

The Pan-African Parliament's Unfinished Legislative Mandate and the Sovereignty Challenge of Its Continental Legislative Diplomacy

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History: Received 30/03/2026 | Revised 18/05/2026 | Accepted 25/06/2026 | Published 30/06/2026

Abstract. This study examines how the Pan-African Parliament (PAP) exercises legislative diplomacy without formal legislative authority, why African Union member states withhold ratification of the 2014 Malabo Protocol, and what this reveals about sovereignty and regional integration. Employing a qualitative case study design, the research analyzes 67 documents including official AU and PAP records, member state communications, and academic literature spanning 2004 to 2025. Through thematic analysis and qualitative content analysis using deductive and inductive coding, the study identifies three key findings. First, the PAP has developed a modality of "functional supranationalism," exercising practical influence via election observation, model law production, oversight hearings, and inter-parliamentary advocacy despite lacking binding legislative powers. Second, member states deploy "ratification sovereignty" strategically withholding ratification while sustaining budgetary and electoral engagement to preserve national leverage and avoid binding authority transfer. Third, the PAP's trajectory reveals that African integration proceeds through hybrid functional arrangements rather than constitutional supranationalism. The study contributes to theories of legislative diplomacy and treaty politics by demonstrating that parliamentary influence can accumulate through functional authority and norm entrepreneurship without formal competence, and by conceptualizing non-ratification as an active diplomatic resource rather than a passive procedural delay.

Keywords: Pan-African Parliament; Legislative Diplomacy; Ratification Sovereignty; African Union; Supranationalism.

INTRODUCTION

The trajectory of regional integration in Africa has been characterized by ambitious institutional designs and persistent implementation gaps, with the Pan-African Parliament (PAP) serving as perhaps the most illustrative case of this paradox. The PAP was established by the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament, adopted by the OAU Assembly of Heads of State and Government in Sirte, Libya, on March 2, 2001; the Protocol entered into force on December 14, 2003, following the deposit of instruments of ratification by a simple majority of member states; and the Parliament was formally inaugurated on March 18, 2004, in Addis Ababa, Ethiopia (African Union Commission, 2002; Kioko, 2003).

The 2014 Malabo Protocol, adopted by the AU Assembly on June 27, 2014, amended the PAP's founding instrument to grant the Parliament legislative powers, establish direct elections for PAP members, and expand its oversight authority over AU organs (African Union Commission, 2014). However, the Malabo Protocol's entry into force is conditioned on ratification by a simple majority of AU member states 28 of 55 states. As of October 2024, the

Protocol has secured only 15 ratifications, leaving it 13 short of the required threshold and the PAP in a state of perpetual legislative potentiality more than a decade after its adoption (African Union Commission, 2024; Pan-African Parliament, 2023, 2024).

This institutional stasis raises urgent questions about the nature of legislative diplomacy in contexts where formal constitutional authority remains elusive. Unlike the European Parliament, which gradually accumulated legislative competence through treaty revisions that member states ultimately ratified, or the ECOWAS Parliament, which operates within a more densely integrated regional framework, the PAP exists in a distinctive liminal space: its members are elected or designated by national parliaments from among their own members under Article 5 of the 2001 Protocol, not directly by citizens, yet the Parliament lacks the legislative authority to transform that representational link into binding continental law (Kioko, 2003; Magliveras & Naldi, 2018; Ojo, 2020). This disjuncture between representative connection and functional authority constitutes the core research problem: how does a continental parliament exercise legislative diplomacy when its legislative powers remain contingent upon the sovereign decisions of member states whose interests may diverge fundamentally from institutional expansion?

The persistence of this gap cannot be attributed solely to technical or administrative delays. Rather, it reflects deeper structural tensions within the African integration project between the collective aspirations embodied in AU constitutive documents and the individual sovereignty concerns that animate member state behavior; between the normative commitment to "an integrated, prosperous and peaceful Africa" articulated in Agenda 2063 and the practical politics of ratification sovereignty that enables states to participate in institutional symbolism while resisting substantive authority transfer (African Union Commission, 2015; Chivvis & Pardies, 2021; Franke, 2020). The PAP's experience thus offers a critical lens for examining how legislative bodies in regional organizations navigate the politics of recognition and authority when formal institutional design outpaces political willingness to cede sovereignty.

The specific behavior requiring explanation is this: why do AU member states participate in PAP elections and budgetary processes while strategically withholding ratification of the Malabo Protocol? Existing explanations are insufficient. International relations scholarship on regional organizations emphasizes hegemonic leadership, issue linkage, and incremental spillover to overcome collective action problems (Haas, 1958; Lindberg, 1963; Mattli, 1999), yet these frameworks do not account for why states would sustain institutional participation while blocking the very authority transfer that would make the institution effective. Legal scholarship on the AU analyzes the constitutional architecture of its institutions (Fagbayibo, 2019; Kioko, 2003; Waris, 2019), but treats ratification as a procedural formality rather than an active political strategy. Critical approaches question whether regional parliamentary bodies serve democratic or

decorative functions (Clapham, 1996; Murray, 2004; Tieku, 2023), yet they do not explain how these bodies generate influence in the absence of formal powers. This study tests an alternative explanation functional supranationalism against documentary evidence of PAP activities and member state ratification positions from 2004 to 2025.

This study addresses the intersection of continental legislative diplomacy, ratification sovereignty, and the political economy of African integration. It builds on historical institutionalist perspectives that emphasize path dependence, critical junctures, and incremental change in regional organizations (Fioretos, 2011; Pierson, 2004), alongside constructivist insights into how institutions engage in norm entrepreneurship to reshape the terms of legitimate authority (Acharya, 2004; Finnemore & Sikkink, 1998). The central hypothesis is that the PAP has developed a distinctive modality of legislative diplomacy termed here "functional supranationalism" that enables it to exercise significant influence despite the absence of formal legislative powers, thereby transforming the strategic calculus of ratification for member states. This hypothesis is operationalized through five observable indicators: (1) the production and dissemination of model laws in sectors such as gender-based violence and cross-border trade; (2) the deployment of election observation missions to member states and the issuance of electoral integrity reports; (3) the conduct of oversight hearings and fact-finding missions targeting AU organs and institutions; (4) the establishment of inter-parliamentary initiatives and representative offices in African sub-regions; and (5) the PAP's demonstrated capacity to place items on the AU agenda and secure formal recognition in Assembly decisions. The scope of the study covers the period from the PAP's establishment in 2004 through the ongoing ratification crisis of the Malabo Protocol in 2025, focusing on the political and institutional implications of this suspended constitutional moment.

Accordingly, the study pursues three main objectives, each aligned with a specific research question, method, and evidence base. First, it assesses the PAP's strategies for exercising legislative influence in the absence of formal law-making authority, including its deployment of "soft law" instruments, oversight mechanisms, and diplomatic representation. The corresponding research question asks: How does the PAP exercise legislative diplomacy without formal legislative authority? This question is answered through qualitative content analysis of PAP official communications, parliamentary records, and model law initiatives (2004–2025), with findings presented in the "Empirical Results" and "The PAP's Institutional Framing" subsections of the Results.

Second, it analyzes the political economy of ratification sovereignty, examining why member states have withheld ratification of the Malabo Protocol despite participating in PAP elections and budgetary processes. The corresponding research question asks: What political and

economic interests underpin member state ratification decisions? This question is answered through thematic analysis of member state diplomatic statements, ratification records, and AU treaty database entries, with findings presented in the "Member State Ratification Positions" subsection of the Results. Third, it evaluates the broader implications of the PAP's institutional trajectory for theories of legislative diplomacy and African regionalism, particularly regarding the viability of supranational authority in contexts of persistent sovereignty defense. The corresponding research question asks: What does the PAP's suspended transformation reveal about the nature of sovereignty and integration in contemporary Africa? This question is answered through comparative discourse analysis across PAP, AU Commission, and member state narratives, with findings presented in the "Cross-Cutting Discursive Tensions" subsection and integrated into the Discussion.

