Dissertations and Theses   City College of New York

2014

Regional Integration and People-Centeredness; An Assessment of the Mechanisms for Popular Involvement in the Decision-Making of the East African Community

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Regional Integration and People-Centeredness: An Assessment of the Mechanisms for Popular Involvement in the Decision-Making of the East African Community

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May 2014

Master's Thesis

Submitted in Partial Fulfillment of the Requirements for the Degree of

Master of Arts in International Relations at the City College of New York

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CONTENTS

ABBREVIATIONS AND ACRONYMS

AU	-	African Union
CBOs	-	Community-Based Organizations
CM	-	Common Market
CU	-	Customs union
CSOs	-	Civil Society Organizations
EABC	-	East African Business Council
EAC I	-	East African Community I
EAC II	-	East African Community II
EAHC	-	East African High Commission
EACJ	-	East African Court of Justice
EACM	-	East African Common Market
EALA	-	East African Legislative Assembly
EALC	-	East African Legislative Council
EALS	-	East African Law Society
EACJ	-	East African Court of Justice
EACSO	-	East African Common Services Organization
EC	-	European Communities
GDP	-	Gross Domestic Product
LEGCO	-	Legislative Council
LRA	-	Lord's Resistance Army
NCC	-	National Consultative Committees

NGOs	-	Non-Governmental Organizations
PU	-	Political Union
TORs	-	Terms of References
OAU	-	Organization of African Unity
RECs	-	Regional Economic Communities
UNECA	-	United Nations Economic Commission for Africa
PPP	-	Purchasing Power Rarity
IR	-	International Relations
QMV	-	Qualified Majority Vote

ACKNOWLEDGEMENT

This study would not have been successfully carried out had it not been for the invaluable assistance accorded to me by various individuals. In that regard, I would like to express my sincere gratitude to all those who have in one way or another contributed and/or facilitated the accomplishment of this study. I thank Prof. Jacqueline A Braveboy-Wagner, my supervisor for her tireless detailed guidance in the whole process of my thesis writing. Prof Jean Krasno, my second reader, Director of International Relations Department for her continuous encouragement. And in a very special and unique way, my loving husband, Col. Wilbert Augustin Ibuge. In addition, I am indebted to, recognize and thank my whole family for their support during the whole duration of my study.

My sincere gratitude and appreciations also go to my sponsor and employer, the National Assembly of the United Republic of Tanzania and, in particular, Dr Thomas Kashililla, the Clerk of the National Assembly, for his invaluable assistance and facilitation of the sponsorship for this study. I thank you all for your invaluable assistance; indeed, it is what eventually made this study a reality. I am greatly indebted to you all.

ABSTRACT

The study undertakes a review of essential aspects of the principle of people-centeredness which is enshrined in the treaty for the establishment of the East African Community II (1999) as a key operational principle. The first EAC collapsed in 1977 and many analysts blamed the lack of popular support (among other things) for this failure. The study seeks to determine the extent to which the partner states are employing people centeredness to realize the Community's ultimate of objective of attaining a political federation.

Based on Article 7 of the treaty, the idea of people-centeredness seems to have included both a focus on people-centric development programs as well as a concern about popular involvement in the institutions of the EAC II. This thesis, however, discusses only the popular involvement in the institutions of the EAC II. I therefore assess whether the institutions of the community have granted access to civil society – specifically, business, labor and women's groups – in accordance with Article 7. I also review the ways in which the community has tried to involve the people as a whole, in the form of polling, and other means of outreach. The hypothesis guiding this study is that without inculcating a focus on the people, regional integration is unlikely to lead to the highest stage of political federation.

My findings are: people-centeredness is not the only condition but is a necessary one. When properly utilized, it has the potential to not only ensure continued popular support to the regional integration project, but also to contribute to the conditions necessary for the integration arrangement to remain sustainable. On the other hand, the absence of a people-centered element is likely to make the integration moribund in the longer term.

CHAPTER ONE

Introduction

This study examines the role of "people-centeredness" in facilitating the success of integration in the East African Community (hereinafter referred to as the "Community" or alternatively by its acronym - EAC II). Because people-centeredness is enshrined in the treaty for the establishment of the EAC II (1999) as a key operational principle,[1] the study undertakes a review of the essential aspects of the principle to determine the extent to which it is being employed to realize the Community's ultimate of objective of attaining a political federation.[2]

Based on Article 7 of the treaty, the idea of people-centeredness seems to have included both a focus on people-centric development programs as well as a concern about popular involvement in the institutions of the EAC II. In this thesis, however, I will discuss only the second factor. I will thus assess whether the institutions of the community have granted access to civil society – specifically, business, labor and women's groups – in accordance with Article 7. I will also review the ways in which the community has tried to involve the people at large in the form of polling and other forms of outreach.

Examining the impact of people-centeredness on the EAC II integration is important as the creation of a political federation is going to affect the lives of more than 130 million East Africans, currently residing within the borders of the five partner states.

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1 East African Community Secretariat, *Treaty for the Establishment of the East African Community*. Arusha, Tanzania (2002): East African Secretariat, p.1.

2 Ibid. p.3.

The feat will also result in far-reaching economic, socio-cultural and political transformations in the entire EAC II region.

