

# Report on the Civil Society Forum Report: Effective engagement with the Pan-African Parliament



Pan-African Parliament Precincts  
Midrand, South Africa  
11 May 2019  
09:00-15:00



**Centre for  
Human Rights**  
UNIVERSITY OF PRETORIA



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA

# PAN-AFRICAN PARLIAMENT CIVIL SOCIOETY FORUM

## INTRODUCTION

On 11 May 2019, the Centre for Human Rights, Faculty of Law, University of Pretoria in collaboration with the Pan-African Parliament (PAP) hosted a one-day Civil Society Forum which targeted Civil Society Organisations (CSOs) from across the continent.

### Among other things, the Forum discussed:

- Legal and Policy Framework for general engagements with The Pan-African Parliament;
- The role of Civil Society in the African Union Institutional Architecture: Challenges and Opportunities;
- The Mandate of the Pan-African Parliament: Entry Points for Effective Citizen and Civil Society Engagement; and
- How to establish a Coalition for Sustained Civil Society Engagement with the Pan-African Parliament: Reflections and ways forward.

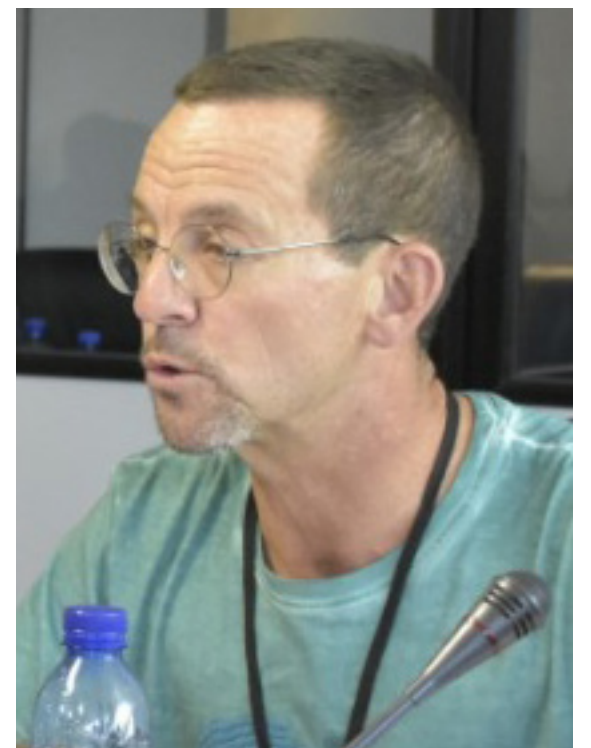
The Civil Society Forum was aimed at fostering and deepening closer collaboration between the Pan-African Parliament and Civil Society Organisations, which is necessary for the actualisation of the Pan-African Parliament in establishing core functional targets.

### To this end, the meeting sought to achieve the following core objectives:

- To create awareness among Civil Society Organisations on the objectives, policies, aims and programmes of the African Union in general and the Pan-African Parliament in particular.
- To strengthen continental solidarity, cooperation and development.
- The promotion of peace, security and stability of the African Continent.
- To sensitise civil society organisations on the general working of the Pan-African Parliament and its various committees, promoting active and constructive citizen and civil society engagement with the Pan-African Parliament.
- To share best practices on effective civil society advocacy, lobbying with AU institutions in general and the

### Pan-African Parliament in particular

- To adopt a common approach for sustained civil society engagement with the Pan-African Parliament.
- To identify gaps and challenges relating to civil society engagement with AU institutions, especially the Pan-African Parliament and devise common strategies for addressing them.