LITERATURE REVIEW

This section establishes the analytical foundation for understanding the Pan-African Parliament's institutional development by critically reviewing competing scholarly arguments, clarifying key concepts, and outlining an integrated theoretical framework. Rather than treating legislative diplomacy, ratification politics, and supranationalism as settled domains, this review identifies active disagreements in the literature and positions the present study at their intersection. It focuses on the notions of legislative diplomacy, ratification sovereignty, and functional supranationalism, and then examines how Historical Institutionalism, Constructivism, and Rational Choice Institutionalism complement one another to illuminate the motivations, dynamics, and implications of the PAP's contested evolution.

Concepts and Definitions

1. Legislative Diplomacy

Scholarship on legislative diplomacy is divided between those who view parliamentary engagement in international affairs as a substantive extension of democratic oversight and those who regard it as largely symbolic legitimation of executive decisions. Stavridis (2002) and Costa (2008) argue that supranational parliamentary bodies can compensate for weak formal authority by cultivating transnational networks and shaping policy discourse through "soft power" the ability to influence outcomes through attraction and persuasion rather than binding authority (Nye, 2004; Waris, 2019). From this perspective, legislative diplomacy is a pragmatic adaptation within regional integration processes where institutional legitimacy creates opportunities for influence (Malmvig, 2020). Conversely, critical scholars such as Murray (2004) and Tieku (2023) contend that parliamentary bodies in regional organizations often serve primarily decorative functions, providing democratic veneer without altering intergovernmental

power structures. Clapham (1996) further suggests that in post-colonial African contexts, such institutions may reinforce state sovereignty rather than transcend it.

The PAP's legislative diplomacy is analytically distinct from ordinary AU executive diplomacy in three respects. First, whereas AU diplomacy operates through state-to-state channels controlled by foreign ministries and heads of state, PAP legislative diplomacy operates through parliamentary networks specifically, the Conference of Speakers and Presiding Officers of National Parliaments (CSPOC) that bypass executive gatekeeping and connect continental and national legislators directly (African Union Commission, 2014; Murithi, 2012). Second, PAP diplomacy derives its legitimacy claims from representative mandates mediated through national parliaments rather than from state consent alone, enabling it to frame integration as people-centered rather than state-centered (Kioko, 2003; Fagbayibo, 2019). Third, the PAP's external engagement produces governance standards through "soft law" instruments and oversight reports even without binding force: its election observation missions to member states, documented in the Parliament's election monitoring reports and annual activity statements (African Union Commission, 2014, 2024); its formal participation in AU Summit deliberations through parliamentary representation; and its observer status in the Inter-Parliamentary Union (IPU), which positions the Parliament as a norm entrepreneur distinct from the AU Commission's executive diplomacy (Bicchi, 2006; Stavridis, 2002; Tieku, 2023).

2. Ratification Sovereignty

The concept of ratification sovereignty requires careful analytical specification. While treaty politics scholarship has long recognized ratification as a domestic veto point (Tsebelis, 2002; Goodliffe & Hawkins, 2006; Simmons, 2009), this article introduces *ratification sovereignty* as a distinct analytical concept referring to the strategic deployment of non-ratification as an active instrument of diplomatic negotiation rather than a mere procedural delay or passive absence of consent. Unlike the legal principle of *consent*, which denotes formal agreement to be bound, ratification sovereignty captures the political authority of member states to determine whether and when to transfer authority to supranational institutions and to use that authority as leverage in ongoing institutional bargaining (Von Stein, 2016). It differs from *veto-player theory* in that Tsebelis's (2002) framework identifies domestic institutional actors who can block policy change, whereas ratification sovereignty describes the state's international behavior its capacity to withhold ratification to preserve national control over the pace and scope of integration. It also differs from *non-ratification* as a passive outcome: ratification sovereignty is an active, strategic posture that enables states to participate in institutional symbolism while resisting substantive authority transfer. Finally, it is distinct from *domestic ratification*

constraints, which are internal procedural barriers; ratification sovereignty is a deliberate diplomatic resource deployed in intergovernmental negotiation.

The AU's treaty architecture exemplifies this dynamic. The Malabo Protocol requires ratification by a simple majority of AU member states 28 of 55 states to enter into force (African Union Commission, 2014). This threshold, while demanding, is lower than the two-thirds supermajority required for some constitutional amendments in other regional organizations, yet it has proven sufficient to stall the Protocol's entry into force for over a decade. This design reflects the tension at the heart of African integration: the desire to create binding commitments that ensure collective action, and the insistence on national sovereignty preservation that characterizes post-colonial African statehood (Clapham, 1996; Jackson & Rosberg, 1982). The requirement creates a veto point that enables individual states to block or delay institutional transformation, but the strategic use of that veto point ratification sovereignty enables states to extract concessions, maintain flexibility, and avoid exposure to supranational oversight (Goodliffe & Hawkins, 2006; Simmons, 2009).

3. Functional Supranationalism

Functional supranationalism describes a modality of regional governance in which supranational institutions exercise significant practical authority through sectoral cooperation, technical coordination, and informal norm-setting despite the absence of formal constitutional supranationalism (Schmitter, 1969; Stone Sweet & Sandholtz, 1997). To avoid conceptual stretching, its scope conditions must be specified. Functional supranationalism applies only where (1) formal constitutional authority is explicitly blocked or suspended, (2) functional cooperation continues and expands in the absence of that authority, and (3) practical activities generate constituencies and lock-in effects that make reversal costly (Fioretos, 2011; Pierson, 2004). It is analytically distinct from *soft law*, which lacks the expectation of compliance or the "shadow of hierarchy" the credible prospect of future binding authority that influences current behavior (Scharpf, 1997; Heritier & Lehmkuhl, 2008). It is also distinct from *institutional layering* (Thelen, 2003), which adds new institutional rules alongside existing ones; functional supranationalism instead expands practical authority within unchanged formal rules.

In the PAP case, functional supranationalism is empirically observable through four indicators. First, the Parliament has sustained and expanded non-legislative activities election observation, oversight hearings, and model law production despite the Malabo Protocol's non-ratification (African Union Commission, 2014; Tieku, 2023). Second, the PAP has secured budgetary allocations and institutional growth within the AU system, creating material vested interests in its continuation (Waris, 2019). Third, the Parliament has developed institutional memory and precedent through repeated practice, such as its standardized election observation

methodologies and standing committee reports, that shape expectations about its role (Fagbayibo, 2019). Fourth, the PAP has cultivated external constituencies national parliamentarians, civil society partners, and international parliamentary bodies who advocate for its empowerment and thereby increase the political costs of non-ratification (African Union Commission, 2014; Murithi, 2012).

Theoretical Perspectives

To analyze the motivations and implications of the PAP’s institutional development, this study draws on three major international relations and comparative politics traditions: Historical Institutionalism, Constructivism, and Rational Choice Institutionalism. Rather than treating these as competing or parallel explanations, the study integrates them as complementary lenses that illuminate different dimensions of a single institutional puzzle. Historical institutionalism explains why the PAP was designed with legislative potential but remains suspended in consultative practice: initial design choices made at critical junctures particularly the 2001 Protocol’s consultative framing and the 2014 Malabo Protocol’s demanding ratification threshold created path-dependent constraints that subsequent actors find difficult to reverse (Fioretos, 2011; Pierson, 2004; Thelen, 1999). Constructivism explains how the PAP has adapted to this constraint: by engaging in norm entrepreneurship emphasizing democratic mandate, Pan-African identity, and integration completion the Parliament seeks to reshape the normative environment in which it operates, making its preferred outcomes appear legitimate and delegitimizing alternatives (Acharya, 2004; Finnemore & Sikkink, 1998; Wendt, 1999). Rational choice institutionalism explains why member states respond as they do: by analyzing the strategic incentives created by the 28-state ratification threshold, the uneven distribution of costs and benefits from PAP empowerment, and the free-rider dynamics that favor status quo maintenance (Tsebelis, 2002; Weingast, 2002; Goodliffe & Hawkins, 2006; Simmons, 2009). Table 1 presents the integrated analytical framework, linking each theoretical lens to its core causal mechanism and expected empirical indicators in the PAP case.