At the same time, while examining the question of people-centeredness within the EAC II's specific framework, it is worth mentioning that the Community's regional integration endeavors are not happening in isolation. They are part of the global and continental frameworks, which have remained constant features of inter-state cooperation over time since the 19th century. Between 1850 and 1890, for instance, Europe adopted a loose form of regional cooperation, with industrialization as its driving force. Despite those early efforts at regionalism, however, elaborate regionalization only became a norm after the end of World War II. This was as a result of an increased level of regional and global interactions, in particular in the areas of economics, security and political cooperation within Europe.[3]

In the case of Africa, the experience of regional cooperation dates as far back as the late 1900s. Emanating f rom the ideals of Pan-Africanism, whose ultimate objective was centered on how to attain Pan-African unity, contemporary African integration can be best traced from the 1960s, following the wide-reaching attainment of independence by the majority of African states from European colonialism. At the time, the most central question was what would be the best means by which to attain African integration.[4] To that end, although a lengthy debate occurred among the African leaders of the time, which led to an initial formation of four informal groups on how to proceed

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4 Jaime De Melo and Alvin Panagaria, *New Dimensions in Regional Integration.* New York: Cambridge University Press, 1999.

5. David J. Francis, *Uniting Africa: Building Peace and Security Systems*. Aldershot, Hampshire, UK: Ashgate Publishing Company, 2006, pp.19 -28.

with the continental integration project, a collective position on the future of African

integration was eventually adopted on May 25, 1963, in Addis Ababa, Ethiopia, when the

Organization of African Unity (OAU) was born.[5]

The Addis Ababa Summit of Heads of State and Governments eventually

endorsed one of the positions on African regional integration, which had been held by a

group of African leaders, otherwise nicknamed "gradualists" for their advocacy of

regional economic integration first before considering the attainment of African political

unity. The gradualist approach was adopted as a compromise position from the various

viewpoints, one of which, pioneered by Kwame Nkurumah, advocated achieving

immediate continental unity in the sense of a United States of Africa.

Tanzania's Julius Kambarage Nyerere and Egypt's Gamal Abdel Nasser became

the most vocal advocates of the gradualist approach. They both shared the view that

"regionalism [was] an intermediate stage (not and end) to African unity."[6] While Nasser

believed that African unity "could not be achieved overnight,"[7] Nyerere strongly

advocated a "step-by-step approach" as the "driving force for African unity in practical

terms."[8] With the adoption of the Charter of the Organization of African Unity, therefore,

gradual integration of the African countries and peoples was assured.[9] The OAU,

headquartered in Addis Ababa, survived until it was transformed into the African Union

(AU) in 2001, which continues to date.

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[5] T.O. Elias, "The Charter of the Organization of African Unit," *The American Journal of International Law*, Vol.59, No.2, April 1965, p.243.
[6] David J. Francis, op.cit., p. 19.
[7] Ibid.
[8] Ibid.
[9] T.O. Elias, *The Charter of the Organization of African Unity. The American Journal of International Law,* Vol59, No.2 (Apr, 1965), pp.243-267.

Africa's gradualist integration project continues through a number of regional economic communities (RECs). In fact, according to the United Nations Economic Commission for Africa (UNECA), Africa is currently home to 14 RECs, each at a different stage of development. In addition, most of Africa's RECs are overlapping in membership across or within their regions, a phenomenon referred to as "multiple membership."[10] The East African Community (EAC II) is one among those RECs and forms the subject matter for this study. The EAC II is a successor to an initial REC of the same name (EAC I), formed in 1967 by Kenya, Tanzania and Uganda, but disbanded in 1977. EAC II was formed in 1999.

From its establishment through to its collapse, the EAC I was widely seen as too heavily leader-centered and nationalistic.[11] As a result, when the EAC II was reestablished, "people-centeredness" was made a major focus.[12]

This thesis explores whether the old tendency to be leader-centric and to cling to sovereignty is still evident within the EAC II states or if there is visibly more progress towards people-centeredness, which is considered to be a pre-requisite for success in the realization of a political federation.[13] The study also attempts to examine whether institutional mechanisms have been put in place to enable the incorporation of the views of the people of East African in the community's decision-making processes, and if they are functioning as envisaged. To contextualize the thesis's objective, the next chapter outlines the study's research design, including the underlying theoretical framework.

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[10] United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities*. Addis Ababa: UNECA & African Union, p.52.

[11] Ali S. Mchumo, "An Overview of the EAC,"*Seminar for Members of the Tanzania National Assembly*. Mimeo: Dodoma, Tanzania: February 2003.

[12] EAC Secretariat, *The Treaty for the Establishment of the East African Community 1999*. Arusha: Tanzania: EAC Secretariat, 2000.

[13] Ibid.

CHAPTER TWO

Research Design

This study is guided by the following hypothesis: Without inculcating a focus on the people, regional integration is unlikely to lead to the highest stage of political federation. I operationalize this people-orientation or people-centeredness at both institutional and policy levels. I intend to explore how the concept has been implemented in the EAC II up to the time of study.

The Treaty for the Establishment of the EAC 1999, coined the term "people-centeredness" in order to uphold the ideals of popular involvement of the peoples of East Africa as well as the essence of incorporating market forces in regional integration.[14] Because the EAC I was not considered people-centered, employment of the concept was seen as a necessary facet to enable the EAC II's navigation of its successive integration stages through to the eventual goal of realizing an East African political federation.[15]

In the treaty, the following was noted in Article 7 as the key objectives for the establishment of the community, which appear to be directly linked to people-centeredness:

a. Improving the standard of living and quality of life of the people of East Africa;

b. Ensuring balanced, orderly, consistent and fair development in East Africa;

c. Promoting the active participation and benefit of the people in development;

d. Enabling the business community and the general public to play a leading role; and

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[14] Rwekaza Sympho Mukandala and Nestor N Luanda, "Tanzania's Regional Bilateral and Multilateral Cooperation," Mimeo. Dar es Salaam, University of Dar es Salaam, July 2002, p.7.
[15] EAC Secretariat (2000), op cit.

e. Strengthening and improving the role of women in development.

