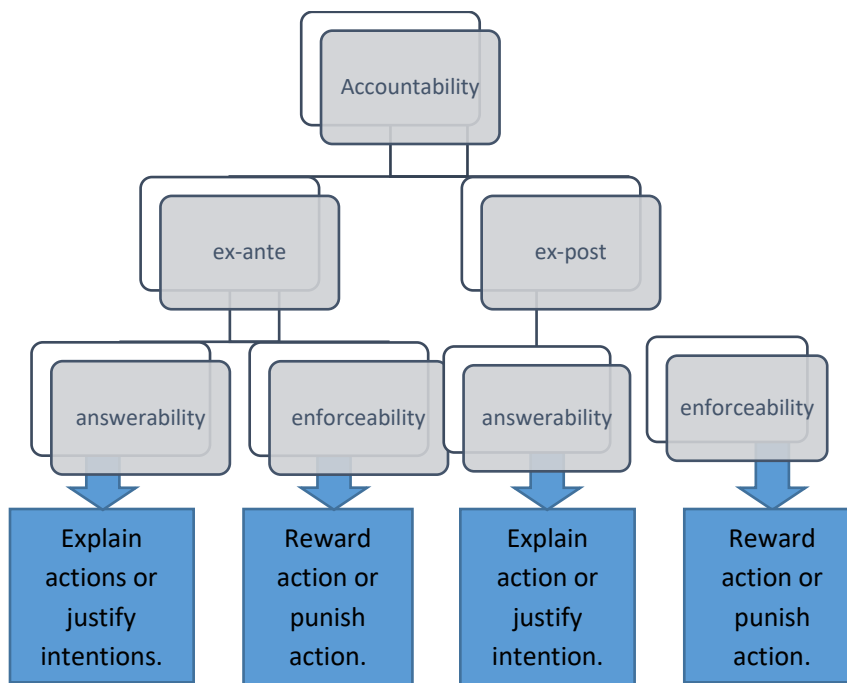
Although the proposition exists that accountability can be disassociated from answerability and enforcement (see, for example, (Schedler, 1999), there may be no need to distinguish between answerability and enforceability as they both bear the same weight equally and are both of great

¹⁶ Concrete examples are the South African Truth and Reconciliation Commission where answerability was sought without enforcement, or in the case of the Indonesian students who demanded the demise of General Suharto in 1998 (enforcement) without requesting further information.

importance (Goetz & Jenkins, 2004) and, furthermore, it may just be enough to have one existing in a subtype of accountability. These prepositions do not have a bearing on my research. The thesis moves on the premise that for accountability to be democratic, it should bear *both* answerability and enforceability as detailed in Figure 6. This research therefore proceeds to identify different tools of ex-ante and ex-post accountability and whether these tools have or do not have the dimensions of answerability and enforcement.

Figures 6: The dimensions of the concept of accountability

Source: Author's own



3.5.1 Other mechanism of accountability

Parliaments are institutions of representation, and this is an act of delegation arrived at through election. Once elected the MP becomes the agent of the citizen. This relationship is hierarchical and vertically arranged meaning that citizens are the superior principal who hold their agent representatives accountable. The selection model of accountability relies on two motivations: first, the alignment of the principals' objectives to the agents (which is never perfect), and, secondly, the incentives to make good public policy and the desire to be re-elected (Mansbridge, 2009). The selection model of accountability is attractive notably because it offers high opportunities and low costs especially when the agents are loyal, self-motivated and are aligned to the interest of the principal, as well as when the principal can easily gather information about the agent to make an

accurate choice and avoid traps of adverse selection. As discussed, this is almost never perfect, particularly because at the supranational level the character of election changes from being direct to indirect.

Literature posits that *selection and sanctioning are by no means incompatible or mutually exclusive* and because of this, most institutions combine the selection with the sanction model of accountability (Mansbridge, 2009). Therefore, although most democracies would reach out for the selection model evidenced by election, they also establish mechanisms of sanction beyond/ alongside (s)election. In this study sanctioning mechanisms will be address as existing in lieu of selection and, moreover, as a substitute to direct election. For example, discussions on horizontal accountability are made in lieu of sanctioning mechanisms of election (Mansbridge, 2009), especially when horizontal/ professional accountability is understood as checks and balances between equals (O'Donnell, 1998; Schedler, 1999).

Horizontally arranged accountability means accountability beyond the ballot with no hierarchical arrangements. For this reason, my study aims to empirically identify other existing tools of accountability. The horizontal tools are important as they allow parliaments without direct election access to accountability, and by extension the ability to promote democracy and good governance. Ideally MPs are held accountable for the policy promises they make during political campaigns. In horizontal accountability, however, agents are held accountable for actions during substantive policy-making processes. This entails the principal looking at public acts through the lens of established normative standards based on norms found in treaties, acts, rules of procedure, etc. (O'Donnell, 1998; Schedler, 1999).

While I presume that vertical accountability is a hierarchical relationship between an agent and the principal where the principal wields power over the agent, this is commonly expressed through the relationship between the state and the citizens. It may include citizens acting through the electoral process or indirectly via civil organizations or via the media (Lührmann et al., 2020; O'Donnell, 1998; Said et al., 2021; Schacter, 2000; Schillemans, 2010). Horizontal accountability, in contrast, implies a relationship where those in public office are held responsible for their performance and decisions (Grant & Keohane, 2005; Newell & Bellour, 2002; Schedler, 1999; Schedler et al., 1999).

Horizontal accountability is represented in the literature as *political* accountability, which is commonly witnessed during election (where it is vertical). There are, however, instances where political accountability is horizontal between political institutions located at the same political level (O'Donnell, 1998; Schacter, 2000; Schedler, 1999).¹⁷ The existence of horizontal accountability is an acknowledgement that accountability cannot be restricted to election alone and it works in contrast with and as a complement to vertical accountability (Grigorescu, 2008; Schillemans, 2011).

Horizontal accountability has its foundation on the principal of separation of powers and the establishment of stable systems of checks and balances (Grigorescu, 2008; Kenney, 2003; O'Donnell, 1998; Schmitter, 1999). It presupposes entities that are legally enabled and empowered but also willing and able to conduct routine oversight over the state (O'Donnell, 1998; Schmitter, 1999; Schmitter & Karl, 1991).

In my study I conceptualize horizontal accountability as arrangements between peers and equals where hierarchical relationships cannot be achieved (Grigorescu, 2008; Schillemans, 2008, 2011). The choice of focus on horizontal tools is essential since the tools discussed in the empirical chapters are non-hierarchical, between peer bodies of the IO. The reliance on horizontal accountability is further supported by literature positing horizontal tools as designed to address accountability deficit especially where an accountee is not hierarchically superior to the accounted (Bovens et al., 2014; Mulgan, 2003; Schillemans, 2008, 2011).

Also horizontal accountability contributes to legitimacy and is critical as a contributors to democracy because it incorporates mechanisms that – once triggered – ensure that actions are legal and legitimate in the eye of the citizenry (Schmitter & Karl, 1991). Because horizontal accountability is between non-hierarchical actors it is often found in scenarios requiring multi stakeholder, high levels of cooperation and coordination including multi-level governance. This is especially the case in supranational spaces such as IPIs.

Although there exist distinct debates of vertical and horizontal forms of accountability, there is a tendency in the literature to combine the two and represent them as either political or administrative accountability. For example, when authors posit that political accountability is

¹⁷ Political accountability is at times referred to as democratic accountability; see Newell and Bellour (2002).

expressed in instances where elected officials are accountable to their electorates for their performance in office, here it implies a relationship where voters delegate their sovereignty to popular representatives and the people's representatives are held accountable to the voters at election time (Baron, 2018; Gudina, 2011; Hellwig & Samuels, 2008; O'Donnell, 1998; Schedler, 2002). Those who combine the forms of accountability also argue that political accountability can be broadly and narrowly applied. When it is broad its application does not end at election but extends to public officials explaining and justifying their conduct in public. It can extend to, for example, party bosses and party members, bureaucrats etc. Above all, it is embodied and symbolized on the relationship between the state and the citizenry (Moncrieffe, 1998; Newell & Bellour, 2002). The literature combining horizontal and vertical forms of accountability and labelling them as either political or administrative has no effect on my research, as these two types only work to confirm the central arguments that delegation and accountability are parliamentary functions that aid in the promotion of democracy.

It is, however, important to note that depending on the tools under study, political accountability can either be ex-ante or ex-post (Grant & Keohane, 2005) and can have elements of enforceability running concurrently with those of answerability (Manin, 1997; Przeworski et al., 1999).

The key argument established in this section is that accountability requires an agent to either explain or justify his/her actions to the principal, while the principal has the power to sanction the agent by rewarding or punishing him/her. Although the nature of accountability is general with no special focus on the national or the international level. The succeeding section introduces the concept of multi-level governance (MLG) as an element that changes the character of accountability at the supranational level.

3.6 Multi-level governance as an exacerbator of agency loss

Just like accountability the definition of MLG has not secured scholarly consensus (Hooghe & Marks, 2010). The literature describe it as coordination and control without sovereign power; politics beyond the nation state coupled with institutions of the nation state; governance manifest through plurality of actors where both public and private actors are present without a monocentric government; governance that is often informal without hierarchies of actors and with fluid processes of decision-making arrived at collectively through a series of horizontal negotiation; or as lobbying, persuasion, competition, and cooperation. In short, it is governance whose structures

are not easily recognized as being congruent with the official institutions of the state (Abbott & Snidal, 2000; Benz et al., 2007; Benz & Papadopoulos, 2006; Enderlein et al., 2010; Fukuyama, 2016). Alongside this myriad of definitions is the common MLG definition as a process of continuous negotiations amongst governments placed at the local, national, regional, and supranational levels (nested governments) (Ansell & Torfing, 2016; Hooghe & Marks, 2003b, 2010; Hooghe et al., 2001; Marks, 1996; Marks et al., 1996).

Informed by this literature and cognizant of the varying definitions, this study adopts a simplified definition of MLG as the dispersion of governance across multiple jurisdictions (Hooghe & Marks, 2010). MLG is often associated with European processes and is considered as an alternative approach to state-centric models of European integration as well as being used to explain the processes, decision-making dynamics and functioning of European integration (Bauer & Börzel, 2010; Benz, 2010; Hooghe et al., 2001; Marks et al., 1996; Piattoni, 2010). However, this study posits that the same can be lifted to inform and explain the processes in IOs and intergovernmental organizations – which includes the processes at the IPIs of the EALA and of the ECOWAS community parliament.

The literature presents MLG as including features such as the presence of multiple actors, it incorporates both private and public actors operating transnationally across different levels of governance (Peters & Pierre, 2004b; Rittberger, 2010); it occurs at the state level, and the subnational and regional levels (Benz, 2010; Marks et al., 1996). The resulting consequence is a Russian Doll arrangement, where local governments are nested in regional governments, which regional are nested in national governments, and so on up to the globe (Hooghe and Marks 2009a).

From this observation, MLG sidelines hierarchies. It moves from traditional concepts where states are unitary actors in decision-making, and incorporates other actors at the sub-regional, regional, and international level. In effect, the boundaries often associated with hierarchies are less important for MLG. In so doing, it not only shifts the understanding of decision-making from the states and government-centered hierarchies to a non-hierarchical conceptualization of decision-making, but it also challenges the existing established hierarchies and creates new configurations of powers (Enderlein et al., 2010; Hooghe & Marks, 2021; Marks, 1996; Piattoni, 2010).

Furthermore, MLG introduces coordination and overlapping competencies among different levels of government. It allows for interaction between different political actors across levels such that actors at the subnational level, including interest groups, engage directly with actors and the supranational level. With MLG there is a distinct shift from the hierarchical control model to a more cooperative model that pays homage to state and non-state actors who interact in mixed public and private networks (Marks, 1996; Mayntz, 2003; Piattoni, 2010). Thereby, MLG allows the actors to move freely against the existing traditional levels and spheres of authority, it is this engagement of actors across levels that leads to an increase in actor interactions coupled by continuous negotiations creating networks of collaboration (Benz, 2010; Enderlein et al., 2010).

Because of its focus on problem-solving, MLG is credited for maximizing its effectiveness by being flexible and incorporating informal structures of cooperation (Bache et al., 2016; Benz, 2000; Hooghe & Marks, 2003a; Rittberger, 2010). MLGs flexibility allows it to respond to changing citizen preferences and functional requirements with the option of adopting flexible units when needed and discontinuing them when no longer required (Bache et al., 2016).

Although MLG has many benefits, being flexible takes away from the gains because actors are not confined to clearly defined rules that aid in decision-making, they are also not limited to strict rules of procedure. Flexibility is problematic to accountability and it allows actors to find ways to escape and avoid (Benz, 2000) imminent situations of deadlock by exploiting the flexibilities through negotiations, lobbying and cooperation in the inter- institutional processes. This flexibility has been used to explain the astonishing effectiveness of multi-level policymaking in the EU and the continuous changes in patterns of governance (Wallace 2001; Benz 2008). The flexibility of MLG also contributes to agency loss as it aids “responsibility shirking”. The involvement of many actors also exacerbates information asymmetry, and informality and flexibility as threats to accountability.

This problematic nature of MLG results in overlapping competencies in decision-making (Hooghe & Marks, 2003a; Kohler - Koch, 1996). The situation is such that there are several actors at different levels with no monocentric government, no hierarchy preceding over and seeking solutions on one policy area, the obvious consequence is an overlap. Consequently, by incorporating many actors MLG changes the character of delegation with no clear lines of vertical

differentiation in decision-making, with one competency being split to action by more than one actor (Benz & Papadopoulos, 2006) this makes it difficult to conduct accountability.

MLG is also cited as an exacerbator in that, rather than solving the challenge of policy complexity, it extends competencies to different levels, resulting to 'governance gaps', interjurisdictional conflict, and mismanagement (OECD 2018b, (Hooghe & Marks, 2021). MLG also suffers from information asymmetry and transparency bottlenecks, both of which are vital ingredients for accountability. Because of overlapping competencies, MLG creates limited room for information exchange, overlaps allow competition and antagonistic cooperation, and games all which make it difficult to freely share information and effectively conduct oversight. MLG also enhances competition between the different actors, since each actor aims to prove that he/she is more innovative and effective in solving the problem. Therefore, actors involved in MLG exchange limited information during negotiations, use strategies that try to maximize divergent self-interest and minimize costs. A combination of actors, rules, strategies, and a set of possible solutions results into isolated multilateral negotiation games (Benz, 2000; Benz & Papadopoulos, 2006; Kohler - Koch, 1996; Mayer, 2010). These games are not only problematic to delegation and the conduct of accountability, but they ultimately MLG affects democracy.

Many scholars are critical of the benefits of MLG and praise it for its problem-solving capabilities and its ability to achieve efficiency by limiting transactional costs, reducing asymmetrical uncertainties. MLG also includes multiple stakeholders with different expertise, thus increasing the efficiency enhancing opportunities.

Despite its benefits, the flexibility of MLG also confronts actors with serious role conflicts. At the supranational level, delegation results to dual mandate agents who are subject to multiple constraints of different institutional structures, especially where a set of agents stick to domestic processes, whilst another set sticks to regional and at the same time a set committed to sub-regional. Because multi-level policymaking rarely follows clear decision-making rules or commitments to procedures there is always a risk of tension occurring between these processes. This places MLG structures of joint policy-making prone to stalemates (Benz, 2000; Mayer, 2010).

As mentioned earlier, agency problems related to multiple agents and principals introduce complexities such as accountability shirking. For example, to avoid being answerable national

agents would provide conflicting information to principals and put them at logger head with each other. Concurrently, because MLG incorporates different actors with jurisdictional overlaps, national principals simply fail to conduct oversight. The result is that this presents a situation like the prisoner's dilemma during policymaking, such that there are limited opportunities for pareto improvements. Because of negotiations and lobbying there lies the risk of internal losers blocking a desirable outcome and imposing severe constraints on zones of possible agreements (Mayer, 2010).

A central assumption is that actors are rational. However, the possibility of locking out desirable solutions poses questions on the rationality of MLG actors. A situation that weakens accountability, especially when MLG does not seek to resolve fundamental disagreements but avoids them all together (Hooghe & Marks, 2003a). MLGs' lack of hierarchical organization means that it operates under complex delineated relationships which is in contrast to established liberal systems with clear hierarchies; this feature of MLG indicates a lack of clear identifiable loci of authority and responsibility which is integral to any principal agent view of accountability (Rittberger, 2010)

MLG has low expectations concerning participatory governance and democratic upgrading. Its processes often involve a tradeoff of democratic values to accommodate the views and interests of the multiple stakeholders (Peters & Pierre, 2004a). Moreover, the informal nature of MLG has been criticized as entailing a potential for political inequality where, for instance, inclusiveness has not been translated into equal opportunities for actors involved in the decision-making process. Its focus on the inclusion of multiple stakeholders begs the question of how democratic controls can be secured in such a system of governance. Hence, MLG has even been cited to putting stress on institutions that monitor executive behavior (Rittberger, 2010).

Because the IPIs of EALA and the ECOWAS community parliament are established as institutions that represent the people, conduct accountability, and promote democracy and good governance, these functions are scrutinized in my study. The succeeding Chapter 7 evaluates how these two IPIs, which do not conduct traditional election, nevertheless represent the people, conduct accountability, and promote democracy and good governance. Chapter 7 will empirically examine the nature of delegation, including the effects thereof and the influence of MLG on the two cases.

3.7 Conclusion

This chapter was centered on delegation and accountability. The chapter began by defining IPIs and establishing their roles as institutions of representation and as agents of democracy through the function of accountability. The chapter used the principal agent model to explain how delegation occurs in parliaments. It was revealed that delegation through election helps parliaments to secure political representation. The chapter also presented agency loss, adverse selection, and moral hazard as bottlenecks to delegation. It addressed accountability as a mechanism proposed in the literature to tackle agency loss. Different types of accountabilities were discussed, with specific emphasis on election as a key mechanism. Owing to the lack of direct election at the supranational level, other means of addressing agency loss exist, including horizontal accountability as complement where vertical accountability is lacking. The chapter ends with a discussion on the distinct features of MLG and how it affects the conduct of accountability. Discussion in this chapter will be empirically tested in later chapters.

Chapter 4

Research Methodology and Research Tools

4.1 Introduction

This chapter outlines the methodology and research methods used in this study. It details how data from various sources was collected to help achieve the research objective, answer the research question, and confirm the research assumptions.

Furthermore, this section of the thesis offers details on how I collected and analyzed both primary and secondary data. Data refers to the information a researcher gathers for the study and can either be primary or secondary (Mugenda & Mugenda, 2003). In their view, primary sources of data are a direct description of any occurrence by an individual who observed or witnessed the occurrence, while secondary sources include any publication written by an author who was not a direct observer or participant in the events described. This research adopts this definition and categorization and uses both primary and secondary data. It starts with a desk analysis of secondary data and proceeded to review and analyze data obtained from the interviews which information was used to verify and test information found in secondary material. The research analyzed unique primary data documents relating to each of the parliaments under study. Table 2 below contains a list of the primary data documents analyzed. My previous knowledge of regional integration and regional institutions in Africa allowed me to select cases that offered the highest analytical leverage for my research objectives. The cases in this study were selected deliberately and I therefore sought out data from different sources to help me achieve my research objectives.

The researcher opted to conduct case studies because they permit the use of a wide variety of data collection methods including interviews, archival records, scholarly works amongst others (Mouton, 2001). The use of multiple sources of data also allowed me to triangulate data, which triangulation allowed critical insights to develop (Myers & Walsham, 1998) (Yin, 2009).

The first steps of my data analysis involved reviewing literature data from books and scholarly articles, I combined the information with raw data from newspaper articles, reports, and minutes of meetings. Including data from treaties, protocols, acts of parliament, rules of procedures, annual reports, hansards, and official communiqués from the archives and the library of the parliaments. Some of these documents were accessed during field trips to the offices of the parliaments under

study in Arusha, Tanzania, and Abuja, Nigeria. Information obtained from these two sources was later interpreted for my research question.

With the two stages complete, I proceeded to the field and conducted structured interviews, to explain, confirm and fill gaps that I identified in the literature. These interviews were conducted in person during research trips to the offices of the parliament in Arusha, Tanzania and Abuja, Nigeria. I interviewed selected members of parliament, administrative staff of the parliament and bureaucrats at the offices of the EAC (EALA) and ECOWAS (Community Parliament) as detailed in the succeeding sections. I used multiple sources of data to enhance the plausibility of my arguments, reduce margins of error and improve the validity of my arguments and empirical findings. All the three sources were triangulated to provide a comprehensive understanding of IPIs of EALA and the ECOWAS community parliament.

Table 2: Primary documents of EAC and ECOWAS IPI's

Source: authors own

International Parliamentary Institutions and their documents

| <u>EAC</u> | <u>ECOWAS</u> |
|---|---|
| <p>East African Legislative Assembly</p> <ul style="list-style-type: none"> • Treaty Establishing the East African Community -1999 • Rules of procedure of the East African Legislative Assembly -2001 | <p>Economic Community of West African States Parliament</p> <ul style="list-style-type: none"> • ECOWAS Revised Treaty -1993 • Protocol relating to the community parliament -1994 • Supplementary protocol amending the protocol relating to the community parliament -2006 • Rules of procedure of the ECOWAS parliament -2022 |

4.2 Explanation of case selected

This research constitutes a case study of two IPIs established and recognized by the African Union under the African Regional Economic Communities – the ECOWAS Parliament and the East African Legislative Assembly (EALA).

The ECOWAS Parliament and the EALA both enjoy the monopoly of being institutions of representation to their respective citizens. The choice of EALA and ECOWAS Parliament is because they are both IPIs and are both attached to an IO and created within the context of regional integration. According to the respective treaties, both are tasked with the function of accountability and claim to promote democracy and good governance. In addition to assuming the classical parliamentary functions they are enmeshed in MLG, the conduct of their functions and during their decision-making processes. The two parliaments, although similar, differ in terms of the organizational structure. Even though there have been many studies on parliamentary scrutiny, the studies have not covered IPIs in Africa as they are considered too young to form the basis of analysis (Jancic, 2019). Detailed discussions are available in empirical chapters 5 and 6 as well as in chapter 7.

Owing to the contemptuous nature of how the EALA and ECOWAS Parliament are treated in scholarly fields, they have received little attention and to date, not much research exists on their working in general and specifically on their functions of accountability and representation. This research seeks to fill this knowledge gap by contributing to the existing literature on international parliamentary institutions in Africa and specifically the contribution that these parliaments make towards the enhancement of democracy. The overall role of focusing on these two functions is to establish a nexus between the role and the influence that exists in the conduct of the function which influence can enhance the democratic ranking of the region where these parliaments are situated (Henwood & Pidgeon, 1992).

4.3 Case Studies

This thesis conducts a case study of the two IPIs. These two parliaments are used to create a comparative study. Case studies are defined as intense studies of a single unit with the aim of creating generalization across a larger unit (Dulock, 1993; Gerring, 2004; Stake, 1995). Because Africa has four active regional parliaments (SADPF, PAP, EALA and the ECOWAS Parliament)

a case study of the two most similar and most active parliaments was conducted to create generalizations that could be used to describe and offer explanations for the remaining parliaments. Case studies have the advantage of allowing a researcher to draw from multiple sources of data as well as allowing one to use a pallet of methods whose core values are particularistic, descriptive and heuristic (Creswell & Poth, 2016; Merriam & Tisdell, 2015; Stake, 1995). The advantage case studies enjoy over other modes of research is that they allowed me to obtain rich descriptions which I could transfer to similar situations. In addition, conducting a case study allowed me to focus on how and why questions which worked well with my research agenda especially because case studies allow vivid descriptions and offer explanations (Krusenvik, 2016; Rowley, 2002) all which were necessary for EALA and the ECOWAS Parliament.

Being that case studies help researchers consider the nature of the case, historical background, physical settings including institutional and the political context as well as other factors (Stake et al., 1998), I opted for case study as my method. This advantage is in addition to case studies ability to support theory building and theory testing (Eisenhardt, 1989; Yin, 2009) especially in areas lacking in theoretical and conceptual representation. I used case study to help confirm the validity of my research assumptions as well as to help generate and advance the existing literature on regional parliaments in Africa.

Gerring (2017) posits that case study methods can incorporate multiple cases and bears the potential of investigating those cases intensively. It goes without saying that case studies need to consider the existing literature on the historical background and contextual set up of the parliaments. I chose case studies because of their ability to reduce individual biases.

Although, case studies are undervalued and misunderstood as a tool in research methods, especially because they are difficult in terms of testing and generalizing (Eisenhardt & Graebner, 1989; Flyvbjerg, 2006; Flyvbjerg et al., 2011; Yin, 1999) it nevertheless, remains a common tool in political science due to its flexibility, adaptability to suit a research context. Its ability to provide in-depth data and its applicability to real life situations makes it a favorite tool for qualitative research (Hyett et al., 2014; Merriam & Tisdell, 2015). Case study methodology can also help one advance historical explanation of cases and attain high levels to construct validity. These reasons favor the objective of my research and supported my use of case studies as a research method.

4.4 Research design and methodological considerations

Qualitative research

This study is a qualitative project employing qualitative research methods. A qualitative project is defined as work expressed in natural language, using small samples and drawing from cases chosen from systematic random sampling that focus on particular events and context leading to an idiographic style of analysis (Gerring, 2017). Qualitative research methods entail collecting novel information in order to shed light on an unexplored phenomenon, conducting in-depth analysis that shed light to underlying causal mechanisms, as well as analyzing data obtained directly from field work interviews and written documents to generate a narrative and construct a case study (Panke, 2018; Patton, 1999, 2005). This approach of research methods and data collection is advantageous in studies where the number of cases is relatively small.

Being that the research is comparing two IPIs, the number of observations regarding the present research phenomenon including the questions and assumptions are low, I therefore opted for qualitative research. I adopted a qualitative research study particularly because there is a gap as existing state of the art is yet to analyze the issues under study in this research.

Going by existing literature on research methods, there are different categories of qualitative research design and various authors categorize them as either, descriptive, explanatory, exploratory, or quasi-experimental and experimental (Casula et al., 2021; Dulock, 1993; Elman et al., 2020). Because of my research objective, I chose to use descriptive and explanatory methods to help me answer my research questions and to investigate the validity of my assumptions. Because the study combines various methods, including descriptive, explanatory and case studies (Beach & Pedersen, 2019) these methods are explained below to give the reader a clearer perspective of my methodology.

Descriptive research design

This research seeks data on African IPIs and how they conduct accountability and the representative function. The focus on African regional parliaments is relatively new and has received little scholarly attention. It is therefore important to describe the key features of these parliaments as they naturally occur, to provide details on how they operate and carry out these two functions.

In this research, descriptive research design helps me realize two research objectives; objective one is to answer the research question, specifically, how do the two IPIs in Africa carry out the function of accountability and representation function without election and while being deeply embedded in multi-level governance? The second objective that conducting a descriptive study helps me achieve, is to help confirm and answer the research assumptions of whether multi-level governance reduces the effectiveness of the parliament in conducting the accountability and representation function.

Descriptive design is mostly used to describe phenomena and events for which little is known, as well as it being used to identify new and emerging phenomenon coupled with the advantages it possess in providing the picture of a situation and showing how things relate to each other as they naturally occur (Blumberg et al., 2005; Phellas, 2006). This said, I have adopted the descriptive research design. This approach allows me to describe systematically and accurately the facts and characteristics of my research area describing them as they naturally occurs (Casula et al., 2021; Dulock, 1993). However, this research cannot buttress the need to study African IPIs, descriptive research design will enable me to address the research questions thoroughly resulting into contributions and development of a database on the EAC and ECOWAS IPIs.

Explanatory and exploratory research design

Owing to the novelty of the present research, I use both exploratory and explanatory research designs to explain the phenomenon of IPIs in Africa. The exploratory elements feature in the parts that uncover what these parliaments really are and how they do what they claim to do. The research contributes to the thin existing literature on African IPIs by uncovering interesting elements which show how they differ not only from one another but also from their domestic counterparts.

Exploratory research is generally considered to be qualitative (Stebbins, 2001). While *explanatory* research attempts to understand different reasons, causes and effects and generally to find answers to the question why, *exploratory* research entails working through a research topic with the aim of discovering something new and interesting. It is considered good for studies that are either under-researched, have not received any scholarly attention and aim at producing new ideas and hypotheses (Casula et al., 2021; Elman et al., 2020; Phellas, 2006; Stebbins, 2001). Exploratory research is also used where there is a general lack of knowledge about a topic and in situations

where there is information, where there is very little, and where there is a need to know more about the topic. This is why these unique features make this approach most suitable for my thesis.

The methods used in exploratory research are also apt for my research agenda. Exploratory research allows me to either nullify, verify, or clarify the research assumption and the research question. Also as exploratory research is often employed during early stages of writing to lay ground for description (Denters & Mossberger, 2006; Stebbins, 2001) I therefore use both explanation and description to arrive at a conclusive explanation of IPI as a phenomenon.

4.5 Identification of interviewees

Two factors follows the decision to use case studies, the first being theoretical and pragmatic concerns (Casula et al., 2021), and the second, using purposive rather than random sampling (King et al., 2021). Having selected to conduct case studies, I proceeded to use purposive and subsequently snowball sampling in collecting data. ***Purposive sampling*** is a non-probability sampling that is based on the characteristics of a population and the objective of the study. Purposive sampling allows a researcher to use cases that have the required information with respect to the objective of his or her case study. In purposive sampling the subjects are handpicked because they are informative or possess the required characteristics (Mugenda and Mugenda 2003:51). After identifying the initial respondents including their desired characteristics using the purposive sampling method, I used *snowball sampling* to identify the rest of the respondents. According to Mugenda and Mugenda (2003), this method is used where initial subjects with the desired characteristics are identified using purposive sampling techniques, the few identified respondents then name others that they are familiar with and have knowledge that the snowball respondents have the characteristics necessary to obtain the required information.

The potential experts to be interviewed were limited to two groups of people, the MPs and the administrative members of staff working with the two parliaments. For EALA, I sought information from existing MPs including the clerk of the Assembly, administrative staff, and parliamentary researchers. For the ECOWAS Parliament, the interviewees comprised members of the Bureau (which is the administrative wing of the parliament) as well as the sitting MPs and members of the ECOWAS Commission, who interact with the functioning and who bear a role in the functions of the parliament.

For EALA, the interviewees were selected during the plenary sitting running from September to October 2021 in Arusha, Tanzania. For the ECOWAS Parliament members of the bureau were targeted as key respondents during the month of July and August 2022.

There were potentially many relevant respondents. EALA has 54 MPs coming from six (6) East African Community partner states, while the ECOWAS Parliament has 115 MPs from the 15 member states. In addition, both IPIs have administrative members of staff and elites/ technocrats of each parliament. Against this background, I concluded that random sampling would not be feasible. The challenge with having MPs from many member states is that I would have had to travel to different countries to secure interview with respondents. This would not only have been time-consuming, but also costly (and the Covid-19 pandemic did make the situation even more complex). Therefore, I decided to conduct my research when the parliaments were in session which meant that most MPs from all countries would convene at one central avenue allowing me to use purposive sampling in the first instance/stage of the sampling process and complement it later by snowball sampling.

With purposive sampling, I was able to reach a sample size that was balanced across country lines, gender, and respondent national delegation groups, while snowball sampling gave me the chance to find other relevant interviewees that I might have overlooked.