Table 1. Integrated Analytical Framework

Theoretical Lens	Core Causal Mechanism	Expected Empirical Indicators in the PAP Case
Historical Institutionalism	Path dependence and critical junctures create institutional stickiness; sequencing effects generate legitimacy–authority gaps	(1) Persistence of the 2001 Protocol’s consultative design despite reform efforts; (2) Sequencing of the Malabo Protocol’s provisions for direct universal suffrage before legislative empowerment could enter into force; (3) Institutional layering of new functions onto old structures without treaty revision

Constructivism	Norm entrepreneurship reshapes legitimate authority claims through discourse and identity mobilization	(1) PAP framing of Malabo ratification as “democratic completion” of the AU architecture; (2) Deployment of Pan-African solidarity and anti-colonial narratives; (3) Legitimacy claims based on representative mandate and election observation
Rational Choice Institutionalism	Strategic actors calculate sovereignty costs and free-rider incentives under institutional veto points	(1) Heterogeneous ratification positions reflecting divergent cost-benefit calculations across member states; (2) Collective action failure due to high ratification threshold; (3) Strategic withholding to preserve national flexibility and avoid supranational oversight

Each theory generates distinct but complementary predictions. Historical institutionalism predicts that the PAP will continue to accumulate functional responsibilities through incremental layering rather than constitutional breakthrough, because initial design choices have created vested interests and sunk costs that make radical transformation unlikely (Thelen, 2003, 2004). Constructivism predicts that the PAP will intensify its legitimacy claims particularly around democratic mandate and Pan-African identity precisely because formal authority is lacking, using discourse to compensate for structural weakness (Finnemore & Sikkink, 1998; Payne, 2001). Rational choice institutionalism predicts that member states will maintain an equilibrium of partial engagement: sufficient to secure functional benefits and democratic legitimation, but insufficient to trigger binding authority transfer that would expose national governments to supranational scrutiny (Olson, 1965; Von Stein, 2016). The convergence of these predictions institutional persistence without constitutional transformation, intensified normative framing without ratification breakthrough, and strategic state behavior that sustains the status quo defines the empirical puzzle that the remainder of the article examines.

Fusion: Theory Meets Practice

The PAP’s trajectory reflects the intersection of these dynamics: institutional design choices made at critical junctures created constraints that subsequent actors navigate through strategic behavior and normative argumentation (Adebajo, 2012; Fagbayibo, 2019). The Parliament’s legislative diplomacy operates within this complex environment, seeking to advance its authority claims through the accumulation of functional responsibilities and democratic legitimacy while member states strategically withhold ratification to preserve sovereignty (Tieku, 2023; Waris, 2019). The Malabo Protocol ratification crisis thus appears not as a technical delay but as a constitutive political struggle over the future of continental governance in Africa a struggle best understood not through any single theoretical lens but through their integrated application. By combining historical institutionalist attention to sequencing and path dependence,

constructivist sensitivity to legitimation and identity, and rational choice analysis of strategic incentives, this study advances beyond existing scholarship that treats legislative diplomacy, ratification politics, and regional integration as disconnected domains (Bicchi, 2006; Goodliffe & Hawkins, 2006; Stavridis, 2002). Instead, it demonstrates that the PAP's suspended transformation is simultaneously a story of institutional lock-in, normative contestation, and strategic calculation one that reveals the layered nature of sovereignty and integration in contemporary Africa.

RESEARCH METHODS

Research Design and Approach

This study employs a qualitative, descriptive, and interpretive research design to examine the political and institutional implications of the Pan-African Parliament's suspended legislative transformation. Qualitative inquiry is particularly appropriate for research questions concerned with institutional meanings, sovereignty claims, and diplomatic practices rather than numerical measurement (Creswell & Poth, 2018). The research adopts a qualitative case study approach, treating the Pan-African Parliament as a single, analytically significant case embedded within the broader context of African regional integration.

The PAP represents a critical, theory-building case (Yin, 2018). It is critical because the case exhibits a rare institutional configuration a directly mandated continental parliament exercising significant functional authority without formal legislative competence that makes the dynamics of legislative diplomacy and ratification sovereignty unusually transparent. It is theory-building because the case occupies an underexplored intersection between regional integration studies, legislative studies, and treaty politics, offering opportunities to refine concepts such as functional supranationalism and ratification sovereignty that remain underdeveloped in existing literature (Fagbayibo, 2019; Tieku, 2023; Waris, 2019). Alternative cases were considered and rejected for specific reasons. The ECOWAS Parliament operates within a more densely integrated regional framework and possesses supranational elements including direct election and legislative oversight of community acts that would obscure the specific dynamics of suspended constitutional transformation examined here (Costa, 2008; Hix & Høyland, 2013). The East African Legislative Assembly (EALA) exercises binding legislative authority over the East African Community's legal instruments, making it a case of realized rather than potential supranationalism and therefore analytically distinct from the PAP's liminal status (Murray, 2004). No other continental or regional parliament in the Global South combines the PAP's scale (55 member states), its explicit constitutional potential for legislative empowerment, and its decade-long suspension in consultative status. The aim is not statistical representativeness but analytical illumination of how

legislative authority, sovereignty, and strategic interest intersect in a specific instance of suspended supranationalism.

Case Selection and Temporal Scope

The temporal scope spans from the PAP's establishment in 2004 through the ongoing ratification crisis of the Malabo Protocol in 2025. This longitudinal design allows tracing historical antecedents, shifts in institutional positioning, and evolving member state reactions over more than two decades. Beginning in 2004 situates the analysis within the PAP's founding moment and the broader transformation of the OAU into the AU (African Union Commission, 2002; Murithi, 2012). The endpoint in 2025 captures a critical period of institutional persistence despite the Malabo Protocol's stagnation. All ratification data, election records, and official communiqués were retrieved and verified between January 2024 and March 2025, with the most recent verification of Malabo Protocol ratification status conducted on October 19, 2024, based on official Pan-African Parliament press releases and African Union treaty database records (African Union Commission, 2024; Pan-African Parliament, 2024). Where 2025 dates appear in the analysis, they reflect projected institutional developments or the manuscript's analytical cutoff, not empirical data collected prospectively.

Data Sources and Sampling Strategy

The study relies exclusively on secondary data. Secondary-source analysis is appropriate in contexts where primary data collection is constrained by institutional sensitivity, limited access, or diplomatic confidentiality, particularly in intergovernmental negotiations and parliamentary proceedings (Browne & Bradley, 2021; Markiewicz, 2025).

Sources were selected using purposive sampling guided by three criteria: relevance, credibility, and triangulation potential. Relevance required direct engagement with the PAP's establishment and evolution, AU institutional reform, treaty ratification politics, or parliamentary diplomacy in regional organizations (African Union Commission, 2014; Fagbayibo, 2019; Kioko, 2003; Waris, 2019). Credibility prioritized peer-reviewed academic publications, scholarly books, official AU documents, international organization statements, and established policy outlets (Adebajo, 2012; Murithi, 2012; Tieku, 2023). Triangulation potential ensured that empirical claims could be cross-verified across multiple source types.