People centeredness is therefore defined based on two facets: The first facet relates to people-centeredness in terms of programs established to benefit the people across the partner states. In this thesis I deal only with whether the EAC II has paid attention to the needs of businesses and women groups in the integration process. I also look at the interests of the people at large by reviewing the work of some committees established in 2001 to determine whether East Africans were in favor of integration and federation.

The second facet related to the definition of people centeredness is institutional. Article 9 of the Treaty for the Establishment of the East African Community 1999 especially details the principal structures (or organs) through which the organization functions, namely, the Summit, Council of Ministers, Coordinating Committees, Sectoral Committees, the East African Court of Justice, the East African Legislative Assembly (EALA), the Secretariat, and "such other organs as may be established by the Summit."[16] People centeredness will therefore be manifested if institutional mechanisms are in existence to ensure that inputs from non-governmental actors have space for inclusion in the work of the EAC II organs.

I define regional integration as a process. Ernest Haas stands as one of the leading proponents of this definition. Haas defines integration as "a process whereby political actors in several distinct settings shift their loyalties and political activities towards a new center, whose institutions possess or demand jurisdiction over the pre-existing nation-

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[16] EAC Secretariat, Treaty for the Establishment of the EAC 1999, Article 9 (1) (h)., EAC Secretariat, Arusha, 2000, p. 20.

states."[17] In reality, however, especially in Africa, experience shows that it takes an extremely long time for states to navigate through the economic maze of cooperation and/or integration, let alone to realize such a political shift. To date, the EAC II continues to struggle to implement a customs union, which should have reached a zero-tariff rate as early as 2009. Furthermore, it was supposed to have attained a common market by 2012; again, this is a feat is yet to occur.

Another "process" scholar, Hiroshi Kitamura, defines regional integration as a process in which attempts are made to create a desirable institutional framework for optimization of general economic policy. This definition is generally applicable but fails to address the question of who integrates and how they go about the integration process.

In this study, therefore, regional integration refers to the process by which states in a particular geographical location mutually and voluntarily decide to cooperate, usually agreeing to create regional institutions and rules aimed at enhancing cooperation. As a result of their cooperation arrangement, member states that reach such an agreement do need also to agree to cede some of their sovereign powers to the supra-national institution they create. The aim is to enable the planning and execution of their cooperation as mutually agreed in the relevant legal instruments detailing their cooperation.

Furthermore, as the process of integration evolves, the objectives of the regional arrangement may range from economic to political cooperation. According to past experience, the most common trend appears to be that regional integration will follow a politico-economic evolutionary path, where commercial endeavors usually become the

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[17] Ernest B. Haas, *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957*, Stanford, CA: Stanford University Press, 1958, p.16.

means through which broader socio-political, even security, cooperation objectives are achieved. However, this path is by no means assured.

I choose to study only the three founder countries Kenya, Tanzania and Uganda instead of the total membership of five (Burundi and Rwanda inclusive) because of two main reasons. The first reason is the history of the three countries in creating the now moribund EAC I (1967-1977). After the collapse of the EAC I in 1977 the partner states agreed to divide their common assets, which they did in 1984. However, almost immediately after signing the assets dissolution agreement, the countries resumed their integration efforts anew in 1986.

The second reason for choosing to limit this study to the three founder countries of the EAC II is both the short duration in which Burundi and Rwanda have been members of the organization (since 2007) and their (still) lack of influence in the community compared to the three founder states. The latter point is centered on their geographical locations within the EAC II as well as their population and economic sizes. Geographically, both countries are land locked, with a combined land size of 54,168 sq km (Burundi's is 27,830 sq km and Rwanda's is 26,338 sq km). Such a land size is rather small compared to Tanzania's 947,300 sq km, Kenya's 580,367 sq km and Uganda's 241,038 sq km.

In terms of the size of their economies, which is a factor affecting their contributions to the EAC II Common Market, Burundi's Gross Domestic Product (GDP), per purchasing power parity, is estimated only at $5.58billion (2012 estimates), while her current population size is 11 million (July 2013). Rwanda's GDP is much larger, standing at $17.74 billion (2012 estimates), while she has a population size of 12.1 million (July

2013 estimates). However, Rwanda is experiencing an extremely rapid population growth rate of 3.0 percent per annum, while at the same time evidencing one of the highest population densities in the world (415.5 people per sq km).[18] With the majority of their populations being rural and subsistence agro-based (more than 80 percent), Burundi and Rwanda are unlikely to affect the EAC II integration in any significant way for the foreseeable future.

On the other hand, the three EAC II founder states' statistics and potentials are highly interesting. While both Kenya and Tanzania are littoral states on the Indian Ocean, Uganda, though landlocked, has a large inland water body (Lake Victoria), which the other two countries also share. The country is also confirmed to have large deposits of oil reserves, with its GDP (PPP) currently at $51.27billion (2012 estimates) and its population size being 34.8 million.[19] In addition, Kenya's GDP (PPP) stands at $77.1billion with its current population size 44million (July 2013 estimates) and Tanzania's GDP (PPP) currently stands at $28.24billion, with the country also possessing proven reserves of mineral, gas and natural gas deposits. The size of Tanzania's population (2012 estimates) stands at 49.5million.[20]

The movement towards re-establishing the EAC II accelerated from 1986 to 1999. But by the time the leaders were signing the treaty to re-establish the EAC II in 2000, complaints were already being raised by intellectuals about the lack of participation of

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[18]CIA Factbook. https://www.cia.gov/library/publications/the-world-factbook/geos/rw (July 2013) and http://data.un.org/CountryProfile.aspx?crName=RWANDA.

