

# A functioning legislature

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holds a B.Sc degree in Business Administration (Finance) from the American University, Washington, DC. Following a career in the private sector including as GM and MD respectively of Haithar Holdings, a major transport and logistics provider in East Africa, and ABHA Limited, a supplier to Kenya's tea industry, he ventured into politics in 2001. Elected as a member of the East African Legislative Assembly he was active on the House Communication Trade and Investment and Accounts Committees, amongst others. He took the oath of allegiance as Speaker of the EALA on June 5th 2007 and will serve until 2012.

It is nine years since the East African Legislative Assembly (EALA) was established as a legislative arm and organ of the East African Community on 29th November 2001, as stipulated in provisions of Article 48 of the new EAC Treaty signed in 1999.

Its core functions include law making, approval of the community budget and support of its programmes, interface with the national assemblies of the partner states on EAC matters and provision of advice to the Council of Ministers on the implementation of the EAC Treaty. The EALA carries out these functions through bills, motions, questions and recommendations in Committee reports as per the provisions of Articles 49 and 59 of the Treaty.

The first Assembly made significant progress in carrying out its functions, particularly by enacting major acts of the Community, drafting bills and conducting inter-parliamentary seminars to coordinate with national assemblies and establishing relationships with its constituencies. The second Assembly was sworn in on 5th June, 2007 for a term of five years. Although it was expected that the elections would return some new members, the turn-over rate surpassed all expectations. Out of the 27 members, only six members from the first Assembly were re-elected. By any standards, this is a very high rate of change (almost 77 per cent). Moreover, many of the new members are without any prior political-parliamentary background.

In the same period, two new partner states, namely Rwanda and Burundi were admitted to the EAC. This has three main implications for the EALA. Firstly, the number of elected members of EALA increased from 27 to 45 in addition to the seven Ex-officio members. Secondly, the members from the two new partner states will grapple with a slightly different parliamentary-political-judicial background of the three original partner states which is predominantly Westminster-Commonwealth system. Thirdly, is the question of official language, being English which is not widely spoken in the two new partner states.

Over the years, the EALA has successfully established itself into a strong, effective regional legislature that has lived up to the expectations of the East African people. As earlier envisioned by the EAC founding fathers, that the East African integration process would be people-centred and driven by the ideals of democracy underpinned by consensual decision-making, the EALA was formed so as to give expression to these

democratic ideals.

It is with this background that the founding fathers deliberately gave the Assembly legislative, oversight and representative roles, which made the Assembly a proper functioning regional assembly. Under Article 49 of the new Treaty, the EALA is mandated to exercise legislative, oversight and representative functions on all matters within the purview of the East African Community making it unique on the African continent.

As a legislative arm of the community, almost ten years on the road, the Assembly has continued to fulfil its legislative, oversight and representative functions in a number of ways.

## Legislative function

In the critical role of legislation, democratic representative structures and institutions, EALA offers a unique and good opportunity for addressing issues of development through checks and balances on governments (through the Council of Ministers). The idea is to embrace an all-inclusive approach to policy and decision making and implementation mechanisms of the agreed upon agenda. In virtually all respects, pieces of legislation are the fundamental and most critical guiding and regulatory framework for shaping this agenda. In the EAC arrangement, EALA's role in the integration agenda is to provide legislation that ensures a balanced, equitable and sustainable integration process. EALA therefore ensures that it scrutinises all the draft legislation proposed by Council not only for its feasibility, but for its impact on the goals of economic development that the EAC has agreed to attain.

Since its inauguration in 2001, the Assembly has passed over 20 pieces of legislation, a number of which are very fundamental to the EAC integration process (See annex 1 opposite). This is a function the Assembly has successfully done to ensure that the necessary laws that facilitate the implementation of the provisions of the treaty and other attendant agreements that drive the integration process are, have been, and will be enacted.

## Oversight function

With regard to oversight, the role entails interrogating public policies and public funds earmarked to pursue these policies to ensure efficiency and effectiveness, fairness and equity in their administration or implementation. This assignment is done mainly

through the respective committees of the EALA. The constant contact and dialogue between the Committees and the respective departments of the EAC Secretariat attempts to ensure that the path articulated by the EAC through its development strategy is adhered to. Thus the EALA, demands regular progress reports on the implementation of the various programmes and projects as a means of attaining the above objective.

On budgetary oversight, EALA continues to play a crucial role by providing direction to EAC spending and allocation of resources. This mandate is provided by Article 132 (5) of the Treaty thus: the resources of the community shall be utilised to finance the activities of the community as shall be determined by the Assembly on the recommendation of the Council. This mandate has provided an important opportunity to EALA to debate the budget and allocate resources in line with the priorities of the Community.

The other role, under oversight, that the EALA plays is through the scrutiny of finances. Article 134 (3) of the Treaty empowers the Assembly to debate the report of the audit commission on the accounts of the Community and take such “action as the Assembly may deem necessary”. We believe we have played this role very well and the various actions and recommendations that we have made continue to cause positive impact in the management of the EAC’s finances.