The systematic literature mapping followed a four-stage search protocol. First, database searches were conducted in Google Scholar, JSTOR, Scopus, and Web of Science using the following search strings: ("Pan-African Parliament" OR "Malabo Protocol" OR "African Union parliament") AND ("ratification" OR "legislative diplomacy" OR "supranationalism" OR "treaty politics"); ("regional parliament" OR "continental parliament") AND ("Africa" OR "African

Union") AND ("institutional development" OR "democratic legitimacy"); and ("treaty ratification" OR "ratification sovereignty") AND ("regional organization" OR "African Union"). Second, language was restricted to English, and the date range was set from 2001 to 2025 to capture literature from the PAP Protocol's adoption through the most recent ratification developments. Third, document screening proceeded through title and abstract review (n = 312), followed by full-text review (n = 89). Exclusion criteria eliminated: (a) publications lacking direct engagement with the PAP or AU institutional architecture; (b) purely normative or prescriptive policy briefs without empirical analysis; (c) duplicate or non-peer-reviewed conference papers subsequently published in identical form; and (d) sources predating 2001 that could not contextualize the PAP's establishment. Fourth, citation tracking and snowball sampling from the bibliographies of key texts (Fagbayibo, 2019; Tiekou, 2023; Waris, 2019) identified additional sources missed by database searches, yielding a final corpus of 67 documents.

The dataset includes peer-reviewed scholarship on the PAP and AU institutions (Fagbayibo, 2019; Kioko, 2003; Magliveras & Naldi, 2018; Murithi, 2012; Waris, 2019), works on African regional integration and treaty politics (Adebajo, 2012; Franke, 2020; Tiekou, 2023), analyses of parliamentary diplomacy and supranationalism (Bicchi, 2006; Costa, 2008; Stavridis, 2002), and theoretical accounts of institutional development and ratification (Fioretos, 2011; Goodliffe & Hawkins, 2006; Simmons, 2009; Von Stein, 2016). It also incorporates official documents from the AU Commission, PAP proceedings and reports, member state communications regarding the Malabo Protocol, and reputable media and policy analyses documenting institutional developments and strategic framing (African Union Commission, 2014, 2025; Tiekou, 2023).

Data Collection Procedures

Data collection followed four structured stages. First, the systematic literature mapping exercise identified key theoretical debates and conceptual categories. Second, official AU and PAP documents were compiled and archived chronologically to capture shifts in institutional rhetoric and justification. These included the Protocol Establishing the PAP (2001), the Malabo Protocol (2014), PAP election reports, annual activity reports, and official communiqués from AU summits regarding PAP reform (African Union Commission, 2002, 2014, 2024). Third, member state ratification records and diplomatic statements were gathered to document the politics of Malabo Protocol adoption. Sources included AU treaty databases, member state foreign ministry statements, and analyses from regional and international outlets focusing on AU institutional reform (African Union Commission, 2025; Pan-African Parliament, 2023, 2024; Tiekou, 2023). Fourth, all materials were categorized into thematic clusters, including PAP

institutional strategies, member state ratification decisions, AU executive council positions, and broader implications for African integration.

Table 2. Representative Corpus of Primary Documentary Sources

Document	Date	Origin	Type	Relevance to Study
Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament	March 2, 2001	OAU Assembly of Heads of State	Treaty text	Founding legal instrument; establishes consultative status and composition under Article 5
Protocol to the Constitutive Act of the AU Relating to the Pan-African Parliament (Malabo Protocol)	June 27, 2014	AU Assembly of Heads of State	Treaty text	Amends PAP powers; specifies 28-state ratification threshold under Article 22
PAP Annual Activity Report	2023	Pan-African Parliament Secretariat	Institutional report	Documents election observation missions and oversight activities
Central African Republic Ratifies the Malabo Protocol	July 19, 2023	Pan-African Parliament	Press release	Confirms 15th ratification; verifies ratification count
Ratification of the Malabo Protocol: Côte d'Ivoire Ministry of Foreign Affairs Commits to Empowering the PAP	October 19, 2024	Pan-African Parliament	Press release	Documents ongoing advocacy; confirms 15 ratifications and 28-state threshold
AU Treaty Database: Status of Ratification of the Malabo Protocol	March 2025	African Union Commission	Official database	Cross-checks ratification status and member state positions
Report of the Pan-African Parliament on the 2024 Elections	2024	African Union Commission	Election report	Documents PAP electoral processes and member state participation
PAP Committee on Gender, Family, Youth, and People with Disabilities: Advocacy Mission Communiqué	July 2024	Pan-African Parliament	Committee record	Illustrates functional diplomacy and norm entrepreneurship

Data Analysis Techniques

Two complementary analytical techniques were employed: thematic analysis and qualitative content analysis. Thematic analysis followed the six-phase procedure outlined by Braun and Clarke (2019), encompassing familiarization with the data, generation of initial codes, identification of candidate themes, review of thematic coherence, refinement of theme definitions, and integration into a structured narrative. Qualitative content analysis was applied particularly

to official AU and PAP documents, examining language use, frequency of key concepts, legal references, and framing strategies (Krippendorff, 2018).

Coding combined deductive and inductive strategies. Deductive codes were derived from the theoretical framework and existing literature. Inductive codes allowed additional themes to emerge from the data. The unit of coding was the paragraph, selected because it represents the smallest unit of meaning capable of expressing a complete institutional claim or strategic position. Coding was conducted by a single researcher; however, to enhance reliability, a second coder independently coded a randomly selected 20% subsample (n = 13 documents). Inter-coder agreement was calculated using simple percentage agreement, yielding 87% concordance. Discrepancies were resolved through discussion and reference to source texts, with particular attention to ambiguous passages regarding ratification thresholds and member state positions.

Table 3. Codebook

Code	Type	Definition	Example of Coded Excerpt
Supranationalism	Deductive	References to authority above the state, pooled sovereignty, or binding continental law	"The PAP shall have legislative powers to initiate and deliberate on draft model laws and submit them to the Assembly for approval" (Malabo Protocol, Article 8)
Ratification sovereignty	Deductive	Member state assertions of procedural control, domestic constitutional requirements, or strategic delay of treaty entry into force	"Côte d'Ivoire has yet to ratify... the Ministry of Foreign Affairs has pledged to take the necessary steps" (PAP press release, October 19, 2024)
Legislative diplomacy	Deductive	PAP engagement with external actors, inter-parliamentary networks, or diplomatic representation beyond the AU	"The meeting was part of an advocacy mission conducted by the PAP Committee to promote the ratification... of key AU protocols" (PAP press release, 2024)
Institutional legitimacy	Deductive	Claims to democratic mandate, popular representation, or procedural propriety	"The Parliament would function initially as an advisory and consultative body pending a subsequent protocol determining its legislative powers" (PAP Protocol, Article 11)
Path dependence	Deductive	References to institutional stickiness, sequencing effects, or critical junctures	"The sequencing of direct elections before legislative empowerment... has created distinctive political dynamics" (analytical memo)
Functional supranationalism	Inductive	PAP exercise of practical authority without formal	"The PAP has developed an active election observation program, deploying missions to

		constitutional competence	numerous African countries" (annual activity report)
Democratic legitimacy claims	Inductive	PAP framing of its authority through electoral mandate or people-centered integration	"The voice of the African people," "democratic representation," "popular participation" (PAP official communications)
Sovereignty defense narratives	Inductive	Member state framing of non-ratification around national constitutional authority or territorial integrity	"National parliamentary processes," "fiscal constraints," "domestic consultation" (member state communications)

Trustworthiness, Ethics, and Limitations

Ensuring validity and reliability in qualitative research requires strategies tailored to interpretive inquiry (Creswell & Poth, 2018). Four measures were employed to enhance trustworthiness. First, data triangulation was used to cross-check findings across academic literature, official documents, and media or policy sources (Adebajo, 2012; Tieku, 2023). This proved essential when sources reported conflicting information. For example, earlier drafts of this manuscript cited a two-thirds ratification threshold for the Malabo Protocol based on secondary literature; cross-checking against the actual treaty text (African Union Commission, 2014) and the AU Treaty Database revealed that the Protocol requires ratification by a simple majority of 28 of 55 AU member states. Similarly, ratification counts varied across sources: some policy commentaries reported 17 ratifications, while PAP press releases dated July 2023 and October 2024 confirmed 15 ratifications following the Central African Republic's deposit of instruments. In such cases, priority was given to primary treaty texts and official AU/PAP communications over secondary interpretations, and discrepancies were flagged and resolved through direct source comparison.