4.6 Research tools

Interviews

Interviews are oral administration of a questionnaire, purposeful conversations or face-to-face encounters aimed at obtaining accurate information (Ritchie et al., 2013). Semi-structured interviews (also bear a similar definition by being referred to as well organized and planned conversations with a purpose, (Hopf, 2004; Luo & Wildemuth, 2009))were used in this research. Semi-structured interviews are flexible and allow one to adapt the questions to dig out as much information as possible. Also, they provide in-depth data which is not possible to get using other tools.

The choice was also because owing to their flexibility and in-depth, they helped me investigate different perspectives and points of view about my study. The ultimate goal of semi structured interviews is a better understanding of a reality (Gaskell 2003) as quoted in (Newcomer et al.,

2015). The aim was to help understand how IPIs in Africa promote democracy and good governance.

Other than being time specific and contextual, semi-structured interviews are proffered in this research because of their ability to allow an in-depth probe, answer, and analysis of the research questions. Semi structured interviews gave me the opportunity to expand on the research question as well as allowed my respondents to expound on their answers (Peabody et al., 1990) because of this they easily became the tool of choice in this current study.

The semi-structured interviews I conducted were face-to-face with the interviewees, and I scheduled them in advance at a designated time with the location being the official seats of the parliaments. Where respondents were unable to attend the physical seat of the parliament, I managed to organize telephone interviews. Generally, I asked the interviewees a set of predetermined open-ended questions with other questions emerging from the dialogue between the respondent and myself. Most interviews went on for between 1 hour and some lasting several hours with the longest being a four-hour interview session. I asked the respondents questions designed to elicit answers pertinent to the research questions. In asking the questions, I used either English or Kiswahili (depending on the respondents' choice) as these are the official languages of the East African Community and only English while at the ECOWAS. I began my interviews by explaining the purpose of the study as well as the purpose of the question asked. This allowed me to establish some rapport and put the respondent at ease. I then record the responses and answers received from the respondent by way of the recording application on my computer.

I conducted a total of 18 interviews at the ECOWAS Parliament and 17 interviews at the EAC parliament. For details pertaining to the responsibility and duty station of each respondent see annexure of Chapter 8.

The interview process was seamless as a black African female researcher it was easy to develop a professional rapport with the respondent and this worked well for the interviews conducted.

Note taking

Note taking is a method of recording in which the interviewer records the respondent's responses during the interview. I selected note taking as a method of recording data because I could jot down the responses as the interview was in progress, this allowed me to seek clarification from the

respondent on the spot. This method is also advantageous as it leaves out no information owing to forgetfulness and other omissions.

Audio recording

In this method of recording, the Interviewers questions, as well as the respondent's answers, are recorded using a recording device (Tessier 2012:448). During the interviews, to obtain consent, I informed the respondents of my intention to record their responses to my questions and noted any objections to the same. This method of data collection allowed me to capture information left out during note-taking due to the respondent's speed in answering the questions. During data analysis, tape recording allowed me to playback and study thoroughly the answers obtained. During the transcription process I found tape recording very useful and apt in remembering information especially those that I may have left out during note taking. Tape recording also made my interviews move faster as I was able to move on and ask the next question even when I had not finished noting down the previous answer. I had confidence that the tape had captured the information.

Telephone and Video interviews

I also employed the use of telephone and video interviews. This was especially so due to the snowball sampling method when a respondent referred me to a fellow MP or from one staff member to the other as a potential interviewee. Once a referral was made, I proceeded to obtain the person's contact information (email and telephone number) I would then send an email introducing myself and my research topic as well as the proposed interview. Most respondents got back to me, and the interview proceeded by way of telephone or Skype (video call). This method of data collection came in handy owing to the Covid-19 pandemic protocols adopted by the parliaments that allowed members to attend the plenary meeting virtually using various online platforms. Also, the administrative staff who were working remotely from home could be reached. Telephone interviews allowed me to gain access to people I would otherwise have missed. This method was cheaper as compared to traveling back and forth to secure in person meetings with the respondents (especially because not all respondents were available within my preferred time frame). This method was, however, limiting as I found it less engaging than the face-to-face interviews.

Triangulation of data

After completing the literature review and collecting raw data from interviews, the information was analyzed through triangulation. I triangulated the information from multiple data sources to develop an all-inclusive perception of the subject under study. Triangulation as a strategy enabled me to confirm the validity of my assumptions through the convergence of information from multiple sources. Triangulation as a method also bears the advantage of developing a comprehensive understanding of a phenomenon (Patton, 1999).

4.7 Delimitations

The two case studies have a combined population of 169 members with 54 members from the EAC and 115 from the ECOWAS Parliament. Despite having identified the target population, it was impossible to interview them all. The biggest challenge being availability of the members for in-person interviews during the Covid-19 protocol times and their willingness to volunteer information at such short notice.

The ability to interview a bigger sample comprising more respondents was also limited by time and financial constraints. I had to travel out of my country of residence (Germany) to attend the parliamentary sessions in Arusha, Tanzania (EAC Parliament) and later in Abuja, Nigeria (ECOWAS Parliament) where the respective parliaments are headquartered. I believe it would have added value had I stayed longer and interviewed more respondents on the research as the analysis would have presented a wide array of ideas from the targeted population.

The research commenced in the wake of the Covid-19 pandemic in October 2020. The bulk of the research that focused on a review of state-of-the-art literature was conducted through desk study during the lockdown period with anticipation that the effects of the raging pandemic would wear out. Unfortunately, as at the time of conducting field work and especially while at the EALA in Arusha, Tanzania, the lockdown procedures, and Covid-19 protocols were still in force, limiting the number of participants from plenary. The reduced number of in-person members at plenary translated to a reduction in the number of respondents for my research. The situation also affected the number of administrative staff with a good number of the employees choosing to work from home.

The situation was further hampered by the ongoing political season in Uganda. The intricacies of political campaigns made it difficult to secure respondents from the Ugandan delegation. Similarly, the Covid-19 pandemic also affected the data collection in Abuja, Nigeria, which is the seat of the ECOWAS Parliament, the number of staff members available was halved with most choosing to adhere to the Covid-19 protocol that allowed virtual office hours. Also, the state of insecurity during the second quarter of 2022 in Abuja which also happened to be a campaign year for Nigeria's national election made it difficult to spend more time at the field as a solo female researcher.

The challenges detailed above were mitigated by conducting telephone, zoom and Skype interviews. The snowball effect of one interview on the other allowed me to collect email addresses and phone numbers of respondents who felt their colleagues would contribute to the research findings.

Chapter 5

East African Legislative Assembly

5.1 Introduction

This chapter sets out to answer the research question: How does EALA carry out the function of accountability regardless of election? And how does MLG affect its conduct of accountability and representation? It begins by giving a brief history of the East African Community (EAC) showing the intergovernmental arrangements that preceded those in the current EAC and how they have affected the community's relations with the current parliament. The intention of the historical analogy is to show how it not only created path dependency but how it also influenced change in the construction of the parliament after independence. The analogies also put into context how the community and by extension the parliament has evolved in structure and in function. Further, it aims to show institutional dispositions that entailed a multi-level arrangement, pointing out arrangements that were suspended and those that were sustained.

The chapter then proceeds to highlight the organs of the current EAC, showing each organ's independent and co-shared functions. Highlighting the co-shared functions illustrates the EAC's multi-level nature is institutionalized through norm provisions in the Treaty as well as through those norms in practice.

Having established the multi-level linkages between the community and its different organs, the chapter proceeds to focus on the tools used by EALA to represent the citizenry and to execute the function of accountability. The variables under observation are brought out through the different stakeholders involved in execution of accountability as well as the challenges faced. The chapter confirms the prepositions in literature on supranational delegation and the associated agency related challenges, especially those on MLG and how it affects the effectiveness of the parliamentary function of representation and oversight. I conclude that the parliament's reliance on a system of MLG exacerbates agency loss, reduces the parliaments' effectiveness in representing the citizenry and in conducting oversight. Through the sections on *nomilections*, this chapter makes solid contributions to the literature on how EALA represents its people and further how they conduct accountability without election.

5.2 Delegation and cooperation in the EAC: A historic analogy

The EAC pre-dates was set up during the time of the British colonial interest (in the 1890s) in the East African region. Cooperation amongst the three founding countries began around the end of WWI. After WWII, the British governors of Kenya, Uganda and Tanzania held periodic meetings under the guise '*conference of governors*' to discuss issues of common interest within the region and make decisions that were administratively implemented within the different countries. Despite not possessing express legislative powers, and not operating within a formalized legal framework, the conference of governors made decisions pertaining to the promulgation of uniform legislation within the region, with no legal/treaty basis (Oluoch, 2009; Sebalu, 1972).

Both colonialism and integration were simultaneously imposed, with the conference of governors marking the genesis of integration and norm supranationalism. Initiatives such as completion of the Kenya-Uganda railway in 1903, or use of the East African shilling as the regional currency amongst others are credited as the vanguards of the colonial administration projects on cooperation in the East African region. Between 1903 and 1947, several mechanisms were introduced with the sole purpose of promoting and institutionalizing the colonial administration project on cooperation.¹⁸ The conference of governors acted as both the executive and the legislature. In 1947, the '*East African High Commission*' (EAHC) was created by Britain and through the 1947 Order in Council, the central legislative organ was also created.¹⁹ Between 1948 and 196, the East African High Commission²⁰ and the East African Central Legislative Assembly, also known as the LEGCO, were the main decision-making bodies. Up to this point, there seems to be two organs for the management of the colonial inspired EAC - both enjoying legislative competencies.

As the conference of governors took on a new outfit and identified as the East African High Commission, its composition also evolved. Initially it comprised the governors of the three partner states. In 1961, however, when Tanganyika became independent, its membership consisted of the president of Tanzania and the two governors of Kenya and Uganda. Upon Kenya and Uganda

¹⁸ The institutional arrangements at this phrase include, among others, the East African Posts and Telegraphs (1890), the East African Currency Board (1905), the Customs Union (1917 Kenya and Uganda 1922-Kenya Uganda and Tanganyika), the East African Income Tax Board (1940), and the East African Airways (1946).

¹⁹ The East African (High Commission) (EAHC) Order in council 1947, entrusted the East African High Commission with the mandate of administration of several common services within the three East African countries.

²⁰ January 1948 is credited as the time when the East African High Commission replaced the Conference of Governors.

obtaining independence, the High Commission evolved from comprising governors to being composed of the three presidents of the now independent countries of Kenya, Uganda, and Tanzania.

In as much as the 1947 order established the *East African Central Legislative Assembly*²¹ to enact supranational norms, the power of the Assembly was limited as it legislated over a narrow scope of issues provided in the schedule to the order in council.²² Although the assembly could initiate motions, it could however not do so on matters such as expenditure of the community (Sebalu, 1972, p. 352). Also, the assembly was seen as a rubber stamp to the decisions of the High Commission since all bills presented to the assembly had first to be approved by the High Commission (Sebalu, 1972, p. 345) Accordingly, the bills were subjected to scrutiny by the three Governors and could be vetoed by the High Commission, making the latter body the supreme organ of the organization. Delegation to the EACLA was limited to approving decisions of the High Commission such that Acts of the Assembly – once assented to by the EAHC – had the force of laws within the region.

This was an important development at the time given that the laws were applicable to all the three independent states. Adoption of supranational norms already occurred with the final phase of notable institutionalization between, 1961 and 1967 with the creation of *East African Common Services Organization* (EACSO 1961), which was a restructuring and replacing the East African High Commission. In 1961, EACSO was transformed with a view to accommodate the East African presidents to replace the Governors. EACSO had three main organs namely, (1) the East African Authority, (2) the Central Legislative Assembly, and (3) the Triumvirates. The East African Authority was the supreme organ and comprised of the three presidents of state from Kenya, Uganda, and Tanganyika. Regarding the Central Legislative Assembly, composed of 27 elected representatives, one must note that the elected representatives were not directly elected to the regional assembly.²³ The Triumvirates – comprising five Ministerial Committees – can be

²¹ The EACLA, comprised of seven ex-officio members, three nominated official members, and 13 unofficial members respectively.

²² It legislated for management of customs, excise, and income tax collections but not on the rates of duty.

²³ The representatives comprised of nine members from each of the East African countries Kenya, Uganda and Tanganyika, a speaker, 15 members of the Ministerial Committees, the Secretary-General, and a Legal Secretary.

likened to the current Council of Ministers. The Triumvirate²⁴ as well as the Secretariat was headed by the Secretary-General; they were the main policy-making organs of the organization. These innovations provided a clear departure from the EAHC's operational structure. The other governance structures included the Common Services of the EACSO and the Court of Appeal for Eastern Africa.

With the attainment of independence of the three states, there was a desire to engage in the continuation of the common services but under African administration. Subsequently, in 1967 the Treaty for East African Cooperation was signed, and it took over the administration of the services under the EACSO.

In 1977, the EAC collapsed due to different reasons: lack of political goodwill, the 1976 coup attempt in Uganda, persisting market inequalities, unequal distribution of the gains from the East African common market, ideological differences among others (Eken, 1979). Following its dissolution in 1977, a mediation agreement was negotiated and signed in 1984. It contains the provision that the three Partner States agree to explore areas of future co-operation and to make concrete arrangements for such co-operation. Subsequently, in 1993 the Agreement for the Establishment of the Permanent Tripartite Commission for East African Cooperation was signed and later a formal treaty for the establishment of the East African community was negotiated on 30 November 1999. Following ratification by all partner states, it came into force on 7 July 2000 creating the current EAC.

Before penning down the history of the first EAC, it is crucial that the community's history be understood within the context of the treaty from 1967, as establishing a hierarchy of its institutions and organs to help it carry out its functions. The institutions of the community were divided into those within the inner and the outer ring of central administration and the corporations (Sebalu, 1972, p. 349). At this point, the inner ring of central administration included, *the Authority* comprising the three partner states, *The Assembly*, comprising the ministers, their deputies, the secretary general, and the nominated/appointed members and the third member of the inner circle

²⁴ The Triumvirates included the Communication, Finance, Commercial and Industrial Coordination, and Labor Committees.

being *the five councils*.²⁵ The outer ring of central administration comprised the East African Court of Appeal, the common market tribunal, the East African industrial court, and the East African development bank. The corporations were four comprising: the railway, harbor, post and telecommunication and the airways corporation.

The 1967 treaty also created a close working relationship between the Assembly and the Authority. This – alongside the overlapping competencies – positioned the parliament to assume limited legislative functions. The parliament members also had a heavy presence of the partner states with ministers, assistant ministers, secretary general as well as counsel to the community comprising the membership. From the beginning, the community started off with supranational norms that provided competencies on delegated power to all organs involved in cooperation. There was a parliament, albeit a weak one. Supranational delegation requires that the communities' legislative functions were dispersed amongst the inner circle. It was not a preserve of the Assembly outlining its reliance on multi-stakeholder engagements, cooperation, and coordination as well as MLG. Both representation and accountability were far removed as functions of the Assembly compared to those of the current EALA.

5.2.1 Delegation continuities from EACLA to EALA

The East African Central Legislative Assembly (EACLA) established under the 1947 British order in council having come before the present-day parliament, is considered the precursor institution to the current East African Legislative Assembly (EALA) established under, the 2000 Treaty for the establishment of the East African Community.²⁶

The membership of EACLA is comprised of *ex-officio*, nominated official members, and unofficial members respectively. Its membership was partly by appointment by the Governors and partly through election by the unofficial members of the territorial legislatures. In 1961, when the East African High Commission was restructured and transformed to the East African Central Services Organization, the membership expanded²⁷ to include, a speaker, 12 ministerial members,

²⁵ Common Market Council, the Communication Council, the Finance Council, the Research and Social Council, the Economic, Consultative Council and Planning Council.

²⁶ Specifically, Article 9 establishing EALA and Article 49 providing its functions.

²⁷ See article 16 of 1961 ordinance.

two ex-official members, 27 elected members, and further temporal ministerial members as appointed per the ordinance.²⁸

It must be mentioned that from the outset, historically to date, direct election is yet to be incorporated as a mode of selection of the representatives to Parliament. The membership to the parliament of the EAC has also always taken a hybrid format incorporating independent members elected by the national parliaments as well as ex-officio executive members nominated by the top organ, which chooses ministers responsible for cooperation, their deputies, the secretary general, and the counsel to the community. The delegation at the EAC has a history of multiple actors including multiple principals.

Currently, EALAs' membership stands at 79, comprising: nine members elected from each partner state, eight ex-officio members consisting of ministers or assistant ministers responsible for integration/ East Africa Community affairs from each partner state, the secretary general, and the counsel to the community.²⁹ Although the number of members in the current parliament has increased, incorporation of non-traditional members persists. Similarly, despite enjoying enhanced functions compared to their predecessors, including the function of representation and accountability, until today EALA does not have direct election of its members.

On legislative powers, the former EACLA had fewer powers than the territorial legislatures and legislated over a narrow scope as provided for in the schedule to the 1947 order in Council.³⁰ In essence, the EACLA enacted legislation relating to the administration of common services as well as on issues of peace, order, and good governance of the territory (Sebalu, 1972). It's of utmost importance to note that the 1947 order in council made provisions for supranational legislation on good governance. This confirms the narrative widespread in the literature that the establishment

²⁸ Article 18 of the 1961 Ordinance, provided that a person is qualified to be elected as an elected member of the Assembly to represent a territory if he is qualified in accordance with the laws for the time being in force in the territory for election as an elected member of the Legislative house of the territory and if he is not an officer or servant of the organization.

²⁹ EALA also has administrative unit comprising over 20 members of staff that oversee the day to day running of the Assembly, the political unit of the Assembly is headed by the speaker and the administrative unit is headed by the clerk.

³⁰ Some of the areas of legislation include on issues pertaining to the administration of common services, like railway the post and telecommunication, harbors, collection, and management of income tax amongst other services administered by the East African High Commission.

of parliaments – including the regional parliament of EALA – was meant to promote good governance.

It is also critical to note that supranationalism and adoption of supranational norms and supranational institutions was conceived during colonialism. This is evident during enactments of bills by EACLA, especially those relating to the administration of common services. These laws were supreme to all domestic and territorial legislation and this supranationalism was sustained at the current EAC.³¹

Another historical continuity is the multi-stakeholder engagements and the levels of cooperation necessary from one organ of the EAC to the other. The relational engagement between EACLA and the High Commission and later the authority in the exercise of its legislative mandate were, for example, prior to tabling a bill in the EACLA for debate. Bills were subjected to scrutiny by the three Governors and could be vetoed by the EAHC, making the latter body the supreme organ of the organization. This relationship seems to have been retained under the current EAC structures where EALA bills require assent by the Summit of heads of states before it becomes a law, and the summit can veto a bill by refusing to sign it into law.

During the period 1961 to 1977, the EACLA witnessed enactment of 35 Acts of the Community, (Kaahwa, 2017). Currently, EALA has surpassed this number and adopted advanced legislative powers. It has gained a higher legislative momentum going by the numbers published on the website of the Assembly(Assembly, 2020).³² One commonality between the old and the new assembly is the role of the executive in passing bills to law: in both cases, the executive arm of the organization had the final say in passing a bill to law. The legislative functions traditionally associated with parliaments have cascaded to the regional level. There is also a difference in the number of meetings between the two organizations. This is because meetings of LEGCO were conducted at least once every year while at EALA the calendar of activities for plenary and

³¹ See article 8.4 - Community laws take precedence over all similar one on matters pertaining to the implementation of the Treaty.

³² See Acts of the Assembly available at, <https://www.eala.org/documents/category/Acts-of-the-Community/P32> accessed on 3/2/2022

committee meetings (as published on their website) indicates that it holds at least five plenary sessions annually (EALA, 2020a).³³

Table 3: Comparative analysis of the old and new parliaments of the East African Community

Source: Author's own

| <u>New 2002 - EALA</u> <i>East African Legislative Assembly</i> | <u>Old 1961 - EACLA</u> <i>Central Legislative Assembly</i> |
|--|--|
| Established under the 2000 Treaty | Established under order in Council 1947 |
| Membership of the Assembly- 62 | Membership 27 |
| Supranational Community Laws | Supranational Community Laws and subject to colonial linkages |
| No election of members | No direct election of members |
| Limited Autonomy/membership | Limited autonomy/membership |
| Includes and is influenced by executive | |
| Includes and is influenced by executive Final decision making | Summit Final decision making - EAHC / the governors |

5.3 Delegation at the EAC - assessing institutional interactions

The East African Community, hereafter referred to as EAC, is a regional intergovernmental organization that aims at widening and deepening co-operation among partner states in, among others, political, economic, and social fields for their mutual benefit.

The eight-member community has seven organs. The Treaty establishes the *Summit* of heads of state as the most powerful organ. It is tasked with giving the general direction towards realization of the goals and objectives of the Community. Moreover, it is also the appointing organ of the community with powers to appoint the Council of Ministers and their deputies, the secretary

³³ See EALA calendar 2019-2020 available at, [https://www.eala.org/uploads/FINAL_REVISED-ANNUAL_CALENDAR_JULY2019-JUNE_2020_as_at_6th_Oct_2019_\(Commission\).pdf](https://www.eala.org/uploads/FINAL_REVISED-ANNUAL_CALENDAR_JULY2019-JUNE_2020_as_at_6th_Oct_2019_(Commission).pdf) accessed on 31/01/2022 and EALA calendar 2018-2019 available at, https://www.eala.org/uploads/FINAL_APPROVED_SUMMARY_of_EALA_Calendar_of_Activities_FY_2018-2019_13.08.2018.pdf accessed on 31/01/2022

general, the judges to the court, and wielding influence over appointment and election of members to EALA. The *Council of Ministers*³⁴ governs the community and oversees the day-to-day running of the community. The *coordination committee*³⁵ is responsible for managing the work of the sectoral committees. The *sectoral committee*³⁶ tasked with conceptualizing and implementing programs of the community, the East African *Court of Justice*³⁷ that ensures compliance with the law, in the interpretation and application of the EAC treaty. Finally, the *East African Legislative Assembly* which is the principle legislative organ of the community and the subject of this thesis. The *Secretariat*³⁸ is termed as the guardians of the treaty as it ensures the regulations and directives adopted by the Council are implemented properly.

5.3.1 Agency loss

In as much as the current treaty gives each of these seven organs its own function(s), key respondent 1 argues that there are some overlapping functions conducted by more than one organ of the EAC. Delegation of function requires increased interaction and cooperation between the different Community organs. To respondent 1 this increased cooperation and interaction between the seven organs is a textbook example of the multi-levelness of the Community. To give a clear picture of the interdependence of these functions and organs implementing the activities, Table 4 below shows how the treaty allows one function to be spread out amongst a minimum of three organs. Similarly, the budgetary function, for example, is carried out by four of the seven EAC organs. The budget process begins with the secretariat, through the office of the secretary-general who draws up the budget, the Council of Ministers' reviews and approves the same. Similarly, debate and approval of the budget lies with EALA as well as the Summit of heads of states who also approve the budget by way of signing and ensuring disbursement of the monies to the Community. Already what is expected is a high level of coordination between these four organs to ensure that the budget of the community is drafted, debated, approved, and provided for. Key

³⁴ Comprising ministers/cabinet secretaries from partner states in charge of regional cooperation. They meet before the summit meeting.

³⁵ Established under the council of minister's membership is permanent secretaries within the regional integration docket of partner states hold meeting before the council meetings.

³⁶ Established by the Council on recommendation of the coordinating committee. They conduct more regular meetings in the discharge of their functions.

³⁷ Judicial organ of the community with two divisions, the trial and appellate division.

³⁸ The executive organ of the community comprises the secretary general, with his 4 deputies, counsel to the community who is the principle legal advisor to the community and all members of staff of the community. They carry out the works of the treaty as mandated by the Council.

respondent 2 positions that by allowing the four organs to perform the same function, the treaty creates room for tension between these organs - manifesting in delayed execution of the functions as prescribed by the treaty.

For the EAC to realize its objectives, the nature of delegation at the Community receives constitutional backing, its multi-levelness has not only been institutionalized but is culturally appropriate. The legal documents empowering the Parliament and all other organs of the community expressly allow multiple actors to act as principals in the parliamentary function, and this is a historical continuity manifest in the current Treaty provisions. Presently, the organs are required to perform the same function, and this requires coordinated activities and increased consultations amongst themselves. Key respondent 4 argues that the multi-level nature of the community manifests itself in the shared functions and institutional arrangements for the execution of these shared functions. To this respondent this is a clear shift from the traditional institutional functions of a parliament that were initially formal and visible to a more obscure system. To attempt and make sense of the EACs complex decision-making system, Table 4 is instructive using a set of five functions. It matches the function with a corresponding list of organs assigned to oversee the performance of the single function. Although not novel, as this is evidence of historical continuities, the results of Table 4 demonstrate the complexities of supranational delegation and the agency related challenges including the multi-levelness of the current EAC.

It is also worth noting that under the current EAC Treaty, there are no established hierarchies necessary for horizontal oversight between the organs. The Treaty is silent on which organ is the executive as would be understood within the traditional two-level structure and setting of parliamentary democracy. This lack of hierarchies makes the situation even more complex for oversight and accountability. It further creates a convoluted system as illustrated in Figure 7. What Figure 7 also demonstrates is a continuity of the inner/out circle pre-colonial systems. Although not expressly stated in the Treaty, and despite insistence on a non-hierarchical existence of the community, the decision-making channels show that the community is arranged hierarchically. Table 4 demonstrates the community being multilevel and figure 7 attempts to place the communities' organs in hierarchy based on how the different organs of the community make decisions.

Table 4: Multi-level nature of the EAC

Source: Author's own

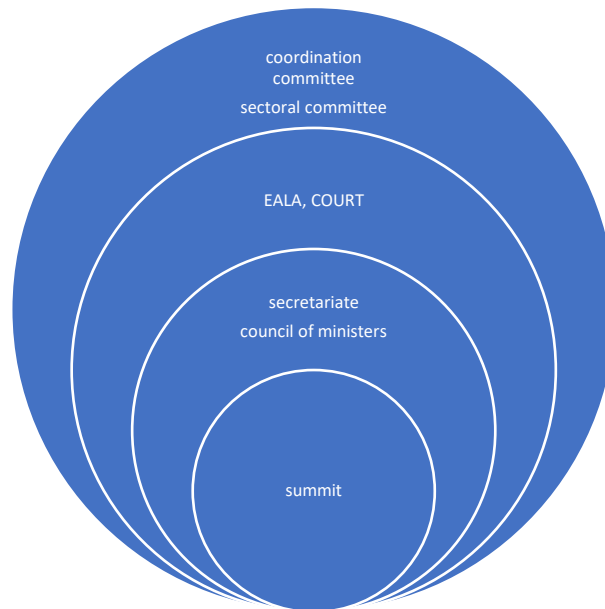
| <i>Community function</i> | <i>Organs sharing function & legal basis</i> |
|---|---|
| <i>Legislation</i> | <ul style="list-style-type: none"> • Summit - Art. 11 • EALA - Art. 49 • Council - Art. 14 • Secretariate - Art. 71 |
| <i>Budget</i> | <ul style="list-style-type: none"> • EALA - Art. 49 • Council - Art. 14.3.e • Secretary General – Art. 132.2 • Summit - Art. 132.4 |
| <i>Appointments to the Community</i> | <ul style="list-style-type: none"> • Sectoral Committee by - Council Art.13.3. j, Coordination Committee Art. 20 • Deputy Secretary General by - Summit, Council Art. 68 • Clerk of EALA by - Council, Assembly Art. 49. f |
| <i>Implementing programs of the community</i> | Secretariate - Art. 71 Sectoral committee - Art. 21 Coordination committee - Art. 18 Council - Art.14 |
| <i>Reports on implementation of programs</i> | Sectoral Committee - Art .21 Coordination committee Art. 18 Council Art. 14 Secretariat Art. 71 EALA Art. 49 |

Figure 7 below is a derivative of the information received from key respondents 3, 9 and 12. As will be discussed in the preceding sections of this chapter in understanding the EAC policy and polity networks, one must rethink the traditional type of delegation that exhibits hierarchical two-tier set-up and look at how the Parliament-EALA has established structures within supranational delegation which is complex and engages MLG to help it conduct accountability. The situation at

the EAC confirms the literature on supranational delegation. Although the EAC decision making process can be explained using the principal agent theory, it is still complex, involves multiple actors and relies on domestic mechanisms for accountability.

Figure 7: EAC chain of command and decision-making linkages

Source: Author's own



In concurring with Figure 7 on the EAC command and decision-making structure, key respondent 4 argues that despite not granting hierarchies between its organs, the EAC Treaty places the Summit as the core decision-making body. The centrality of the Summit of heads of state is because it exercises autonomy in electing members to all the organs of the community, and the central role it plays in implementing the community objectives. With the Summit at the center of power, this research places it as the top executive organ and positions other organs depending on how closely they interact with the Summit.

The result is that after the Summit of heads of states, the Council of Ministers and the Secretariate are at the second layer of power, closely followed by the Court and EALA with the Coordination and sectoral committees taking the peripheral position. This organogram is informed and influenced by how easily and closely the remaining six organs work with the Summit, especially with regard to decision-making and realization of the community objectives. Upon analyzing

primary data, this thesis using Figure 7 concludes that the nature of delegation at the EAC requires an increase in interaction, communication, and coordination between the different organs with the Summit assuming a higher position and those with limited to no interaction with the Summit assuming a peripheral position. The established hierarchy is also informed by the 1967 inner circle and outer circle of administration of functions. Here, increased interaction with the Summit denotes decision-making abilities or the ability to influence and/or participate in decision-making, which results in power and a higher ranking in hierarchy levels. This position is necessary for conceptualization of accountability at the supranational level of the EAC.

5.4 Delegation and accountability at the EAC

Having established some sort of hierarchy within the EAC structures and bearing in mind that accountability denotes a situation where a hierarchical relationship exists between a subordinate and a superior with the superior requiring the subordinate to either explain or justify an action and a corresponding responsibility being vested on the superior to either reward or punish the action of the subordinate. This chapter presents data collected from the field study at the EALA headquarters in Arusha, Tanzania, and answers the question how EALA conducts accountability and representation without election. It will also highlight the multi levelness of the EALA by discussing the institutional arrangements and interactions between EALA and other organs while carrying out the function of representation and accountability. The section will also highlight challenges associated with the multi-levelness of EAC that inhibit the effectiveness of EALAs accountability and representation function.

5.4.1 How does EALA conduct accountability without election?

5.4.1.1 Ex-Ante accountability; *nomilections*

EALA has a constitutional mandate of representation and oversight. A review of secondary data indicates that it is also the legislative organ of the East African Community. Articles 48, 50,³⁹ 51 and 52 of the EAC treaty makes various provisions pertaining to selection of members to EALA.⁴⁰

³⁹ Article 50 of the treaty establishing the East African Community: "The National Assembly of each Partner State shall elect, not from among its members, nine members of the Assembly, who shall represent as much as it is feasible, the various political parties represented in the National Assembly, shades of opinion, gender, and other special interest groups in that Partner State, in accordance with such procedure as the National Assembly of each Partner State may determine."

⁴⁰ See discussion in sections above as well as Article 48 and 50 of the treaty for the establishment of the East African Community.