[19] World Bank Report. http://www.worldbank.org/en/country/tanzania and CIA Factbook: https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html and https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html.

[20]Ibid.

the population in the process of integration.[21] That is why the extent of people-centeredness in EAC II integration has been chosen as the topic for this study. With the predecessor organization (EAC I) having manifested a clear tendency to be more of a "leaders' community" or club, which contributed to its failure,[22] the founding fathers of the EAC II saw the need to enshrine people-centeredness in Article 7 of the Treaty.[23]

To ascertain whether people-centeredness appears to be facilitative of the EAC II's integration progress, I use qualitative research and some quantitative data from across the three EAC II states.

<div align="center">**Theoretical Framework**</div>

My examination of the EAC II integration processes is located within broader regional integration theory, which is divided into two major approaches. The first classification involves economic integration theories and the second emanates from political science and international relations (IR) theories.

Economic integration theory is premised on the idea that states integrate gradually by way of successive economic stages, starting from loose cooperation to more consolidated and centralized stages involving the creation of custom unions and common markets within the regions concerned. The successive growth stages may then compel the integrating states to attain the highest level of interstate cooperation in the economic sense, which is attaining monetary union, thus enabling the establishment of a unified economic policy-making arena. Economic integration theory starts by dealing with such

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[21] Andrew Kiondo, "The people's involvement in the estabishment of the EAC", in Sengndo Mvungi (ed), *The Draft Treaty for the Establishment of the East African Community: A Critical Review*, Dar es Salaam: Dar es Salaam University Press, 2002.
[22] Ibid.
[23] EAC Secretariat, *The Treaty for the Establishment of the East African Community 1999*, Arusha: Tanzania: EAC Secretariat, 2000, p.14.

issues as regional market relationships and trade flows. On the other hand, IR-oriented integration theory is grounded in federalist, functionalist/neo-functionalist and liberal intergovernmental approaches.

Economic Approaches to Regional Integration

Economic approaches to regional integration are among the most prevalent in the field. In that regard, the effort to build those theories has been quite strong. [24] Walter Mattli has for instance distinguished two economic approaches, namely, custom union theory and economic integration theory.[25]

Customs union theory

Customs union (CU) theory is mainly concerned with the elimination of inter-state trade barriers and the establishment of common import tariff agreements. The central principle is that the removal of tariffs would allow states within the regional arrangement to benefit from cheaper imports stemming from more efficient industries located in another member state. Consequently, "the degree of trade diversion is likely to be small, where the members of a union have extensive trade with each other and a low common tariff on imports from non-member countries."[26]

The greatest value of CU theory is the emphasis on the relationship between trade and factors of production, where non-members attract penalties through higher tariff rates to protect the CU members' trade. As a result, there is the likelihood of accruing benefits to member states, including economies of scale and intra-regional trade efficiencies.

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[24] Walter Mattli, *The Logic of Regional Integration: Europe and Beyond*, London: Cambridge University Press, 1990,p p. 25-6.
[25] Ibid, p.27.
[26] ibid, p. 32.

Among the most prevalent weaknesses of CU theory is that it does not address the question of trade diversion from less efficient CU members to more efficient economies outside the region. A third state outside the CU might have lower production costs compared to the CU members, the result of which would be trade diversion. As a consequence, to ensure that trade from outside the CU does not distort trade within, the ideal would be for the countries to join a global customs union, thereby avoiding trade diversion as much as possible. Yet the latter scenario is impractical, and so CU theory does not provide a wholly satisfactory theoretical basis for the phenomenon of regional integration.

Economic Integration Theory

Economic integration theory, also known as the "step-by-step" economic theory, purports that regional arrangements, while commencing with free trade agreements, would move to establish a custom union (CU), at which stage elimination of intra-regional trade barriers would be effected. In turn, this would lead to the establishment of a common external tariff against third states. Consequently, a CU is expected to evolve into a common market (CM), eventually leading to the ultimate realization of a political union (PU).[27]

Bela Balassa identifies six different steps through which economic integration would usually occur: preferential trading areas, free trade areas, customs union, common market, economic and monetary union and eventually complete economic integration.[28]

Andrew Moravcsik argues, especially in comparative reference to European integration, that at the commencement of integration, since national preferences take

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[27] Ibid.
[28] Bela, Balassa, *The Theory of Economic Integration*. Homewood, IL: Richard D. Irwin, 1961.

center stage, economic interests are the most important catalysts for the process.[29] This is also a position taken by Finn Laursen[30] who argues that success in the next stages of the integration process following the establishment of supranational institutions will depend on the combined support (and demand) of the economic as well as the political actors across the integrating states,[31] relative to the respective benefits they deem accruable from integration.

Although the economic approaches to regional integration are good at explaining the economic integration stages and the economic and political actors involved, they do not deal fully with the role of non- economic factors. In that sense, examination of the IR-based integration theories is also necessary.