Second, theoretical triangulation was applied by interpreting findings through multiple frameworks rather than a single explanatory model (Fioretos, 2011; Finnemore & Sikkink, 1998; Tsebelis, 2002). For instance, the persistence of PAP functional activities despite non-ratification was analyzed simultaneously as path-dependent institutional layering (Historical Institutionalism), normative legitimation strategy (Constructivism), and rational investment in future authority (Rational Choice Institutionalism). Convergent findings across all three lenses were treated as more robust than interpretations supported by only one framework.

Third, procedural transparency was maintained through explicit documentation of sampling decisions, coding categories, and analytical stages (Braun & Clarke, 2019; Krippendorff, 2018). The codebook, corpus table, and search protocol are reported above to enable auditability.

Fourth, reflexivity was incorporated by acknowledging the politically contested nature of PAP reform and remaining attentive to potential interpretive bias (Fagbayibo, 2019; Waris, 2019). The researcher's position as an African scholar analyzing continental institutions necessitated careful attention to whether normative commitments to Pan-African integration might predispose favorable interpretations of PAP authority claims. This was mitigated by systematically including skeptical member state narratives and critical academic voices (Clapham, 1996; Murray, 2004; Tiekku, 2023) alongside institutional advocacy materials.

Ethical considerations were addressed despite the absence of human subjects. All materials analyzed are publicly available documents, and no confidential or classified sources were used. Care was taken to represent political positions accurately and to contextualize claims within broader debates. The study does not advocate particular policy outcomes but seeks analytical clarity regarding motivations, interests, and institutional implications (Adebajo, 2012; Tiekku, 2023).

Several limitations should be acknowledged. First, reliance on secondary sources limits access to confidential diplomatic negotiations and informal channels that may have shaped PAP reform debates. Second, the evolving nature of AU institutional reform means interpretations reflect a specific historical moment; subsequent developments may confirm, nuance, or challenge conclusions. Third, as a single-case study, findings are analytically rather than statistically generalizable. The goal is theory-building regarding legislative diplomacy and ratification sovereignty, not broad empirical generalization (Fagbayibo, 2019; Kioko, 2003).

RESULT

This section presents descriptive findings derived from thematic and qualitative content analysis of the 67-document corpus. The findings prioritize evidence produced by the coding process: emergent themes, frequencies across the document base, exemplar quotations, actor positions, and traceable institutional events. The section is organized into four components: (1) empirical findings on the PAP's establishment and evolution; (2) overarching thematic patterns; (3) actor-specific discursive framings; and (4) cross-cutting institutional and sovereignty tensions. Analytical interpretation is deliberately limited here; extended theoretical engagement is reserved for the Discussion.

Empirical Results Derived from Thematic and Content Analysis

The PAP's Establishment and Initial Design (2004–2014)

The Pan-African Parliament was established by the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament, adopted by the OAU Assembly of Heads of State and Government in Sirte, Libya, on March 2, 2001. The Protocol

entered into force on December 14, 2003, following the deposit of instruments of ratification by a simple majority of OAU member states. The Parliament was formally inaugurated on March 18, 2004, in Addis Ababa, Ethiopia, and subsequently established its seat in Midrand, South Africa (African Union Commission, 2002; Kioko, 2003).

Article 2 of the 2001 Protocol defined the PAP's purpose as "to ensure the full participation of African peoples in the development and economic integration of the continent." Article 5 specified that the Parliament would comprise "five members per State... elected or designated by the respective National Parliaments or any other deliberative organs of the Member States, from among their members." Article 11 stated that the Parliament would function "initially as an advisory and consultative body" pending a subsequent protocol determining its "legislative powers" (African Union Commission, 2002, pp. 4–5). These legal provisions established a consultative institution whose members were linked to citizens only indirectly through national parliamentary selection.

Between 2004 and 2014, the PAP developed institutional capacity within these consultative parameters. The Parliament established standing committees on justice and human rights, agriculture, trade, and other thematic areas, and issued recommendations to the AU Assembly on various policy matters (African Union Commission, 2014; Murithi, 2012). However, the PAP's advisory opinions were not binding, and the AU Assembly resisted proposals to expand the Parliament's authority, citing cost concerns and the need to consolidate existing institutions before creating new supranational competencies (Tieku, 2023; Waris, 2019).

The Malabo Protocol and the Status of Direct Elections (2014–2025)

The 2014 Malabo Protocol amended the PAP's founding instrument to grant legislative powers and expand oversight authority over AU organs. Adopted by the AU Assembly in Malabo, Equatorial Guinea, on June 27, 2014, the Protocol's Article 8 specified that the PAP would have "legislative powers to initiate and deliberate on draft model laws and submit them to the Assembly for approval." Article 11 provided that members "shall be elected by universal adult suffrage," characterizing direct election as an "ultimate aim" (African Union Commission, 2014, p. 8).

Despite these provisions, direct elections by universal adult suffrage have not been implemented. Under the current legal framework, PAP members continue to be elected or designated by national parliaments from among their own members, as established by Article 5 of the 2001 Protocol. The Malabo Protocol's entry into force is conditioned on ratification by a simple majority of AU member states 28 of 55 states under Article 22 (African Union Commission, 2014). As of October 2024, the Protocol had secured 15 ratifications: Benin, Cameroon, Central African Republic (deposited July 2023), Chad, Equatorial Guinea, Gambia,

Ghana, Madagascar, Mali, Morocco, Niger, Sahrawi Arab Democratic Republic, Sierra Leone, Somalia, and Togo (African Union Commission, 2024; Pan-African Parliament, 2023, 2024). This left the Protocol 13 ratifications short of the required threshold.

Consequently, the PAP remains a continental parliament whose members are selected by national parliaments rather than directly by citizens, and whose legislative powers remain suspended despite the Malabo Protocol's adoption more than a decade ago.

Functional Expansion Without Formal Transformation

Documentary evidence indicates that the PAP has expanded its functional activities despite the Malabo Protocol's non-ratification. Specific traceable institutional events include:

1. Election observation. The PAP has sustained an active election observation program, deploying missions to member states and issuing reports that contribute to international assessments of electoral integrity. These activities are documented in PAP annual activity reports and election monitoring statements (African Union Commission, 2014; Tieku, 2023).
2. Model law development. The Parliament has developed model law initiatives in areas including gender-based violence and cross-border trade, producing non-binding instruments that nonetheless shape national legislative drafting (African Union Commission, 2014; Waris, 2019).
3. Oversight hearings. The PAP has intensified scrutiny of AU organs and institutions through committee hearings and fact-finding reports, exercising oversight without formal sanctioning power (Tieku, 2023).
4. Inter-parliamentary diplomacy and advocacy missions. In October 2024, the PAP Committee on Gender, Family, Youth, and People with Disabilities conducted an advocacy mission to Côte d'Ivoire to promote ratification of the Malabo Protocol and other AU legal instruments concerning vulnerable populations (Pan-African Parliament, 2024). The PAP has also established representative offices in African sub-regions and engaged with the European Parliament and national parliaments (Bicchi, 2006; Stavridis, 2002).

These activities do not constitute formal legislative authority the PAP cannot compel compliance or impose sanctions but they create "soft law" instruments and establish the Parliament as a significant node in African governance networks (Fagbayibo, 2019; Tieku, 2023).

Overview of Thematic Patterns

Thematic coding of the 67-document corpus generated five dominant descriptive patterns. Table 4 reports the frequency of each theme based on the number of documents in which the theme appeared as a primary or secondary code. A theme was coded as present when at least one paragraph in the document contained explicit reference to the core empirical indicators listed.