# PAN-AFRICAN PARLIAMENT CIVIL SOCIETY FORUM

## SESSION 1: OPENING REMARKS

### Ms Bonolo Makgale

Manager: Democray and Civic Engagement Unit  
Centre for Human Rights

Ms Bonolo Makgale, in her introductory remarks welcomed everyone and gave an overview of the Pan African Parliament as an organ of the AU. Ms Makgale noted that the establishment of the Pan-African Parliament (PAP) as an African Union (AU) organ in 2001, signalled a historical milestone. For the first time, the African continent set up a Parliament as a means to ensure that there is full participation of Africans in the development and economic integration of Africa. The PAP as an organ of the AU seeks to provide a formal platform for African people to participate fully and meaningfully in decision-making processes on matters affecting the continent in all spheres of life, including human rights, rule of law, good governance, democracy, peace and security, integration and development

More than a decade after its inauguration, the PAP continues to find ways towards sustainably establishing formal and informal mechanisms for meaningful engagement with the African people and civil society. The mandate of the Pan-African Parliament, being a representative of the people of Africa, cannot be implemented without engaging and involving citizens and civil society in the activities of the PAP. Against this background, the Centre for Human Rights established a partnership with the Pan-African Parliament (PAP) in October 2017. Key objectives of this partnership, is facilitating capacity building on human rights and democratisation in Africa, increasing the visibility of PAP and fostering a strong interaction between PAP and Civil Society Organisations (CSOs) on the continent..



### Building on the Memorandum of Understanding and its objectives, this Forum aimed at:

- Fostering closer **collaboration** between and among CSOs on PAP with a view to advancing and promoting the mandate of the continental Parliament.
- Deepening reflections on the **establishment** of a PAP Civil Society Coalition and collectively exploring a way to establish a formal mechanism of engagement with the PAP.
- Leveraging the inroads already created by some CSOs engaging with the PAP, and **enhancing a strengthened CSO platform** for AU institutional engagements in general and PAP in particular.



# PAN-AFRICAN PARLIAMENT CIVIL SOCIOETY FORUM

## SESSION 1: OPENING REMARKS

### Mr Yusupha Jobe

Acting clerk  
Pan-African Parliament

Mr Jobe stated that the PAP would continue to provide meaningful and sustained engagement with Civil Society Organisations. He elaborated on the timeliness of this meeting as it is taking place under the theme of empowering and unpacking opportunities for CSOs and PAP, providing the means to reinforce their work for realisation of the AU aspirations. The meeting brought together scholars, CSOs and parliamentarians, which not only allowed for the sharing of knowledge and exchange of experience and best practices, but also provided the means on how to achieve effective and fruitful engagement between CSOs and the PAP. In addition, addressing the gaps and challenges in engagement with PAP and devising common strategies on how to solve the challenges. Also allowing for a common and sustainable approach leading to the establishment of a CSOs Forum for engagement with PAP.

Additionally, Mr Jobe expressed gratitude to all who attended and particularly to the Centre for Human Rights for demonstrating that they are a serious partner with their commitment to implementing the MOU signed between it and PAP



### Prof Frans Viljoen

Director  
Centre for Human Rights, University of Pretoria

Prof Viljoen welcomed and thanked everyone for coming to the Forum. He started by recognising that PAP had opened its doors for CSOs. He indicated that the interest of the Centre for Human Rights is to advance human rights in the African continent, therefore the Centre is interested in engaging with the PAP as an African Parliament. More importantly, to look at how CSOs could enhance and cultivate support for the PAP in its human rights mandate. Prof Viljoen emphasised that the Forum presents an opportunity for CSOs to think collectively on ways to engage with the PAP.



#### **H.E Stephen Julius Masele**

First Vice President  
Pan-African Parliament

Hon. Masele started by saying that nothing happens without a fight, in reference to the need for the PAP to have binding legislative powers. He stressed the fact that Civil Society Organisations should build a stronger synergy with the PAP. He pointed at Article 17 of the Constitutive Act of the African Union (AU) and reemphasised that the PAP is important in achieving the objectives of the AU and is gradually evolving into a parliament with full rights, bringing the AU to the people and the People to the AU, be it through political parties or CSOs. There will always be an alternative voice to the system.