Under the Treaty, selection of members to EALA is left to the discretion of Partner states. Article 52 further stipulates that the question pertaining to whether a person is an elected member of the assembly or whether a seat to the assembly is vacant or not, this is solely left to the institutions of the partner states.⁴¹ In essence, what these provisions mean is that when it comes to the selection of EALA members, the treaty delegates this function to the Summit and by extension to the partner states and their domestic national parliaments are at the center. The Treaty also leaves it to partner states to develop and adopt their own rules of procedure with regards to the selection of their country representatives to EALA. This is a confirmation of literature on supranational delegation as discussed in chapter 2 where it is argued that owing to delegation complexities at the international level, and to address legitimacy concerns, there is reference and reliance on domestic mechanisms and administrative structures. Here EALA loses autonomy in the selection of its members and is seen to rely on domestic mechanisms.

From the treaty provisions, EALA has two categories of members: official members and ex-officio members. The latter comprise the Council of Ministers and their deputies, the secretary general and the counsel to the community. The selection of the ex-officio members is controlled by the Summit of heads of states. Key respondent 4 details that the heads of states appoint their minister (and deputy), who then become members of the Council of Ministers at the regional level. This appointment relies on domestic democratic practices and the political process of each of the partner states.

After appointment of the minister for regional cooperation and the deputy, the appointees automatically become ex-officio members of EALA. The secretary-general is also appointed by the Summit of heads of states on the principle of rotation.⁴² Of the three groups of ex-officio members to parliament only the Counsel to the community is appointed on a contractual basis in accordance with the terms and conditions of office of the Community. Key respondent 4 opines that the ex-officio members are considered representatives of their sending states. This allows them to represent the interest of each of the partner states of the EAC.

⁴¹ Article 52 stipulates: "Any question that may arise whether any person is an elected member of the Assembly or whether any seat on the Assembly is vacant shall be determined by the institution of the Partner State that determines questions of the election of members of the National Assembly responsible for the election in question."

⁴² See article 67 of the Treaty.

On the selection of official members to EALA, key respondent 4 refers to it as a blanket removal of direct election. Article 52 allows the use of multiple rules pertaining to modes of nomination and election of members to EALA. The use of party caucus system is also not uniform as it relies on the democratic disposition of the individual partner state. Furthermore, the EALA election system entails a multi-level system of decision-making which involves several steps and processes among various stakeholders.

In agreement with the sentiments of respondent 4, according to which the selection of members to EALA is multi-leveled and multi-layered, respondent 5 adds that the first layer of multi-levelness is witnessed when the partner states and their individual party caucuses conduct the pre-selection and nomination processes to determine the individuals who will obtain the party ticket and be presented to the national election as a party candidate. After the party nominations the second step involves the conduct of national election resulting in membership to the partner state respective national assemblies. The final stage in the selection of country delegates entails either a nomination or election of the individual by the national assembly to the regional assembly. Because this pre-selection stage relies on different rules of procedure and depends on the democratic disposition of a partner state, there is a variation of the processes among the partner states.

Both respondents 4 and 5 agree that Article 52 of the treaty permits the selection of EALA members to have varying process, selection methods and procedures of the entire EALA membership. The gap in some of the stages is because the selection procedures must be understood within the context of differing and fragile democratic stages. In fact, some EAC partner states are yet to appear on democratic indices because they do not have structures of government let alone structures for conduct of election (Galal, 2023).⁴³ To criticize provisions of Article 52, respondents 4 and 5 argue that it is oxymoronic for the Treaty to expect non-democratic partner states – going by the global democracy indices where they are ranked poorly – to employ democratic principles and conduct free and fair election of members to EALA.

Respondents 4 and 5 opinion is in congruence with secondary literature, which upon review of the EALA election procedures of each of the three founding partner states, uncovered similarities and slight differences in the modes of nomination and election of members to EALA (Agila 2004). For

⁴³ For example, the current rating of democracy scores stand at, Tanzania 5.1, Kenya 5.05, Uganda 4.94, Rwanda 3.1, Burundi 2.14, and DRC 1.14, with the index point for full democracies being 10 points.

example, Kenya nominates and send a list of names to the national parliament for a formal vote, while Uganda elects and requires aspirants wishing to be elected to the regional body to present their manifestos in the national parliament which is then subject to a vote. Tanzania also presents names to its national assembly for a formal vote. The variation in modalities of selection under Article 52 results in possible scenarios details in Table 5 below.

Table 5: Article 52 on EALAs *nomilection*

Source: Author's own

| No. | Envisioned scenario as provided in article 52 | Empirical reality - scenario 1 | Empirical reality - scenario 2 | Empirical reality - scenario 3 | Empirical reality - scenario 4 | Empirical reality - scenario 5 |
|-----|---|---|---|---|--|-------------------------------------|
| 1. | Individual lobbies to obtain party ticket | - | - | - | - | - |
| 2. | Party nominates leading to national election | Political party nominates candidate to national elections | Political party nominates candidate to national elections | Political party nominates candidate to national elections | - | - |
| 3. | National elections leading to national assembly | National election leads to national assembly | National election leads to national assembly | National election leads to national assembly | National election leads to national assembly | - |
| 4. | National Assembly selects to regional assembly | National assembly elect's candidate to regional assembly | National assembly nominates candidate to regional assembly | National assembly nominates/ Elects candidate to regional assembly | National assembly nominates and Elects candidate to regional assembly | - |
| 5. | Official membership to the assembly | Official membership to the assembly | Official membership to the assembly | Official membership to the assembly | Official membership to the assembly | Official membership to the assembly |

5.4.1.2 *Nomilection* and agency challenges

To key respondent 6, democracy is put to test when the names presented for a formal vote are not a representation of the existing political parties in the national parliament, and when election and nominations are not in compliance with Article 50 of the treaty. Respondents 6, 7 and 9 postulate that the reliance on party caucuses is also problematic as it translates to party loyalty amongst the nominees. For one, partner states with multi-party democracy allow the different political parties with representation in national parliaments to bring in their preferred candidates who are then subjected to a vote in the national parliament. It is also no secret that some partner states do not practice multi-party democracy – and even where it exists, it is seen as a charade.

Further, the use of party caucuses, which is enshrined in Article 50 of the Treaty, is criticized by respondents 5, 6 and 7 as having introduced a multi-level loyalty system which shifts the loyalty of the elected MPs to protect the interest of the sending state/political party and not the interest of the community. Key respondent 8 also argues that this position is murky to accountability structures, especially when the said member is expected – once in office – to hold organs of the community and especially the Summit, the Council of Ministers and the Secretariat accountable. In addition to this, the inclusion of ex-officio members as MPs is contrary to the rules of parliamentary democracy and principles of checks and balance.

In response to my question of whether the parliament can conduct oversight over the other organs of the EAC, all respondents agree that the lack of hierarchy coupled with the inclusion of ex-officio members makes it difficult to conduct oversight.

In addition to the lack of hierarchies and autonomy in the selection of its membership, which autonomy is necessary for accountability, different rules of procedure contribute to contestation and are perceived as a challenge to legitimacy. This lack of legitimacy is found in the criticism that reliance on political caucuses to decide the mode of selection to EALA makes the assembly to be seen as a dumping ground, a haven for failed political careers (Oluoch, 2009). This is exacerbated by the fact that members of the assembly are not directly elected by the people or at the very least, by the elected representatives of the people in the national governments.

Scholars such as Mukandala criticize EALA selection processes and the treaty provisions to the extent that the processes of Article 52 cannot be considered as election in the strict sense. The treaty excludes direct citizen participation resulting in a lack of institutional ownership of the Community within the East Africa citizenry (Mukandala, 2000).

To underscore the problematic nature of the EALA election, the administration of election to the regional assembly by partner states has often found itself in the East African Court of Justice, for example, in 2006 in the case of *Prof Anyang Nyong'o and Ten Others versus Attorney General of the Republic of Kenya and Five Others* ("Prof. Peter Anyang Nyong'o -vs-Attorney general of Kenya and Others ", 2006). In this matter, the court was called to interpret whether the process conducted by the national assembly of Kenya could stand as an election by dint of Article 50 of

the Treaty establishing the EAC.⁴⁴ The court held that the purported election infringed the substance of Article 50 of the Treaty.

Similarly, the East African Court of Justice has been called to interpret the spirit and letter of Article 50 of the Treaty in cases involving other partner states. Notably it has done so in *Democratic Party and Mukasa Mbidde versus Secretary General of the East African Community and Attorney General of Uganda* ("Democratic Party and Mukasa Mbidde -vs- Secretary General of the East African Community & Attorney General of Uganda," 2011),⁴⁵ as well as in the case of *Antony Calist Komu versus Attorney General of The United Republic of Tanzania* ("Antony Calist Komu -vs-Attorney General of the United Republic of Tanzania," 2012).⁴⁶ In both cases, the court found that the partner state in their domestic processes had contravened Article 50 of the Treaty.

Key respondent 9 opines that what the courts judgements in these cases did was to bring to the fore and highlight the challenge of not having harmonized rules of procedure in selecting members to EALA. This situation, although problematic, is yet to be addressed as the EALA member election bill as of January 2022 seeks to harmonize election procedures amongst the partner states and is yet to be debated by the Assembly.

To further counter the weakened accountability mechanisms owing to the party and nation state loyalty situation, there is the oath of office taken by the MPs. This oath binds an elected member to EALA to only propel the interest of the Community and not that of their sending state. Respondents 11 and 9 clarify that although the oath exists, and despite having two categories of

⁴⁴ See EACJ Ref. No. 1 of 2006 available at, <https://www.eacj.org/?cases=prof-peter-anyang-nyongo-and-others-vs-attorney-general-of-kenya-and-others> accessed on 2/2/2022.

⁴⁵ See EACJ Ref. No 6 of 2011 available at, <https://www.eacj.org/?cases=democratic-party-and-mukasa-mbidde-v-the-secretary-general-of-the-eac-and-the-ag-of-uganda> In *Democratic Party and Mukasa Mbidde v Secretary General of the East African Community & Attorney General of Uganda* the Applicants complained of inaction on the part of the Government of the Republic of Uganda and its Parliament to amend the 2006 Rules of Procedure of Parliament for the election of Uganda's representatives to the Assembly as earlier directed by the Constitutional Court of Uganda. They further contended that the intention to conduct election of the Assembly Members under the un-amended 2006 Rules contravened the Treaty in as far as the rules discriminated and limited the freedom and right of the Democratic Party and its members to associate in vying for election as representatives in the Assembly. The Applicant's sought orders to have the Government of the Republic of Uganda and its Parliament conform to the provisions of Article 50 of the Treaty. The Court held that the 2006 Rules did not conform to the Treaty and restrained the Parliament of the Republic of Uganda from conducting the election unless and until it amended the impugned 2006 Rules to conform to Article 50 of the Treaty. Accessed on 2/2/2022.

⁴⁶ See EACJ Ref No 7 of 2012 available at, <https://www.eacj.org/?cases=antony-calist-komu-vs-attorney-general-united-republic-tanzania> accessed on 2/2/2022.

EALA membership (official and ex-officio members), the Hansard record, however, bear witness that the members during debates at plenary show an otherwise situation, the members rally and align along partner state interest compromising the level of accountability to the community.⁴⁷ Alignment along national loyalties makes accountability a daunting task.

It is the premise of my study that the selection of EALA members by the partner states to the EAC presents a unique narrative that changes the understanding of supranational delegation. It confirms that there is reliance on national systems and structures during the selection process and calls for a rethinking of accountability. For example, the structures when explored have avenues where the national parliaments cannot only question the country delegate to EALA but can also recall the non-performer and/or retain the performing member. However, the system is lacking in providing effective explanation or justification as well as enforcement structures that allow reward and sanctions mechanisms. The nature of delegation experienced during the selection process is broad, allows for sharking of responsibility as it involves multiple actors. And because it is not uniform and relies on differing national processes it becomes problematic to the conduct of accountability such that the supranational level is not able to perform in the same way as (ideally) their domestic counterparts can. Respondents 9 and 13 are convinced that the existing loopholes fuel both the scholarly criticisms and litigations in the regional courts. This is a clear sign of the problematic nature of supranational delegation that makes the accountability function even weaker. There is, however, unexplored potential to the selection process that would allow the conduct of accountability. These potential details will be discussed in the analytical chapter.

5.5 Relationship with Partner States' parliaments as a mechanism for accountability

The EAC's commitment to citizens' participation in the achievement of its objectives is also outlined in the Treaty.⁴⁸ Article 65 of the EAC treaty establishes relations between the assembly and the National Assemblies of the Partner States. It states: In pursuance of the policy of the Community of popular participation in the achievement of its objectives and so that the Council may be able to take into account in the exercise of its functions, the opinion of the general public in the Partner States on matters relating to the achievement of the objectives of the Community as expressed through the debates of the elected members of their National Assemblies, and those of

⁴⁷ See Hansard on the amendment to the EAC customs management Act available at the EAC library.

⁴⁸ See article 65 of the Treaty.

the Assembly and to foster co-operation between the Assembly and the National Assemblies of the Partner States hereinafter referred to as “the National Assemblies”: (a) the Clerk of the Assembly shall as soon as practicable transmit to the Clerks of the National Assemblies copies of the records of all relevant debates of the meetings of the Assembly to be laid before the National Assemblies, by the respective Ministers responsible for regional cooperation, for information; (b) the Clerk of the Assembly shall as soon as practicable transmit to the Clerks of the National Assemblies copies of the Bills introduced into the Assembly and Acts of the Community to be laid before the National Assemblies for information; (c) the Clerks of the National Assemblies shall as soon as practicable transmit to the Clerk of the Assembly copies of the records of all relevant debates of the meetings of their National Assemblies other than those with respect to the matters laid before their National Assemblies in pursuance of the provisions of sub-paragraph (a) of this paragraph; and (d) the Clerk of the Assembly shall as soon as practicable transmit to the Secretary General copies of all the records of debate referred to in subparagraphs (a) and (b) of this paragraph for information to the Council.

Hence, Article 65 establishes a working relationship between EALA as the regional assembly and the national assemblies of EAC Partner State. To this end, EALAs’ relationship with the national parliaments is not only an exercise in citizen engagement but also an extension of the accountability structure. This treaty-based relationship is confirming the assessment made in the literature about supranational delegation which asserts that owing to the complexities of delegation at the regional level there is use of state mechanisms to help address the challenges.

Article 65 obliges the Clerk of EALA to send to all national assemblies any copies of records showing relevant debates, including copies of bills and Acts of the assembly which will be presented to the partner states’ parliaments by the country specific minister responsible for regional cooperation. Key respondent 1 explains that in theory the goal is to ensure that national parliaments– and by extension the EAC citizenry – are at all times informed of the activities of EALA and have an opportunity to give input. By sharing the Hansard records the national parliaments have an opportunity to hold debates, ask questions, and obtain answers on such activities from their respective country delegate. This responsibility extends to both the official and the ex-officio members; both can be asked to clarify any compliance and non-compliance issues with realizing the objectives of the community.

According to respondent 1 the treaty provisions allow the national parliaments in each partner state not only to be informed of the events at EALA debates, but also to hold debates on the performance and to put their respective representatives to task. Both respondents 9 and 2 concur with the interpretation that Article 65 establishes a multi-level system comprising a relationship between the national partner states' parliaments and EALA as the regional parliament. It also establishes parameters for information exchange thereby creating a responsibility to provide information in both directions – from EALA to national assemblies and from national assemblies to EALA.

In so doing, Article 65 establishes a double-sided form of accountability that allows the national parliaments to question both their elected members to EALA and their respective ministers responsible for regional cooperation. The accountability structure established by EALAs relationship with its national parliaments, shows a reliance on multi-level systems between the region and the partner states, and, furthermore, between two organs of the community: EALA and the Council of Ministers. The two respondents 9 and 2 add that for the relationship between EALA and the national parliaments to thrive, the Clerk to EALA must coordinate his/her activities with those of the Council of Ministers, which extends the chain of horizontal cooperation.

According to respondents 9 and 2, the processes under Article 52 must be conceived as election where for EALA the national parliaments are the constituents as confirmed by Article 65 of the treaty. Respondents 9, 11, 12, and 13 – all of whom are administrative staff at the EAC Secretariat, Assembly and office of the Council respectively, posit that the EALA election must be understood as secondary/delegated election by the people (Kaahwa, 2017). Firstly, there is the election of the members of the national partner states' parliaments by their citizens. Once the national MPs have been elected, they have received authority to act on behalf of the people. It is by virtue of this delegated authority that the national MP representing different political parties, together with the powers vested in Article 50 and 52 of the Treaty, are then authorized to elect the country representatives to EALA. Although the validity of this argument stands, it is still limited to the democratic nature of each partner state. The challenge to this preposition is that the election to EALA is then subject to the democratic processes of each of the partner states. Yet, these processes are wanting according to the global ratings on democracy of these countries. Respondents 12 and 13, however, declare that the election of EALA members must be understood as an extension of the traditional vertical accountability structure.

Empirical data and secondary data from Article 65 cement the conceptualization of national parliaments as the constituents of EALA and not the citizenry of the partner states as would have been in the traditional parliamentary democracy setting. Take, for example, the partner state of Uganda, which requires interested persons to present their manifestos to the national parliament before being nominated/elected to EALA. This relationship between EALA and the Ugandan national assembly presents a powerful tool for the country representative to EALA to implement his/her manifesto. Furthermore, the national parliament of Uganda can either reward by re-electing the member or punish by recalling or replacing the said member. Although there is potential for accountability by the national assemblies, this has yet to be demonstrated by any of the national assemblies in each partner state.

Respondents 3, 8 and 6 at the office of the Council note that just like the election criteria, the relationship between EALA and national assembly's lack an enforcement section. Other than creating a reporting relationship, there are no records of national parliaments that show how far this form of accountability is effective. When asked, if there are records evidencing that a partner state, after holding debates in its national assembly on an issue that occurred at the regional assembly, proceeded to find fault on its members' performance and even recalled/replaced any of its representative to EALA, or fire its ministers responsible for EAC affairs, the answer was no.

However, in instances of trade disputes, for example between Kenyan and Uganda traders, contentious issues emanating from EALA plenary debates and records were also debated by partner states' national assemblies. The ministers responsible for EAC affairs were held accountable by way of providing information. Yet, despite the respective national assembly asking questions and obtaining answers from the ministers, the accountability structure remained crippled on the enforcement bit. In fact, respondent 14 and 15 (both EALA members) gave the example of the March 2021 trade war between Kenya and Uganda, which were canvassed in the national assembly of Uganda. Because of the lacking enforcement mechanisms in the question-and-answer tool, Uganda's parliament took the call of enforcement to their nationals by asking Ugandan citizens to approach the regional court and to litigate against the Kenyan government (Preta, 2022).

In sum, although the relationship between EALA and its partner states' national parliaments presents opportunities for accountability, the success rate is minimal because it lacks strong enforcement mechanisms.

5.6 Horizontal accountability: Parliamentary question and answer sessions

The EAC Council of Ministers is an organ of the community according to Article 9 EAC Treaty. According to Article 14 EAC Treaty it is endowed with powers to make policy decisions for the functioning of the community. The Council of Ministers is crucial, since its function is buttressed by how closely it works with the Summit of heads of states and the influence it wields over other organs of the community. For example, to show the central role of the Council in the community, respondents 9 and 7 posit that the Council influences the appointments and membership of all the other organs, including determining the terms and conditions of service and duties of the Secretariat, the counsel to the community (i.e., the principle legal advisor), the deputy secretary generals, the sectoral committees,⁴⁹ and the coordinating committees. The Council's powers extend to overseeing the works and reports of the coordination committees.⁵⁰ Together with the sectoral⁵¹ and coordination committees. The Council of Ministers' work towards the implementation of all programs of the community, including the realization of the objectives of the community. The Council of Ministers are informally regarded as the second in command, because of its close-knit relationship with the Summit. It not only sets the agenda for the Summit meetings, but it can also perform tasks traditionally reserved for the Summit.⁵²

Respondents 3 and 6 confirm that although the EAC Treaty places no hierarchy on its organs and institutions, in practice, the treaty provision creates a reporting relationship between EALA and the Council similar to a subordinate reporting to its senior. This reporting relationship allows EALA to ask questions to the Council on matters relating to the community. The accountability structure presented here is such that – according to the rules of procedure – the questions addressed by any EALA member to the Council chair must be handed in at least two weeks before sitting in the house and through the office of the clerk. The Council of Ministers can respond to the questions either in writing or orally, yet it must do so within two weeks when providing answers to priority questions, or six weeks for non-priority questions with the option of such non-priority questions being set on the order paper for the following sitting of the assembly. These rules of procedure

⁴⁹ See Article 20 of the EAC Treaty.

⁵⁰ See article 17 ,18 and 19 of the EAC Treaty.

⁵¹ See Article 68 of the EAC Treaty.

⁵² See article 11 and 14 of the EAC Treaty.

further require the answers to any questions to be ‘concise, relevant, and satisfactory’ to the member asking.

The Q & A sessions allow horizontal accountability between EALA and the Council of Ministers, especially because the Council has the power and function to oversee activities on implementing the treaty objectives. Respondent 11 argues that – as an accountability tool – it places the Council at a position requiring it to either explain its actions or justify its intentions. This is especially important owing to the Council’s centrality in the realization of the treaty objectives. The Council sits at a vantage point between the assembly and the Summit. Hence, once an act of the assembly has been passed, it is the responsibility of the Council, in conjunction with other organs of the community and the coordination and sectoral committees, to follow up with the partner states on the implementation of the specific act. As ministers of their respective countries and having direct links with the Secretariat of the Community, respondent 11 is convinced that the Council is the best place to answer any issues touching on the realization of the community objectives.

Other than creating a ‘hierarchical’ reporting structure between EALA and the Council of Ministers, the treaty is silent on what happens when non-satisfactory answers are given. While formally the Council is in a subordinate position to EALA with regard to the reporting structure, respondents 9, 12 and 13 concur that the placing of EALA above the Council seems back-handed owing to the limited powers of EALA after it receives answers from the Council with no provisions for enforcement mechanisms. For example, respondent 9 recommends that for the Q & A tool to be more effective, it would require the Council to report to EALA which then makes recommendations to the Summit of heads of states and government on any disciplinary action. The power structures envision a hierarchical relationship where at the top is the Summit, followed by EALA and Council at the periphery. This would allow the Summit to enforce any oversight recommendations made by EALA pertaining to the conduct of the Council.

Respondents 13 and 9 mention that the current arrangement is problematic as it allows EALA to ask questions to the Council which the Council must provide satisfactory answers to. Based on the answers provided, EALA then makes recommendations to the Council which are, however, not binding and rely on the good will of the Council for it to reach the Summit for implementation (key respondent 3).

Respondent 9 highlights that the Q & A tool is problematic from two angles: first, the Council of Ministers members are also national MPs, which is unorthodox, meaning that they are both a principal and agent at the same time. Second, there is an irony of the accountability cycle where EALA questions the Council of Ministers and after receiving an answer the assembly prepares a report with recommendations, but the same report – although addressed to the Summit of heads of states – is channeled through the Council of Ministers (key informant 3). Therefore, respondent 9, the position of EALA, making recommendations against the Council on matters of advancement of community objectives will most certainly not reach the Summit. The Council seems to dominate the EALA. Hence, accountability becomes a daunting task as it allows for accountability shirking as well as creating instances of redundancy in accountability.

It is worth mentioning that the accountability structures established by Article 68 EAC Treaty rely on a complex relationship between the Council and the other existing community organs. To realize the EAC objectives, a multitude of players are involved. For the realization of a single objective of the EAC, in fact, a complex system of MLG is employed which requires players from more than one organ of the community to act. As such respondent 1 correctly states that it becomes difficult, almost unfair, and biased to expect that only the Council can be held responsible and punished for non-performance or rewarded for exemplary performance. In sum, because of the nature of delegation and coupled with MLG the accountability tool of Q&A between the EALA and the Council of Minister's end at the provision of information with no actual enforcement mechanisms.

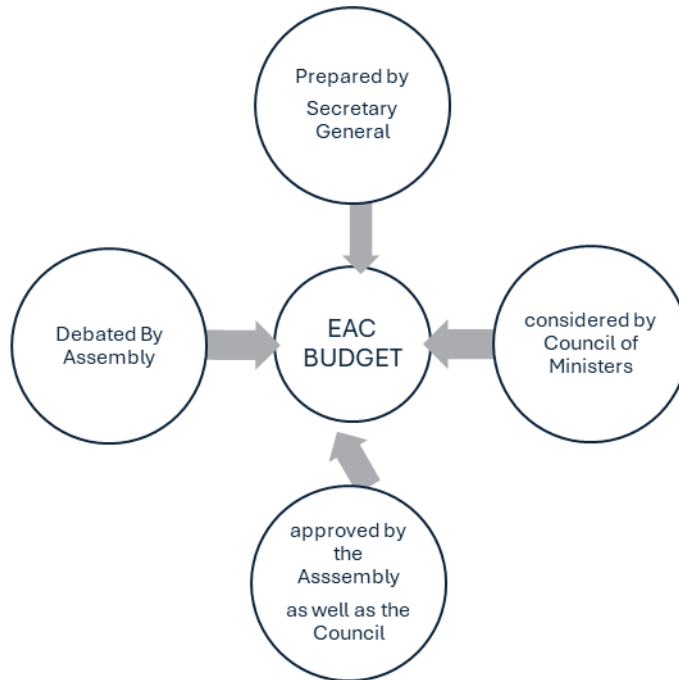
5.7 Ex-ante and ex-post accountability through EALA's budgetary process

In addition to representation, parliaments enjoy “the power of the purse”. Money is a powerful tool for holding governments accountable. For the EALA, Article 49 as read with Article 132 of the Treaty – alongside the East African community Budget Act of 2008 – make conclusive provisions for EAC budget matters. Article 132 EAC Treaty is instructive on who prepares the budget of the Community. It provides that the Secretary-General, who is the chief executive and accounting officer of the Community, shall prepare the budget. Once prepared, it is sent to the Council of Ministers for consideration, and finally the document is sent to the Assembly for debate and approval.

Hence, Articles 49 and 132.2 and 132.3 EAC Treaty allocate the function of approving the budget to two different organs. While it gives the power to approve the budget to the Assembly, it gives the same power of approval of community expenditures to the Council of Ministers. Figure 8 shows the EAC budgetary process.

Figure 8: EAC’s Budgetary Process

Source: Author’s own



5.8 Agency challenges and EALAs’ budgetary function

Respondents 9, 12, 13 and 15 concur on the budgetary function and process as being problematic in several ways. First, its reliance on multi-level and multi-stakeholder coordination has caused serious delays affecting timely submission of the community budget. This is partly due to the EAC being funded by the partner states and partly due to the reliance on development partners.⁵³ To the respondents and under the EAC budgetary practice, the community budgetary process is tied to the domestic processes of the partner states. All EAC partner states read their national budget on 10th June annually. The amount each partner state dedicates to EAC is set and made public in June of every year owing to the harmonization of budget reading across the community. Yet, this

⁵³ Article 132.4 EAC Treaty states: “The budget of the Community shall be funded by equal contributions by the Partner States and receipts from regional and international donations and any other sources as may be determined by the Council.”

horizontal harmonization across partner states clashes with the vertical budgetary process of the EAC whose financial year begins on 1st July and ends on 30th June each year. To respondent 12 this means that when the partner states submit their budgets, they have already included their final figures with regard to their respective contributions to the community. Therefore, with concurrent budgetary timelines any debates conducted by EALA are non-consequential and ineffective to the extent of input on revenue and expenditure. The amount once decided by the partner states cannot be reviewed by EALA. This challenge, coupled by the differing financial muscle of the partner states, has manifested itself in delays in partner states reading their budgets (Anami, 2020).

Respondent 12 highlights the fact that figures in the budget are pre-determined by the partner states, this means that the assembly receives it as is with limited power to offer any meaningful insights on increase or decrease. The EAC situation is such that the partner states determine the number to remit, the Council of Ministers considers and approves, and the Assembly *rubber stamps*. Completely inverse of fiscal responsibility. In short partner states will dedicate estimates, send the same to EALA and whatever debates EALA makes on the same is inconsequential.

To further buttress this problematic budgetary position, the 2020 Hansard report on the budget, documents a scenario where the partner states made remittances, the Council of Ministers approved and proceeded to run the activities of the community for a period of six months and the Secretary General only tabled the budget to EALA for approval. The community carried out its activities with remittances without any ‘budget’ as the Assembly had no sight of it, no debates and no formal approval had been made as required by the treaty.

Respondents 12 and 13 occasion the delays in submission of the budget at least two or three months before start of a fiscal year to the political tension between the partner states as well as differing financial muscle amongst them with some being in arrears of their financial obligations and others having registered nil remittances to the budget of the community (EAC 2019). Also, they argue that EAC dependence on donor funding inhibits financial autonomy. The above position greatly inhibits the legislative powers and procedure for budget scrutiny, casting uncertainties on the robustness of the committee reviews.

Even as the budgetary debates are weakened by the submission timelines, a further punch is thrown to the EALAs committee system. The Assembly has established a committee of ways and means

which considers the financial statement of the community, and the Committee of Supplies considers the estimates of the communities' expenditure. To respondent 9 the time frame within which these two committees' debate on budgetary issues is puzzling. Rule 75 of the EALA Rules of Procedure gives the Committee of Ways and Means 15 days to debate on budgetary issues, and the Committee on Supplies has 7 days – hence a combined total of 22 days. The question that then lingers is whether or not this short time frame allows the committees to make any impactful assessments of the budget.

Closely related to the committees are the manpower and technical support issues accorded to the budgetary function. Over the last two years, EAC has suffered from understaffing owing to delays in the recruitment processes. The understaffing of the community ultimately impacts on the staff allocated to the budgetary process. To respondent 11 from the Secretariat, there is also no record of the community appointing experts solely dedicated to auditing the budgetary process (Magubira, 2020).

An analysis of the Treaty and the Budget Act illustrates that EALA cannot amend the budget of the community ex-post. In as much as EALA can reject the budget, its powers are limited to rejecting and making recommendations to the Council based on Article 49.2 EAC Treaty. Respondent 12 states that often it is only the Council of Ministers which can make any alterations to the budget. In so doing, there is, however, no corresponding requirement that they consult with EALA or implement its recommendations.

Similarly, EALA has no power to limit the 'executive' from making any ex-post alterations to the budget. There is also no existing legal requirement that the 'executive' should consult or seek approval of EALA before making such alterations.

Respondent 12 adds that although EALA has budgetary oversight function enshrined in the Treaty, the same is very limited in practice as compared to the principles of best practices for budgetary oversight. The EAC Treaty establishes a channel of communication requiring EALA to be notified of the budget, and to even debate the content of the budget – yet, without meaningful powers thereafter. Once again, EALA is seen to revert to domestic mechanisms in its functions, the nature of delegation is deeply reliant on the problematic set up of MLG, which poses a myriad of coordination and cooperation challenges to the function of accountability. For the budgetary

process, these challenges mean that EALA cannot make amendments to the budget, it cannot reduce any spending or increase any revenue allocation. Conveniently the enforceability requirement that would bring the accountability process into full circle is also missing.

5.9 Conclusion

The EAC Treaty establishes a community whose successful operation heavily relies on coordination of activities between different organs. In fact, the realization of the EAC objectives is deeply rooted in a complex web of MLG incorporating various organs of the community as well as informal actors from institutions of the partner states. It is because of this that the function of accountability encounters an impasse. Although the Treaty allows for accountability using tools such as – what I call – “*nomilection*”, question and answer sessions, relationship with national parliaments and through the budgetary process, these tools are problematic. For example, the election of EALA members entails a paradigm shift on the nature of delegation and marks the genesis of inclusion and recognition of multiple stakeholders. In addition, Q & A sessions as well as the relationship with Partner States’ parliaments have no enforcement mechanisms. Finally, the budgetary process is debilitating to say the least. In sum, I therefore argue that the EAC delegation experiences complexities that are exacerbated by its embeddedness in MLG; and because of this EALA cannot perform in the same way as its domestic counterparts.