#### **Representative role**

In terms of representation, the Assembly has served as the main democratic link between the institutions of the EAC and the people of East Africa. The EALA, like any other legislature is and should be the voice of the concerns of the citizens of East Africa to other decision making bodies. Similarly, it is and should be the voice to the citizens of East Africa, to let them know about the commitments and policies of their governments to the EAC. It is the duty of the EALA to ensure that communication is two way, by letting the people also know what their governments are or are not doing. The EALA has performed this very important function in the integration process because it constantly consults the people of East Africa on issues related to the implementation of the policies and activities outlined in the protocol/treaty for the establishment of the EAC. It has done this through public hearing workshops on all major stages of integration and legislation. Notable among them were the public hearing workshops on the Customs Union (both the Protocol and the Act, and more recently on the proposed Protocol on the Common Market).

In terms of outreach, the Assembly has marketed the Community by taking it from Arusha to the people of East Africa in rural and urban areas and beyond through tours and outreach programmes. The Assembly has visited and talked with villagers, rural

**The EALA is and should be the voice of the citizens of East Africa to other decision making bodies**

### **Annex 1 Laws Enacted by EALA**

1. The Laws of the Community (Interpretation) Act 2004
2. The Community Emblems Act 2004
3. The Acts of the East African Community Act 2004
4. The East African Legislative Assembly (Powers and Privileges) Act 2004
5. The East African Community Appropriation Acts 2002-2009 (12 including Supplementary Appropriations Acts)
6. The East African Community Customs Management Act 2004
7. The East African Community Standardization, Quality Assurance, Metrology and Testing Act 2006
8. The East African Community Competition Act 2006
9. The Lake Victoria Transport Management Act 2007
10. The Summit (Delegation of Powers and Functions) Act 2007
11. The East African Community Joint Trade Negotiations Act 2008
12. The Inter-University Council for East Africa Act 2008
13. The East African Community Budget Act 2008
14. The East African Community Emblems (Amendment) Act 2008
15. The East African Community Customs (Amendment) Act 2008
16. The East African Budget Act 2008
17. The Civil Aviation Safety & Security Oversight Agency Act 2009 (Pending Assent)
18. The EAC Tourism & Wildlife Management Act 2009 (Pending Assent)

peasants, business community leaders, scholars, civic society leaders, professional associations, amongst others and continuously taken into account their views about the type of community they want. Furthermore, the Assembly has been able to reach out to similar international bodies by making alliances in order to participate and contribute to international issues. As a result, the EALA has participated in Inter-Parliamentary Union (IPU), Commonwealth Parliamentary Association (CPA), Pan-African Parliament (PAP) and Africa-Caribbean and Pacific – European Union (ACP-EU) sessions. The common goal of the inter-parliamentary associations is to enhance co-operation and collaboration between the different parliamentary institutions. As a result of its effective participation a lot of interest towards support of the Assembly and the community has been registered.

#### Relations with others

Outside the traditional parliamentary functions, regional parliaments like EALA provide an ideal forum for consensus building on issues affecting the region. Consensus involves debates, discussions and persuasion to develop a common understanding on issues of concern to institutions, interest groups and the population. Consensus building is a political process and no one can do this better than parliamentarians. The EALA has performed this very well through focused outreach programmes to create an understanding of the EAC Treaty and Community programmes and projects. The EALA has also conducted tours and visits to natural resources-based conflict areas to broker an understanding with parties involved in conflict. This has helped build trust in the EALA in the areas of conflict. The involvement of the EALA in conflict resolution and dispute settlement is producing results and governments have considered the views of the people's representatives and addressed most of the issues.

The Assembly has also been successful in the area of liaison with the national assemblies of partner states. There is constant interaction between the Assembly and its counter part in the national assemblies of the partner states. Within the relatively short span of its existence, the Assembly has spearheaded the establishment of formal fora to allow parliamentarians from the five East African countries to regularly interact with those of the EALA, and to discuss matters of regional integration. They include the annual Inter-Parliamentary Relations seminar (Nanyuki); the Inter-Parliamentary Forum on Population, Health and Development (IPFPHD); the Inter-Parliamentary Liaison Committee on Natural Resources/Extractive Industries (IPLC-NR/EI); and the Inter-Parliamentary Liaison Committee on Budget (IPRLC-B); the Inter-parliamentary Liaison Committee on Trade (EAPLC);

the Eastern Africa Association the Public Accounts Committees (EAAPAC); and most recently the East African Community Speakers' Bureau.

Apart from being the legislative body of the EAC, the EALA has provided a forum for the civil society and other non-state actors within the EAC to advocate for the promotion of democracy, the rule of law and respect for human rights.

#### Conclusions

In a nutshell, the last nine or so years of the EALA can be remembered for:

- Successfully creating its own space within the EAC as the legislative organ of the community
- Its dedication, vigour, zeal and transparency in fully supporting and spearheading the integration process of the East African Community
- Its attempt to market the EAC to East Africans, which was evident in the outreach programme and activities that it undertook, whereby the Assembly was able to come into contact with more East Africans than any other organ of the EAC
- Upholding the principles of separation of powers between the executive and legislature on very serious issues affecting East Africans brought before the Assembly for debate and approval. One of the reasons for withholding its approval of two EAC budget proposals was the fact that the Assembly felt that it had not been involved in the budgeting process in due time and therefore did not want to be used as a rubberstamp by the Council of Ministers
- Demonstrating its stability as a regional legislature when the Assembly withheld its approval of the EAC Competition Bill and the Lake Victoria Basin Commission Bill until the Council of Ministers introduced satisfactory amendments
- Finding a niche within the regional and international parliamentary forums, which is evident from the invitations that the Assembly received to participate in numerous regional and international parliamentary activities. **F**



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The East African Legislative Assembly in session