He expressed his gratitude to the Centre for Human Rights, University Pretoria for the collaboration in convening the event. He expressed his hope that the deliberations of the meeting will go a long way to contributing to the improvement and strengthening of Africanism. Further, for meaningful and effective collaboration for promoting the mandate of the PAP as a continental legislative body. As one of the AU organs, the PAP has meaning only when it ensures the meaningful participation of the African people in AU policy. PAP is evolving to an institution with full legislative powers with members elected through universal suffrage. The objective of PAP, which includes among others, giving African people a voice, promoting human rights and democracy in the continent, rule of law and accountability and other shared values. Those objectives cannot be achieved if PAP does not have the mechanism to obtain and process the views of the Africans that PAP represents. He indicated that PAP's rules of procedure and practice makes some provision for citizen participation in the operations of PAP. PAP has for instance resolved to hold its sessions in different regions of Africa and get first-hand information of realities and experience of African people. Therefore, there is need to ensure that activities and output of PAP are in consonance with the aspirations of African people. This is done through consultations, public education and awareness. The role of CSOs in assisting PAP cannot be over emphasised. He recognised that PAP can do more to strengthen its link with CSOs, but CSOs should also do more to build legitimacy and engage constructively with parliament. The challenges of PAP are limited resources, insufficient technical capacity, quick turnover of Parliamentarians, delays in ratification of new protocol, which extends the mandate of the PAP. Therefore, in line with AU policy the PAP takes CSOs seriously and it wishes to engage creatively and effectively with them.

The CSOs forum should be institutionalised to foster sustainable mechanisms on better engagement between CSOs and the PAP. There is need to find answers for the challenges faced by the PAP and CSOs.

### SESSION 1: LEGAL AND POLICY FRAMEWORK FOR CSO ENGAGEMENT WITH PAP

#### Role of Civil Society in the African Union's Institutional architecture: Challenges and Opportunities

##### Prof Frans Viljoen

Director

Centre for Human Rights, University of Pretoria

Prof Viljoen stated that the legal framework of CSOs is through ECOSOC, but noted the need to ascertain ECOSOC operational status. He reaffirmed its creation with a secretariat based in Addis Ababa, but there is need to check its activeness. CSOs have attempted to engage with ECOSOC and found rigidities.

#### There is a number of reasons attributed to the inactiveness of ECOSOC.

1. It limits CSOs that can participate, for example only two CSOs per country.
2. The CSOs would be designated in unclear procedure by various states.
3. The CSOs would be designated by the Africa Union Commission and diaspora.

One of the biggest impediments of CSOs' engagement with ECOSOC are the set requirements to become a member. For instance, CSOs must prove that their membership and management are 50% composed of Africa people. In addition, the basic resources of at least 50% should be generated internally. The kind of CSOs which are eligible for ECOSOC membership are only CSOs with membership fees. Many CSOs working in human rights and governance sectors rely on foundations and foreign governments for funding and therefore automatically excluded. It is against this backdrop that there is a need to engage with the PAP. This makes it imperative for CSOs to take the opportunity granted by the PAP. In addition, the African Human Rights Commission and the Africa Committee on the Rights and Welfare of the Child grants observer status to NGOs.

However, it was noted that the system of observer status is currently under threat. For instance, upon the African Commission's granting of observer status to the Coalition of African Lesbians (CALs), the Executive Council of the AU directed the Commission to undo its decision of granting the observer status to CALs. The Commission in December 2018 complied with the Executive Council's directive and withdrew CAL's observer status. In the decision by the Executive Council, it also indicated that the African Commission should revise its general guidelines of granting observer status in light of 'African values'. This begs the question on what African values this decision referred to since part of African values is respect for human rights, minorities and diversity. There are enough authorities to back this, but it is a contested space.

The African Commission has granted observer status to over 500 NGOs while the African Children Committee has granted around 40 NGOs. The issue is what is the interface or reason to engage with PAP? The AU Commission grants observer status to NGOs and the process is cumbersome. If one looks at the legal instruments creating this process it leads to the conclusion that it comes with the same caveats as ECOSOC. It is problematic for NGOs to obtain observer status with the AU Commission. Those are ways that the CSOs would engage with the AU but in practice there are many constraints.

He stated that on paper, PAP leaves its doors open since it seeks to achieve the full participation of the African people in its activities. There is room for CSOs' engagement in terms of Article 7 of the protocol listing the functions of PAP, one of the principal roles is not to make legislation but to discuss and present opinions and recommendations. The CSOs can explore the possibility of involvement on this mandate. There is an open-ended mandate for PAP to discuss any issue and human rights is one of such issues.