Chapter 6

Parliament of the ECOWAS

6.1 Introduction

A review of the 1975 ECOWAS Treaty reveals that ECOWAS was established with no intention of having a parliament. The Treaty allowed the exercise of legislative functions through two organs of the community: the authority of heads of state and government and a body then called the executive secretariat.⁵⁴ The authority of heads of states and the executive secretariat enjoyed monopoly over parliamentary functions until the end of the cold war after which, during the third wave of democratization and following inspirations from other international organizations around it, the ECOWAS was revamped. Through adoption of a new treaty the ECOWAS parliament was created (Schimmelfennig et al., 2020). The 1993 revised ECOWAS Treaty established the ECOWAS Parliament and in August 1994 the protocol to the Parliament was signed and came in force in March 2000, with the Parliament being inaugurated on the 16th of November of the same year, following which parliamentary operations begun in 2001. Figure 9 illustrates this.

The 1993 revised Treaty not only established the ECOWAS Parliament, as one of the Institutions of ECOWAS, it also set it up as ‘the Assembly of the People to serve as a forum for dialogue, consultation, consensus, and the designated house of representatives of all the people of West Africa’.⁵⁵ The founding documents bestowing constitutional legitimacy on the ECOWAS Parliament are the Revised Treaty of 1993, the Supplementary Act relating to the enhancement of the powers of the ECOWAS parliament of 2016⁵⁶ and the ECOWAS Parliament Rules of Procedure 2020. Figure 10 shows the legal documents governing the ECOWAS Community Parliament.

Article 13 of the ECOWAS revised Treaty establishes the Parliament, and Article 18 of the Supplementary Act to the parliament gives directions on matters pertaining to the membership of the parliament.⁵⁷ The community parliament has a total of one hundred and fifteen (115) seats with

⁵⁴ See the 1975 ECOWAS Treaty.

⁵⁵ Article 2 of the Supplementary Act.

⁵⁶ Herein after the Supplementary Act.

⁵⁷ Article 18, representatives shall be elected by direct universal suffrage by citizens of the member states.

each member state receiving a minimum of five (5) seats and the remaining forty (40) seats are shared based on the population of the (15) fifteen member states.⁵⁸

The objectives of the community parliament include among others, strengthening representation, promoting democracy, rule of law, good governance, and promoting the practice of accountability.⁵⁹ As mentioned earlier; despite being created in 1975, the parliamentary arm of ECOWAS only became operational in 2001 with its historic first legislature running from 2001-2005. Before then, the parliament continued to operate within the confines of the Treaty and only after 15 years of being operational did it receive a fresh lease of life via the Supplementary Act that enhanced its powers. Through the Supplementary Act relating to the enhancement of the powers of the ECOWAS Parliament, new functions and objectives were established. The functions of the ECOWAS Parliament currently include strengthening representative democracy, promoting democracy, the practice of accountability, and good governance. The parliament was also through the 2016 document empowered with the oversight function.

Presently the ECOWAS Parliament exercises rudimentary influence on the legislative process of the ECOWAS community this is because some parliamentary functions within the ECOWAS community continue to lie with the ECOWAS commission which despite being a political organ of the community, exercises core parliamentary functions including initiation of draft texts.⁶⁰ Following the enhancement of its powers the Community parliament can give mandatory assent to the community Acts on matters relating to economic integration and treaty revision. It is also of importance to note that these enhanced powers bestowed on parliament by the 2016 Supplementary Act are in transition for an indefinite period. This means that some are yet to be operationalized, and the nature of the delegation is extremely complex as will be revealed in succeeding discussions.

Owing to the fledging nature of the parliament's functions, the institutional relationships between the parliament and other organs are highly multi-level where it engages and relies on the other institutions and agency implementing bodies of the ECOWAS to fulfill its objectives.

⁵⁸ Article 6 of the Supplementary Act.

⁵⁹ See Article 4 of the Supplementary Act.

⁶⁰ Article 20 (l).

Administratively, the conduct of business of the ECOWAS Parliament including its day-to-day running is managed by the speaker of the parliament who presides over all proceedings of plenary, bureau, and conference of committee Bureaux. The office of the speaker works closely with that of the Secretary General alongside the other decision-making organs of ECOWAS. See Figure 11, which shows the decision-making organs of the ECOWAS Community Parliament.

The preceding section of the thesis will make discussions on how the ECOWAS Parliament conducts accountability without election in place and it reviews other tools of accountability that the community parliament has. The section also critically analyses the nature of delegation, the agency related concerns as well as the presence of multi-level governance within parliament’s functionality.

Figure 9: History of the legislative function of the ECOWAS Parliament

Source: Author’s own

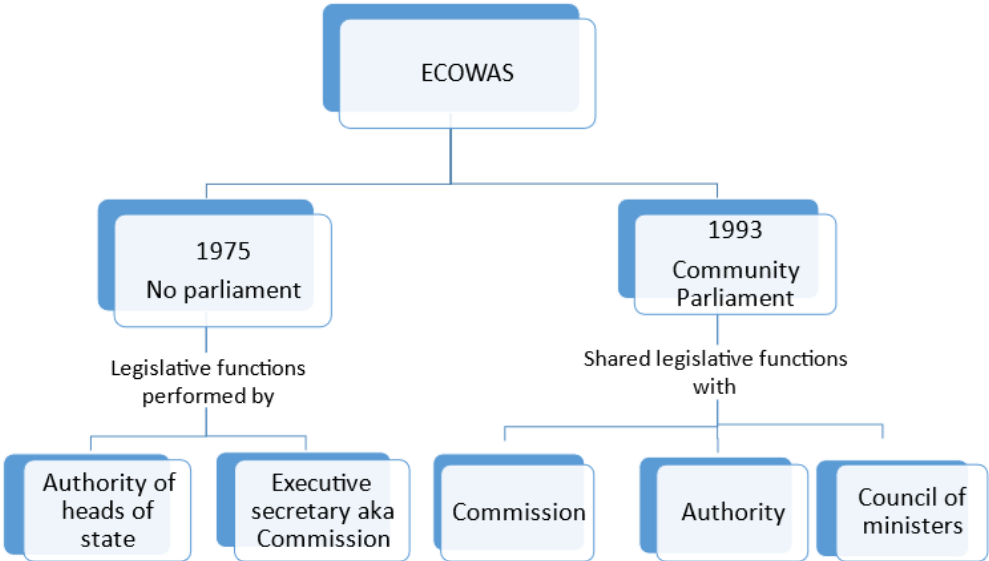


Figure 10: Legal documents governing the ECOWAS Parliament (between 1975 and 1993)

Source: Author’s own

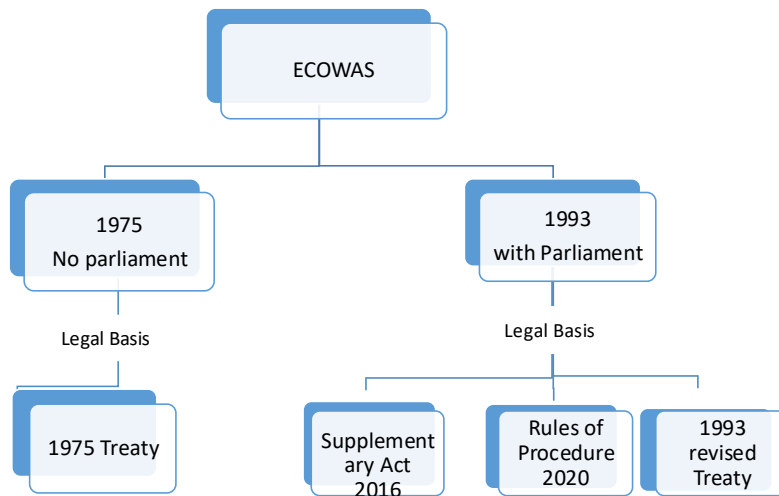
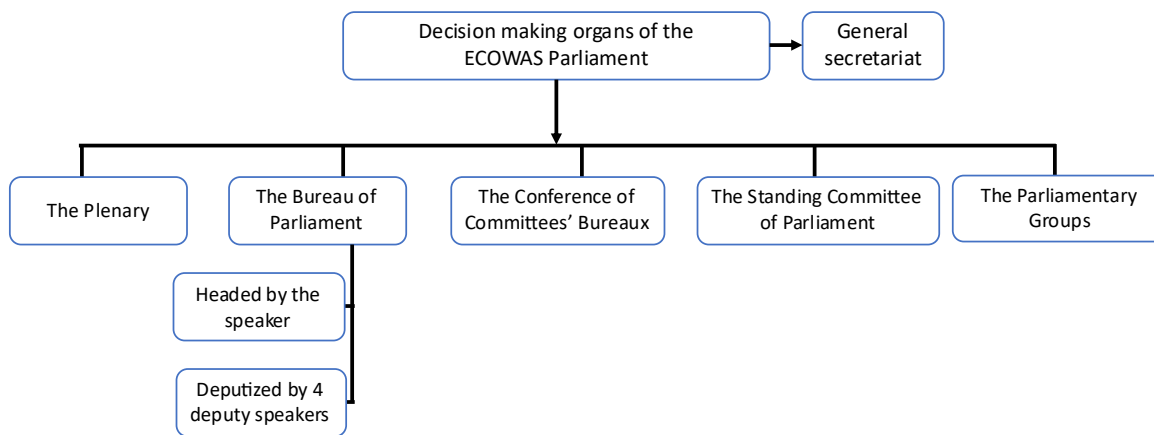


Figure 11: Decision-making organs of the ECOWAS Parliament

Source: Author’s own



6.2 Delegation at the ECOWAS Parliament

On matters of selection of its members, Article 18 of the Supplementary Act outlines eight points criteria on how each of the 15 member states select their representatives to the community parliament. These delegation requirements include:

- That the election of representatives shall be by universal suffrage,
- With country representation reflecting as much as possible political configuration,

- Reference must be made to 30 percent female representation,
- Individuals must be a citizen of a member state, must be eligible to be elected as a member of the national parliament.
- Parliament shall verify the credentials of its members.
- Pending direct election of the ECOWAS Parliament's members, the national assemblies of member states shall elect the representatives among themselves.
- The president of the commission and the speaker shall be notified of the election of representatives.

Key respondent 1 identifies four of the eight criteria established by Article 18 of the supplementary Act as problematic. The problematic criteria include the requirement that the representatives of the parliament shall be elected by direct universal suffrage by the citizens of the member states, which is yet to see the light of day as the ECOWAS Parliament does not directly elect its members. Secondly, the requirement that representation should reflect as much as possible the political configuration cannot apply to states that are autocratic and do not practice multi-party democracy, third is the requirement that there should be 30 percent female representation in the parliamentary delegation, which is problematic in situations where the member state national assemblies do not mirror a similar requirement, and finally the open ended requirement that the parliament shall verify the credentials of its members without any meaningful impact on the retention or demotion of the member. There is also the fact that the election of representatives by member states national assemblies continue to run for an indefinite period.⁶¹ My respondents expound the problematic position as follows.

Interviewee 1 posits that, *election by universal suffrage by the citizens of the member states*' means that the community parliament obtains its representatives from the member states national parliaments. It is therefore the national assemblies of the 15 member states who as principals delegate authority to the regional assembly as the agents. To put this delegation in perspective, at the domestic level, people interested in vying for elective position in all 15 member states of the ECOWAS conduct their respective domestic nominations and campaigns and then they are elected by the people to the national assembly. After election the incumbent members of parliament in

⁶¹ Article 18 of the Supplementary Act.

their respective national assembly's then chose individuals who become members of a delegation (from each of the 15 member states) to the Community Parliament.

As members of both the Community Parliament as well as members of their respective assemblies, the ECOWAS members bear a dual mandate responsibility; one to their national assemblies and the other to the regional assembly. See Figure 13.⁶²

Respondent 1 further notes that the mode of selection heavily depends on the member states' electoral processes and democratic practices. Delegation can only be as democratic as the domestic processes employed by the member states. To him, representatives of the community parliament derive their authority from their national electorate who by electing the representatives to the national parliament have delegated power which power is further delegated to the regional parliament.

Respondent 2 concurs with sentiments of respondent number 1 on the issue of delegation. He argues that legitimacy of the regional assembly originates from the authority received from the electorate to the national and from the national to the regional. Such that if the national is legitimate, then the same legitimacy is assumed to exist at the regional level. He adds that although the Community provides rules on selection of representatives, it does not interfere with the modalities of selection and the procedures employed by members' states in nominating the representatives to their delegations. As such whether a member state adheres to Article 18 (1)(b) on representation and ensures or fails to guarantee that the people elected are reflecting political configuration is beyond the scope of the administrative wing of the parliament and they have no follow up mechanism to see this being implemented.

Respondent 2 further notes that because there are no direct election and owing to the contemporaneous way in which article 18 is treated by member states, the delegation processes to the regional assembly have come under harsh criticism. The selection procedures of the members to the community parliament are criticized as being used as a token to reward loyal party members with little focus on democratic practices, political plurality let alone the insistence on 30% female representation. On gender representation, he notes that of the 15 members' states that send delegations to the community parliament, Senegal stands top of the list with 48% the other 14

⁶² See Article 6 of the Supplementary Act.

member states remain below the 30% threshold. He further mentions that gender representation at the regional level reflects the status of gender representation in the national assemblies. Hence, member states that have low gender representation at the national level automatically carry the trend to the regional level.

On prodding about the existence of democratic practices such as electoral campaigns at the national levels and whether the members who make it as regional representatives, campaign on Community agenda during the national campaigns, respondents 1 to 7 all gave a negative response, that there is no evidence that during domestic campaigns the representatives sell the agenda of the Community to their electorate. Respondent 2, categorically, points out that the ECOWAS objectives are visibly absent during the domestic campaigns at the state level because not all aspirants make it to national parliament, and that during domestic campaigns aspirants principal and primary focus is on issues that will secure their seat at the national parliament. This makes it difficult to hold the representatives accountable especially when they have no open agenda and manifesto to refer to and ask the representative to explain or justify their action or inaction. To them, the dual mandate role that the members serve limits the commitment level which leans to commitment to the national sending state than to the commitment to the regional objectives.

Respondents 1, 3 and 6 also confirm that although ‘election’ of the ECOWAS Parliament representatives is done by the national assemblies of the member states, the same is not supposed to be like that. The supplementary Act aspires to have direct election of members of the ECOWAS Parliament. The fact that Article 18 (1) (g) gives power to the national assemblies of member states to elect from among themselves the ECOWAS representatives was a temporal measure, the misgiving is however on the fact that the Act did not put a timeline on how long this should continue, and this makes the already murky situation worse. Respondent 3 states that with no commitment from the community leadership to an immediate change the selection of the ECOWAS representatives to universal suffrage by the ECOWAS citizenry, the jury is still out on whether and when members will be elected by the people.

Respondent 3 further notes that the requirement to have members state national assembly’s elect from themselves representatives to the ECOWAS Parliament translates to having a dual mandate representation, one to the community and other to their national parliaments. She notes that duality of functions and responsibilities is problematic and affects the commitment levels of the

representatives. The individuals who now serve the community and their national parliaments have a divided focus and commitment level which leverage heavily on member states and domestic politics at the expense of the community responsibilities. The dual function, although legally enshrined in Article 18 (1) (g) remains problematic as it has no expiry date, and it runs parallel to aspirations of universal suffrage.

Respondent 4 adds that the conundrum posed by dual mandate can well be addressed by the oath of office that all representatives take. He however mentions that although the representatives of the community parliament take an oath of office to act as representatives of the citizens of ECOWAS, national politics find its way on the floor of the house and at times during plenary debates, representatives of a national delegation halt debates and go out to consult with their national authorities thus national politics interfere with the democratic function of the parliament.

To respond to the lack of compliance with the Supplementary Act on the mode of election, respondent 2 posits that the situation is a result of the transitional period that allowed the community parliament to establish ‘soft’ procedures with aspirations for direct election. Respondent 3 commented that although it is true that Article 18 (1) (g) of the supplementary Act created a transitional period that allowed for nomination of representatives in lieu of directly elected representatives, the transitional period remains undefined as to when it ends and, in his opinion, the transition period has been going on for too long.

Respondent 7, a lawyer by training offered a different understanding of the representation function of the parliament. His interpretation stood out from the general responses of the previous respondents as he posits that for ECOWAS the constituents are the member states and that the representatives at the community parliament represent the states as such the universal suffrage as envisioned by article 18 (1) (a) has been realized. To him, the delegation process commences at the national level to the regional level with no reference to the citizenry as the constituents.

When asked whether the election done by the national assembly’s allow the country delegate to be held accountable for their performance at the regional level, respondents 1, 7 and 8 indicate that the dual mandate responsibility extends to a reporting duty from the region to the national and their members report to the national assemblies of their activities at the regional level. The information

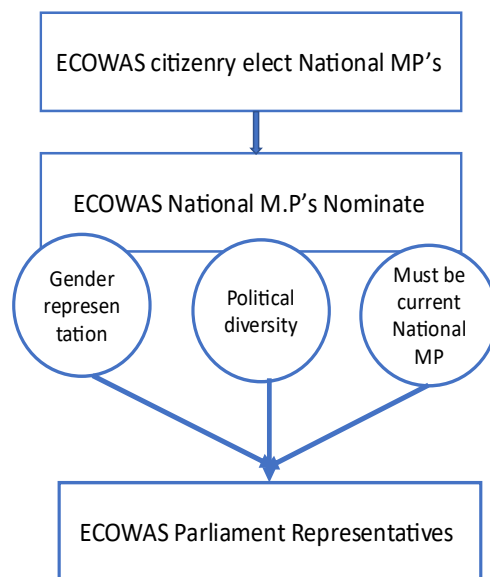
that is lacking is how this information is treated and whether any reward and sanction mechanisms exist beyond the members' justifying or explaining requirements.

From the responses received, the nature of delegation at the ECOWAS appears as depicted in the image below. There are however clear agency-related challenges associated with the delegation processes and especially on account of non-compliance with article 18 of the supplementary act to the powers of the ECOWAS Parliament. Owing to the lack of election, the ECOWAS members of parliament's selection processes are stifled by domestic polity and politics, the dual mandate responsibility, and the transition period. Other agency related challenges are discussed in the ex-ante and ex-post accountability tool in the preceding sections below.

Figure 12: How ECOWAS elects its parliamentary representatives

Figure 12 demonstrates the selection process of members to the ECOWAS Parliament.

Source: Author's own



6.3 Delegation and accountability without election

6.3.1 Relationship with national parliaments

The supplementary act relating to the enhancement of the powers of the ECOWAS Parliament calls on the parliament to establish appropriate relations with each parliament of its 15 member states.⁶³ Owing to the nature of delegation, the relationship with the national parliament is

⁶³ See Article 40 of the Supplementary Act and Rule 104 of the 2020 rules of procedure.

supported by the dual-mandate status of the Community Parliaments' membership. Figure 13 shows that a dual mandate member is created at the community level.

Once selected as a member of the ECOWAS Parliaments, the relationship with the national assembly creates a parallel reporting responsibility between the national and the regional assembly. Figure 14 shows the dual mandate reporting responsibility of the ECOWAS representatives to both the community parliament and the parliament of the national assemblies.

The dual mandate members bear the responsibility to inform and report to their respective national parliaments of the activities undertaken in the community parliament and at the same time they also inform and report to the community parliament the activities in the national parliaments including reporting on the status of implementation of the community text and programs, particularly programs on democracy and good governance in their country to the regional parliament.⁶⁴

Perhaps to cement the region's commitment to promote democracy and good governance, representatives of the community parliament are encouraged to not only hold debates in their national assemblies but also make periodic reports on the status of implementation of the community texts and programs to the community parliament.⁶⁵

Respondent 6 notes that establishing a working relationship between the national parliaments and the regional parliament allows information to flow between the two structures and further creates prospects for accountability. What is problematic within these two layers of delegation is the reliance on interpersonal relationships and cooperation for information exchange between the office of the speaker at the regional and the state level which relationship is not always seamless.

Respondent 6 further adds that the relationship between the two levels is supported by free-flowing information through reports which have not been seamless as the reports of the national assemblies on the status of implementation of community texts and programs to the regional assembly have not been prioritized by the member states. Indeed, when reviewing archival material at the ECOWAS Parliament library I could not find regular records of reports on the state of democracy and good governance which are received from the national assemblies to the Bureau of the

⁶⁴ See article 40 of the Supplementary Act.

⁶⁵ See rule 104 (1-5).

parliament. The library records bear only annual reports, country reports and Hansards, but of general nature with little reporting centered on democracy and good governance from each of the fifteen member states. Respondents 2, 6, and 4 indicate that even when reports are made, the details are wanting and not thought provoking enough to elicit commitments on accountability and follow up mechanism which follow up mechanisms would make the accountability structures strong.

Respondent 1 adds that there are no clear guidelines on the format of the reports and a follow up mechanism that allows the community parliament to even acknowledge that the report was made.

Respondent number 6 notes that on this reporting responsibility, and especially the reporting structures emanating from the national parliament to the community parliament, delegations are often quick to prepare the reports only when pertinent issues on peace and security arise and put a specific country in the spotlight and especially when national interests are at stake. Other than that, there is a reluctance to make the reports. Respondent 3 adds that the reporting structures are guided by parliamentary diplomacy and rely on existing inter-personal relationships between the speaker of the community parliament and the speakers of the national parliament which, when lacking, renders this tool impractical. The reliance on diplomacy limits any stern tools on following up on production and release of the reports.

Although acknowledging that the relationship with national assemblies is a powerful tool of accountability, respondent 6 mentions that the same is on an optional and voluntary basis and there are no enforcement mechanisms.⁶⁶ He admits that the country reports are expected to be credible with no bias on the status of implementation of the community acts, and especially factoring the goals and aspirations of the community on democracy and good governance, but the reports do not come without fault and often don't reflect the reality on the ground. There is a lot of information hoarding by the member states to avoid appearing nondemocratic.

Respondents 2, 3, 8 and 9 all highlight that because several stakeholders are involved in the relationship with the national and regional assembly, coordination, and cooperation in creating the reports are not seamless. Often because of the multi-level nature and multi-stakeholder character, country reports are politicized and at times not a true reflection of the reality on the ground. These respondents also mentioned that some country reports are made in haste and at times the parliament

⁶⁶ See rule 105 (1 and 2).

bureau has had to ask country delegations to redo their country reports and even highlight various priority areas. Closely linked to this is the political divide between members of a delegation where members from the ruling party and those from the opposition hold differing views on country reports.

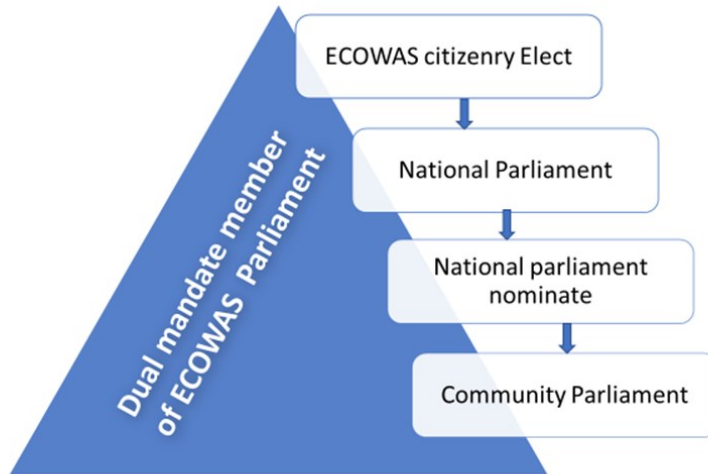
Respondent number 7 highlights that political differences often manifest themselves during presentation at plenary and gives the example of the 2022 country report of the Senegalese delegation, the report on the status of democracy and good governance elicited different responses from the country's political configuration. The positions from the ruling party and that from members of the opposition differed on the democratic status of the country.⁶⁷ With members of the opposition orally disowning the report that seemed to have been orchestrated by the representatives from the ruling party.

In closing respondent 2 states that country reports are used as an accountability tool from the national parliaments to the community parliament. With the content in the reports, the community parliament can hold the country parliament responsible and ask it to justify and explain action or inaction on matters of democracy and good governance. When the reports are not given the importance they deserve, not prepared impartially and not presented with ownership from both sides of a political divide they lose the power to be an effective oversight tool. Being that an ECOWAS representative is also the member state representative, it is easy to track any action and inaction when conducting oversight, the problematic nature of the relationship created is the fact that the Treaty and the Supplementary act makes the obligations voluntary, thus weakening the tool.

Figure 13: Creation of a dual mandate member of the ECOWAS Parliament

Source: Author's own

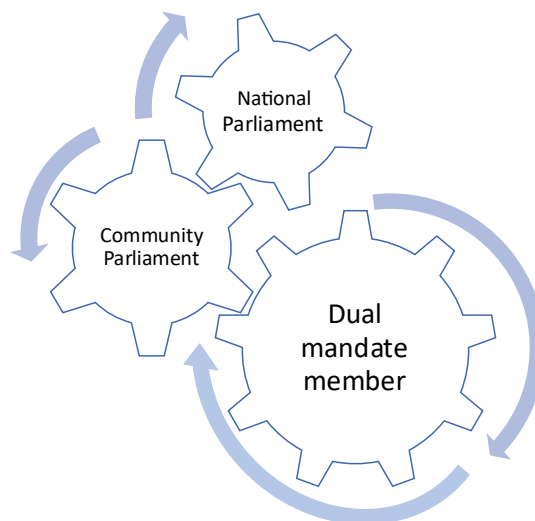
⁶⁷ See 2020 Senegalese country report.



The nature of delegation between the national and the community parliament relies on the dual mandate membership (see Figure 14). The members of the ECOWAS Parliament have a legitimate mandate to the community by way of sharing information between the two parliamentary levels. Although the relationship between the national and the regional level bears great accountability potential, agency challenges associated with plurality of actors, communication, and information asymmetry as well as responsibility shirking are reported as bottlenecks to the tool.

Figure 14: Dual mandate reporting responsibility of the ECOWAS Parliament

Source: Author's own



6.3.2 Accountability through delocalized meetings

Although the community parliament does not directly participate in the election of ECOWAS Parliamentarians, the ECOWAS Parliament engages its citizens in its activities by holding delocalized meetings. This is realized through extra ordinary sessions that are hosted outside the Parliaments headquarters and even in local villages of the member states on a rotational basis. By conducting delocalized meetings, the ECOWAS citizenry is informed of the parliament's activities (ECOWAS Parliament 2018 annual report).⁶⁸ During these delocalized meetings, representatives of the community parliament brief their counterparts in the parliaments of the host state on its activities and hold discussions pertaining to important issues relating to the life of the citizens of the community with them.⁶⁹

Methods used during the conduct of delocalized meetings vary, and include the use of media appearances, courtesy visits to the speakers of the national assemblies of the host countries, radio interviews in local vernacular stations as well as field excursions to allow the parliament to engage with the citizenry. Once a delocalized meeting is held, the relevant committee reports on the activities undertaken, which reports are presented, discussed, and adopted at plenary.

Respondent 2 and 3 decision-making much as the delocalized meetings help in addressing topical and timely issues, for example, the 2017 meeting in Mali focused on peace and security as well as countering terrorism (See ECOWAS Parliament 2017 annual report, 20),⁷⁰ the delocalized meetings as a tool of accountability end at information sharing and are weakened by the fact that the parliament has no follow up mechanism to ensure that the issues raised, and recommendations given in the reports are addressed by the relevant authorities like the decision making organ the Authority and the council of ministers.

Respondents 4 and 3 add that although the delocalized meetings have a great impact in creating awareness of the parliament's activities, they also acknowledge that after engaging with the ECOWAS citizenry and notifying them of the parliamentary works, the people are not able to

⁶⁸ See ECOWAS Parliament 2018 annual report.

⁶⁹ See ECOWAS parliament 2020 annual report.

⁷⁰ See ECOWAS Parliament 2017 annual report, p. 20.

follow up with the parliament later to ensure that their interests are protected. The responsibility ends with information sharing.

Responses on the use of media to enhance transparency in the activities of the parliament indicate that as a communication strategy it has enhanced information sharing owing to the large number of publications and broadcasts that have been produced. Also the different social media platforms including the Ecoparl Press Corps, a WhatsApp group that brings together 95 media personalities all of whom are present in the 15 member states has allowed the activities of the parliament to be shared in over three languages widely spoken in the member states of the ECOWAS.⁷¹ In a similar vein, there is an increase in the parliament's presence on social media platform like twitter and Facebook as well as having a vibrant website which platforms have also seen an increase in subscriptions. Respondents 2 and 6 indicate that for the media to translate as an effective accountability tool, it must allow a question-and-answer session by the citizenry. The current framework of using media, the parliament website as well as a wide array of broadcast networks end at information sharing.

As an accountability tool, the conduct of delocalized meetings using various media platforms enhances the relationship between the representatives of the parliament with the citizenry. The tool seems to enjoy lesser agency-related challenges as it directly links the people with their representatives. In its enforcement there are less agents, information flow is also reported to be free and the use of local languages aids in quicker transmission and reporting. The accountability tool, however, remains underutilized as it falls short of enforcement mechanisms. Although respondents report it as being effective in transmitting democratic data, and its ability to allow representatives to explain and justify their actions to the respondents are clear, once transmitted there is no follow-up mechanism to ensure that the interest is acted upon.

6.3.3 Accountability through; sensitization activities, committees of inquiry and fact-finding missions

Akin to the delocalized meeting, the community parliament also engages in sensitization missions to enable it to interact with the people and tell them what the parliament is doing. During these meetings, the representatives of the parliament are expected to sell the ECOWAS programs and

⁷¹ See ECOWAS Parliament 2021 annual report, p. 61.

receive feedback from the citizenry. The information collected from sensitization meetings contributes to the strategic plan of the parliament.

Respondent 4 notes that sensitization activities as a tool of accountability are further delegated to different agents: the country delegates; the parliamentary dignitaries and committees and the media. Such that for execution of the sensitization programs, there are three different levels of sensitizations, first is that conducted by the delegation of the country representatives, second that done by the communication division using various media platforms and lastly sensitization activities targeting dignitaries and influential personalities such as heads of states, speakers of national assemblies and ministers otherwise referred to as parliamentary diplomacy.

Respondents 1 and 4 state that sensitization activities are country specific, and each country delegation conducts their respective country sensitization activities, they decide what they want to discuss, and the tools they intend to use like interviews, caravan rides, radio presentations, the programs are then approved by the speaker and the Secretariat joins in to disburse the allowances and payments.

Owing to the discretion accorded by the representatives to choose sensitization methods as they please, respondent 1 states that some delegations have abused this discretion and failed to conduct effective sensitization campaigns. This was noted when different delegations were asked to account for their sensitization programs and upon review by the bureau, the reports were found to be unsatisfactory. As a result, there has been a push and pull on the accountability mechanisms which has resulted in a sudden halt in the conduct and funding of sensitization activities within the last two years.

On matters of the committee of inquiry, articles 36⁷² as read with rule 35⁷³ are instructive. In theory a committee of inquiry is established upon request by the representatives of the house. The committee of inquiry is only instituted after a country report has been presented by a national delegation, tabled, and debated at plenary by the community parliament. Respondent 3 notes that during debates the delegation tabling the report is questioned on the content and issues arising.

⁷³ See rule 35 of the 2020 Rules of Procedure.

