



## **CONCEPT NOTE**

### **52<sup>nd</sup> PLENARY ASSEMBLY OF THE SADC PARLIAMENTARY FORUM**

#### **MEETING HOSTED BY THE PARLIAMENT OF THE DEMOCRATIC REPUBLIC OF CONGO KINSHASA, DRC 01 TO 11 DECEMBER**

#### **“THE ROLE OF PARLIAMENTS IN STRENGTHENING LEGISLATIVE FRAMEWORKS FOR PEACE AND SECURITY IN THE SADC REGION”**

### **I. BACKGROUND ON LEGISLATIVE FRAMEWORKS FOR PEACE AND SECURITY**

1. Since the establishment of the SADC Parliamentary Forum (SADC-PF) by the SADC Summit of Heads of States and Government in August 1997, the Forum has worked tirelessly on themes which aim to provide a stalwart foundation to peace and security in the region. Indeed, the steadfast development of progressive regional norms in the form of Model Laws to promote the regularity and fairness of election processes, or to resolve social issues such as Gender-Based Violence, HIV/AIDs, child marriage or public financial management, all undeniably contribute to the healthy ecosystem necessary for peace and security to thrive. In addition, the SADC-PF being an institution of the SADC is also bound by the SADC Treaty, and is respectful of the principles set out in the United Nations Charter as well as those in the Constitutive Act of the African Union which set out the need for peace and security to prevail within, and between, sovereign states.
2. It is trite that respect and fulfilment of both first generation and second generation human rights presuppose a conducive environment where peace and security reign. Civil and political human rights as well as socio-economic human rights such as the right to health depend heavily on internal security, and dissociation of the former from the latter is simply impossible.
3. The concept of pacific settlement of disputes enshrined in the UN Charter and the commitment to preserving peace and unity in the African Charter on Human and Peoples’ Rights and its accompanying Protocols

demonstrate that the implementation and enjoyment of human rights by all, without discrimination, are dependent on peace-building efforts between countries and the preservation of internal security. In addition, the Regional Indicative Strategic Development Plan (RISDP 2020-2030) of the SADC is equally predicated on the preservation of peace and security amongst sovereign SADC nations which mutually collaborate to promote further regional integration. The SADC Organ on Politics, Defence and Security, which is managed on a Troika basis, operates at strategic level to steer the region towards safety and to contribute to the implementation of the Protocol on Politics, Defence and Security Cooperation.

4. Whilst in the last decade, Parliaments of the SADC region have been increasingly sought by the citizenry as avenues to request accountability and transparency on peace and security arrangements, the recent times have known an escalation of interrogations on legislation, budgets and administrative measures to promote the protection of individuals from domestic and foreign threats. Mass migration, border disputes causing the movement of refugees and asylum-seekers, internal displacements, or sea pirates threatening maritime zones constitute only the tip of the iceberg of citizens' concerns with regards to peace and security, and same are to be routed to their constituent MPs through the institution of Parliament. With the advent of the COVID-19 crisis and ongoing vaccination campaigns, and more recently the inflationary upsurge of commodity prices, legislation and associated budgets adopted by Parliament for peace and security are constantly under the radar.

## **II. THE ROLE OF PARLIAMENTS IN PEACE-BUILDING**

5. In the 21<sup>st</sup> century, Parliaments' contribution to peace-building has continually been under the scrutiny of the citizenry. There are increasing expectations by citizens for Parliaments to be progressive and to act as an agent for peace-keeping within the parameters of their constitutional mandate. For instance, it is common in Commonwealth countries with Westminster-inspired governance models to find that constitutional provisions provide that Parliament should legislate for "**peace, order and good government**" or in accordance with similar terms to that effect. In other words, Parliament's functions are directed to legislate and to act within the parameters of good governance, peace and security. Within the context of Montesquieu's doctrine of separation of powers, Parliament is thus expected to play a key role in safeguarding peace whilst the Judiciary and the Executive also have important peace-keeping functions under the state's architecture.
6. The institution of Parliament is also solely mandated to deliberate on and approve the budgets for both foreign military operations and internal security. Whilst such budget lines for peace and defence often constitute a significant proportion of the total Executive expenditure, it is common for MPs to demand accountability on use of resources or on ways in which

funds are expended. In this regard, it is often thought prudent for Executives around the world to ratify military operations in Parliament before unrolling same in view of gaining Parliament's trust and ensuring that funding for the operation or any related supplementary budgets will be likewise approved. Parliament is thus the right platform for MPs to engage on issues pertaining to peace and security, the least because it is a core function of Parliament to approve or reject budget lines.