## PAN-AFRICAN PARLIAMENT CIVIL SOCIETY FORUM

### SESSION 1: LEGAL AND POLICY FRAMEWORK FOR CSO ENGAGEMENT WITH PAP

#### The Mandate of the Pan-African Parliament: Entry Points for effective citizen and Civil Society Engagement

##### Mr Clement Mavungu

Legal Counsel  
Pan-African-Parliament

Mr Clement noted that the current PAP mandate presents great opportunity for CSOs' engagements. Indeed, there is a policy for CSOs' and citizens' participation in all organs of the AU. The AU has made a deliberate move to ensure that citizens are part of policy formulation and implementation. To this end, PAP was put in place to ensure that people are represented and their voice defended.

This is further reinforced in the policy and legal framework of the PAP which creates room for CSOs' engagement. However, so far these mechanisms put in place have not been fully utilised. When compared with other AU institutions PAP is lacking a sustainable space to ensure citizens and CSOs are able to engage with PAP.

The idea of PAP started in 1991 with adoption of the treaty of African Economic Community. In that treaty, the founding fathers realised that, for the sake of advancing African integration and development, there was a need for some pillars. PAP was identified to be one of the pillars mandated to ensure the full participation of African people in economic integration and development. In 2000, the AU Constitutive Act was adopted and PAP was listed as one of the organs of the AU. Its operation had to be indicated in a different Protocol, which was adopted in 2001 and entered into force in 2003 and in 2004, PAP started operation.

In 2014, the Malabo protocol was adopted vesting more legislative powers to the PAP because the first protocol only vested PAP with consultative and advisory powers. The protocol is not yet in force since it has 22 signatures and 12 ratifications. Currently, the journey to ensure legislative efficacy is still on going as the PAP is still operating under the 1st protocol which only vests consultative and advisory powers.

**In the current Protocol the mandate of PAP can be categorised into four.**

**1** - **A**dvisory powers which grants the PAP mandate to discuss and express an opinion on any matter relating to the member states, African Union and its organs. This mandate is wide enough. This power is exercised at the initiative of the PAP.

**2** - **C**onsultative powers which grants the PAP authority to discuss and give opinion at the request of other AU institutions.

**3** - **O**versight power which grants the PAP authority to oversee the development and implementation of AU programmes.

**4** - **B**udgetary powers which grants the PAP authority to examine and debate the budget of the Africa Union and make recommendations to the Assembly of Heads of States. However, the PAP is only exercising the power of examining budget framework and not the budget itself since that is exercised by Permanent Representatives.

Mr. Clement expressed his hope that since this power has been maintained in Malabo protocol on cause of operating the protocol, it will be transferred to the PAP.

**In continuation, Mr. Clement pointed that the organs of the PAP are as follows:**

1. The Plenary – This is the meeting of all members of parliament to discuss issues referred to them by various committees. There are 11 committees which deal with different issues. For instance, the Justice and Human Rights Committee, Trade, Audit Committees, etc. The respective Committees must deal with the issues dealing with their mandate before they are referred to the Plenary.
2. The Bureau - it is composed of one President and four Vice Presidents.
3. The Caucuses - there are regional and thematic caucuses. They are spaces where policies are made.
4. The secretariat- it deals with day to day activities of the PAP and composed of 74 members.

The PAP holds two ordinary sessions in May and October. These sessions are preceded by the Caucus. There is a possibility of special session on request of Assembly or Parliamentarians. The work of the PAP is discussed in plenary which finalises the work of parliament through resolution or recommendations. The resolution and recommendations are submitted to Assembly of Head of States at each summit.