International Relations Theory

The Federalist Approach

The focus of federalist theories is the creation of new states, usually through the amalgamation of previously existing ones; on a regional basis, the eventual goal is the creation of a single state.[32] Located within the political sphere of regional integration theories, federalism de-emphasizes the pull of economic factors as drivers for integration and focuses more on the background and historical connectivity of the people who integrate. As Chris Brown argued, "one's view of federalism depends on their [sic] historical experiences and culture."[33]

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[29] Andrew Moravcsik, (1993). Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach. *Journal of Common Market Studies*, Vol.31, No. 4.
[30] Finn Laursen, (2003). *Comparative Regional Integration: Theoretical Perspectives.* Aldershot, Hampshire, England & Burlington, VT, USA: Ashgate.
[31] Ibid.
[32] Chris Brown, *Understanding International Relations*. (2001). London: Palgrave.
[33] Ibid.

Consequently, the presumption behind federalism is that decisions to federate are made by political elites in and across the federating units. Political elites within federating states would have to "surrender" their national sovereignty in favor of a regional or world government. The states would then be reduced either to limited internal autonomy or they would experience total loss of the right to national sovereignty.

The Functionalist/Neo-Functionalist Approach

Functionalist/neo-functionalist theories, also originating from political science, generally focus on the assumption that regional integration is not intended to replace the nation-state. In functionalism (also referred to as a *gradualist*[34] or *step-by-step*[35] approach), the state remains supreme over the institutions that emerge out of the integration process. At the same time, neo-functionalist scholars, sharing a belief in the gradualist approach argued by their functionalist predecessors, further argue that, ultimately, inter-state cooperation will "spillover" into the "less controversial" economic, social, and technical areas.[36]

The assumption is that decision-making relating to politics and sovereignty is way too "controversial" for states to be expected to cede easily to any sort of federal or supra-national entity. However, approaching integration from the economic angle makes sense in terms of building political trust and the bridges necessary to eventually become politically more region-oriented.

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[34] Martin Guy, "African Region Cooperation and Integration: achievements, problems and prospects", in Ann Seidman and Frederick Anang (eds.), *21st Century Africa: Towards a New Vision for Self-Sustained Development*. Atlanta, Georgia: African Studies Association Press, 1992, p. 71.

[35] Peter Anyang Nyong'o, *Regional Integration in Africa: Unfinished Agenda*, Nairobi: Academy Science Publishers, 1990, p.5.

[36] Ernest B. Haas, *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957*, Edition reprint. Stanford, CA: Stanford University Press, 1958.

With regard to the EAC I, its establishment was done along functionalist lines. The partner states, having realized that an EAC federal state was unattainable as had been desired earlier by some of the leaders at the time, decided to adopt an integration arrangement, which would enable them to cooperate technically and economically. For example, region-wide cooperation was launched in the areas of provision of rail and airline common services. When it came to the more difficult issue of deepening integration towards political federation however, it was impossible to proceed. Even today, each country remains mired in its own national circumstances.

Furthermore, in regards to neo-functionalism, the goal is for the integrating states to create supranational institutions. Aiming to ensure efficient functioning of inter-state cooperation, neo-functionalism further assumes that the institutions created will result in changes to the sovereignties of the participating states. Walter Mattli argued that the supra-national institutions, once in place, may have to be granted regulatory powers which go beyond those of the nation-states, in particular concerning the matters on which integration has occurred.[37]

In addition, neo-functionalists argue that supra-national institutions created by integrating states are no longer the only actors in integration. Rather, a whole range of non-state actors equally interested in the integration arrangements exists, in particular civil society and private sector organizations. The relevance of non-state actors is such that, at times, they have influence and networking capacities transcending national and regional boundaries thereby, at times, exuding abilities to project agendas beyond the local or national realms of governments. By leveraging their cross–regional networks

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[37] Walter Mattli, *The Logic of Regional Integration: Europe and Beyond*, London: Cambridge University Press, 1990, p.10.

with the supranational institutions, non - state actors may also access platforms in order to coordinate issues regionally by addressing them at the supra national level. For that reason, Mattli argued that "supra-nationality is now seen as the only method available to states to secure maximum welfare."[38]

For the EAC II, by virtue of its treaty's provisions, especially given the founders' intent as expressed in the Preamble, neo-functionalist thinking seems to have informed the commencement of the process, namely, proceeding incrementally from the economic arena and building institutions to support the process until, eventually, a political federation is realized.[39]

The federation was viewed as the ultimate end of the integration spectrum, although it is not clear what kind of federation was desired. Still, there are clear indications of federalist thinking being incorporated as part of the concept of EAC II integration. Moreover, when the EAC II is analyzed in terms of institutional creation, it manifests ideals borrowed from neo-functionalist thinking. The institutions include although are not limited to, the EAC Secretariat, the East African Legislative Council (EALC), the Council of Ministers, and the East African Court of Justice (EACJ).

The EAC II institutions also signify the emergence of some level of supra-nationality. But, unfortunately, the concept of supra-nationality falls short of explaining what usually happens in regional integration, especially when the member states still retain their respective sovereign powers to cherry-pick what they can or cannot implement at their national levels of preferences, from the regional milieu of integration policies and choices. In that case, a theory capable of helping to understand such a central

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[38] Ibid.

[39] EAC Secretariat, *Treaty for the Establishment of the East African Community, 1999*. Arusha: EAC Secretariat, 2002, p. 13.

role of state sovereignty in the context of regional arrangements is liberal

intergovernmentalism.