7. In some countries, Parliament is also leveraged as a high-level deliberation forum to determine if non-domestic actions should be initiated in regional or international forums, such as the International Court of Justice, the International Tribunal on the Law of the Sea, or the International Criminal Court. Such recourses undeniably contribute to peace-building, since they constitute avenues for the pacific resolution of disputes, and represent viable and less costly alternatives to armed conflicts. In addition, Parliaments may adopt persuasive motions to support initiatives taken by regional bodies such as the Peace and Security Council of the African Union, or deliberate on resolutions made by the UN Peace and Security Council when their countries are represented as non-permanent members therein.
8. Furthermore, Parliaments have a fundamental role to play to support the ratification of treaties and conventions that promote conflict resolution and peace-keeping. Given that several wars waged in the history of the world since the 1900s were etched in economic struggles and access to resources, dispute resolution clauses in economic treaties and conventions are now increasingly considered important to avert future conflict, and to instead promote mediation or arbitration. In this respect, it is quintessential for Parliaments to deliberate on the implications of traditional peace and security treaties, as well as Double Taxation Avoidance Treaties (DTAAs), Bilateral Investment Treaties (BITs) or Investment Promotion and Protection Agreements (IPPAs) as such instruments may reveal themselves to be either the source or the solution to enduring economic conflicts. With the possession of nuclear warfare being commonly used as a deterrent by defaulting states at the international level, Parliaments may also engage actively in promoting worldwide denuclearisation programmes and putting the proliferation of nuclear weapons to an end, especially as Africa is not known to have nuclear weapons and yet can still suffer the ill consequences of it in the event of deployment even far from African soil.
9. Within the paradigm of internal security, Parliament enacts laws to promote law enforcement and order, such as the Police Act, the Criminal Evidence Act, the Defence Act etc, which with their supporting subsidiary legislation, constitute the Bill of Rights for the protection of citizens. Parliament's role to maintain internal security is as crucial as its role in cross-border actions that tend to promote peace. Since laws are subject to the supreme law of the land, that is the Constitution of respective Member States, such laws need to be subject to recognised human rights such as

the right to equal protection under the law, the right to counsel and the right to due process through the court system.

10. Parliament can effectively legislate to ensure that Bills are adopted to pursue peace efforts in different contexts, whether it is in the household, at school, at national level or international level. Moreover, MPs have the inherent ability to interrogate Government measures and seek accountability on peace and security measures of a territorial or extra-territorial nature. In particular, Parliament can also hold the Executive to account on the aftermath of treaty ratification in line with the Vienna Convention of the Law of Treaties and the principle of “*Pacta Sunt Servanda*” which requires all treaties to be entered into and implemented in good faith. Parliament can thus effectively act as a check and balance on the Executive and as a herald of peace-building measures.

### **III. THE OBJECTIVES AND EXPECTED OUTCOMES OF THE 52<sup>ND</sup> PLENARY ASSEMBLY OF THE FORUM**

11. The 52<sup>nd</sup> Plenary Assembly of the Forum will take place in the Democratic Republic of Congo, the latter being a country which has itself been affected by several years of internal conflicts and disputes at different levels. There can be no better tribute to the DRC than to deliberate on the theme of “**THE ROLE OF PARLIAMENTS IN STRENGTHENING LEGISLATIVE FRAMEWORKS FOR PEACE AND SECURITY IN THE SADC REGION**” so that parliamentary engagements made may act as a guiding compass which enable SADC Parliaments to further navigate through, and self-reflect, on domestic peace and security frameworks.
12. The specific objectives and expected outcomes of the 52<sup>nd</sup> Plenary Assembly will thus be:
  - a) to promote inter-parliamentary cooperation, diplomacy and solidarity amongst SADC Member Parliaments, and to celebrate the SADC identity;
  - b) to take stock of the legislative frameworks for peace and security, both at inter-state and intra-state level;
  - c) to deliberate on the role and contributions of parliamentary engagement to the peace and security discourse in SADC bearing in mind the complementary efforts already made by the relevant SADC organs;
  - d) to consider the avenues where Parliaments may contribute to promote regional and international peace, in view of pursuing with Africa Agenda 2063 and the Sustainable Development Goals, especially SDG 16 on the promotion of peaceful societies;
  - e) to consider and approve reports of Standing Committees, the Regional Women Parliamentary Caucus and other organs of the Forum;

- f) to consider motions and statements by MPs which are in line with the theme of the Plenary Assembly;
- g) to promote inter-parliamentary policy among SADC Member Parliaments with respect to shared values and common agendas.

#### **IV. VENUE**

13. The 52<sup>nd</sup> Plenary Assembly will be a physical session from the 1<sup>st</sup> to the 11<sup>th</sup> of December, 2022, hosted physically by the National Assembly of the Democratic Republic of Congo, located in Kinshasa, DRC.

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