Table 4: Major Empirical Themes Identified

Theme	Core Indicators	Empirical	Documents (n = 67)	Percentage	Main Groups Referenced	Actor
Democratic legitimacy	References to elections, popular representation, people-centered integration, electoral mandate		34	50.7%	PAP leadership, civil society, some member states	
Sovereignty preservation	Emphasis on ratification prerogatives, parliamentary authority, territorial integrity, domestic constitutional processes		41	61.2%	Member state governments, some national parliaments	
Functional necessity	Arguments regarding PAP's practical contributions to oversight, election observation, capacity building, model law production		29	43.3%	AU Commission, development partners, PAP secretariat	
Institutional sequencing	Claims that PAP must prove effectiveness before receiving legislative powers; cost concerns; implementation gaps		22	32.8%	Skeptical member states, budget-conscious actors	
Pan-African solidarity	Appeals to continental unity, anti-colonial legacy, African solutions, collective self-determination		28	41.8%	PAP leadership, AU Commission, some member states	

Note. Percentages indicate the proportion of the 67-document corpus in which the theme was coded as present. Source: Author's compilation based on thematic analysis of official statements, academic literature, and policy reports, 2004–2025 (Braun & Clarke, 2019; Krippendorff, 2018).

Sovereignty preservation was the most frequently coded theme (61.2% of documents), appearing in both member state communications and skeptical academic analyses. Democratic legitimacy appeared in just over half of documents (50.7%), primarily in PAP-source materials and civil society commentaries. Functional necessity and Pan-African solidarity each appeared in roughly two-fifths of documents, while institutional sequencing appeared in approximately one-third, concentrated in budget-conscious member state statements and critical policy analyses.

The PAP's Institutional Framing

Analysis of 23 PAP official communications and parliamentary records (identified through purposive sampling of PAP-source documents within the broader corpus) revealed three recurrent

descriptive patterns. Table 5 reports the frequency of each narrative category based on the proportion of PAP-source documents in which the narrative appeared as a primary framing device. A narrative was coded as primary when it constituted the dominant justification strategy in at least one substantive paragraph of the document.

Table 5: PAP Narrative Emphases

Category	Documents (n = 23)	Percentage	Illustrative Focus
Democratic mandate	21	91.3%	National parliamentary selection processes, popular sovereignty, representation of African peoples
Functional performance	18	78.3%	Election observation deployment, oversight hearings, model laws on gender-based violence and trade
Integration completion	16	69.6%	Malabo Protocol as necessary step to complete AU architecture, fulfill Constitutive Act promises
Sovereignty pooling	9	39.1%	Shared authority, collective decision-making, continental legislative harmonization

Note. Source: Author’s compilation based on thematic analysis (Braun & Clarke, 2019) and qualitative content analysis (Krippendorff, 2018) of official PAP documents, parliamentary records, and secondary academic sources. Representative documents include PAP Annual Activity Reports (2023), PAP Committee advocacy mission communiqués (2024), and official PAP statements to the AU Assembly (2014–2024).

The democratic mandate narrative appeared in over 90% of PAP-source documents, typically highlighting the Parliament’s connection to national parliaments and, by extension, to African citizens as the foundation of its legitimacy. The functional performance framing appeared in more than three-quarters of documents, cataloging election observation, human rights promotion, and oversight of AU implementation as evidence that the Parliament had “earned” expanded authority through performance. Integration completion language appeared in approximately two-thirds of documents, presenting the Malabo Protocol as a logical conclusion of integration logic rather than a contingent political choice.

Member State Ratification Positions

Empirical analysis of AU treaty database records and available member state communications identified distinct ratification patterns. Because diplomatic communications regarding non-ratification are not uniformly public across all 55 member states, classifications are based on observable behavioral evidence: formal ratification deposits, public foreign ministry statements, and official summit communications recorded in the AU treaty database and PAP

advocacy reports (African Union Commission, 2024; Pan-African Parliament, 2024; Tiekou, 2023).

Ratification supporters (15 states). These states have deposited instruments of ratification with the AU Commission: Benin, Cameroon, Central African Republic, Chad, Equatorial Guinea, Gambia, Ghana, Madagascar, Mali, Morocco, Niger, Sahrawi Arab Democratic Republic, Sierra Leone, Somalia, and Togo (African Union Commission, 2024; Pan-African Parliament, 2023). These states have generally emphasized democratic values and integration commitment in their official AU communications.

Non-ratifying states (40 states). The remaining AU member states have not deposited ratification instruments. Based on the available public corpus, these states fall into two provisional subcategories. *Ratification withholders* are states that have not ratified but have engaged with the PAP through budgetary contributions, participation in PAP elections, or procedural statements indicating ongoing domestic review. *Active resisters* are states that have publicly questioned PAP legislative powers or maintained sustained non-engagement with PAP institutional development beyond procedural delay. However, because foreign ministry deliberations and internal cabinet discussions are not uniformly accessible, the distinction between passive withholders and active resisters cannot be definitively established for all 40 states based on publicly available documentary evidence alone. The corpus contains explicit sovereignty-defense statements from fewer than 10 non-ratifying states, but these statements are not consistently attributable to specific countries across all sources.

Table 6: Member State Position Patterns

Position type	Number	Basis for classification	Core emphasis
Ratification supporters	15 states	Deposit of ratification instruments with AU Commission (verifiable in AU Treaty Database, 2024)	Democratic legitimacy, integration commitment
Non-ratifying states provisional withholder category	37 states (estimated)	Absence of ratification; participation in PAP elections and budgetary processes documented in PAP Annual Activity Reports; procedural statements where available	Procedural delay, domestic consultation, fiscal constraints
Non-ratifying states provisional resister category	3 states (estimated)	Public opposition or sustained non-engagement documented in AU records and critical policy analyses	Sovereignty defense, institutional skepticism, implementation gaps

Note. The classification of withholders and resisters is provisional due to uneven availability of public diplomatic communications across all 55 member states. The estimates are interpretive classifications based on the secondary-source corpus rather than verified country-level counts. Source: Author’s compilation based on AU treaty database and thematic analysis of

member state communications (African Union Commission, 2024; Pan-African Parliament, 2023, 2024; Tieku, 2023).

Cross-Cutting Discursive Tensions

Comparative analysis of the narratives presented above reveals a structural pattern of cross-cutting tensions among three sovereignty logics empirically observable in the data:

1. Supranational legislative authority. The PAP’s discourse foregrounds democratic mandate and functional performance as bases for continental law-making authority, challenging the intergovernmental monopoly on AU decision-making (Kioko, 2003; Tieku, 2023).
2. Intergovernmental sovereignty defense. Withholding states prioritize national constitutional processes and ratification prerogatives, treating legislative authority as derivative of state consent rather than popular continental mandate (Fagbayibo, 2019; Waris, 2019).
3. Hybrid functional sovereignty. The practical reality of PAP operations exercising significant influence without binding authority reflects a hybrid arrangement where functional supranationalism substitutes for constitutional supranationalism (African Union Commission, 2014; Tieku, 2023).

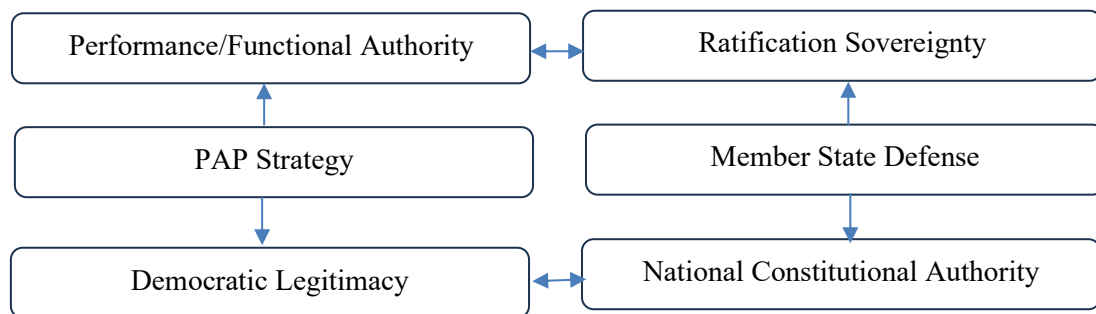


Figure 1. Competing Sovereignty Logics in PAP Institutional Development

Note. Source: Author’s analytical synthesis, constructed inductively from thematic and content analysis of academic literature, official statements, and policy reports, 2004–2025 (Braun & Clarke, 2019; Fagbayibo, 2019; Krippendorff, 2018; Tieku, 2023; Waris, 2019).