Where representatives of the community assembly feel the need to follow up on issues emanating from the country report, then ideally a committee of inquiry is set up to investigate the issue in detail. My respondent was also quick to report that, owing to the problematic nature of the country reports, where differing political opinions arise on an issue of democracy and good governance and where politics of sovereignty of state crop up, members of non-affected delegations are often reluctant to institute commissions of inquiry.

Because commissions of inquiry are further delegated by the regional parliament to the country delegation, there is responsibility shirking on the reporting structures. It becomes problematic for the national parliament to delegate to the regional assembly which further re-delegates to the national delegates the accountability function.

According to respondent 4, the tool faces political challenges flowing from the desire not to interfere in the domestic affairs of the member state and its resulting consequence of reciprocity where delegations hope that should they not push their counterparts to the wall, when their countries are on the spotlight they will also not be pushed to the wall, this political atmosphere leads to this tool remaining underutilized by the ECOWAS Parliament.

Although there is no provision for fact-finding missions in the founding documents, and as if to make up for the underutilized commission of inquiry, the community parliament conducts finding missions. Respondent 3 highlights that fact finding missions have been explored by the community parliament in field visit formats where representatives of the community parliament make visits to issue areas in member states. For example, respondent 4 mentions that in 2019, to address the migration crisis from West Africa to Europe, the community parliament visited the Argadez region in the country of Niger. This allowed it to directly engage with the ECOWAS citizenry, get the views of the people as to why there was an influx in migration patterns to the west.

After a fact-finding mission, the community parliament prepares a brief to members of the Authority on the findings of its mission and the recommendations. Respondent 5 mentions that once the brief is tabled to the authority there is no follow up mechanism that allows the community parliament to ask the status of implementation of their recommendations. This tool ends at reporting. It is also not clear what happens between field visits and report writing. Since there is

no legal text on the modalities of fact-finding missions, the tabling of resulting reports in plenary, holding of debates on the reports including recommendations made remain grey.

6.3.4 Accountability through oversight activities on program implementing bodies and institutions

Article 7 (c) of the Supplementary Act allows the parliament to conduct oversight over the activities of program implementing bodies of the ECOWAS community. Further, article 7 also allows the parliament to adopt appropriate resolutions on the findings that follow its oversight activities. The objective of the oversight activity is to promote the practice of accountability. In addition to article 7, rule 103⁷⁴ allows the parliament to grant audience to heads of agencies on issues pertaining to their mandate but also to hold debates following the presentation of issues by the head of agencies (ECOWAS, 2020).⁷⁵

To explain how the oversight activities operate, respondent 3 mentions that it begins with the parliament requesting data from an agency implementing activities of the ECOWAS community. Once the agency is selected for oversight, the community parliament through the clerks then establish terms of reference from the agency under study. Some of the documents the clerks ask for include the human resource manual, the strategic plan showing the activities the agency intends to undertake, as well as information on their budgetary requirements.

The next stage of the oversight activity is the physical visit, where the agency visited gives a presentation to the parliamentary delegation to facilitate the understanding of the delegation on how the agency works based on the documents it has submitted. The presentation includes the statement of the mandate, organization, and operation of the agency in the respective areas of intervention. They also present the budgetary outlook, the achievements, as well as the challenges they face. During the presentation by the agency, questions are raised by the parliamentary delegation and answers provided by the agency. Once completed a report is generated with comments and recommendations from the delegation.

⁷⁴ See rule 103 of the Rules of Procedure on relations with specialized agencies of the community.

⁷⁵ See agencies of ECOWAS available at https://ecowas.int/?page_id=157 accessed on 8/3/2022.

After an oversight activity is conducted, the report is tabled in plenary for discussion after which it is adopted.⁷⁶ Ideally the recommendations of the report are sent to the ECOWAS commission for forwarding to the Authority who can then act on the parliament's recommendations. Although the oversight over program implementing bodies appears like fact finding missions, respondent 3 mentions that the fundamental difference between fact finding missions and oversight over implementing agencies is that the latter is enshrined in law and has clear mechanisms and guidelines on how to be conducted. Respondents 6 and 8 however note that the effectiveness of the tool is cut short because oversight reports never reach the ECOWAS commission or the Authority of heads of states and governments.

The oversight functions create a relationship between the agency and the community parliament and allow the parliament to question the agency on the conduct of its mandate. After justification or explanation of its position the parliament draws up reports which reporting stage is problematic. Ideally the reports should reach the decision-making body of the Community Authority through the commission. After the reports reach the Authority of heads of states, action must then be taken to ensure enforcement and action on the parliament's recommendation. Often these reports end at the library with none completing the cycle of accountability. They also add that there is no ex-post activity that reviews the decision of the authority on the reports containing the parliament's recommendations. The oversight function as envisioned by the rules of procedure and the supplementary act is highly multi-level involving three institutions of ECOWAS.

Following an oversight activity, and upon observance of a dysfunction in the performance of the tasks assigned to the program implementing body or institution, Article 35 of the supplementary act allows the community parliament to submit questions to the body or institution experiencing the dysfunction. After the issue is raised the Act allows the parliament to refer the matter to the Council of Ministers.

Section 35, allowing a referral to the Council of Ministers not only introduces a new player into the oversight function but it also legalizes and legitimizes the multi-levelness of the oversight function. It allows not only the parliament to be the stakeholder, but also the Council of Ministers.

⁷⁶ See Fourth Legislature 2018 report on the oversight activities of program implementing bodies of the community Togo-Benin-Ghana. West African Power Pool in Cotonou, Regional Agency for Agriculture and Food in Lomé and the ECOWAS regional Electricity regulatory Authority in Accra.

The rules of procedure⁷⁷ on the other hand go as far as giving out the details and modalities of conduct of the question and answer sessions, it provides the channels to be followed by the representative asking the question, it also introduces a one month timeline within which the answer must be provided, its rule 107 (6) however, limits the effectiveness of the tool by allowing the chairman of the council and the president to decline providing a response to question and answer sessions on grounds of public interest.

Respondent 3 notes that the fact the rules of procedure allow the Council of Ministers to decline providing an answer that is raised by a parliamentary representative is a cutthroat card on the conduct of the oversight function. Indeed, the option not to answer questions raised as well as the multilevel-ness of the performance makes the function less effective.

6.3.5 Accountability through budgetary oversight and opinions

Last and not least of the accountability tools available to the ECOWAS community is the budgetary oversight function and the use of the parliament's opinion as an accountability tool. The ECOWAS budgetary process is a delegated function, although the budget is funded by the community levy its decision-making process is a multi-stakeholder stakeholder process involving three main agencies, the Administration and Finance Commission (AFC), the Commission and the Community Parliament.

The budget process begins when the commission head, using the community levy sets the budget cap, the AFC then calls on all ECOWAS agencies and institutions to send to it their draft budgets. Once received, the AFC examines the budgetary estimates and has power to call the heads of these institutions and agencies and ask them to explain the figures in their draft budgets. When satisfied with the documents and the explanations from the agencies and institutions of ECOWAS, the AFC then prepares a draft budget by consolidating the figures obtained from all agencies, prepares a report that explains the draft budget and then sends the two documents to the community parliament for consideration.

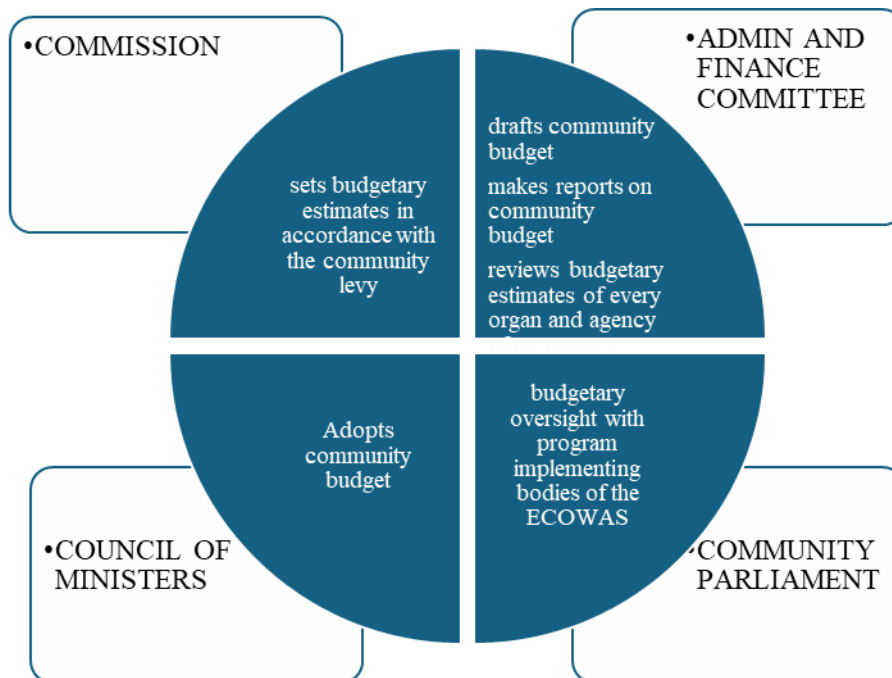
The community establishes strict timelines for the budgetary process and expects the AFC to forward to Parliament its report as well as the draft community budget not later than two days after the AFC session. Once received, the community parliament proceeds to establish a committee that

⁷⁷ See rule 107.

investigates the budget while guided by the report of the AFC. The parliament may call upon the different agencies that presented their budgetary estimates to it to render an explanation of their budgetary estimates including reasons for the numbers. This allows the parliament to give an informed opinion as required under article 17 of the Supplementary Act. In its opinion, Parliament may issue proposals for an increase or decrease in budgetary allocations including proposals for amendments where necessary. At the conclusion of the budgetary oversight by Parliament, there are three documents, opinion of the parliament, report of the AFC and the budget which is then presented to the council for approval.⁷⁸ Figure 15 illustrates the actors involved in the ECOWAS budgetary process including different roles they perform.

Figure 15: Actors involved in the ECOWAS budgetary process

Source: Author's own



Respondents 1, 2 and 6 were all quick to mention that the community parliament's budgetary oversight functions are new and have not been explored to the maximum. They added that this process involves multiple agents; that is the commission, the AFC, the Parliament, and the council. The multi actor situation begins with the president of the ECOWAS commission who in

⁷⁸ See Article 17 (a-f) of the Supplementary Act.

establishing the budgetary estimates and in line with the Community Levy⁷⁹ puts a cap on the maximum amount an institution of the community can increase its budget to.

The three respondents also termed the powers of the parliament on the budget as weak on two accounts, first on the Parliaments inability to increase or decrease the community budget and secondly on the fact that the ultimate power over the purse is vested in the Authority of heads of state as guided by the community levy and the parliament cannot question them. To put forward this position, they added that the opinion, which is the resolution of the parliament on the budget, has no follow-up mechanisms to ensure that the sentiments and comments of the parliament have been considered.

As much as the parliament has powers to conduct budgetary oversight, from inception of the supplementary act in 2016 that conferred this new function to the date of conducting this research respondents 2, 3 and 6 highlight that there have been no clear guidelines and rules of procedure on how to conduct the budgetary oversight function. The conduct of this function is left to the discretion of the speakers who rely on and adopt the procedures adopted by their domestic parliament.

The budgetary oversight function is riddled with duplication of function with no clear agenda on the outcome sought. Respondents 4 and 6 both mentioned that the community parliament functions and procedures mimic those of the AFC. While conducting oversight, the parliament is expected to call in the heads of agencies and institutions to if not defend, at least explain their estimates this is exactly what the AFC does with the difference being that the AFC can impose cuts and enforce additions while the Parliament cannot. Owing to this duplicity of functions, my respondent placed empty rhetoric on the actual effect of the parliament's functions when it cannot make meaningful decisions on the same.

Other criticisms of the budgetary oversight function are the reluctance to adhere to the set timelines. The Act requires the budget to be sent to parliament two days after the session of the AFC is concluded and Parliament has seven days to conduct oversight. Respondent 1 states not only are there delays in releasing the AFC report on the budget as well as receiving the budget itself, but also that the one week dedicated to budgetary oversight is barely enough to conduct any

⁷⁹ See Article 69 as read with 70 of the Revised Treaty.

effective oversight. The timelines for reviewing the budget are very strict and any slight delays on release of the budget and the AFC report to the parliament hampers the thoroughness of the oversight process.

Respondent 6 notes that the release of the budget and the report has not been seamless, often the budget is sent and after a few follow-up emails, the report is sent this can take up to three days. This kind of delay does not just affect the setting up and commencement of the oversight committee activities by parliament, ultimately the delays translate to delays in releasing the parliament's opinion on the budget.

Respondent 7 is quick to mention that at times the delays are seen as a tact to hamper the issuance of the budgetary opinion. The supplementary act dictates that where the parliament fails to render an opinion within the stipulated period, it shall be deemed to have given its opinion.⁸⁰ In hindsight, the delays in releasing the report and the budgetary estimates translate into two things, one, that the parliament will be late in setting up and commencing its oversight processes and that when it does, it has a short time frame to conduct the oversight. Ultimately, delays translate to either not issuing an opinion or issuing one that is rushed and not thorough.

To counter the challenges posed by delays, the parliament has assumed a do or die attitude in conducting oversight. Respondents 8, 9 and 10 all concur with the fact that since 2016 when the parliament got the power to conduct budgetary oversight, the timelines in releasing the community budget to the parliament have never been met, despite this the parliament has always given an opinion. Although this is commendable, it also affirms the concerns raised on the quality and thoroughness of the budgetary oversight function by the parliament on account of the multi stakeholder and multi levelness of the process.

On the quality of the oversight function, respondents 2 and 6 while commenting on the subordinate role of the parliament compared to that of the AFC and the council, highlighted the fact that although the community parliament attends the meetings of the AFC on the budget, the commission does not allow the parliament to represent its own opinion to the council. In fact, during the fourth legislature this led to a power struggle between these institutions and the tension was manifested in the fact that the agenda at the AFC meeting did not reflect the opinion of the

⁸⁰ See Article 17 (f) of the Supplementary Act.

parliament on the Community budget. It is worth noting that the position of parliament in its budgetary function is so weak that at the time of passing the 2016 community budget, the fourth legislature was yet to be inaugurated.⁸¹ The budget at that time was adopted without input from Parliament.

In addition to the fact that there is no consensus on the modalities of how to conduct the parliamentary oversight function, respondent 6 notes that because the ECOWAS budget is implemented based on the allocation from the community levy which puts a limit to the budgetary provisions allocated to the parliament, the constraints limit the activity of the parliament.

Akin to this, respondents 6 and 8 add that as much as the parliament has financial autonomy over the execution of its own budget, its powers are capped based on the allocation from the community levy, they cannot propose figures that are higher than the pre-determined amount of the community levy.

Owing to the budgetary process being a delegated function and in addition to its multilevel nature the budget oversight function allows decision making on a single function to be performed by more than one institution of ECOWAS. The Commission, the AFC and the Parliament are all spread within the process with the Council of Ministers having the final power to adopt the community budget. The multilevel ness places the parliament at a lower cadre of decision making compared to the other institutions. This coupled with the weak effect of the opinion of the parliament on the budget, the lack of adherence to strict timelines, limits the powers and influence of the budgetary oversight function.

6.4 Conclusion

The ECOWAS' revised treaty, the Supplementary Act, and the ECOWAS Parliament's rules of procedure are all documents instructive on how the community parliament conducts its function of representation and accountability. The details presented in this section indicate several tools that help answer the research question how the ECOWAS Parliament conducts accountability and representation even though lacking election. Various tools ranging from the community parliaments delegation processes, dual mandate responsibility, relationship with partner states' parliaments, delocalized meetings, sensitization activities, fact finding missions and the oversight

⁸¹ See the ECOWAS Parliament 2016 annual report, p. 7.

over the budget were discussed. The section also highlighted how MLG affects the conduct of each tool of accountability.

All tools highlighted present opportunities for information to be availed to the parliament, evidencing that these tools have great potential in not only informing the ECOWAS citizenry of the parliament's activities. The tools moreover present opportunities for the citizenry to engage with the parliament and ask questions and receive answers. They also revealed how MLG manifests, including how the different stakeholders interact in the conduct of the oversight and the representative role. My analysis confirms the hypothesis that MLG affects the effectiveness of the conduct of accountability. In addition to multi-level challenges, the thesis developed a recurring theme in the lack of enforcement mechanism in all tools investigated.

The next chapter discusses the different tools of representation and accountability used by both IPIs. The goal is to analyze commonality and differences in modes of representation and to draw recommendations to help advance the representative and oversight function of these two parliaments.

Chapter 7

Discussion of findings

Introducing the concept of *nomilections*

7.1 Introduction

The lifeline of parliamentary democracy is delegation and accountability (Strøm, 2000). This thesis examines how these two parliamentary functions exist at the supranational level. The central assumption is that because of delegation, parliaments are referred to as representatives of the people and, moreover, this representative role also establishes a corresponding need for accountability. On this premise my study established a working definition of delegation being an act where an actor referred to as principal relies on a second actor – referred to as agent – to act on the principals behalf (Lupia, 2003; Müller et al., 2003; Strøm, 2000). Accountability is understood as a relationship requiring one to render an account and provide information by either explaining or justifying an action and the other party receiving the explanation has a duty to reward or sanction the one rendering the account (Botlhale, 2012, Bovens, 2007, Held, 2004).

These two definitions are useful because in parliamentary democracy representation (arrived at after delegation) and accountability are both used to promote democracy, and occur especially via election (Harrop, 1987 Katz, 1997, Powell & Powell Jr, 2000). This position is confirmed by scholarly literature which posit election as the universal yardstick of accountability and democracy holding that without election there is no accountability – and hence no democracy (Dahal et al., 2002; Gyong, 2014, Lührmann et al., 2020). It is on this premise that this study seeks to identify how the EALA, and the ECOWAS Community Parliament claims to promote democracy and good governance by conducting accountability without the key tool of direct election.

The selection of these two African regional parliaments is because parliamentary democracy requires accountability and representation which is achieved and arrived at through delegation during the conduct of election. Parliamentary democracy relies on election as a tool of both representation and accountability. Election helps secure political representation and hold the executive accountable. It is because of these two functions that parliaments are said to be agents of democracy and good governance (Agere, 2000; Madue, 2013; Woods, 1999). In short, by

representing the people and conducting accountability, parliaments directly contribute to democracy and good governance.

Convincing motivation for delegation exist, including to address capacity and reduced political transactional costs, increase of competencies and skills resulting to enhanced efficiency plus the ever present need to address collective action problems (Dahl, 1970; Strøm, 2000). In addition, this research is cognizant of the fact that delegation entails potential agency problems (Lupia, 2003; Olson, 1965). Agency problems also present adverse effects on accountability. For example, delegation generates agency games resulting to responsibility shirking where agents are, plainly put, not held accountable (Bovens, 2007; Piattoni, 2013). Or, in a similar vein, because the supranational parliamentary level features varying national scrutiny procedures, accountability – as demonstrated below – is a daunting task. It yields in some instances varying national results with some securing high results and others reducing the prospects of accountability in total.

In combination with varying political cultures this makes accountability at the supranational level far from the ideational national example (Lupia & Mccubbins, 2000; Strøm, 2000). In addition, at the supranational level complex relations of delegation exist beyond the features of ideal linear delegation patterns. The complex relation of delegation at the supranational level also introduces multiple agents and multiple principals to the chain of accountability. This exacerbates the challenges of adverse selection where the principal is not fully aware of the agents competencies, in addition to moral hazards where the agent takes actions contrary to the will and interest of the principal, leading to increased agency loss (Lupia, 2003; Strøm, 2000). Literature also presents a litany of other challenges, problematic to the conduct of accountability. The agency problems highlighted in this chapter include information problems where agents complain about information disadvantage or that the volume of information necessary for accountability is dispersed either too late and too much varying political processes and multi-level governance (Bergman, 2000; Müller et al., 2003). In addition, translation concerns arise where more than one language is used.

Bearing this in mind, the objective of this section is to, first, confirm that the IPIs in Africa are institutions of representation of their citizenry and have the treaty mandate of promoting democracy and conducting accountability. Secondly, I seek to uncover how these two IPIs conduct accountability without conducting elections. The third objective is to position empirical findings in theory and existing literature, and specifically to identify the relevance of MLG in the conduct

of the two key functions. I argue that MLG reduces the efficiency of these parliaments in conducting the accountability function. Finally, because African IPIs have received little scholarly attention it is my hope that this research contributes towards the advancement of scholarly works on African regional parliaments, especially the EALA and the ECOWAS Parliament.

With the agenda set, the preceding sections establish that – according to their respective legal documents – these two regional parliaments have been imbued with the mandates to represent the people, conduct accountability, and ultimately, promote and protect democracy and good governance. It presents information containing triangulated data from primary sources like treaties, legal acts of parliaments and rules of procedure, from interviews with officials of the two regional parliaments, on how each of the institutions performs the function of accountability and representation without elections, and from academic literature.

Various tools of accountability are identified and analyzed, plus instances of ‘multi-levelness’ of the functioning of the two IPIs are also recorded and discussed. The section confirms that both EALA and the ECOWAS Parliament use similar tools to conduct their core functions. It also shows that existing differences identified in the tools were semantic, with only different names being given to similar activities while core contents and functions remain the same across the pair.

For purposes of clarity MLG is defined as the dispersion of governance across multiple jurisdictions (Hooghe & Marks, 2010; Hooghe et al., 2001; Piattoni, 2010; Zürn, 2010). This said, within the two IPIs, MLG is identified through the performance of a parliamentary function across several jurisdictions ranging from the domestic level (of the partner states) to the regional level of the IPI. In addition, MLG allows actors other than those traditionally associated with conducting parliamentary functions to be engaged in parliamentary functions. Similarly, MLG is seen in decision-making. For the two IPIs it is co-shared between the parliament and others in the corresponding RO to which the two IPIs belong. Various characteristics of MLG besides the dispersion of governance are discussed; elements such as plurality of actors existing in a non-hierarchical relationship of interaction, as described by (Hooghe & Marks, 2010; Hooghe et al., 2001; Peters & Pierre, 2004; Rittberger, 2010) will be demonstrated. Other characteristics such as MLG’s reliance on high levels of coordination and cooperation for information exchange and functional benefits are established and confirmed. MLG is further criticized for making it difficult to identify the actors’ deciding. It creates gaps on competency issues and offers a myriad of other

cooperation and coordination technicalities see discussion in (Bache et al., 2016; Benz, 2000; Hooghe & Marks, 2003a, 2003b, 2020; Rittberger, 2010). These criticisms found in the literature is used to develop the research assumptions that;

- A. Although EALA and the ECOWAS Parliament have the same function of representation and accountability as their domestic counterparts, they cannot perform these functions in the same way their domestic counterparts do.
- B. MLG reduces the effectiveness of the function of accountability such that strong MLG translates to weak accountability mechanisms and weak MLG translates to higher accountability.

To confirm these research assumptions, specific examples from the case studies will be discussed to show how MLG presents challenges to cooperation and limits actors' willingness to share information and, as a result, causes inordinate delay. The challenges highlighted in this chapter are derived from data obtained at the field work and corroborated by existing scholarly criticisms on MLG. The contribution this section offers to existing literature is that it presents empirical data that aligns and confirms existing theoretical literature on delegation and MLG.

While it might be necessary to present in-depth discussions on the effects of having several actors perform a single function or examine the impact of the presence of multiple players on the effectiveness of discharging a role, these questions are outside the scope of this research and are left open for future and further research. This research essentially focuses on probing the assumption that MLG, which is a feature of IPIs, in this case of EALA and the ECOWAS Parliament, inhibits their capacity to perform accountability and representation functions as their domestic counterparts.

7.2 Format of presentation

This section of the thesis is designed to answer the key research questions and does so in a question-and-answer format. It also presents empirical data in table form. Each table at the end of the chapter contains data relating to both EALA and the ECOWAS Parliament. The aim of the format adopted is to guide the reader through the discussion and to present data from a comparative perspective.

The discussions explain the general question under study, and the discussions confirm congruence with existing literature and test the research assumptions. The section begins with addressing the question whether the EALA and the ECOWAS parliament have a democratic mandate established in their legitimizing documents. After having established that both parliaments enjoy a legitimate mandate, it proceeds to present discussions on *nomilections* which seeks to answer the main research question of how – in the face of a lack of election – do the parliaments of EALA and the ECOWAS Parliament conduct accountability. The concept of *nomilection* is novel and through it I seek to make contributions to the field. The chapter then proceeds to present data on other tools of representation and accountability that are used by both parliaments to promote democracy. While discussions on how MLG affects the conduct of accountability are also made, they are conceived as agency loss exacerbators and a cause of increased contestation. This MLG conceptualization as a unique feature of supranational delegation and a catalyst of agency loss helps the analytical test confirm the research assumption that owing to MLG, the regional parliaments cannot conduct accountability as their domestic counterparts.

7.2.1 Do these parliaments have treaty-based legitimacy?

Table 6 presents legal documents that empower the IPIs; is evidence that the two parliaments as IPIs created within the context of regional integration, and they are organs of IOs establishing them. It also confirms that both parliaments have adopted supranational norms and been imbued with a democratic mandate and both benefit from an array of documents establishing their legal basis. It is therefore not in dispute that the parliaments have been given the same mandate of legitimacy, representation, accountability, democracy, and good governance. The table also confirms the literature that parliaments are traditionally established to promote democracy and good governance and that the EALA and ECOWAS Parliament are no exception.

Table 6: Democratic mandate of the IPIs

Source: Author's own

| International Organization | Legal document | Provisions relating to the International Parliamentary institution |
|---|--|---|
| Economic Community of West African States | 1993- ECOWAS Treaty | Article 13. establishes ECOWAS Parliament |
| | 2016- Supplementary Act relating to the enhancement of the powers of the ECOWAS parliament | Article 4. Sets objectives of the parliament to include among others. <ul style="list-style-type: none"> • strengthen representative democracy, • promote & defend accountability and good governance. • Reinforcement of legitimacy of the community. |
| | 2020- ECOWAS parliament rules of procedure | Establishes modalities on conduct of parliamentary affairs |
| East African Community | 2000- Treaty for the Establishment of the East African Community | Article 9 establishes East African Legislative Assembly. Article 6 establishes good governance, democracy, and accountability as principles of the EAC |
| | 2015 EALA rules of procedure | Establishes modalities on conduct of parliamentary affairs |

7.2.2 Delegation, representation, and accountability

Table 7 indicates the different tools that each of the regional parliaments use to execute their treaty-based mandates. Primary data collected from interviews with both parliaments indicate that the tools serve a dual-purpose parliamentary function of both representation and accountability, and both are used to gain legitimacy. Because both IPIs employ more than one tool of accountability, Table 7 makes a further categorization on the left column, either ex-ante tools containing activities conducted before the representative assumes office, and ex-post accountability tools meaning activities that occur after the representative assumes office at the regional assembly.

Table 7: EALA/ECOWAS Parliament tools of accountability

Source: Author's own

| Regional parliament | Tools of Representation and Accountability | Ex- ante Accountability Tools | Ex-post Accountability Tools |
|---------------------|---|-------------------------------|---|
| ECOWAS PARLIAMENT | <p>Nomilection</p> <p>Oversight over program implementing bodies.</p> <p>Relationship with national assemblies.</p> <p>Question and answer sessions.</p> <p>Delocalized meetings.</p> <p>Fact finding missions.</p> <p>Commissions of inquiry.</p> <p>Budget oversight.</p> <p>Sensitization activities.</p> <p>Interpellation.</p> | Nomilection | <p>Oversight over program implementing bodies.</p> <p>Relationship with national assemblies.</p> <p>Question and answer sessions.</p> <p>Delocalized meetings.</p> <p>Fact finding missions.</p> <p>Commissions of inquiry.</p> <p>Budget oversight.</p> <p>Sensitization activities.</p> <p>Interpellation</p> |
| EALA | <p>Nomilection</p> <p>Question and answer sessions.</p> <p>Relationship with national Parliaments.</p> <p>Sensitization activities.</p> <p>Budget oversight.</p> | Nomilection | <p>Question and answer sessions.</p> <p>Relationship with national parliaments.</p> <p>Sensitization activities.</p> <p>Budget oversight</p> |

7.2.3 Supranational delegation and multi-level governance in the exercise of parliamentary functions

Table 8 is a depiction of the presence of MLG and multi-stakeholder initiatives as a key feature of supranational delegation especially during the functioning of representation and accountability tools identified in Table 7. The column on accountability tools enumerates tools used by both EALA and the ECOWAS parliament to perform the function of representation and accountability. The third column of table 8 highlights the presence of and number of (multiple) actors in each of the highlighted tools. Because the tools of accountability in the second column are conceived as parliamentary functions, the actors in the third column are referred to as the number of actors in a parliamentary function.

Table 8 confirms that both parliaments employ MLG and entail multi stakeholder initiatives and cooperation in the conduct of accountability and representation. Hence, the parliaments share their parliamentary function with several actors – some located at the regional level and others at the state level. Other salient features associated with supranational delegation and MLG its reliance on coordination and cooperation for information exchange, including accommodating both formal and informal processes as well as shadow actors as presented in scholarly literature. This will be discussed in detail in the following sections.