The Liberal Intergovernmentalism Theory

Liberal intergovernmentalism emerged in the 1990s as a way to explain the

failures of the European Communities (EC) in the mid-1960s to 1970s. At the time,

French President Charles de Gaulle had instructed his ministers to not take part in EC

Council meetings. The prohibition occurred because de Gaulle opposed the EC Council's

mode of decision-making by use of the qualified majority vote (QMV). France's

argument was that adopting the QMV went against the EC members' individual rights to

defend their national interests. In that case, it was argued, a decision reached through the

QMV did not deserve implementation if it would undermine an opposing member states'

national interest.[40]

De Gaulle's position led to the EC's negotiation and adoption of the Luxembourg

compromise in January 1966. By virtue of the compromise, the EC's six members

"agreed to disagree,"[41] thereby overhauling their former consensual mode of decision-

making in order to accommodate the use of the QMV, but only on major policy issues

facing the EC as a whole. Thus a rule was passed wherein the member states would get

the consent of their people before the adoption of a far-reaching longer term decision. In

addition, the role and diversity of national interests amongst the integrating states were

reaffirmed, which could lead to diversity in outcomes at the regional institutional level.

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[40] Finn Laursen, *Theory and Practice of Regional Integration*, Coral Gables, Florida: University of Miami Press, 2008, p.1.
[41] Ibid, p.3.

Thus liberal intergovernmentalism, as a theory, emerged in order to express the aggregation of national interests brought to the integration table by each member state. Advanced by Andrew Moravcsik,[42] the theory operates on a three-stage continuum.

The first stage relates to how each member state brings onto the negotiating table its national preferences – deemed necessarily achievable through the regional integration arrangement. The important question here is what informs a state's national preferences. Are they driven, for example, by economic gain or geopolitical influence? Moravcsik's answer was that most national preferences, which catapult states into regional integration, are more economic than geopolitical.[43] By implication, if those preferences are not met, which means that a state's national interest will not be accommodated, then there is likelihood that the said member state's commitment to integration could be in doubt.

The second stage concerns interstate negotiations, which member states undertake during the integration process. Each member state seeks to ensure maximum incorporation of its respective national preferences. Referred to as "grand bargaining,"[44] interstate negotiations would be deemed successful by a member state if the principal domestic actors see the outcome as such. In addition, member states' adherence to regional regulations are likely to depend on the degree to which each member perceived that their national preferences were incorporated at the regional level to their principal national actors' benefit and satisfaction.

While the outcomes of "grand bargaining" remain crucial to forecasting the importance principal actors and groups in respective national settings place on a regional

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[42] Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmental Approach," *Journal of Common Market Studies*, 1993, Vol. 31, No. 4, pp. 473-523.
[43] Ibid., p.480.
[44] Andrew Moravcsik, *The Choice for Europe*. Ithaca: Cornell University Press, 1998, p.24.

institution, Moravcsik cautions that any efforts by the member states to negotiate "package deals" in order to achieve concessions that would enable them to reach set regional goals will likely create "domestic losers."[45] As a result, states are likely to "limit the use of package deals"[46] when negotiating initiatives aimed to achieve integration goals. Consequently, whichever principal national actors influence the process of integration for a particular member state, they are bound to impact the attainment of regional integration goals from the standpoint of the state concerned.

The third and final stage, known as "institutional choice," seeks to explain the rationale by which, after "grand bargaining"; member states decide either to "pool" their sovereignty or to "delegate" their decision-making powers to the international institutions they create.[47] In the case of the EAC II, pooling of sovereignty occurs via the centralized model of decision-making wherein, through the Council of Ministers, the EAC II makes policy recommendations for final approval by the Summit of the Heads of State. But there is a catch: As Dani Wadada Nabudere argues, such mode of decision-making cannot happen without a "political binding force, short of a political union."[48]

The delegation of decision-making powers to international institutions refers to the extent member states are ready to allow a regional institution to determine crucial elements of the integration process without interference from those member states. In the case of the EAC II, the test of whether delegation exists is best applied by determining how strongly each member state abides by decisions reached at the regional level,

[45] Ibid, pp.63-67.
[46] Laursen, *Theory and Practice of Regional Integration*, Coral Gables, Florida: University of Miami Press, 2008, p.7.
[47] Ibid.
[48] Dani Wadada Nabudere, "*Pan-Africanism and the Challenges of East African Integration: Discussion of Professor Issa Shivji's Presentation.*" Paper presented at the 10th East African Anniversary Symposium, Arusha, Tanzania: 13-14th November 2009, p.11. Retrieved from: http://www.wanafrika.org/2011/04/transformation-of-global-system-and-its.html.

including by the community's technical organs. In particular, this refers to the roles and perceptions, at the national level, of decisions reached in the context of the Secretariat, East African Court of Justice (EACJ) or the East African Legislative Assembly (EALA). Are those regional institutions capable of reaching binding decisions to which the partner states have shown unreserved compliance and seem to be ready to accept penalties in the event of proven non-compliance? This question may require further research outside the ambit of this study, but it serves to show the importance of member states' commitment to building strong regional institutions in the context of liberal intergovernmentalism.

For this study, it is important to find out whether people centeredness remains central to the EAC II's integration as emphasized in the treaty and what means of popular participation are being employed to implement it. Furthermore, understanding who plays the predominant roles in determining integration is likely to shed light on whether the EAC II will truly attain its ultimate objective, that of a political federation, which is expected to be attained more quickly when the community is people centered. Furthermore, by incorporating the role of domestic actors, liberal intergovernmentalism theory is likely to provide a useful guide for the analysis of people centeredness. A summary of the model is provided in **Table 2.1** below.[49]

Table 2.1: Liberal Intergovernmentalism Theory: Stages for Regional Integration

Stages	Stage 1: National Preferences Formation	Stage 2: Interstate Bargaining	Stage3: Institutional Choice/Type and Role vis-à-vis Sovereignty of Member States

[49] Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach," *Journal of Common Market Studies*, Vol.31, No.4, 1993.