## PAN-AFRICAN PARLIAMENT CIVIL SOCIETY FORUM

### SESSION 1: LEGAL AND POLICY FRAMEWORK FOR CSO ENGAGEMENT WITH PAP

#### The Mandate of the Pan-African Parliament: Entry Points for effective citizen and Civil Society Engagement

##### The following are the points of entry for CSOs in the PAP as per the Protocol and Rules of Procedure:

1. The **Constitutive Act** of the AU in the preamble and the principles of AU provides for citizen participation. In particular, the principle of promotion of rule of law and good governance would provide for CSOs engagement with the PAP.
2. In **Article 17** of the Constitutive Act, the mandate of the PAP which is operationalised by rules of procedure in particular Rule 25 makes provisions for the rights of citizens of Africa to attend proceedings of PAP including not only plenary but committee meetings. The proceedings are supposed to be public unless otherwise decided by the Bureau of the PAP. It is important to note that they are public but CSOs and citizens do not have the right to speak in plenary or committee unless authorised to do so.
3. The right to address a petition as provided under **Rule 72 of the rules of procedure**. Emphasis should be laid on any citizen or natural or juristic person and on any matter on the activities of AU. The petition can be based on human rights issues and any other issue which is very broad.
4. Rule 60 of **Rules of Procedure** relates to motion and rights of parliamentarians to ask questions to any official. Citizens at level of national parliament can engage with individual parliamentarians and trigger a motion.
5. The opportunity of **collaboration** and partnership such as the Centre for Human Rights.
6. The committees can get assistance from **CSOs as experts** on certain matters. This enables CSOs to influence the processes and policy making and implementations.
7. The PAP organises **public hearings** on wide range of issues. For example, currently PAP is developing a number of model law which cannot be passed without citizen's participation.
8. CSOs can **support advocacy** activities of PAP such as the ratification of Malabo Protocol.

In summary the current law provides for CSOs engagement despite insufficient.

The CSOs should take purposive decision to engage the PAP. For instance, CSOs have a budget for the Africa Human Rights Commission, but most do not have such a budget for the PAP.

##### The salient features of Malabo protocol Vis a Ve the current Protocol:

1. The current protocol gives the PAP advisory and consultative powers, but the new protocol brings legislative powers. The legislative powers are defined to the effect that the PAP will be developing model laws in areas determined by the Assembly.
2. The new protocol provides the PAP with powers to be part of treaty making of the AU. Currently, treaties are formulated without the involvement of the PAP except for the PAP Protocol and Charter on Democracy and Good Governance which it participated.
3. The Malabo protocol provides expressly that CSOs and citizens should be engaged by the PAP. The current protocol is not explicit.
4. The power to receive and discuss reports from other AU organs. This strengthens the oversight powers of the PAP.





## PAN-AFRICAN PARLIAMENT CIVIL SOCIETY FORUM

### PANEL DISCUSSION: ESTABLISHING A COALITION FOR SUSTAINED CIVIL SOCIETY ENGAGEMENTS WITH THE PAP

Dr Nkatha Murungi- The Assistant Director, Centre for Human Rights, University of Pretoria pointed out that the PAP has an unrestricted space for engagement which Civil Society Organisations should take advantage of. She also highlighted the role of the PAP in reforming ECOSOC following the Assembly decision to reform AU for which the PAP can play an intermediary role to ensure that CSOs and the AU through the ECOSOC build the much needed synergy to ensure that general human right awareness needed in the society is created.

In an additional remark, Mr. Clement commented that there is so far no restriction in CSO engagements with the PAP. He added that one of the areas the PAP has made progress is in connecting citizens, emphasising the need to look at the mandate of various organs of the PAP which is why the engagement of CSOs should be within the mandate of various organs. For PAP the mandate is already clear and wide.

In his additional comments, Professor Frans noted that there is need to support multiplicity of engagements in the CSO and the PAP collaborations, which is why the need for reforms made this discussion timely. There is equally need to disseminate information through websites as it makes it easier for CSOs to engage.

Dr. Harrison noted that there is need to have a convergent than single approach in the collaboration between the PAP and CSOs to promote complimentary coordination on dealing with different issues.

John Makamure in his contribution said that as much as engagements are necessary with the PAP, it is only a process, but the substance is very important also. The PAP should be strengthened with a stronger capacity.