Table 8: EALA/ECOWAS Parliament interaction with MLG

Source: Author’s own

| | <u>Accountability Tool</u> | <u>MLG actors in regional Parliaments’ functions</u> |
|----|--|---|
| 1 | Nom ilections | 1.Political Parties, 2.National Assemblies 3.Summit, 4.Shadow/informal actors |
| 2 | Sensitization Meetings and Activities | 1.Regional Parliament, 2.National Assembly, 3.ECOWAS Commission |
| 3 | Delocalized Meetings | 1.Regional Parliament 2.National Assemblies |
| 4 | Budgetary Process | 1. Regional Parliament 2. Administration and Finance Commission (AFC) 3.Council of Ministers 4. national treasuries of the East African Community partner states |
| 5 | Q & A | 1.Regional Parliament 2.Council of Ministers 3.ECOWAS Commission |
| 6 | Oversight Over Program Implementing Bodies and Institutions | 1.Regional parliament, 2.Authority, 3. ECOWAS Commission 4. Council of Ministers |
| 7 | Relationship With National Parliament | 1.Regional Parliaments 2.National Assemblies 3.Shadows Actors /political Caucus |
| 8 | Interpellations | 1.Regional Parliament |
| 9 | Reports | 1.Regional Parliaments 2.Council of Ministers 3.Summit of Heads of State /Authority of Heads of States |
| 10 | Commissions of Inquiry and Fact-Finding Missions | 1.Regional Parliament 2. Council of Ministers |

7.3 Delegation without election?

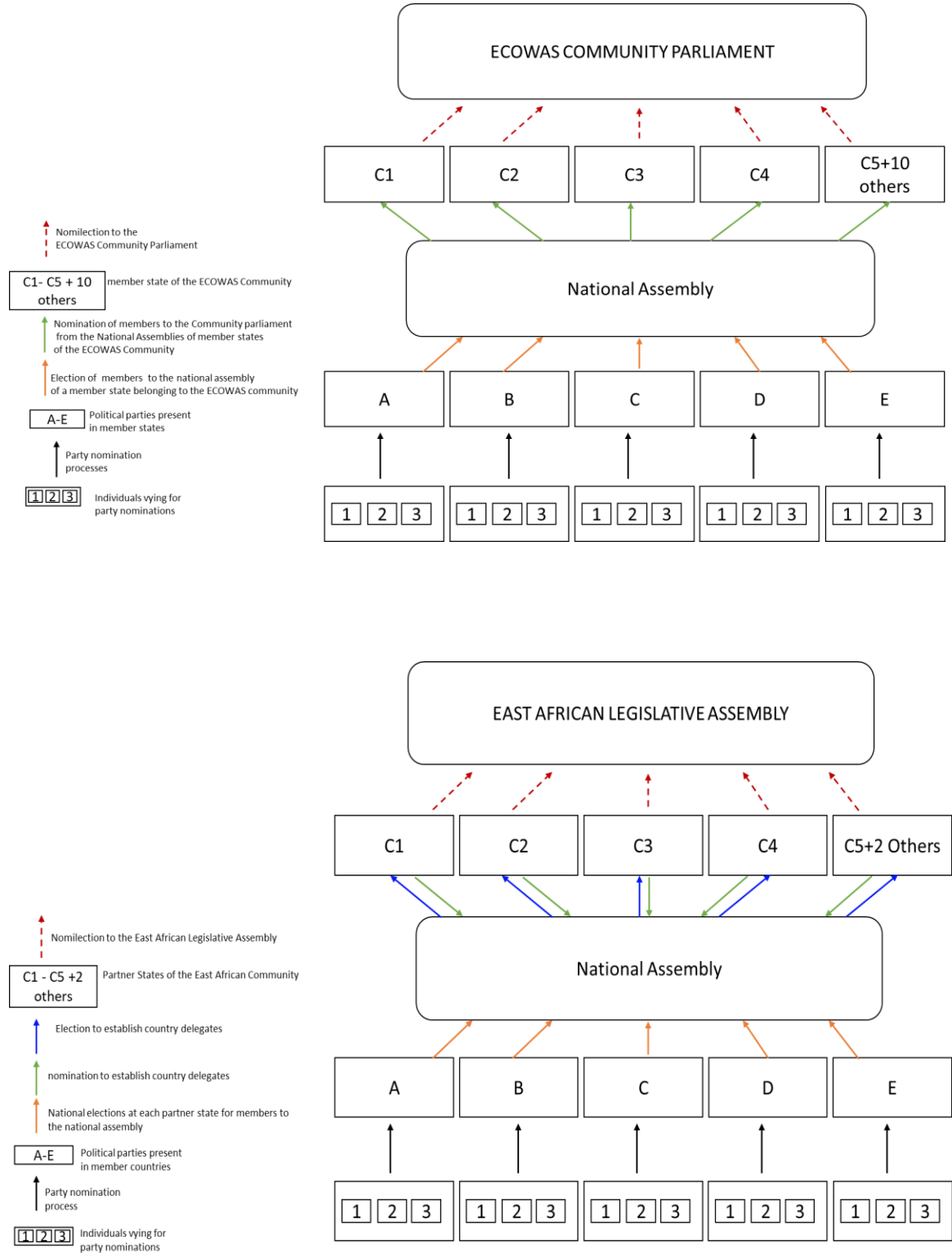
Although other IPIs like the European Parliament and the Mercosur parliament choose their members by direct election, this is not the case with the EALA and the ECOWAS Parliament. For both parliaments, elections are non-traditional as they conduct what I call *nomilections*. *Nomilection* is a combination of the word nomination and election, it is used to mean a hybrid process of selecting MPs where both tools are seen to contribute at part to the selection processes of a candidate to be an MP in the regional assembly. The tools are intertwined such that there is no distinction between election and nomination takes is more important. Simply put, *nomilection* employs a cocktail of divergent procedures and rules to arrive at the membership to the regional assemblies.

The nature of *nomilection* is such that it does not exclude the classical models of direct election, nor does it leave out the indirect processes of lobbying and nomination. *Nomilection* combines both direct election and nomination in the selection of candidates. Both processes are utilized by stakeholders like political parties, national parliaments and national governments all who equally contribute to the selection of representatives to the regional assembly. For the selection of representatives at the regional assembly, *nomilection* actors have to their discretion the choice of election or nomination and can incorporate both as shown in Figure 15.

Figure 15 shows the selection process used to arrive at the political representation of both the EALA and the ECOWAS parliament. *Nomilection* demonstrates that each of the parliament uses both election and nomination of candidates from their member and partner state to arrive at the respective representative and country delegate/MP to their regional assembly. It is the use of both direct and indirect methods of selection of candidates that prompts the concept. This word is relatively new and unexplored and because of this, it has earned its place as a research contribution. As a result of the processes demonstrated in Figure 15, there exist four archetypes of *nomilections*.

Figure 15: Nomilection procedures of EALA and ECOWAS Parliament

Source: Author's own



Archetypes of *nomilections*

They include:

1. Selection from an existing pool of candidates who have already been directly elected and are current MPs at the national level. The national parliament then nominates the elected member as a representative to the regional assembly. Here it's *the national election preceding nomination by the national assembly to the regional assembly*.

National **Election** + **Nomination** at National Assembly

2. Selection from an existing pool of elected candidates serving as current MPs at the regional level these candidates are subject to a second vote by their national assembly. In this instance *national elections preceded the election at the national assembly to the regional assembly*.

National **Election** + **Election** at National Assembly

3. Selection from political candidates who are not members of the national assembly; they are first nominated by political parties then subject to a vote at the national assembly to the regional assembly. In this *instance nomination by political caucuses precedes election by the national assembly to the regional assembly*.

Nomination by political caucuses + **Election at** National Assembly

4. Selection of a political candidate, not MPs, to the national assembly is directly nominated to the regional assembly. In this instance *nomination is seen as the overriding process, nomination by political parties to the national assembly that also nominates to the regional assembly*.

Nomination by political caucuses + **Nomination** at National Assembly

As mentioned before, both EALA and ECOWA parliaments do not have direct election (by citizens) of their members, both have devised a hybrid system of selection that combines nomination and election of members to their respective regional parliaments. Although both the EALA and ECOWAS Parliament do not use the word *nomilection* to define the procedure of selecting their representatives, these procedures adopted by both parliaments and especially those under Article 52 of the EAC Treaty on the election of members to EALA⁸² and those in Article

⁸² The determination of questions pertaining to whether a person is an elected member of the assembly or whether a seat to the assembly is vacant or not is solely left to the institutions of the partner states. This means that all 7

18⁸³ of the Supplementary Act relating to the Enhancement of the Powers of the ECOWAS Parliament, confirm the existence of type 1 and 2 *nomilection* for ECOWAS and type 3 and 4 *nomilection* for EALA.

What are the key features of *nomilections*?

The archetypes of *nomilection* described in the section above are atypical to acts of delegation. *Nomilection* implies a chain of delegation from the voter, to the political party and ultimately to the parliamentary representative similar to the delegation chain suggested by (Strøm, 2000). Although not the ideal typical straight chain as envisioned by (Lupia, 2003), where each act of delegation attaches an agent to a principal, i.e. moving directly from voter to MP and from MP to cabinet minister, *nomilection* is not as simple and does not demonstrate singularity. The nature of delegation expressed during *nomilections* involves multiple principles and competing jurisdiction. Although not classical empirically *nomilection* contains common properties of delegation including involving a principal and an agent, present opportunities for competing interests and limiting information (Lupia, 2003).

Differing selection processes coupled with multiple actors.

Political decisions are sometimes made using the ‘garbage can’ model of decision -making (Strøm, 2000). This suggests anarchy in decision-making where fluid boundaries exists and decisions are reached through “tug of wars’ between different actors existing at different levels, i.e. grassroots, national and regional (Cohen et al., 1972). Within the context of *nomilections*, it must be understood that both regional parliaments consider states as their constituents and in the realm of delegation as the “principal”. To demonstrate the anarchy in selection of members, the EAC *nomilections* means that each of the seven partner states use their own systems to come up with a delegation of nine persons per state, who are then sent to the regional parliament as members based on Article 50 EAC Treaty. Each EAC partner state uses different selection processes to arrive at their representatives to the regional assembly. For example, Kenya involves political parties

partners’ states of the EAC have the autonomous discretion to decide who gets to sit as a country delegate at the regional assembly.

⁸³ Stipulates that pending direct election of the ECOWAS Parliament members by universal suffrage, the national assemblies of member states shall elect the representatives among themselves.

nominating individuals who are then subject to a vote in the national assembly to be members and representatives at the regional assembly; in contrast, South Sudan which is also a member of the EAC directly nominates its representatives to the regional assembly while Rwanda combines election. Every country chose whichever method suits them to select their representatives. Kenya uses type 3 and South Sudan uses type 4 *nomilection*.

For the ECOWAS, the partner states' parliaments elect the representatives from among themselves.⁸⁴ *Nomilections* for ECOWAS means the MPs are first directly elected by the citizenry of their nation state. Once one has made it to their respective national parliament, they have a second hurdle of being nominated or elected by their national parliament as an MP to the regional parliament in Abuja. The ECOWAS *nomilection* processes begins with the domestic election leading to the representatives at the national assemblies of each of the 15 partner states of the ECOWAS community who then become eligible for nomination and/or election by the national assembly to the regional assembly. For example, in Nigeria citizen select their own MPs to the national assembly; once at the national assembly, those elected MPs nominate from amongst themselves individuals as representatives to the regional assembly. Ghanaian MPs conduct election of already elected members to be their representatives to the regional assembly. Hence, while Nigeria has type 1 *nomilection* and Ghana has type 2 *nomilection*. Simply put, the procedures of selecting representatives to the regional assembly are not harmonized between the partner states. This lack of harmonization has earned the process a description of being anarchical because it depicts problematic and inconsistent requirements and procedure.

For both parliaments the use of differing processes by the members to their regional organizations to select parliamentary representatives also introduces multiple actors. Both parliaments' *nomilection* processes involve participation of at least three stakeholders in three different levels, the grassroots level, the national level and the regional level. For example, because at the EAC the membership of the parliament is a two-tire membership (EALA has both direct members, and the ex-officio members), *nomilection* is multi-level and multi-stakeholder involving different stages

⁸⁴ Article 18 of the supplementary act relating to the enhancement of the powers of the ECOWAS Parliament.

and actors in the selection processes.⁸⁵ The EAC *nomilection* processes accommodates political parties who nominate the individuals, the national assemblies of partner states to the EAC which confirm the candidate either through election or nomination and for the ex-officio members of EALA the regional level through the organ of the Summit of heads of states. For the ECOWAS Processes, *nomilections* at the grassroots level incorporate domestic processes of lobbying and nomination which result in election to the national assembly. The national assembly then nominates itself the representatives of the regional assembly.

The different political communities work in some form of organized anarchy in the selection processes with some entering and growing in importance at different stages and others fading into the background as decision making channels develop.

Incorporation of formal and informal processes

Procedural rules and formalities provide key insights around the complexities of delegation and the relationship between principal and agent (Shepsle, 1979). This is especially true for the linear channels of delegation. This narrative is however different for the case of EALA and the ECOWAS *nomilection* procedures which accommodate both formal and informal processes. Although the pair have established guidelines provided by their respective treaties and rules of procedure, they also incorporate informal channels owing to the nature of political lobbying. Incorporation of both

⁸⁵ For instance, during selection of the ex-officio members, the process is multi leveled commencing at the state level with grassroots stakeholder and the executive arms of government up to the regional level with the summit of heads of states. Primarily, the actors involved in selecting the ex-officio members are the summit of heads of state and their political advisors who remain undisclosed to the regional level, but because the process is pre-determined from the state level, a list of ministers and assistant ministers who are nominated at the domestic state level are then sent to the regional assembly. For the direct members, the first stage is where the individual members belonging to different political parties' lobby for a party nomination ticket, because different parties have different rules for being a member to the political party often common lobbying techniques are employed by members. For instance, payment of monies whether as a membership or nomination fee, or as a bribe, and the other is the use of party loyalties often associated with kindreds of the political party's leadership. Because of the informal nature of lobbying and nomination processes, children and kindred of political dynasties have been selected as representatives to EALA and with it the processes have come under sharp criticism.

The second stage involved in selecting the membership of EALA comes to play after a political candidate has secured a party nomination and is conducted in line with Article 50. After securing the nomination from the political party, a list of potential candidates is sent to the national assembly where a vote is taken. This process also incorporates informal processes such as lobbying where again harsh criticisms are levied, for example, in Uganda news of proposed nominee bribing members of parliament to vote for them were reported. Also the speaker for the Ugandan national assembly is reported to have warned the EALA aspirants from engaging in election malpractice like bribery. During the voting the national assembly as the constituent takes a vote on the names presented by the political parties and come up with a final list of 9 members whose names are forwarded to the EAC for approval and swearing in at the East African Legislative Assembly.

formal and informal procedures is both a unique feature of *nomilections* that sets it aside from other forms of selection, but it is also a problematic feature of *nomilection*.

For EALA informality is witnessed during lobbying by political candidates for votes in the national assembly. It is unclear how candidates go about with the lobbying process; however, the processes are reported, for example, in Uganda as electoral malpractice during voting sessions at the Ugandan national assembly. In Kenya the informality of the processes has resulted to claims of nepotisms including accusations of non-compliance with the treaty requirement that the processes reflect domestic political configuration. Consequently, there has been litigation at the East African Court of Justice on the selection of the representatives. The same is for their ECOWAS counterparts where the informality of the *nomilection* processes has snowballed and is witnessed during the plenary causing the representatives to walk out and consult shadow actors at the state level before participating in a vote at the assembly. The informal procedures incorporated are concealed and can only be deduced from other activities that follow the selection of representatives to the parliament such as court cases, media reports, and plenary observation on the conduct of the member of the regional parliament. Information on the informality, although not recorded on parliamentary Hansards, is reported on without a prejudice basis by the administrative staff of both parliament during interviews and deduced from the media reports and court cases available in online databases.

Dual mandate representation

Many delegations present opportunities for conflict of interest which feeds into the possibility for limited information (Lupia, 2003). This statement presents an apt description of the *nomilection* processes which result in dual mandate representatives at the regional assemblies. For the ECOWAS because the representatives are selected from their national assembly, the ECOWAS representatives assume dual responsibility to the national assembly and to the regional assembly concurrently. Their EAC counterparts also have a dual mandate reporting responsibility to their national assembly's where it is expected that the country delegates can present matters discussed at the regional assembly to the national assembly. This dual mandate responsibility is a textbook example of conflict of interest between the mandate of the regional assembly and that of the sending assembly. The constraints associated with serving the proverbial two masters at a time come to the fore especially when the dual mandate responsibility relies on coordination and

cooperation for information exchange (Müller et al., 2003), which is not freely given due to the obvious conflict of interest.

7.3.1 Is *Nomilection* representation and can it generate accountability?

Discussions in the preceding section demonstrate that *nomilection* is a process of delegation, resulting to a link of relationships between several actors and principals. It creates a relationship between the regional assembly and the national assembly, between the national assembly and the political caucuses and between the political caucuses and the citizenry. Of course, *nomilection* is not the typical linear line of delegation. Empirically, it varies in form, style and shape, it is however, important to note that these differences are common to delegation and of utmost importance is that *nomilection* as described above meets the general features of delegation as described by (Lupia, 2003; Strøm, 2000) in that it involves a principal and an agent, presents a possibility of conflict of interest and limits information exchange.

Nomilection involves changes where one who is traditionally considered an agent is converted into a principal. As a new principal (former agent) one further delegates to an agent until a final representative is arrived at.

For example, the citizens (principal) vote for the candidates to their national parliaments. The selected candidate once a member of parliament becomes an agent and simultaneously a principal and they get to select another agent to the regional assembly. This conversion process is constant although it may involve multiple agents depending on the democratic quality of the selecting state.

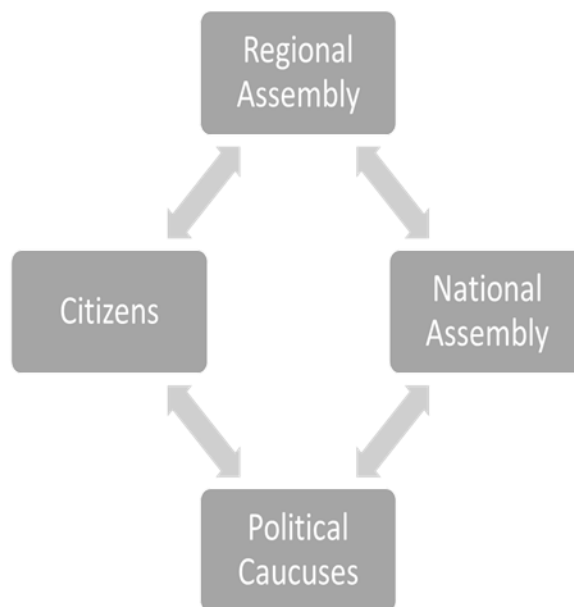
For some countries the agents involved are the citizenry, political parties and the members of parliament at the national assembly. The number of agents varies and increases, or decreases based on the democratic status of members to the regional economic communities.

Although complex, *nomilection* presents a principal agent framework that is hierarchical and necessary for accountability: the country delegates at the regional assembly act as agents of their superior principal, i.e. the national assembly whom they represent and are answerable to. The chain of accountability then cascades from the national assembly members, who are also answerable to the political caucuses who in turn represent and are answerable to the citizenry. The map and outcome of accountability described here is like the classical definition of accountability presented by scholars such as Fearon, Przeworski, Stoke et al. or Manin (Fearon, 1999; Manin, 2020;

Przeworski et al., 1999). To them accountability creates opportunities for agency losses to be addressed. By requiring agents to be answerable to the principle they allow for information to flow from one agent to the other thereby creating room for answerability which, in turn, necessitates enforceability. Enforceability would operate in the reverse of answerability where the citizens through the office of political parties would be able to recall non-performing members of the national assembly and reward by re-electing members of the national assembly. The national assembly would also be able to reward and punish members of the regional assembly by voting or removing from the regional assembly the respective representatives. These opportunities for accountability apply to all archetypes of *nomilections* regardless of which method of selection between nomination and election is adopted by the national assemblies of the respective RO partner states. Figure 16 below presents a description of the wheels of accountability under *nomilections*.

Figure 16: *Nomilection* as accountability

Source: Author's own



Nomilection as accountability-confirming bottlenecks

Nomilection in its current states presents strong evidence of it being an act of delegation with heavy presence of MLG and multi stakeholder participation. As mentioned previously, *nomilection*

features inclusion of multiple actors which is also a key characteristic of MLG. *Nomilections* bear untapped potentials of accountability. However, MLG by its very nature is problematic for accountability. First, it creates a relationship between the national parliament and the regional representatives. This relationship coupled with the existing channels of communication between the regional and domestic assembly create opportunities for answerability and allows the exchange of information necessary for accountability. Once there is an exchange of information between these two channels, the national assembly would then question the members of the regional assembly and have them explain or justify their actions. And because the vote lies with the domestic parliament, they can reward or sanction the members of the regional assembly. However, this potential of accountability remains unexplored.

Other than remaining unexplored, the second challenge is based on the fact that *nomilection* processes to both IPIs rely on the domestic democratic processes of the individual partner states. Chapter 5 and 6 above presents data showing that the domestic democratic institutions inform the processes that lead to selection of the representatives to the regional assembly. When this is put in perspective it is problematic because both the EAC and the ECOWAS community member and partner states perform dismally on global rankings of democracy, with some being cited as struggling democracies (DemocracyInAfrica, 2020; FreedomHouse, 2023). This is specifically problematic for the ECOWAS region, which has in the last five years been on the receiving end of democratic backlash owing to its growing number of civil unrest and military coups (Cascais, 2022). When the community members are battling on going democratic backsliding, it would appear utopic to expect the domestic selection process and those of members to the ECOWAS parliament to be democratic and rely on problematic and in some instances non-existing democratic practices of the member states. The resulting effect is a continuous trend of skepticism on the influence of the two parliaments on promoting democracy and good governance. The ECOWAS community exemplifies the anarchy in decision-making and the existence of fluid boundaries proposed by (Cohen et al., 1972) (see Chapters 5 and 6 bearing empirical data with further detailed discussions).

In addition to the skepticism on the democratic influence and especially for the ECOWAS parliament compliance with treaty provisions on gender inclusivity has been a challenge as states are unable to fill representative comprising 30% gender balance – as require by the Supplementary

Act – because the same is lacking at the domestic level.⁸⁶ Because states in their domestic parliaments do not meet the 30% threshold, they do not field a delegation of representatives to the region comprising the 30% gender requirement (see detailed discussions in Chapter 6 above.)

The selection processes are also multi-stakeholder in nature as seen in the number of actors engaged in the selection processes. For both parliaments the dual mandate relationship of the representatives creates room for both formal and informal channels of communication to execute parliamentary functions. The complexities in communication and cooperation witnessed in other tools also occur in the *nomilection* tool and lead to delays which occur during plenaries and voting at the regional assembly. The reliance on informal channels of communication makes it harder to establish who is making the decision and who is to be held accountable. Similarly, delegation challenge of competing competencies and ineffective oversight as elucidated by Strøm are witnessed in the dual mandate membership at the ECOWAS Parliament (Strøm, 2000). This also presents challenges to the conduct of accountability and especially during the selection of who is to be held accountable, by whom and especially when the person to account to is the same as the person accounting.

The reliance of the dual mandate of MPs on informal channels of communication between themselves and the shadow actors at the domestic level, makes it hard to execute functions in a timely manner as members of the regional parliament are still consulting their national counterparts/ actors. Agency problems associated with delegation where the agents complain of information disadvantage or where the agents complain that information is either stifled or that the volume of information is too much, too late, or sometimes not even translated or loses meaning during translation catch up with the accountability part of *nomilection*.

This multi-level nature presents challenges to the conduct of accountability. Accountability requires information exchange and clear delineation of relationships between the one accounting

⁸⁶ To buttress the accuracy of this inference, the supplementary Act requires that each member state must ensure at least 30% female representation in their parliamentary delegation. Empirical data shows that of the 15 ECOWAS member states, only Senegal leads in proportion of women members of parliament and in female political participation. To confirm this inference that a lack of compliance with gender representation is by countries whose national parliaments do not meet the 30% female representation threshold, Senegal is the only member state of the existing 15 members that complies with the requirement and sends a delegation comprising 30% female representatives, this is especially because Senegal is also the only country within the ECOWAS region whose national parliament has a high female representation and the position spills over to the regional assembly in Abuja.

and the one being accounted to. Because of MLG the potential of accountability in the processes of *nomilections* is weakened. In practice the challenge is also seen in the lack of data to show that political parties through the national assembly re-call the members of the regional assembly to explain or justify their actions and there is also no evidence of any reward and/or sanction emanating from the national assemblies.

7.4 Delegation through *nomilections*: Agency and accountability loss

Interest compatibility between an agent and a principal is not guaranteed post delegation and this generates agency problems which often occur when an agents actions are different from those preferred by a principal and is generated when the principal lacks full information about the competencies of the agent (Lupia, 2003; Müller et al., 2003; Strøm, 2000).

The difference between these two IPIs is that members of the ECOWAS parliament serve a dual mandate role and the EALA members solely serve the regional assembly. When looking at *nomilections* and when placed against the benchmark characteristics of MLG, most characteristics of MLG are present during the *nomilection* processes. For example, in MLG there is the presence of multiple actors (Bache et al., 2016) existing in a non-hierarchical relationship (Hooghe & Marks, 2010; Peters & Pierre, 2004a; Rittberger, 2010) which is evident in the *nomilection* processes. The *nomilection* processes incorporate MLG and uses both formal and informal processes of consultation, communication and cooperation (Bache & Flinders, 2004; Benz & Eberlein, 1999; Peters & Pierre, 2004b; van Popering-Verkerk & van Buuren, 2016). This illustrates consultation with both known and unknown (shadow actors) actors, employing both formal and informal networks of cooperation (Bache et al., 2016; Benz, 2000; Rittberger, 2010). The characteristics of MLG discussed above all exist during the *nomilection* processes, which prove that both parliaments rely on MLG in the selection of their members.

Although both regional parliaments claim to represent the citizenry of their respective regions, *nomilection* makes elements or representation, accountability, and election to be different from the classical model. Because of the informal and network nature of *nomilections* and further owing to the removal of the citizenry from the selection process of the members to the regional assembly, information asymmetry is lacking as the citizenry is not fully informed of the agent's doings. The members of the two IPIs do not have a duty to explain or justify their action or inaction directly to the citizenry, but to the national parliament. The duty shifts from the traditional duty to the

citizenry to a new duty to the national assemblies. This confirms the assumption that because they do not have direct election the regional parliaments cannot perform accountability as their domestic counterparts. Further, because election are not as in the domestic state level, the citizenry is not able to reward by re-electing or punishing by replacing the members of the regional assembly as envisaged in the domestic level. Although *nomilection* confirms assumptions made in the literature, the discussions in this section also ensure representation in areas that fail to explain the selection processes at the regional level.

Because the electorate of the regional assembly is the national parliaments, it becomes a requirement that the responsibility to account shifts to the national assembly and the political parties that field the candidates. When critically evaluated, the challenges associated with MLG and multi stakeholder initiatives are manifest. For example, the processes face bottlenecks in the exchange of information, coordination and cooperation delays and a removal of channel of answerability. In addition, there is no evidence of answerability or enforceability between the national assemblies and/or the political parties and the members of the regional parliaments. Instead, the *nomilection* processes of both EALA and ECOWAS parliament are riddled with multiple complexities associated with the lack of standardized rules of selection, the inclusion of multiple actors and multiple stakeholders, the reliance on both formal and informal networks including accommodating lobbying and political negotiations.

The challenges described above are akin to those of delegation and agency loss described by Lupia. For example, agency problems occasioned by a lack of and incomplete information about the agent and the actions of the agents by the principal and resulting to adverse selection and moral hazard (Lupia, 2003; Müller et al., 2003). What this means is that the agent, once selected by the principal, pursues different interest's contrary to the principal's agenda. These challenges are like the information challenges of *nomilection* when the constituency of the parliaments – the national assemblies – complain of receiving information too late and in a language that calls for translation. This information delays limit the chances of ex-post accountability and further limits opportunities for enforceability.

When placed on an accountability scale, *nomilection* and its challenges occasioned by MLG make answerability and enforceability elements of accountability in the traditional sense less probable. Instead of having the electorate in charge of election and using the same election to either reward

MPs by reelecting them or punish by removing them from office, *nomilection* processes witnessed at the regional level remove the citizenry from the processes and bring the political parties and the national governments to the fore. The situation at the regional level interferes with vertical accountability, which calls for accountability of elected leaders to local citizens, while providing a channel for the standards of good conduct on public officials. Aspects of vertical accountability which are often seen in the conduct of regular, free, and fair election as elucidated by Hellwig and Samuels and Ashworth (Ashworth, 2012; Hellwig & Samuels, 2008) are lacking at the regional level.

Because of its removal from direct contact with the citizenry, representation and accountability of the people by the regional parliaments cannot be perceived. It is unlike representation that occurs at the nation state. The representation at the regional level must be seen through the other existing channels of communication and areas of cooperation between the regional parliaments and the national parliaments. However, this research presents data that establishes that without conducting direct election, the two IPIs have developed other tools that make up – at least to some extent – for the lack of direct election and democratic accountability as understood in the domestic state settings.

7.5 Output legitimacy: How do the other tools of accountability identify in table 6 operate?

Chapter 2 discussed the different types of legitimacy. It presented literature on input legitimacy as being achieved through involvement of the citizens in decision making, out legitimacy by ensuring policy decisions are in line with citizenry expectations, and throughput legitimacy using different accountability mechanisms to allow participation by those affected by decision-making (Scharpf, 1998; Schimmelfennig et al., 2020; Schmidt, 2013). Viewing output legitimacy as accountability the literature shows it as a two-dimensional process: on one hand, it entails answerability where an agent offers explanations for their action and, on the other hand, enforceability where the principal is able to impose consequences on the agents explanations (Bergman, 2000; Bergman et al., 2005; Goetz & Jenkins, 2001, 2004; Lührmann et al., 2020; Schillemans, 2010; Weale, 2011). Both answerability and enforceability are components of throughput legitimacy and can further be defined by the times they occur. For example, when accountability occurs before an agent assumes office, it is termed as *ex-ante*, and when it occurs after an agent assumes office it is *ex-post* (Bergman et al., 2005; Przeworski et al., 1999).

Table 7 highlights the different ex-ante and ex-post accountability tools used by the EALA and the ECOWAS Parliament. Table 7 also shows the existence of tools which the literature classifies as either vertical forms of accountability, which allow the citizenry access to the agents before assuming office, or horizontal accountability, which allow inter-institutional access (Goetz & Jenkins, 2004; O'Donnell, 1998; Schedler, 1999; Schillemans, 2010). In table 6, the vertical forms of accountability feature in the column with ex-ante tools and horizontal forms of accountability are shown in the column with ex-post tools. The tools enumerated in table 6 below show the establishment of a relationship between the parliament and their constituents which relationship relies on information sharing to function. Information sharing, although problematic and a catalyst of agency loss, helps both the parliaments to be answerable by providing explanations and justifications and they also provide opportunities for enforceability as discussed in detail below.

7.5.1 Throughput Legitimacy through vertical ex-post accountability - How does it occur?

As mentioned earlier, this research examines throughput legitimacy through the mechanism of accountability. It finds that accountability exists in two dimensions, ex-ante and ex-post, as well as in horizontal and in vertical forms. The ex-post vertical tools of accountability are those activities that allow the parliamentary representatives to have access to the citizenry. Because both IPIs do not directly elect their members – unlike, for instance, the European Parliament and the Mercosur parliament – both the EALA and the ECOWAS Parliament have devised a wide array of ex-post accountability tools which are invoked after a representative is selected to the regional assembly. This helps them address legitimacy concerns. These tools include sensitization meetings and campaigns, delocalized meetings, fact finding missions, commissions of inquiries and interpellations.⁸⁷ Although the constituents of the regional parliaments are the national parliaments, both EALA and the ECOWAS Parliament make attempts at being people centered. The existing activities show that both IPIs create opportunities for citizen engagement and other forms of political accountability in lieu of the ballot. These tools establish platforms that bring the citizenry and the parliamentary delegates together where the citizenry asks the regional parliamentarians questions and gives the parliament an opportunity to explain and justify their action. This opportunity to ask question and get answers exemplifies a trusteeship relationship (where there is delegation of function) necessary for political accountability (Fox & Shotts, 2009;

⁸⁷ EALA conduct the sensitization meetings and the ECOWAS conducts the delocalized meetings, fact finding missions, commissions of inquiry and interpellations.

Strøm, 2000). The activities show that a relationship between the citizenry and MPs exists, a relationship which requires the regional representatives to be responsive for their conduct in office to the citizens whom they claim to represent.

The ex-post accountability tools listed below help both IPIs to improve visibility to the citizens they represent. The parliaments use, for example, sensitization meetings, fact finding missions, commissions of inquiry, interpellations, and delocalized meetings as tools of information sharing and avenues of feedback on any policy issues and concerns the citizenry may have, in addition to pointing out the challenges the citizenry experience (see Chapters 5 and 6 for detailed discussions). It must be noted that although the tools allow for information exchange and answerability, they are however lacking in the enforcement part of accountability.

Further to the information challenges, both IPIs list the lack of enforcement mechanisms as a common challenge. This is especially so for any recommendation that the two IPIs come up with after receiving feedback from the citizenry, for example, during the sensitization meetings. Often parliament prepares a set of recommendations that addresses the issues raised during the ex-post accountability activity. These recommendations are then forwarded to the respective Council of Ministers for implementation. Unfortunately, there are few records of implementation of the recommendations proffered by the parliament to the Council of Ministers after the ex-post activities.