Alternative independent variables underlying each stage	What is the source of underlying national preferences? Economic interests or Geopolitical interests?	Given national preferences what explains the efficiency and distributional outcomes of interstate bargaining?	Given substantive agreement, what Explains the transfer of sovereignty to international Institutions?
	Asymmetrical interdependence or supranational entrepreneurship?	Federalist ideology or centralized technocratic management or more credible commitment?	
Observed outcomes at each stage	Underlying national preferences	Agreements on substance (What national preferences seem common to many member states?)	Choice to delegate (to the supranational institution) or pool decision-making in international institution(s)

Source: Andrew Moravcsik, *The Choice for Europe*. Ithaca: Cornell University Press, 1998, p.24.

Based on the theory and in line with the concept of people centeredness, we need to determine if the people of East Africa are capable of influencing the process of aggregation of national preferences to be incorporated at the regional level. In addition, indicators should exist to show the people's role in determining integration outcomes. Victor Adetula has, for example, argued that:

> …Regionalism has been a stronger force in East African politics...but its re-definition in the current context of EAC (II) needs to take consideration of …the broad involvement of the peoples in the processes of regional integration.[50]

[50] Victor Adetula, "Regional Integration in Africa: Prospect for Closer Cooperation between West, East and Southern Africa." Paper presented at the meeting of IDASA/FREDSKORPSET Research Exchange Program and Democracy. Bloemfontein, Johannes
burg, Republic of South Africa, May 2 - 4, 2004, p.3.

Indeed Article VII of the EAC II Treaty enshrines people-centeredness, although it adds a condition with which it must co-exist, namely, it must be "private sector-driven" in order to become a reality.

In this chapter, I have examined the theoretical framework informing this study. Having examined other related theoretical underpinnings common in the field of regional integration, I have come to the determination that the study is best informed by liberal inter-governmentalism theory. The theoretical framework underlines the central role of domestic actors, whose interests are aggregated by the state and then brought to the regional organizational setting. In the next chapter, I examine the contrast between EAC I and II, both in terms of the role of people-centeredness and its utility in the possible realization of the East African political federation.

CHAPTER THREE

The Collapse of EAC I and Quick Transformation into EAC II

In order to contextualize the importance of people-centeredness to the East

African integration project, it is useful to analyze the reasons behind the collapse of the

EAC I in 1977. From that vantage point, it may then be possible to find out what may

have compelled the EAC II founding members to insist on the incorporation of people-

centeredness in the Treaty for the Establishment of the EAC in 1999. Paragraph 4 of the

Preamble to the EAC II Treaty states:

> …in 1977 the Treaty for East African Co-operation establishing the East African Community was officially dissolved, the main reasons contributing to the collapse of the East African Community being lack of strong political will, lack of strong participation of the private sector and civil society in the co-operation activities.[51]

Also, in paragraph 11 of the Preamble, the Treaty details that the signatories are:

> …Resolved to create an enabling environment in all the Partner States in order to attract investments and allow the private sector and civil society to play a leading role in the socio-economic development activities.[52]

Looking at the context just described, it appears from the outset that the EAC II

founders envisaged the participation of both the private sector and civil society in the

process of integration. It is an idea that had not been considered anywhere in the Treaty

establishing the EAC I. On the contrary, it appears that, at the time, the partner states had

felt no compunction to have their citizens too involved in the community's affairs and

processes. That apathy in part contributed to the collapse of the EAC I.[53]

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[51] EAC Treaty (1999), op. cit, pp. 1-2.
[52] Ibid.
[53] Arthur Hazlewood, "The end of the East African Community: What are the Lessons for Regional Integration Schemes?" *Journal of Common Market Studies.* Sep79, Vol. 18 Issue 1, p.40. 19p.

Overview of Factors Leading to the Collapse of the EAC I

The origins of the East African Community (EAC) date as far back as 1900. Today, the community is composed of five countries – Burundi, Kenya, Rwanda, Tanzania, and Uganda. The original members of the community, however, were for a long time only the three countries of Kenya, Tanzania and Uganda. This was initially due to colonial exigencies, wherein Kenya was a British colony, Uganda a British Protectorate and Tanzania initially a German colony (up to 1918) and later a British Mandated Territory (from 1919 to independence in1961). Burundi and Rwanda on the other hand did not factor into the British regional colonial arrangement because they were initially administered by Germany (from 1894 to 1915) and later (from1916 to 1962) by Belgium as twin-mandated territories under the League of Nations.[54]

Administering the three territories under a British "regional" economic structure made sense so in 1919, Mombasa (Kenya) was designated the first regional "customs collection center."[55] Establishing the customs center would also help to consolidate and simplify Britain's access to raw materials for her industries in the territories.[56] It would also guarantee easier and more cost-efficient freighting of raw materials to England.

There were also other significant economic infrastructural realignments, apart from the establishment of the Mombasa customs post. The building of the Kenya – Uganda railway in the early 1900s also contributed significantly to a rapid shift in trade from Tanganyika's (now Tanzania) ports, especially Dar es Salaam and Tanga, to Mombasa port. Given the fact that up to 1918 Tanganyika was still under German

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[54] " Rwanda under German and Belgian Control." http://www.britannica.com/EBchecked/topic/514402
[55] East African Secretariat, op.cit, p.4.
[56] Arthur Hazzlewood, op.cit.

colonial rule, the move to strengthen Mombasa was an important one to the British

because it helped to curtail competition posed by both Dar es Salaam and Tanga ports.