Miss Corlette Letlojane, the Director of Human Rights Institute of South Africa noted that the constitutive Act reflect some South African values and also drew attention to how the interaction with the AU helped to end the crisis in Darfur. She remarked that the PAP has failed to partner with Human Right Institutions across Africa and had also not lived up to its societal expectation in the promotion of Goal 16 of the Sustainable Development Goals which bother on inclusive societies. She also drew the attention of PAP on the need to build a model to engage the coalition with Civil Society Organisations



On the question of what the PAP is doing to popularise its mandate, Mr. Mark Heywood, a human rights Activist questioned why civic space is shrinking in Africa. And noted that the PAP can help to reduce the restriction on freedom of expression, movement, association and attack on human rights defenders. This is because civic space is expanding and contrasting at the same time. He referred to a research he is currently undertaking where focus is on Southern Africa, and he invited the CSOs present to engage. He told the audience they are at the moment trying to build a database. The purpose of his research according to him is not academic but to write a report on civic space and make recommendations on what UN can do to engage with CSOs to fulfil the promotion of human rights.

Dr Nkata Murungi said there is need to open a discussion before a coalition, but the concern is the mode of engagement. Beyond the appreciation of importance of engagements, she noted the need to be sure of what each party gets out of these engagements and commented on the shrinking civic society space which is informing how CSOs engage on African human rights structures leaving the Pan African Parliament as one of the spaces to actualise citizen and Civil Society participation since parliaments exist to facilitate the engagement of citizens which creates the shared interest to allow people engage. She referred to the Civil Society meeting in Kigali which means something is happening through all the pre-session forum that the PAP and AU organises as long as there is continuous engagement and as long as there is an interface with CSOs dealing with other areas other than human rights.

## PAN-AFRICAN PARLIAMENT CIVIL SOCIETY FORUM

### PANEL DISCUSSION: THEMES AND CIVIL SOCIETY ORGANISATIONS ENGAGEMENTS

While discussing 'Year of Refugees and Internally displaced persons in Africa Towards finding Durable Solutions to Forced Displacement: Civil Society Perspective' Dr Aquinaldo Celio of African Network of Constitutional Lawyers, referenced the AU and UN Refugee Conventions and noted that the over-reaching consequence of refugee situations and IDP crisis has led to:

1. Increased Violence
2. Living in dire conditions
3. Return in their countries
4. Trafficked and child soldier

Mrs. Sharon Ekambaram,- The Program Manager, Lawyers for Human Rights, in her opinion said also that the PAP needs to work with CSOs on effect of displacement based on climate change, pointing out that over the last 2 years, 65 million people have been forced to flee from where they use to call home and that it has currently gone to 70 million as one person every second has been displaced according to UNCHR.

### PANEL DISCUSSION: WAY FORWARD

1. CSOs must strengthen their engagement with the PAP and be ready to concretise platforms that enhance the space and inroads already created through this forum;
2. CSOs must utilise the PAP as their partners by offering technical support and enhancing their capacity. It is noted that most CSOs have not engaged with the PAP and where they have, it has been on a problem basis.
3. CSO's must engage the PAP on the sidelines of plenary sessions
  - look at problematic approaches and give them some consideration;
  - come up with broader systemic and strategic issues on the Malabo Protocol, and how CSO's can jump on the band wagon for its ratification and identifying their role in the ratification process.
4. identify loopholes in the Rules of Procedure for discussion. The PAP will arrange for the Rules of Procedure to be made available to the CSO's for their participation in the amendment process
5. There is need to put together resources for Forum to be housed at PAP;
  - There is need for loose coalition
  - There is need for information sharing and presence not only physical but virtual presence.
  - need for the PAP to have capacity to house the CSOs engagements. There is need for a coalition to engage on various human right issues. There is need also for permanent presence of CSOs at the PAP since this forum should be active beyond the sessions. The forum should coordinate the participation of CSOs.
  - There is need for CSOs at the committee level and collective forum on overall thematic issues.



## PAN-AFRICAN PARLIAMENT CIVIL SOCIOETY FORUM

### CONCLUSION

In his closing remark, Professor Frans Viljoen said that the PAP is a talk shop, which talks without the concomitant powers to match the talks with actions. Therefore, PAP should channel talks on things that matter most on the African continent. He encouraged the need for the PAP Coalition with CSOs to strengthen these engagements. He encouraged full continued support between the CSOs and the PAP staff and assured of greater mutual cooperation of the PAP in future engagements.