There is a temptation to generalize this as an outcome of redundant accountability where there is too much oversight at the supranational level. Yet, Schillemans apportions the blame to the agency problem of moral hazard (Schillemans, 2010). Instances of moral hazards are experienced when the agent develops divergent policy motivations from those of the principal, or that the agent simply lacks the effort necessary to carry out accountability, or the existence of responsibility sharking and promotion of accountability apathy where agents are simply not held accountable as an institutional culture (Piattoni, 2013; Strøm, 2000). My study adds to this list the complexities of MLG. What MLG does is to introduce additional actors for purposes of implementation, making the IPIs rely on having their recommendations implemented by different organs within the institutional framework of the IO instead of the IPI independently overseeing the implementation of their respective recommendations.

Both the ECOWAS Parliament and the EALA, for example, rely on their Council of Ministers to implement their recommendations. This introduces an additional actor to the parliamentary sensitization activity. Ideally the parliament should follow through with implementation of its recommendations; however, at the regional level, implementation is left to the Council of Ministers. A position that varies from the national situation. The reliance of the parliaments on the Council of Ministers to implement their recommendations only works when there is seamless cooperation and communication (which is often not the case owing to informational disadvantage associated with delegation) between the IPI and its Council of Ministers. This multi-stakeholder system of coordination requires the IPI to share its representative functions. It also introduces the complexities associated with multi actorhood of a single function resulting in an increase in time used to execute the function and unnecessary delays occasioned by the bureaucratic nature of regional and international organizations (see (Bache & Flinders, 2004; Benz, 2000; Hooghe & Marks, 2003a).

Because of the nonhierarchical and informal nature of MLG (Peters & Pierre, 2004b; van Popering-Verkerk & van Buuren, 2016), a third problem arises which affects the smooth functioning of both parliamentary functions. For both IPIs having different actors perform one and the same function creates an atmosphere of tension between the different organs and promotes competency gaps between the IPIs performing the function of accountability and representation and the other various organs, such as the Council of Ministers and the Commission, which are expected to oversee implementation of the IPI recommendations. This multi-actorhood of both IPIs introduces new stages of action and activities that do not exist in the domestic space making it more difficult for the IPI to operate as their domestic counterparts.

7.5.2 Throughput legitimacy through horizontal ex-post tools: How do they operate?

The ex-post tools of accountability are those used to gain control over the agent after they assume office and they include inter organs/inter-institutional and inter-agency oversight. To carry out ex-post accountability, both EALA and ECOWAS Parliament have tools. The horizontal tools are those that allow institutions to hold each other accountable while accommodating reporting to agents who exists in horizontal arrangements, as opposed to vertical arrangements which are conducted under hierarchical relationships between the agent and the principal (Bergman, 2000;

Bergman et al., 2005; Grigorescu, 2008; Kenney, 2003; Lührmann et al., 2020; O'Donnell, 1998; Schillemans, 2010).

Both IPIs have devised tools that promote horizontal interactions with existing organs of their respective RO. These tools allow the parliament to demand questions and receive answers from the different organs of their RO and in that regard realize the answerability elements of accountability. Because the structure of the regional organizations establishing these parliaments do not place the parliaments and the other organs in any hierarchical position, horizontal accountability allows EALA, for example, to enjoy a working relationship with other organs of the EAC, and the ECOWAS Parliament to enjoy a similar relationship with other organs of the ECOWAS Community.

Both IPIs have established channels of accountability between them and their respective Council of Ministers. The existence of horizontal accountability establishes channels of communication and avenues of cooperation including opportunities for checks and balances by the two parliaments. Although the horizontal tools of accountability allow information exchange and create room for answerability between the parliaments and other RO organs, the same is not without fault. The effectiveness of these tools is limited to inter-organ interactions and information exchange between, for instance, between the ECOWAS Parliament and the Council of Ministers as well as the ECOWAS Commission. The most prominent challenge is the lack of enforcement mechanisms and inordinate delay which reduces the effectiveness of the tool.

Existing literature presents two generic problems of delegation: (1) adverse selection on account of information disadvantages and (2) moral hazard that hints on the person and conduct of the agent where agents take advantage of holding office and used their position to pursue selfish gain, leisure and rent seeking. This may lead to responsibility shirking where the agents develop apathy in holding other agents accountable (Bovens, 2007; Piattoni, 2013). In addition to agency problems, this research presents a third problem of delegation as observed in the legislative design of the powers to the parliaments.

In addition to the two core agency concerns, there exist treaty limitations that restrict the scope of application of the IPIs' powers. For example, at the ECOWAS Parliament limitation to answerability is on account of Rule 107 of its Rules of Procedure. The first observable limitation

is the fact that the ECOWAS Commission and the Council of Ministers can decline to answer any question from the ECOWAS Parliament. There is also a second challenge to the reporting structures that creates tension between the parliament and the Council of Ministers.

Similar challenges are placed on the accountability tool of Q & A at the EAC. Although the Council of Ministers has a mandatory obligation to provide answers to the EAC Parliament, EALAs rules of procedure require that the Council of Ministers must answer any question asked by the Parliament. In addition, the rules require the response from the Council of Ministers to any questions posed by the EALA must be concise, relevant, and satisfactory to the member asking. The rules are, however, silent on what happens when a non-satisfactory answer is given. Article 68 EAC Treaty provides a situation that is almost seamless to accountability as envisioned in Schedler's widely accepted definition of accountability (Schedler, 1999). It creates a relationship between EALA and the Council of Ministers where the latter is accountable to EALA. There is a mandatory obligation placed on the Council of Ministers to inform and/ or justify EALA, its actions and decisions. The treaty article is unfortunately wanting in the enforcement bit as it fails to give EALA actionable powers of reward and sanction.

For both IPIs the ex-post horizontal tools of accountability are also riddled with redundant reporting structures. For instance, both parliaments submit their reports to the same Council of Ministers they question. This creates a scenario of reporting misconduct to the same offending person who is also expected to address and implement recommendations by parliament on the same reported misconduct. To this end, the operationalization of the tools relies on multi-stakeholder initiatives which allow the two IPIs and their Council of Ministers to co-exist within impractical boundaries. These complexities take the IPIs further from the realities and experiences of their domestic counterparts.

In addition, for the ECOWAS Parliament, MLG and MSI also raise the question of redundant accountability meaning to provide an account of the same behavior towards different stakeholders (Schillemans, 2010). Redundancy of the oversight activities comes in when, for example, program implementing bodies at the ECOWAS must also individually explain and justify their activities and programs to the ECOWAS Commission during the budgeting process while simultaneously account to the community parliament. The duplication of oversight – by the ECOWAS Parliament and by the ECOWAS Commission – is prominent during the budget process, where each of the

ECOWAS agencies⁸⁸ account for their activities, explain any shortcoming and challenges to the Commission similar with the ECOWAS Parliament.

When put in contrast, EALAs' Q & A tools describe a scenario close to the domestic parliament's situation but not quite the same: the EALA Q & A sessions are more formal and involve only one actor requesting for answerability. However, it is lacking the enforcement elements of the tool, which strips it off its glory. In contrast, their ECOWAS counterparts' tools are far removed from the situation at the national parliaments, because of how enmeshed the ECOWAS Parliament is with multi-level and multi stakeholder initiatives. Both cannot, however, be considered to operate as their domestic counterparts.

7.5.2.1 How does the relationship with the national parliaments operate?

The relationship between national assemblies and the case study IPIs is a principal agent relationship where the agent is the IPI, and the national assemblies are the principal. The existence of this relationship also confirms literature on supranational delegation existing in a paradox where not only is the state the principal, but also the constituent as well as the agent relied on for enforcement and oversight of treaty commitments (Lindseth, 1999). Although based on normative provision and the establishment of the relationship confirms existence of throughput legitimacy the relationship with national assemblies also faces agency loss challenges some of which are on account of MLG.

Figure 17 indicates the information exchange cycle that occurs between the regional and the national parliaments whose countries are members of the regional organizations. Both IPIs have a robust system that helps them maintain a working relationship with their respective national parliaments. For the ECOWAS Parliament this relationship has its legal basis in Article 40 of the Supplementary Act and Rule 104 of the 2020 ECOWAS Parliament Rules of Procedure. For EALA this relationship is established by Article 65 of the EAC Treaty. In both cases these treaty provisions are evidence of normative and constitutional legitimacy in line with the logic of appropriateness.

⁸⁸ See list of ECOWAS institutions and specialized agencies available at, <https://www.courtecowas.org/ecowas-institutions-agencies/> accessed on 25/02/2025

For both parliaments, the relationship with national parliaments makes the national parliaments the constituents of the regional assembly and for it to function, robust channels of cooperation for communication and information exchange between the regional level and the state level are required. Because of this relationship, a dual-purpose role of providing information is established between the regional and the state level parliamentary actors, requiring the domestic to be informed of the activities at the regional level, and the regional level to be informed of the activities at the domestic level. The relationship between these two levels creates opportunities for accountability.

The relationship between the IPI and the national parliament engages different stakeholders at different levels, through the office of the IPI speaker, the office of the speaker at the national assemblies of each member and partner state of the respective RO. These stakeholders are allowed to request and receive information from each other, especially on matters touching on democracy and good governance and discussed on the floor of the respective house. Furthermore, the relationship allows the receiving assembly to debate on the information received including asking questions on the same.

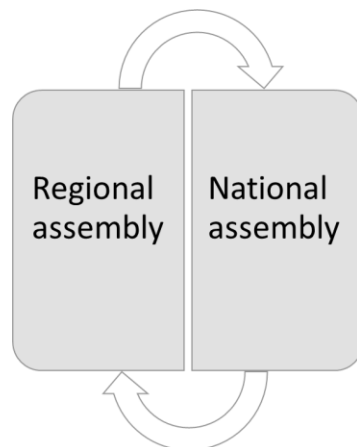
This representation relationship between the national parliaments and the regional assembly is necessary to initiate the conduct of accountability (see (Pitkin, 1967; Schedler, 1999). Because of the organizational structures, these relationships are multi-level in nature and rely on communication and cooperation between the regional and national parliaments.

Although the relationship with the national assemblies can be perceived as an attempt to address the agency problems related to delegation and specifically the lack of information by the principal on what the agent is doing, and it allows for some answerability, the tool is, however, lacking in enforcement. Also, the nature of delegation introduces multiple principals each with veto powers. For both the EALA and the ECOWAS Parliament it remains unclear, if after the IPI speaker sends information to the speaker of the domestic parliament, whether the information is tabled in the partner states' parliaments as this cannot be ascertained or monitored. There are no verification channels to confirm whether or not the information from the IPI formed the basis of a discussion at the floor of the assemblies at the national level. In addition, no Hansard reports are submitted to the IPI on any Q & A sessions occurring at the national parliament because of matters that arose from the regional assembly. The tool also fails to secure enforcement as there are no records to show that IPI members were sanctioned by the national assembly for their lack of "performance".

In essence, the tool operates only to inform the national parliaments of the IPI debates and, vice versa, the IPI about matters touching on democracy and good governance discussed at the national assembly. Again, the tool experiences agency games and shirking of accountability responsibility to hold the agents responsible. At the regional level once, a report is submitted to the national assembly, shirking occurs in instances where the members of the national assembly do not hold debates on matters received. Accountability shirking is also witnessed where the IPI members are not put to task on the floor of the national assembly. They may inform the national assembly, but the responsibility ends with no actual accountability being reported.

Figure 17: Relationship between regional and national assemblies

Source: Author's own



7.5.2.2 Supranational delegation and the budgetary oversight function

Table 9 shows that both the ECOWAS Parliament and EALA have powers over the budgetary process. Each IPI holds debates on the proposed budgets of their regional organizations with EALA having powers to approve⁸⁹ the community budget while the ECOWAS Parliament has powers to issue opinions⁹⁰ and make proposals on amendments to the budget.

Despite being imbued with the vital function, the same is not without challenges ascribed to the nature of supranational delegation and MLG. To begin with the ECOWAS Parliament has had its

⁸⁹ See article 49 and 132 of the Treaty for the Establishment of the East African Community.

⁹⁰ See Article 11 and 17 of the Supplementary Act.

budgetary oversight powers for less than a decade. It only received the budgetary oversight powers following the enactment of the 2016 supplementary act relating to the enhancement of the powers of the ECOWAS Parliament and this means that most of the provisions of the act are still in transition and remain unexplored. In short, the ECOWAS Parliament is yet to fully utilize its budgetary oversight functions. The fact that the powers are in transition has unsurprisingly been used to justify the ‘softness’ of the parliamentary influence when it comes to budgetary oversight. For example, inclusion of multiple actors on the budgetary function is because of the transitional nature of the function. In the ECOWAS community, this fact allows the Administration and Finance Committee, the community Parliament, the Council of Ministers, and the ECOWAS commission to all participate in the budgetary process. Although respondents do not cite the same reasons for being multi-actored, the multi-actor witnessed at the ECOWAS Parliament is also witnessed in EALA. Here the budgetary processes involve the Council of Ministers, the Secretary General and the ministries of finance in each partner state of the EAC. In fact, the budgetary processes of each of its Partner States inform the budgetary process at the community level. The inclusion of the partner states is because at the EAC, the budget is funded by equal contribution from each of the partner states (see Article 132.4 EAC Treaty). The national budget’s inclusion into the community budget adds the national treasuries as an additional actor to the EAC budgetary process.

Because of the multiple actors involved during the budgetary process, and just like all other tools of accountability, where information challenges are reported, both IPIs report coordination and communication challenges causing delays during drafting and approval of budgetary related reports (for the EAC) and opinion (for the ECOWAS). Both IPIs complain that budgetary information from the other organs participating in the budgetary process arrives to them late, which negatively affects timely discussions and debates as well as release of their reports, opinions, and recommendations.

Both IPIs, although bearing the power to hold debates and discussion on the budget and even question the expenditure and income of the community, have limited influence: both can neither increase nor decrease their respective community budgets. The pair relies on multiple actors to draft, consider, and approve the budget resulting in considerable delays in completion of the budgetary process. The multi-stakeholder characteristic of the budgetary processes has also caused

redundancy in activities. For example, at the EAC the partner states determine the amount to remit, the Council of Ministers considers and approves, and the assembly also approves. Completely inverse of fiscal oversight responsibility that requires clear separation of function from those preparing, approving, and overseeing the budget (OECD, 2017).

Both IPIs' powers are also soft powers. In the EAC, for example, the partner states through the national ministries of finance establish budgetary allocations for activities of the EAC; the figures are then communicated to the Council of Ministers, the Secretary-General and ultimately to the EALA. The notification of EALA serves no major function. Although EALA can hold debates and make proposals on budgetary increments, they cannot enforce their proposals. In short, partner states will dedicate estimates, send the same to EALA, and whatever EALA recommends is inconsequential as partner states cannot remit what they do not have. The same goes for their ECOWAS community counterparts, who are also unable to increase or decrease the figures of the community budget. The budget is guided by the ECOWAS community levy whose figures and estimates are final and require no input from the community parliament.

The lethargy on the powers of both IPIs is also witnessed in the contemptuous way in which the EALAs budgetary recommendations and reports, and the ECOWAS Parliament opinions on the community budget are treated. Both IPIs are empowered to air their views on budgetary estimates and generate documents on the same subject. However, both have no follow-up mechanisms to ensure that the sentiments and comments of the parliament on the budget have been considered. This challenge is exacerbated by information asymmetry and agency games associated with multiple stakeholders conducting one function, which places the parliament at a distant disadvantage from the other actors in the budgetary process. The challenges described here, although associated with MLGs, also fit within the agency problems associated with delegation. Both MLG and delegation can be blamed for the delays in drafting, release, and receipt of budgetary reports. For instance, the delays witnessed between the Administration and Finance Committee at the ECOWAS community and those between the Council of Ministers and the EALA exist because the reports pass through several stakeholders before arriving at the IPIs and because information does not flow easily and speedily between the different stakeholders. In addition to delays, inclusion of several actors causes competition which duplicates efforts and cause inefficiency (Lupia, 2003; Salanié, 2005). Redundant accountability during the budgetary

process is witnessed, for example, when both the Administration and Finance Committee and the ECOWAS Parliament consider the ECOWAS budget and when both the Council of Ministers and the EALA approve the EAC budget. This repetition of activities between the two organs offers no efficiency enhancing benefits.⁹¹ The redundancy witnessed at both parliamentary levels confirms that inclusion of multiple actors does not necessarily produce desired outcomes (Strøm, 2000). Perhaps the inclusion of other organs justifies the limitation of parliamentary powers / sharing of powers with the IPIs receiving the shorter end of the stick, where for the EAC, the limitations to the powers of the parliament on the budget are a preserve of Article 140 EAC Treaty. This article provides that until the representatives of EALA are directly elected, “*the functions of the Assembly in respect of the approval of the budget of the Community, consideration of annual reports on the activities of the Community and annual audit reports of the Audit Commission, shall be performed by the Council of ministers*”. Although there are efficiency enhancing benefits to delegation and to including multiple actors in the budgetary process, the costs outlined herein outweigh the benefits as the effect of having multiple actors included in a parliamentary function over the budget is that it reduces the IPIs oversight influence and make them not perform as their domestic counterparts. This is specifically true because the nature of delegation at this level fundamentally differs from that which occurs at the national level, in this instance even the agents have their own agents making the challenges peculiar. Further, because the administrative structure of the parliaments is not hierarchical and because the function of budgetary oversight is shared, the information asymmetry is exacerbated.

⁹¹ See article 49 and article 132 of the EAC Treaty.

Table 9: Budgetary operation of EALA and ECOWAS Parliament

Source: Author’s own

| | | BUDGETARY FUNCTIONS AND ACTORS | | | |
|---------------------|-------------------------|--|----------------------------------|----------------------------------|-----------------------------|
| Regional Parliament | Debates over the budget | Oversight over the budget | Approval/adoption of the budget | Reports/opinion on the budget | Consideration of the budget |
| ECOWAS PARLIAMENT | ECOWAS PARLIAMENT | Administration and finance committee(AFC) ECOWAS PARLIAMENT | Council of Ministers | ECOWAS Parliament AFC | AFC |
| EALA | EALA | Council of Ministers | EALA Council of Ministers | EALA Council of Ministers | Council of Ministers |

7.6 Analytical test

The foregoing discussion has focused on delegation through the principal agent theory. It also examined the mechanisms of delegation as well as the agency loss challenges. This research acknowledged that agency loss is a general concern associated with delegation and added to it MLG, which is also presented as a unique feature of supranational delegation and exacerbator of agency loss. With MLG the overall research assumption questioned whether an increase in MLG equates to a decrease in accountability and representation function. Such that; **> MLG = < Accountability +Representation.** The second research assumption sought to establish whether a decrease in MLG equates to an increase in accountability and representation; **< MLG = > Accountability +Representation.**

The analytical discussions above evidence supranational delegation as manifest within the EALA and ECOWAS Parliament. The discussion also highlighted the different tools used to perform the function of representation and accountability and how through the act of delegation and influence of MLG agency loss occurs. These discussions are intended to contribute to the inference that agency loss increases contestation, reduces accountability and this reduction in accountability translates to a reduction in legitimacy and democracy.

Strong MLG= High Agency Loss

High Agency Loss=Increased Contestation

Increased Contestation =Reduced Legitimacy

Interviews conducted with key respondents at both IPIs aligned with other primary data as well as information obtained from scholarly literature, which all confirm the research assumptions.

The discussions above confirm that the presence that MLG affects delegation and the conduct of accountability in the following ways.

1. An increase in the number of actors in a tool of accountability leads to an increase in the amount of time used to perform accountability consequently,
2. Because of an increase in actors in a parliamentary function, the known rules of hierarchical relationships between an agent and a principal are altered. Thus, MLG alters the nature of delegation from the traditional known systems.
3. An increase in the amount of time required to perform a function leads to delays in conducting accountability.
4. Increase in the number of actors also led to information asymmetry and increased coordination challenges.
5. Increase in the number of actors, further increases moral hazards and opportunities for agents to shirk accountability responsibility.
6. An increase in the number of actors performing a single function causes duplication of function and redundancy in accounting which has less efficiency enhancing opportunities for parliament when conducting accountability.

Based on these findings, my study confirms the assumption that an increase in MLG alters the administrative nature of delegation and supranational delegation experienced with the case study IPIs 1 and results in a reduction in accountability. Because of this the EALA and the ECOWAS community parliament cannot perform as to be expected from their domestic counterparts. By presenting empirical data that reducing multi-level decision-making bears unexplored

opportunities for accountability, these findings advance the anecdotal research on IPIs in Africa and their role in promoting democracy in the continent.

7.8 Conclusion

This section brings together the results. The overall specific question under study is how these two IPIs (EALA and ECOWAS Parliament) carry the function of accountability without election. To build up answers to this question, this research demonstrated that IPIs are established as agents to represent the people and have a treaty-based mandate of legitimacy and to conduct accountability and by extension promote democracy. It has also confirmed that despite the existing skepticism on their roles, these two parliaments have numerous tools that help them conduct accountability without election. The chapter also demonstrated the presence of multi-level governance in the tools under study. The relevance of this section was to present data to demonstrate how the parliaments conduct accountability especially when existing literature presume that without election there can be no accountability.

In addition to answering the research question, the chapter also sought to test the research assumptions and provide answers as to whether the EALA and the ECOWAS Parliament can perform accountability as their domestic counterparts. This was done by addressing the assumption that MLG influences the conduct of delegation, accountability and representation. To this end a critical examination of different tools of delegation and accountability which the two IPIs use was made, and while at it, highlights of agency related concerns, including the presence of MLG and how this manifest in the tools, were discussed. Agency loss debates were equated to causing an increase in contestation and coupled with an increase in MLG inference was made that the inclusion of MLG reduces the parliamentary ability to conduct effective accountability and makes them not work as their domestic counterparts.

The chapter holds that MLG is a characteristic of supranational delegation and is evident in the inclusion of non-parliamentary actors in parliamentary functions. MLG is also seen in increased areas of coordination and cooperation for information exchange. These features of MLG include incorporating multi-stakeholder initiatives which challenge the conduct of accountability like what the literature presents as delegation related agency loss concerns. Based on this evaluation it is clear, that each of the two IPIs is enmeshed in MLG seen through the number of actors and organs of the IO performing one given function: the parliaments reliance on coordination and cooperation

to execute a parliamentary function, reliance on other organs of their respective RO for information exchange and accommodation of informal channels in the conduct of the function of representation and accountability. The chapter has also demonstrated that an increase in MLG results to an increase in the number of actors, leads to increases in the turnaround time of any function, reduces the possibility of hierarchical relationships necessary for accountability and limits the accountability function leading to only one conclusion, that because of MLG the agency related concerns also increase the contestation and an increase in contestation leads to a reduction in legitimacy and democratic performance. Therefore because of MLG, both the EALA and the ECOWAS Parliament cannot conduct accountability as their domestic counterparts.

The chapter's discussions on supranational delegations through the principal agent theory, the highlight of agency concerns through MLG contribute to existing literature to the concept of supranational delegation within African IPIs and the novel concept of *nomilections* as a process of delegation, which determines the representatives of the community parliaments as well as *nomilections* and its opportunities and bottlenecks for accountability.

Chapter 8

Summary and Conclusion

8.1 Introduction revisiting the research interest, puzzle, and research questions.

My love for parliaments was not generic, because my initial research interest was centered on human rights including the legal and institutional framework used to protect them. As I was conducting independent research for my doctoral research proposal, I realized that human rights were generically rooted in democracy and existed beyond the confines of legal and institutional framework at the international, regional, and domestic level. I discovered that for holistic promotion and protection of human rights using a different lens it is imperative to conduct a review of political mechanisms and institutions. It was soon clear that parliament was my institution of study as it is not only a political institution but a powerful tool for the quest for democracy which is vital in the human rights agenda.

My curiosity was further exacerbated by the fact that in Africa, parliaments are a common institution so much that the continent boasts of having the highest number of parliaments on any given continent. These parliaments in Africa boast of being institutions of representation and agents of promoting democracy and good governance. However, despite having the highest number of domestic and international (regional) parliaments the African continent continues to rank dismally in global indices that measure democracy, good governance, and human rights. In addition to the dismal performance, at the proposal stage of my research, the continent had begun witnessing a rise in the number of military coups. Between 2019 and 2020, the continent reported at least one military coup every month.

This sparked my research interest, and made me ask questions like, why is a continent with the highest number of institutions that protect human rights and democracy also the most vulnerable? At the inception of my research, this was an obvious social research puzzle. To answer my research puzzle, I started by asking the questions.

As I explored state of the art literature, I uncovered that parliamentary democracy relies on and uses election as a common tool and measure of democracy and good governance. The realization that democracies use election as a mechanism of selection of political representatives as well as a retrospective mechanism of accountability to sanction the incumbent (Strøm, 2000) helped in

structuring the research narrative. My research agenda shifted to examining how the regional parliaments of - the East African Community and the Economic Community of West African States promotes democracy and good governance. The shift was influenced by prepositions in literature that election is not only a popular tool because of its prominence with different jurisdictions, but because as a mechanism for delegation, it vests a specific mandate on political representatives and as an accountability tool it allows the representatives to be held accountable for their actions in office. And that the use of election as an accountability tool contributes to the promotion of democracy and good governance. With this realization, the research puzzle was coined from two facts, one being that both the study of the regional parliaments have been imbued with the mandate of promoting democracy and good governance as well as conducting accountability. The second was the fact that both the case study regional parliaments of EALA and the ECOWAS Community Parliament do not conduct direct election. To address the research puzzle, the research questions were.

1. How do the regional parliaments of EALA and the ECOWAS community parliament promote democracy without direct election?
2. How do the regional parliaments of EALA and the ECOWAS community parliament perform the function of representation and accountability?
3. How does multi-level governance affect the conduct of accountability and representation within the EALA and the ECOWAS community Parliament?

In addition to these main research questions, I also developed sub questions that helped build the research narrative and provide answers to them, I embarked on an explorative and descriptive research. Generally, the research questioned delegation and how in parliamentary democracy it helps achieve political representation and conduct accountability. The research connects delegation, representation and accountability as the parliamentary functions directly connected to the promotion of democracy. Both primary and secondary data on delegation, representation and accountability are used for this narrative and specifically for answering the research questions. Each chapter was dedicated to building this narrative, the summary of which is detailed in the succeeding discussions.

8.2 Summary of chapters

Chapter one of the thesis presents the background to the study and the research problem. It highlighted the research question, the objectives of the study, justification of the case studies including the scope and limitations. Generally, the chapter introduces the reader to research interest, giving indications of the direction and approach the research has adopted. The chapter concluded by giving a summary of the other seven chapters.

Chapter two of the thesis sets the theoretical foundations of the research. It sought to answer the first sub-research question, why are regional parliaments created. In answering this question, the chapter incorporated theories of regional integration and international relations. To explain the creation of regional parliaments it opted for rational choice institutionalism and the views that parliaments are created because of state cooperation and owing to the increased interaction, pooling and delegation contestation occurs and to address contestation concerns states opt to create them. The chapter also relied on arguments that regional parliaments are created to establish a democratic appearance and obtain legitimacy. Their creation is influenced by various factors including increased contestation, logic of appropriateness and desire to fit in with other organizations within a similar cultural environment.

Most importantly, the chapter presented different mechanisms that influence the creation of regional parliaments, amongst them the direct, indirect and mechanism of manipulation. In a nutshell, the chapter answered three questions, *what theory explains the creations of international parliamentary institutions?* Following the argument that organizations embrace specific institutional forms because they are widely valued within a broader cultural environment (Hall & Taylor, 1996) the chapter confirmed that IPIs and regional parliaments are created as a result of social institutionalism and rational choice institutionalism and the logic of appropriateness. Having established that legitimacy is the most prominent reason for creation of IPIs /regional parliaments, the chapter detailed some of the benefits associated with securing legitimacy including securing organizational stability and ensuring voluntary compliance with supranational norms. To the question, *Why are international parliamentary institutions /regional parliaments created?* the research established that states who form the membership of international organizations are influenced to create parliaments by other international organization that already have parliaments and this peer pressure and desire to fit in with other organizations leads them to create international

parliamentary institutions/regional parliaments to achieve legitimacy and address legitimacy concerns as well as to promote democracy and good governance. To the sub-question, *what mechanisms of diffusion influence the establishment of international parliamentary institutions?* The research holds that the influence to create the parliaments occurs through multiple mechanisms, including diffusion, mimicry, and imitation of others. To the sub-question *What function do international parliamentary institutions perform?* This research established that parliaments are generally created to perform the classical functions of legislation, representation, oversight and budget and that international parliamentary institutions/ regional parliaments (although mandated at varying degrees depending on the democratic disposition of a state) are no exception. The research is however clear that for IPIs, legitimacy is an additional function. It established that parliaments are created to address legitimacy concerns, and that legitimacy is interconnected with mechanisms of democracy and good governance, with the most prominent mechanism of legitimacy being representation through election. The succeeding third chapter looked at how election operate as a mechanism for democracy and good governance. By addressing the question is *there evidence that African regional parliaments are established through diffusion and to address democratic deficit?* Using literature from constitutional documents of the case study parliaments and scholarly articles, the second chapter confirmed the theory that the regional parliament of EALA and the ECOWAS community parliament were established because of influence from other international organizations that had established their own international parliaments with the most cited agent of influence being the EU parliament. The section also confirmed that these two parliaments were established to address legitimacy concerns and imbued with a democratic mandate.

Chapter three answered the research questions; What are IPIs/ regional parliaments? What function do these parliaments perform? And how do they perform the function of representation and accountability? In answering these questions, the research first introduces what an IPI is and develops a criteria for establishing a parliament as an IPI to include that it is created by more than 2 states who are members to an international organization and that the parliament is imbued with at least 3 of the classical parliamentary functions including that of accountability and representation, it also holds that the case study parliaments are IPIs within the description and criteria established. The research adopted an inverted triangle formula where it reviewed the literature on general functions of a parliament before narrowing down to representation and

accountability as the key functions of a parliament that help promote democracy and good governance. It begun by addressing the question of *What are international parliamentary institutions/regional parliaments?* to this the research found that international parliamentary institutions/regional parliaments are institutions created by international organizations established within the confines of a legal document and have a membership of three or more member states and which form part of the organs of the international organization with a mandate of either legislation, representation, oversight and budgetary function. This definition was adopted as the research definition befitting the regional parliament of EALA and the ECOWAS community parliament. The second sub question addressed in this chapter is *What functions do international parliamentary institutions/regional parliaments serve?* To this end the research findings are that regional parliaments have been imbued with similar functions as their domestic counterparts, that is, the function of accountability, oversight, and representation. The research then proceeded to establish a nexus between the function of representation and accountability and hold that these two parliamentary functions through the mechanism of election, contribute to promotion of democracy and good governance.

The chapter made discussions on representation and delegation. Generally, it looked at representation within the IPI setting to be an act of delegation. Discussions were made on supranational delegation within the IPI setting and context. Using the principal agent theory to describe supranational delegation, the research holds that delegation is an act of giving authority to an agent to do something on behalf of the principal as though it was the principal himself doing the act. Further, because of the need to have access to the agent after giving authority and to prevent subjugation and agency loss there is a need for accountability. The research holds that the nature of delegation at the supranational level is like delegation occurring at the state level. It however notes that there are minor differences owing to the introduction of multiple principles at the supranational level. Discussions on delegation and agency loss were also made to introduce the need for accountability as a potential solution.