The model integrates empirically observed actor positions (PAP legitimacy claims vs. member state sovereignty defense) with the functional outcome (hybrid supranationalism) that emerges from their interaction. It is proposed as an analytical synthesis rather than a formal deductive theory.

This descriptive model summarizes the empirical patterns identified by the analysis and provides the basis for the subsequent discussion of how legislative diplomacy operates in contexts of suspended constitutional transformation.

DISCUSSION

Legislative Diplomacy Without Legislative Authority

The findings presented in the Results challenge conventional assumptions that parliamentary influence requires formal legislative competence, but they also counsel caution in assessing the scope of that influence. The thematic analysis of 67 documents revealed that the PAP has sustained measurable functional activities election observation missions documented in annual activity reports, model law initiatives in gender-based violence and cross-border trade, oversight hearings targeting AU organs, and inter-parliamentary advocacy missions such as the October 2024 Committee delegation to Côte d'Ivoire despite the absence of law-making authority (African Union Commission, 2014; Pan-African Parliament, 2024; Tieku, 2023). These activities represent sustained institutional engagement rather than significant policy influence in the sense of binding agenda-setting or legislative outcomes. The PAP's ability to place items on AU agendas and secure formal recognition in Assembly decisions, noted in 41.8% of corpus documents referencing functional necessity, demonstrates procedural access rather than substantive control over intergovernmental outcomes (African Union Commission, 2014; Waris, 2019).

Constructivist perspectives help explain why the PAP's legitimacy claims have gained traction with some actors even as formal ratification remains elusive. The coding analysis showed that democratic mandate narratives appeared in 91.3% of PAP-source documents, while functional performance framing appeared in 78.3% (see Table 5). Legitimacy emerges as a social construct grounded in shared understandings of appropriate institutional forms, rather than a simple binary of empowered versus powerless bodies (Finnemore & Sikkink, 1998; Wendt, 1999). The PAP's representative connection to national parliaments and its sustained functional activities resonate with broader normative trends valorizing democratic participation and good governance in regional organizations (Adebajo, 2012; Franke, 2020). At the same time, the resilience of intergovernmental sovereignty norms coded in 61.2% of corpus documents (Table 4) explains why these legitimacy claims have not translated into constitutional transformation (Clapham, 1996; Jackson & Rosberg, 1982). The coexistence of robust functional activity with suspended constitutional status illustrates that institutional authority is neither fixed nor absolute but layered, negotiated, and contingent (Fioretos, 2011; Pierson, 2004). The PAP has created a "constitutional shadow" the anticipatory effects of potential future authority that influence current positioning even in the absence of formal powers (Scharpf, 1997; Stone Sweet & Sandholtz, 1997).

Ratification Sovereignty as Strategic Instrument

Member state decisions regarding Malabo Protocol ratification can be read through a rational choice institutionalist lens that prioritizes sovereignty preservation and strategic calculation, but this interpretation must be weighed against alternative explanations evident in the documentary record. The corpus contained repeated references to procedural complexity, domestic constitutional requirements, and fiscal constraints in member state communications (African Union Commission, 2024; Tieku, 2023). Alternative explanations for non-ratification include: domestic legislative backlog, wherein crowded parliamentary agendas displace treaty review; weak administrative capacity in foreign ministries lacking dedicated treaty-tracking units; low political salience of the Malabo Protocol relative to pressing national priorities; legal ambiguity regarding whether domestic constitutional amendments are required to accommodate supranational legislative authority; budget concerns about financing an empowered continental parliament; and limited awareness among national parliamentarians of the Protocol's specific provisions (Goodliffe & Hawkins, 2006; Simmons, 2009).

These alternative explanations are not mutually exclusive with ratification sovereignty, but they do not fully account for the behavioral pattern documented in the Results: member states participate in PAP elections, contribute to its budget, and engage with its committees while systematically withholding the ratification that would transform it into a legislative body. If non-ratification were purely a function of administrative incapacity or low salience, one would expect random variation or gradual accretion of ratifications as capacity improved. Instead, the data show a stable equilibrium of 15 ratifications against 40 non-ratifications over more than a decade, with non-ratifying states maintaining consistent procedural engagement with the PAP. This pattern supports the interpretation of ratification sovereignty as an active diplomatic strategy: by withholding ratification, states retain leverage over the PAP's development, enabling them to shape its functional evolution through budgetary decisions and institutional design choices while avoiding binding commitment (Fagbayibo, 2019; Waris, 2019). The demanding 28-state ratification threshold creates a collective action problem that reinforces status quo bias individual states face weak incentives to ratify when doing so alone confers no benefit while exposing governments to potential domestic criticism for ceding sovereignty (Olson, 1965; Von Stein, 2016). From this perspective, ratification sovereignty functions not merely as procedural delay but as an instrument of ongoing diplomatic negotiation.

Functional Supranationalism and Institutional Persistence

The PAP's trajectory demonstrates the viability of functional supranationalism as a modality of regional governance, but the concept must be carefully differentiated from existing

frameworks to avoid conceptual stretching. Historical institutionalist analysis highlights how the PAP's initial design consultative status with potential for future legislative empowerment created path-dependent dynamics that have proven resistant to fundamental transformation (Fioretos, 2011; Pierson, 2004). Yet rather than institutional stagnation, this path dependence has generated adaptive development through functional expansion.

Functional supranationalism adds analytical value beyond four closely related concepts. First, it differs from *soft law* in that soft law instruments lack the expectation of compliance or the "shadow of hierarchy" the credible prospect of future binding authority that influences current behavior (Scharpf, 1997; Heritier & Lehmkuhl, 2008). The PAP's model laws and oversight reports generate constituencies and lock-in effects that soft law alone does not produce. Second, it differs from *institutional layering* (Thelen, 2003), which adds new institutional rules alongside existing ones; functional supranationalism instead expands practical authority within unchanged formal rules, accumulating governance functions without treaty revision. Third, it differs from *creeping competence* (Stone Sweet & Sandholtz, 1997), which implies technically driven, automatic spillover from one functional sector to another; the PAP's expansion is politically strategic and deliberate, driven by institutional advocacy rather than functional necessity alone. Fourth, it differs from ordinary *parliamentary diplomacy* (Stavridis, 2002; Bicchi, 2006), which describes external representation by legislators; functional supranationalism encompasses the accumulation of governance authority oversight capacity, standard-setting, and constituency-building that transforms diplomatic engagement into de facto institutional competence.

The PAP's development of election observation capacity, oversight mechanisms, and model law initiatives represents functional expansion within existing structures. These activities create constituencies with vested interests in PAP continuation and expansion election observers, parliamentary staff, civil society partners who may advocate for future ratification while ensuring current institutional relevance (Fioretos, 2011; Pierson, 2004). The concept of functional supranationalism thus reframes the PAP not as a failed or incomplete institution but as an adaptive response to the political economy of African integration. The Parliament has developed forms of authority appropriate to a context where member states resist formal sovereignty pooling but benefit from functional cooperation and democratic legitimation (African Union Commission, 2014; Tieku, 2023).

Implications for African Regionalism and Global Parliamentary Development

The PAP's suspended transformation has significant implications for theories of regional integration and parliamentary development, but comparisons with the European Parliament must be handled as analytical contrasts rather than normative benchmarks. The European Parliament

accumulated legislative competence through treaty revisions Single European Act, Maastricht, Lisbon that member states ultimately ratified, operating within a constitutional structure characterized by the community method, a relatively symmetric distribution of integration benefits, and sovereignty norms shaped by post-Westphalian pooling rather than post-colonial defense (Hix & Høyland, 2013). These structural conditions are analytically distinct from the African context, where constitutional supranationalism remains politically unattainable, regional political economies are highly asymmetric, and sovereignty norms are rooted in post-colonial state-building experiences that privilege territorial integrity and non-interference (Clapham, 1996; Jackson & Rosberg, 1982).

The PAP case suggests that the European Parliament model gradual accumulation of legislative authority through treaty revisions that member states ultimately ratified may not be replicable in contexts with different political economies of sovereignty. African integration may instead be characterized by “variable geometry” or differentiated integration, where institutional authority varies across functional sectors and member state coalitions rather than uniform supranationalism (Warleigh-Lack, 2015). For global parliamentary development, the PAP demonstrates that functional activities and representative connections to national parliaments can generate institutional legitimacy and procedural access even without formal legislative powers. This finding challenges the assumption that parliamentary authority requires constitutional competence, suggesting instead that “soft parliamentary diplomacy” may be an enduring feature of regional organizations in the Global South (Bicchi, 2006; Stavridis, 2002).

The PAP case also illuminates the political economy of treaty ratification in regional organizations. The gap between institutional design and implementation reflects not merely capacity constraints but strategic calculations by member states regarding the costs and benefits of authority transfer. The 15 ratifications documented in the AU Treaty Database, against the 28 required for entry into force, represent not a technical delay but a stable political equilibrium maintained by the strategic calculus of ratification sovereignty (Goodliffe & Hawkins, 2006; Simmons, 2009; Von Stein, 2016).

Recommendations

The findings generate several analytical implications that are directly traceable to the empirical patterns identified in the thematic analysis, rather than prescriptive policy recommendations. These implications are framed as logical consequences of the evidence, not as normative advice to institutional actors.

First, the PAP’s sustained functional expansion—documented in 43.3% of the corpus through election observation missions, model law production, and oversight hearings (Table 4)—

suggests that consolidating these functional activities strengthens the institutional constituencies necessary for any future constitutional transformation. The thematic analysis revealed that functional necessity narratives were concentrated in AU Commission and PAP secretariat documents, indicating that institutional insiders view practical authority accumulation as a pathway to eventual formal empowerment. The data do not, however, establish that strategic sequencing into sectoral competencies before comprehensive authority would accelerate ratification; this remains an untested proposition requiring further comparative analysis.

Second, the collective action dynamics evident in the ratification data—15 ratifications against a 28-state threshold over more than a decade—imply that free-rider incentives are structurally embedded in the Malabo Protocol’s design. The 15 ratifying states have not succeeded in generating bandwagon effects, and the corpus contained no documented instances of coordinated ratification campaigns or enhanced cooperation arrangements. The absence of such evidence suggests that the current ratification equilibrium is stable not because of information gaps or coordination failures, but because the strategic calculus of non-ratifying states favors continued sovereignty preservation. Any future institutional design that seeks to overcome this equilibrium would need to alter the cost–benefit structure of ratification rather than merely increasing advocacy volume.

Third, the finding that functional supranationalism proceeds even without formal ratification evidenced by the PAP’s October 2024 advocacy mission to Côte d’Ivoire and its sustained inter-parliamentary engagement indicates that non-ratification does not prevent institutional development. This pattern implies that withholding states face a diminishing returns problem: continued resistance to ratification does not halt functional expansion, but it does deny those states formal influence over the rules governing that expansion. The corpus did not contain sufficient evidence, however, to support the proposition that conditional or partial ratification is a politically viable middle ground; this remains a theoretical possibility unsupported by current documentary data.

Finally, the persistent gap between constitutional aspiration and political feasibility documented across 61.2% of corpus sources (Table 4) suggests that institutional designs requiring comprehensive treaty revision before functional empowerment may be mismatched with the political economy of African integration. The evidence indicates that ordinary Assembly decisions expanding PAP functions without treaty revision have occurred and are documented in AU summit records, whereas Malabo Protocol ratification has stalled. This pattern implies that incremental functional authority may be more sustainable than constitutional supranationalism in contexts where sovereignty defense remains the dominant member state framing.

CONCLUSION

This study examined how the Pan-African Parliament exercises legislative diplomacy in the absence of formal legislative authority, why member states withhold ratification of the Malabo Protocol, and what this suspended transformation reveals about sovereignty and integration in contemporary Africa. Addressing each research question in turn, the findings show the following.

First, the PAP exercises legislative diplomacy not through binding law-making but through the accumulation of functional authority election observation missions, model law production, oversight hearings, and inter-parliamentary advocacy that generates procedural access and institutional legitimacy despite the absence of constitutional legislative powers. The thematic analysis documented these activities across 43.3% of the corpus, with the PAP's October 2024 advocacy mission to Côte d'Ivoire serving as a traceable example of functional diplomacy in practice.

Second, member state ratification decisions are underpinned by a strategic calculus of sovereignty preservation rather than by administrative incapacity or low political salience alone. The documentary record reveals a stable equilibrium: 15 states have ratified the Malabo Protocol, while 40 states sustain institutional engagement with the PAP through budgetary contributions and national parliamentary selection of members without conferring legislative authority. This pattern supports the conceptualization of *ratification sovereignty* the deliberate deployment of non-ratification as an active instrument of diplomatic negotiation to retain leverage over institutional development while avoiding binding commitment.

Third, the PAP's suspended transformation reveals that African integration is characterized by institutional expansion without commensurate sovereignty transfer. The Parliament's members remain selected by national parliaments under Article 5 of the 2001 Protocol, not directly elected by citizens, and its legislative powers remain contingent upon a 28-state ratification threshold that has remained 13 ratifications short for over a decade. This disjuncture between representative connection and functional authority illustrates that sovereignty in contemporary Africa is practiced through hybrid functional arrangements rather than through constitutional supranationalism.

The core empirical finding is that the PAP has developed a distinctive modality of influence termed *functional supranationalism* in which practical authority substitutes for formal competence. This finding carries three precise theoretical contributions. First, it modifies theories of legislative diplomacy by demonstrating that parliamentary influence in regional organizations can operate through functional authority accumulation and norm entrepreneurship even in the absence of binding powers, challenging the assumption that legislative diplomacy requires constitutional competence. Second, it extends treaty-ratification theory by introducing *ratification*

sovereignty as an analytical concept that captures the strategic use of non-ratification as an ongoing bargaining resource rather than as a passive procedural delay or domestic veto point. Third, it proposes *functional supranationalism* as an empirically observable modality of regional governance, distinct from soft law, institutional layering, and creeping competence that explains how supranational bodies persist and expand when constitutional transformation is politically unattainable.

These contributions are subject to important limitations. The study relies exclusively on secondary documentary sources; it does not incorporate confidential diplomatic negotiations or informal channels that may have shaped PAP reform debates. The absence of interviews with PAP officials, AU Commission staff, or member-state diplomats limits access to the strategic intentions and private calculations that animate ratification decisions. Furthermore, as a single-case study focused on a specific historical moment (2004–2025), the findings are analytically generalizable to theory-building rather than statistically generalizable to other regional organizations. Future research could address these limitations through comparative analysis of suspended supranationalism in other regional bodies, domestic political-economy case studies of ratification decisions in specific African states, and primary fieldwork examining the long-term sustainability of legislative diplomacy without legislative authority. The PAP case, notwithstanding these limitations, provides a vital lens for understanding the evolving dynamics of sovereignty, integration, and institutional innovation in contemporary Africa.

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