The Chapter then proceeded to discuss delegation through election. The chapter took an analytical bias to election because of its ability to secure political representation, ensure accountability and further because it is the tool used to gauge the presence of democracy and good governance. Election was taken as a tool of accountability due to its ability to reward by electing and punish

by not re-electing. With factual hindsight that the case study IPIs do not conduct election and with literature on supranational delegation affirming the need for different methods of accountability to address agency loss especially where direct hierarchies necessary for vertical accountability are missing, the chapter proceeded to address the question, *what is accountability?* The overall discussion in this section is that accountability is a parliamentary function based on a relationship that expects an agent to render an account, providing information and facing the consequences of either reward or punishment. This section of the chapter holds that accountability requires the fulfillment of two elements answerability and enforceability. Discussion of accountability also addresses the different types of accountabilities that exist, and that accountability can either be vertical - between the voter and the representative or horizontal accountability between different organs and institutions that exist without a hierarchy. Because of the two types, the chapter confirms that accountability as a concept is not limited to the mechanism and processes of election. Accountability extends to and relies on different tools of execution. The discussion on accountability concludes with the challenges to conduct accountability as discussed in the section addressing MLG as an exacerbator of agency loss. Here the chapter holds that MLG is characterized by having multiple actors, allowing informal channels of communication, reliant on cooperation and coordination between different levels of communication and cooperation and that these characteristics of MLG are conceived as problematic to delegation and especially to the conduct of accountability.

Chapter four

This chapter focused on the research methods used in the study. **It addressed one question of what methods were used to collect data for the study?** To this end, the chapter provides details on how data from various sources were collected to help realize the research objective, answer the research question, and test the research hypotheses. The chapter was divided into two sections, section A that focused on how secondary data, including information from books, articles, treaties, and acts of parliament were collected and analysed. And section B which detailed how data from the field was collected including different tools that were used to collect the data.

Secondary data recorded in section A was collected through desk top analysis of primary documents such as treaties, protocols and rules of procedure of the parliaments as well as data from scholarly articles on delegation, and parliamentary functions of accountability and

representation. Section B entailed discussion on structured interviews as the data collection method which was done both in person and via telephone and Skype. These interviews were recorded by note taking and using my laptop recorder. The chapter also discussed the use of interviews as a tool for data collection of data as well as the choice of purposive sampling and snowball sampling. The fourth chapter also states the most similar design as the reason for choosing the case study parliaments and justifies the conduct of the study as being necessary because of the gap in literature that overlooks the African regional parliaments. The data collected from the interviews were anonymized and respondents were given numbers and only identified with the departments they work in. Data transcription was done by me before the data obtained from the interviews conducted were situated within scholarly literature and given the appropriate heading and section in the research project.

Chapter five presented a background and overview information on the East African Legislative Assembly including its establishment, powers, and functions. The main research questions the chapter addressed is, **how does the East African Legislative Assembly conduct accountability without election?** Answers to this question comprise data collected from both primary and secondary sources of data and began by addressing how delegation occurs at the EALA using a historical analogy to describe the continuities in structures and operation of the parliament. The section established that the EALA as an IPI has been empowered to conduct accountability and representation and that it has developed various mechanisms to allow it to conduct its functions. The historical lens helps confirm that the EALA has been established to address legitimate concerns and imbued with functions of protecting democracy and promoting good governance.

In answering how the parliament conducts accountability without election, the chapter presents the research contributions on the concept of *nomilections* from the EALAs perspective. It holds that without election, the EALA selects its parliamentary representatives using a hybrid system of delegation employing both nomination and election as procedures of selecting its members. Owing to legislative permission, emanating from treaty provisions and EALAs protocol and rules of procedure, the partner states of EALA are allowed to use differing procedures to select the members of parliament to EALA. These procedures also employ various agents and allow the inclusion of both formal and informal processes of lobbying and negotiations. *Nomilection* is therefore a word used to explain these processes and how despite varying the end result is

membership to EALA. Discussions on how *nomilection* can be used as a tool of accountability were also made, especially the ability to use political parties as the reward and sanction machinery. Here, agency-related challenges were presented including the missed opportunity on accountability.

Other mechanisms of accountability used by EALA including the relationship with national assemblies, parliamentary question and answers session, and the budgetary process were discussed. Further while discussing these tools, evidence of the presence of multi-level governance was demonstrated including how it is seen in the different tools and mechanisms of accountability and how the manifestation of multi-level governance translates to an interference in the conduct of accountability.

In addition to providing empirical data the chapter also confirms the parliamentary functions of EALA to be in line with the literature on functions of a parliament establishing congruence on supranational delegation, agency loss and how MLG affects parliamentary functions, further it confirmed the research assumption that despite being imbued with functions like the domestic parliament, EALA cannot function as their domestic counterparts. Data presented in this chapter shows that the EALA, although imbued with the function of accountability, the same cannot be conducted as their domestic counterpart and this is mainly on account of MLG. The research demonstrates that the different tools of accountability offer opportunities for answerability but are lacking in enforcement. The reward and sanction ability of the tools and mechanisms presented are unexplored on account of MLG.

Chapter six presented a background and overview information on the Economic Community of West African States Community Parliament including its establishment, powers, and functions. It also presented results and information collected from the interviews conducted at the headquarters of the parliament in Abuja Nigeria. The chapter first confirms theoretical prepositions that the ECOWAS Parliament is established to address legitimate concerns and imbued with a democratic mandate. By combining both primary and secondary data on the ECOWAS community parliament the chapter answers the question **how does the ECOWAS Community Parliament conduct accountability without election?** To provide answers to this, the chapter made discussions on delegation and accountability where, the chapter holds that the ECOWAS Community Parliament uses different tools and mechanisms of accountability including relationship with national

parliaments, question and answer sessions, interpellations, delocalized meetings fact finding missions, oversight over program implementing bodies and the ECOWAS budgetary process to both represent and perform the function of accountability.

Discussions on these tools also highlight the problematic nature of MLG. Challenges highlighted include how during the conduct of these accountability tools MLG allows multiple actors to operate as principals, MLG by introducing many principles simultaneously increases the channels of communication and coordination which bears the burden of information asymmetry. To each of the tools of accountability discussed, the chapter holds that they present elements of answerability, that is the ability for the agent to offer explanation for the action they took to the principal. However, enforceability that is the ability to reward or sanction the agent is noted to be missing mainly on account of MLG. The chapter also presents research contributions on the concept of *nomilections* from the ECOWAS Community Parliament perspective.

Chapter seven brought together, on a comparative basis the results of data collected from the parliament of the East African Community and that of the Economic Community of West African States. The chapter confirms that the pair have.

- Supranational delegation as the anchor to their parliamentary mandate.
- Been established to address legitimacy concerns and to promote democracy and good governance and with no ability to conduct elections both have been imbued with the function of accountability and representation.
- Agency related concerns during the conduct of their parliamentary functions
- A wide array of tools and mechanisms of accountability are used to address agency challenges including both horizontal and vertical tools of accountability.
- Varying tools of accountability, all of which during discussions present opportunities for answerability and enforceability. What is, however, common with each tool is that enforceability is either yet to be explored or is weak.
- Been enmeshed in MLG seen through the number of actors and organs of the international organization performing one given parliamentary function. The research also showed that because of MLG both parliaments not only co-share their functions with other organs of their respective international organizations, but they also heavily rely on coordination,

information exchange and cooperation to execute their functions including enforcing the recommendations of the parliaments. MLG also features in the incorporation of informal actors and channels of communication.

- MLG affecting the conduct of accountability and representation by introducing complexities which confirm the skepticism that the regional parliaments of EALA and the ECOWAS community parliament cannot perform as their domestic counterparts.
- *Nomilections* as a tool of accountability.

8.3 Summary of research findings

The objective of the thesis was to assess how the regional parliaments of EALA, and the ECOWAS Community Parliament promote democracy and good governance without election. While detailed arguments are found in Chapters 5 to 7, this section highlights some of the research findings and offers an answer to the overall research question. The chapter concludes with the contributions to existing literature and proposes areas for future research.

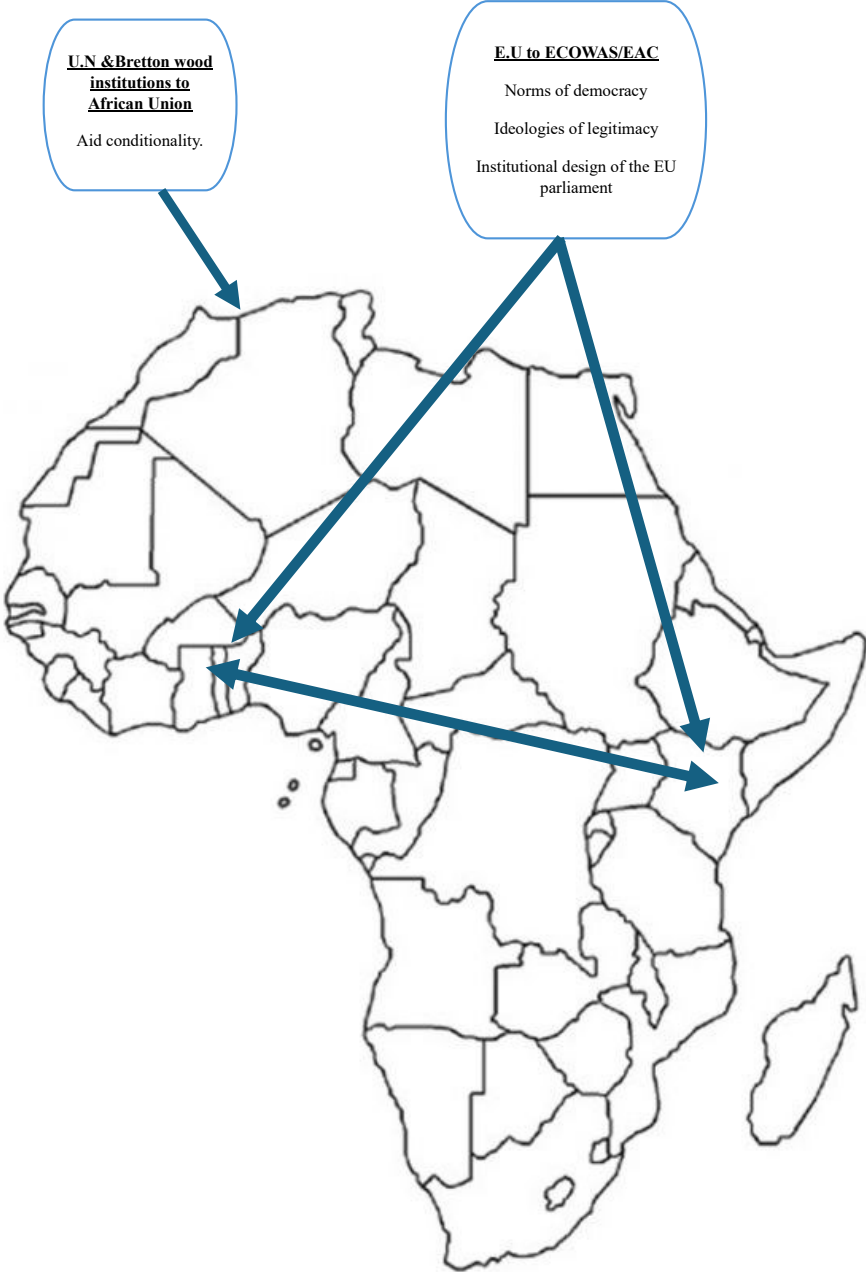
8.3.1 Theoretical confirmations

The research relied on various theoretical arguments to explain the establishment of IPIs. Although all theories outlined in Figure 4 presents plausible arguments, this research finds diffusion as the most convincing theoretical foundation for the African IPIs.

The fact that institutions are created as a solution to collective problems and to address legitimacy concerns is an ideology that diffused externally and internally within the African context and resulted to establishment of the case study IPIs. Diffusion resulted in the adoption of supranational norms of democracy and incorporation of democratic practices within the continent. It is also witnessed in the institutional design and features adopted by the case study IPIs. Figure 18 below graphically presents diffusion and the establishment of the case study IPIs.

Figure 18: Diffusion during establishment of ECOWAS Parliament and EALA

Source: Author's own



- ECOWAS to EAC
Institutional design of the ECOWAS Parliament with establishment of the 2002 EALA
- EAC to ECOWAS
Institutional design from 1961 EAC parliament EACLA/LEGCO

8.3.2 Finding on supranationalism

This research finds that both EAC and the ECOWAS regions are within the matrix of supranationalism. Both regions have adopted supranational norms that are superior to those of the nation state, accepted common principles and objectives, established parliaments as institutions of legitimacy and democracy and gone ahead to empower them with some competencies necessary to execute their mandates. This shows that the membership of both the EAC and ECOWAS have intentionally ceded binding decision making competencies to the region. Subsequently the two regions have established Parliaments which have adopted structures that enable them maintain contact with their respective national assemblies. All key elements of supranationalism, political and legal as expressed through norm adoption and functioning of the parliamentary institutions are manifest in the regional blocks of the EAC and the ECOWAS and their parliaments.

8.3.3 Findings on Legitimacy

This research holds that owing to their treaty-based mandate, both EALA and the ECOWAS Community Parliament have been established to address legitimacy concerns and are expected to perform the function of accountability and representation as their domestic counterparts.

8.3.4 Findings on supranational delegation, agency loss and MLG

Delegation affects both IPIs and right from the onset. These IPIs are perceived as agents of their respective sending states which states are agents of the citizenry, a further act of delegation is seen in their functions which is co-shared between them and other organs of their respective international organization. Both are testament to the challenges of supranational delegation and especially multiple principal concerns seen in the inclusion of multiple actors in a single function. MLG is a distinct feature and a characteristic of delegation at the supranational level. Features and discussions on MLG also present them as an exacerbator of agency loss.

8.3.5 Findings on representation and accountability

Both EALA and the ECOWAS Parliament have been imbued with the function of representation and accountability and these two functions help them promote democracy and good governance. Using various tools and mechanisms, both IPIs have opportunities for answerability to their constituents and their citizenry. These tools, although to a varying degree, present opportunities for both answerability and enforceability.

8.3.6 Findings on research assumptions and working hypothesis

This research referred to the establishment of parliaments as being an indicator of the existence of democracy. It did this by presuming that if more institutions exist which are tasked with safeguarding democracy, the better the democratic performance of the establishing states. This means that more parliaments exist, the higher the chances of improving the democratic rankings of their respective regions and member states. This idea was alongside the two main research assumptions:

- Although IPIs have the same functions as their domestic counterparts, they cannot perform the function of accountability as their domestic counterparts do.
- Multi-level governance reduces the effectiveness of the function of accountability such that: strong MLG translates to weak accountability mechanisms and weak MLG translates to higher accountability.

Alongside the assumptions was the hypothesis that the two-case study IPIs – EALA and ECOWAS, unlike their domestic counterparts – cannot effectively perform the function of accountability as envisioned in the theory of representative democracy.

The research confirms that because of supranational delegation and its embeddedness in multi-level governance, the two parliaments cannot perform as their domestic counterparts. This is because the IPIs rely on MLG which affects representation and the conduct of accountability.

The findings on Nomilections explain in detail how supranational delegation occurs. Nomilections also explain how MLG and its features alter representation at the supranational level. Delegation at the supranational level assumes a new character that allows multiple actors, it removes hierarchies, allows both formal and informal channels of communication, cooperation and contributions to get the ultimate representative. Although this is necessary for selecting a representative, this research reveals that it reduces the effectiveness of accountability.

Because relying on MLG alters the features of representation, accountability is also affected. The traditional requirement that to be held accountable: an agent must either explain or justify their actions to the principal, who in return must reward or sanction the agent changes because of the introduction of multiple agents. Due to these changes, the research assumption that the IPIs cannot perform the function of accountability as their domestic counterparts is confirmed.

The research also confirms the two assumptions and finds that MLG reduces the effectiveness of accountability. As discussed in preceding chapters, MLG is characterized by multiple actors with

no clear designation as to who is the principle and who is the agent, this eventually removes hierarchies necessary for effective accountability. In addition, the multiple actors engaged in the multi-level interactions experience overlapping competencies amongst each other. This not only alters the conduct of accountability but also increases the time necessary for accountability, increases information asymmetry and coordination challenges as well as increasing opportunities for moral hazard resulting in accountability shirking. All these not only make accountability less effective, but they also alter the character of accountability as experienced at the national level. In summary the findings on the research assumptions and hypothesis are arrived at after:

- i. A thorough review of literature on supranational delegation and the resulting agency loss, debates on representation and promotion of democracy as presented in chapters 1 to 3, it is evident that supranational delegation combined with reliance on MLG, as a common feature of supranationalism, an increase in the number of parliaments is not an indicator of better democratic performance.

Existing literature provides evidence contrary to the assumption. Due to the nature of supranationalism and associated risks of agency loss, these IPIs rely on their domestic counterpart to perform accountability.

It goes without saying that for accountability the IPIs are incomplete without their domestic counterparts. Because the IPI rely on their domestic counterparts to conduct accountability they can thus not perform as the domestic counterparts.

- ii. Reviewing data presenting empirical data with freedom ratings for sub-Saharan Africa see figure 3 and regional ratings as shown in figure 2, negated the presumption that the more the parliaments the better the democratic ratings of the region and the member states and especially so for the case study IPIs.

The ratings evident in figure 2 and 3 are instructive to the assumption that, because the democratic credentials of states creating the case study IPIs are contested, it is safe to say that their accountability and democratic performances (often with unfree and unfair election) are also not ideal.

8.3.7 Addressing scholarly skepticism

Common scholarly criticisms on IPI include that as parliamentary bodies IPIs are expendable and at best “nice-to-have” components of international organizations (Rocabert et al., 2014), ‘many

existing regional “parliaments” or “assemblies” are quite ineffective (Howse, 2007) , IPIs are created only when new legitimacy gaps that endanger the further development of an IO arise (Rittberger & Schimmelfennig, 2013), IPI are weak (Schimmelfennig et al., 2020), IPIs have ‘weak competencies’ and ‘limited resources’ (Rittberger & Schimmelfennig, 2013).

The descriptive findings in this research and especially on legitimacy and the data presenting different tools of accountability and representation through nomination make attempts at responding to these criticisms. Chapter 7 contains first hand empirical data demonstrating that the parliaments in addition to being created to address legitimacy gaps, are also created to promote democracy. The case study IPIs have competences that discredit the criticism that their creation is superficial. Although the research confirms the challenge of limited resources, the notable contribution to IPI literature and especially the case study IPIs is the data showcasing the role of MLG and how it influences the performance of these IPIs. The data showing different tools of accountability and representation dispels the criticism that the IPIs are expendable or that they are ineffective.

Data presented in chapter 7 shows that there exists an array of tools used to promote citizen engagement, accountability and enhanced legitimacy and by extension promote democracy. The tools discussed show that accountability can occur at the supranational level. The data also responds to the criticisms that IPI remain intentionally weak because member states who establish them retain domestic accountability mechanisms (Schimmelfennig et al., 2020). Tools highlighted in chapter 7 show that these IPIs have their own accountability tools and their reliance on domestic mechanisms is only on complementarity basis.

8.4 Conclusion

This research showed that the regional parliaments of EALA and the ECOWAS Parliament were created as a legitimation strategy and most importantly to promote democracy and good governance. The evidence collected from the treaties establishing these two regional parliaments, including secondary data from books and scholarly articles indicate that the regional parliaments were established by their respective international organizations as agents of representation and were further imbued with the function of promoting democracy and good governance. This research revealed that by dint of different tools of accountability IPIs are not, sinecures and fig leaf

institutions established to appease development and donor partners that they have a genuine democratic mandate which they endeavor to execute. Even without elections these IPIs have developed unique tools and mechanisms that counter the lack of vertical accountability through formal, universal election and in addition to other tools, the pair has a selection method called *nomilection* which presents opportunities for accountability especially answerability and enforceability. The research holds that to accurately evaluate the contribution of the pair to promoting democracy and good governance, they should be assessed through the lenses of the mechanisms they have and not the standards and benchmark of their domestic counterparts.

8.5 Main research contributions

The research results have made a case to show that we need to rethink the existing criticism on the ability of IPIs' to promote democracy and good governance. Especially the criticism that they cannot do so as their domestic counterparts because they lack election.

The research is based on novel data provided in the image below. The image demonstrates that both IPIs have ex-ante and ex-post tools of accountability, and the research demonstrated evidence that both vertical and horizontal forms of accountability exist. In highlighting these tools, this thesis has provided evidence that both are agents of representation and through various tools of accountability, they promote democracy and good governance. Evidence of mechanisms and tools of accountability and representation discussed in the research are highlighted in the table below.

Table 10: Empirical tools of accountability

Source: Author's own

| Regional Parliament | Ex-Ante Accountability Tool | Ex-Post Accountability Tools |
|-----------------------------|------------------------------------|---|
| ECOWAS Community Parliament | Nomilections | <ul style="list-style-type: none">• Oversight over program implementing bodies.• Delocalized meetings,• Fact finding missions, Commissions of inquiry,• Budget oversight,• Sensitization activities,• Interpellations, |
| EALA | Nomilections | <ul style="list-style-type: none">• Question and answer sessions• Relationship with national parliaments• Sensitization activities• Budget oversight |

8.6 Findings on democracy and MLG

Because scholarly information on the workings of these IPIs and especially empirical research on their efforts in promoting democracy and good governance is scanty, the evidence and data highlighted in the table above contributes to the existing literature on the workings of the regional parliament of EALA and the ECOWAS Parliament.

This research not only counters the lack of scholarly empirical information on the workings of the pair in promoting democracy and good governance, but it also presents explanations on how the different tools work. These tools are then graphically represented on a table highlighting them.

This research also goes ahead and suggests that the mere existence of the tools proves that scholarly criticism, including those that point towards the lack of citizen participation in the decision making of the regional parliaments, are misguided.

In addition, this thesis calls for a rethinking of the criticisms and offers counter arguments on scholarly aspersions on the effectiveness of IPIs' efforts in promoting democracy and good

governance. The research considers that perhaps the parliaments challenge the conduct of accountability and oversight is not because there is no hierarchy as their domestic counterparts. Also, the lack of autonomy in performing parliamentary functions, or the limiting manpower and resources necessary for effective oversight is not it. This research presents MLG as the poisoned chalice.

Using empirical data, this thesis not only made contributions to existing literature on how MLG affects the decision-making process necessary for accountability, democracy, and good governance but it also tests theoretical debates on how MLG affects operationalization of any decision-making process including the processes of accountability.

The evidence presented in this study and those highlighted in the table below show that MGL obliterates the functioning of IPIs. This research concludes that by introducing plural actors, increasing multiple levels of coordination and cooperation, relying on information exchange from the many actors which in turn increases the time utilized to decide as well as by accommodating shadow actors, the reliance on MLG as a system of decision-making reduces the effectiveness of IPIs in conducting accountability and promoting democracy and good governance.

Despite this the research holds that the complexities of MLG do not hold an insurmountable obstacle to effective accountability. This research results suggest a reduction in multi-level governance to counter the side effects arising from the complexities. This means a reduction in the number of actors performing the parliamentary function of oversight and accountability, preferably that only the parliament is involved in execution of parliamentary functions including their recommendations and the parliaments being allowed to exercise fiscal and member autonomy.

8.7 Empirical Contributions

This research suggests that of all accountability tools discussed, the one that stands out is the ex-ante tool of accountability titled *nomilections*. The regional parliaments of EALA and the ECOWAS Parliament, have a nontraditional tool of delegation which the research christen *nomilections*. *Nomilection* is a combination of the word nomination and election and is used to mean a hybrid process of selecting members of parliament where both nomination and election are seen to contribute at *par* to the selection processes of a candidate to be a member of parliament in

these regional parliaments. The contribution and efforts of both processes are so intertwined that there is no distinction of what between election and nominations takes precedence.

The nature of *nomilection* is such that it does not exclude the classical models of direct election rather; it combines both direct election and nomination in the selection of candidates to the IPIs. Although *nomilection* may occur at different times, evidence presented in this research shows that the process can occur concurrently resulting in four archetypes to its conceptualization, that is *nomilection*:

1. Where an existing pool of candidates who have already been directly elected and are serving as members of parliament at the national level are then nominated which nomination is the final decision in selecting the Member of Parliament to the regional parliament.
2. Where political candidates, not members of the national assembly are first nominated for membership to the regional assembly then from the list of nominated candidates a vote in the form of election is taken to reach a decision on the final candidate to be a member of parliament at the regional parliament.
3. Where political candidates already elected as members of the national assembly are again nominated and subject to a second vote for the regional assembly
4. And where a political candidate, not a member of parliament, to the national assembly is directly nominated to the regional assembly.

Both EALA and ECOWAS parliaments do not have direct election of their members based on universal suffrage of the citizens of partner states. But rather, they have a hybrid system of delegation which combines nomination and election of members to the parliament. These tools and their potential contribution to the promotion of democracy and good governance have received little scholarly representation.

This research provides evidence that although the IPIs do not conduct universal suffrage, *nomilection* provides an alternative and perhaps better tool of accountability at the supranational level. By engaging organs of the regional organization, national parliaments, political parties, and individual voters, *nomilections* offers an unexplored state of the art tool of accountability.

The thesis provided detailed discussions on how *nomilections* operate and once again the challenges of multi-level governance are highlighted. The research results on *nomilections* confirm that identifying multi-level governance as the problem in executing accountability and promoting democracy and good governance is not erroneous. In all tools discussed, a common challenge was reported, confirming the research conclusion that multi-level governance reduces the effectiveness of accountability and by extension the promotion of democracy and good governance.

8.8 EALA and ECOWAS Parliament the way forward

This research argues that many factors and processes influenced the creation of the case study IPIs. The broader theoretical framework relied on rational choice and liberal institutionalism but to explain the African narrative diffusion is added to this framework.

Although growing pan African literature desires to distinguish African integration processes from those of the EU, this research holds that for democracy and representation, the case study IPIs can learn from the European Parliament (in short: EP). This position is borrowed from the striking similarities between formative experiences of EP and those of the case study IPIs. These similarities are particularly useful as they allow evidence-based optimism for the African IPIs.

During its formative years, the EP experienced challenges like those detailed in chapters 5, 6 and 7 of this research. These challenges include a relatively powerless and supplementary position in the policy and decision-making cycle.⁹² No direct elections in addition to the Members of the European Parliament (MEP) holding dual mandate. Other recorded challenges that the EP faced and the case study IPIs are facing include challenges of language and interpretation. Procedural challenges between the delegates especially when members were under the impression that national interests were being undermined (Roos, 2020). The most exciting challenge discovered is the act of leaving plenaries during voting which is, as Roos suggests, considered a commonly accepted behavior that follows the logic of appropriateness among disgruntled MEPs.

These challenges, as experienced during the formative years of the EP, can help inform calls for the gradual empowerment of the EALA and the ECOWAS parliament. This research recommends the use of lessons learnt from the EP experiences to help inform the diffusion of ideas and

⁹² Just as the European assembly during founding of the European Communities in the 1950s was deemed powerless in the decision-making cycle of the EU, this is like the African IPIs.

discourses about the notion of democracy representation and accountability. The research goes further to suggest the use of informal channels of communication to aid in lobbying for empowerment of the parliaments. Following both a logic of appropriateness and one of consequentiality the transfer of EP experiences, procedures and structures can typically shape the enhancement of the case study IPIs.

8.9 Further Research

Having provided empirical evidence that IPIs are established to address legitimacy concerns and are institutions of representation, created out of genuine democratization efforts with the mandate to promote democracy and good governance, future research should analyze how the instruments highlighted in this study can be enhanced to improve the rankings of the partner states in democratic indices. Perhaps even research on how to reduce the influence and reliance of IPIs on MLG.

This research began from an explorative angle seeking to fill the knowledge gap on how regional parliaments conduct accountability and promote democracy and good governance without elections. Because the results presented here are based on two case studies, the findings of this thesis can be deemed as generalizable to the remaining two active IPIs in Africa. While this thesis demonstrated empirical evidence on different tools used by the two IPIs to promote democracy and good governance, it is by no means the last nail in the coffin of democracy.

I make no assertion that the argument on parliamentary democracy proposed here especially those on *nomilections* sufficiently explains avenues of vertical accountability as conceived in the traditional sense. However, I reiterate and assert that it is a fruitful contribution that counters the skepticism on the workings of these regional parliaments. Further research should include a critical analysis of the mechanisms through which citizens can select and control their representatives at the regional level. Attempts to understand the workings of the IPIs must move from documentation of the chain of command but also include a critical assessment of the role of non-state actors such as political parties in the enhancement of citizen participation at the grass root level.

The research findings also revealed several challenges that affect the effectiveness of the conduct of accountability amongst MLG. I am convinced that had it not been for the compromises reached

to arrive at the current thesis, including time and resource constraints, critical details revealed from in-depth discussion on the other existing bottlenecks would have been a lucrative research area.

Finally, future research should study cases from other regions and employ different methodological innovations beyond those used in this thesis. The study of IPIs and their democratic mandate can employ multiple methodological approaches.

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Annexes

Field work – Interview guide

Donnet Rose A. Odhiambo

Research work at the East African Legislative Assembly (EALA) Arusha Between 10-15 October 2021 and Between 10-15 July 2022 at the ECOWAS Parliament Abuja

Research Tools

The interview guide outlined in the appendix was used to collect opinions and views of respondents on the functioning of the parliaments, especially the conduct of accountability and representation function. In collecting data from the respondents, I used semi-structured interviews. I selected Semi structured interviews because they are flexible and allowed me to adapt to the situation and get as much information as possible. Also, they provide in-depth data which is not possible to get using other tools.

Generally, I asked the interviewees a set of predetermined open-ended questions with other questions emerging from the dialogue between the respondent and myself. Most interviews went on for between 1 hour and some lasting several hours with the longest being a four-hour interview session. I asked the respondents questions designed to elicit answers pertinent to the research questions.

Interview questions

1. How does EALA work with Partner States national parliaments?
2. How are decisions of the Community communicated between EALA and the Partner States' parliaments?
3. When a policy decision is made, how does the same get to the various member state departments for implementation?
4. What options does EALA have when a Partner State is non-compliant with a policy decision?
5. What mechanisms are available to EALA to ensure that a decision is implemented by Partner States?
6. How does EALA ensure that Partner states are accountable to the Community?
7. What are the accountability tools and mechanisms between EALA and the Partner states?

8. What kind of incentives or sanctions are available to EALA with regards to ensuring policy is implemented?
9. How does EALA ensure that the interests and the needs of the citizenry are considered?

NB.

Questions will only be used to guide the interviewee.

Interviewees will in the beginning be informed of the purpose of the interview and guaranteed the option to remain anonymous should they so desire. They will be explicitly asked for their consent.

Ethical considerations with regards to scientific research will always be made.

Covid-19 and WHO health protocols will be observed.

Interviews

| PARLIAMENT | AFFILIATION | Number of Interviews |
|--------------------------|--|-----------------------------|
| EAC | Office of the Counsel to the EAC | 2 |
| | Sergeant at Arms | 1 |
| | Library and Research | 2 |
| | Hansard | 2 |
| | Public Relations | 1 |
| | Clerk | 1 |
| | Member of the EALA | 8 |
| | | |
| ECOWAS Parliament | Secretary General of the ECOWAS Parliament | 1 |
| | ECOWAS commission | 1 |
| | Parliamentary affairs and research | 2 |
| | Public relations and protocol office | 3 |
| | Bureau and strategic planning manager | 3 |
| | Library and parliamentary records | 2 |
| | Member of ECOWAS Parliament i.e. plenary | 6 |