Consequently, the British colonial government established an East African

Currency Board for Kenya and Uganda in 1904. In addition, following Germany's defeat

in World War I, the League of Nations gave Tanganyika to Britain as a mandated

territory. The territories of Kenya, Tanganyika and Uganda were eventually conjoined

into a single customs union in 1919. A common market framework was also created for

the three territories in 1940, resulting in the free exchange of goods across the three

territories. A joint East African income tax board also came into existence in the same

year.

In 1948, the East African High Commission (EAHC), consisting of the governors

of the three territories and the East African Legislative Council (LEGCO), bestowed on

the commission the necessary legal basis for it to attain an international status. The

EAHC lasted up to 1961 when the East African Common Services Organization

(EACSO) was established.[57] In 1963, after attaining their independence, the countries of

Kenya, Uganda and Tanganyika (later Tanzania) signed what is known as the Nairobi

Declaration. By virtue of the declaration, the partner states pledged to create a political

federation.

The federation did not materialize. Some of the causes for its non-establishment

included a lack of strong political will among the three countries' political leaders and

existence of a perception of unequal sharing of the benefits of integration among the

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[57] Ibid, p. 4.

member states.[58] Dani Wadada Nabudere had said that the failure was based on a myopic view of "territorial nationalism," wherein the interests of the ruling elites of the countries and those of multinational corporations took center stage over the interests of the people.

Moreover, especially where the matter of "unequal sharing of benefits" was concerned, the countries were left to squabble over the minute economic "crumbs" of transfer taxes. They were thus all losers in a multinational corporation-dominated world, which exploited all of them. In order to reverse that exploitative tendency, therefore, the East African states would be better integrated. Political unity could be one of the most feasible approaches to attain that goal.[59]

East Africa's leaders, however, were not ready to surrender their territorial nationalism, so they quickly ignored the proposal of a political federation that was the basis of the Nairobi Declaration. Rather, the countries resorted to the idea of "balancing trade" and "addressing imbalances" through the "distribution of industries which neither state owned or controlled, because they were owned by private industry.[60] To make the new decision a reality, the founding fathers signed the Kampala and Mbale Agreements of 1964 and 1965, respectively, which aimed mainly at re-allocating the various industries, mostly based in Kenya, to the other two countries.

Kenya would not allow the relocation of any of the industries from within her borders as such action would also mean tremendous job losses in the domestic labor market while at the same time opening up labor competitions from both the Tanzanian

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[58] Korwa G. Adar, "An Investigation and Analysis of the Causes for the Disintegration of the East African Community" (*M.Sc. Scholarly Paper*), Indianapolis: Indiana State University, 1981.
[59] Dani Wadada Nabudere, "*Pan-Africanism and the Challenges of East African Integration: Discussion of Professor Issa Shivji's Presentation."* Paper presented at the 10th East African Anniversary Symposium, Arusha, Tanzania: 13-14th November 2009, pp.1-37. Retrieved from: http://www.wanafrika.org/2011/04/transformation-of-global-system-and-its.html.
[60] Ibid., p.13.

and Ugandan markets, where some of the industries would now be based. To achieve economies of scale, the newly relocated companies, finding Kenyan labor to be now more expensive, would opt to source from the local labor market.

Based on those considerations, Kenya chose to not ratify the Kampala and Mbale Agreements. On the other hand, Kenya's decision to not allow the relocation of some of her industrial franchises led Tanzania to apply separate tariffs against Kenyan goods, which was uncharacteristic of any regional customs union or common market arrangements. Finding out in reality that outright merging of their industrial and economic capacities would not happen that quickly, the three countries finally decided to sign the Treaty Establishing the EAC I in 1967.[61]

The EAC I: Short-lived Integration Experiment (1967-1977)

The Treaty establishing the EAC I immediately entered into force and allowed for the immediate operationalization of an East African Common Market (EACM). The EACM aimed at achieving a common customs tariff and trade deviation policy, the protection of East African intra-regional trade, and increased inter-territorial trade.[62] Those three areas of cooperation were crucial in enabling the EAC I to reduce conflicts of interest and undue negative competition among its partner states. The states had thus become a *de facto* free trade area, which opened up expanded market opportunities for their territories.

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[61] Ibid.
[62] Ibid.

General Factors for the Collapse of the EAC I

But the EAC I was short-lived as it only took a decade to collapse (in 1977). Rwekaza Mukandala and Nestor Luanda have summarized the reasons for its collapse as follows: (a) the existence of different political philosophies (which in turn led each country to pursue different economic policies); (b) a violent change of government by military coup in Uganda in 1971; (c) continued perception by elements of the leaderships in both Tanzania and Uganda that Kenya maintained an unfair advantage over the other two members, resulting into inequitable sharing of the benefits of integration; (d) a lack of policies capable of ensuring harmonization of the integration process in general; and (e) the absence of strong civil society and private sector participation in the integration process.[63]

As regards the differences in the three countries' political philosophies, Kenya's capitalist-oriented economy was different from Tanzania's declared "socialism and self-reliance" and Uganda's "common man's charter."[64] Essentially, Uganda's policy was both quasi-capitalist and socialist driven.[65] Apparently, the different economic foci not only reflected diverse macro and micro-economic policy frameworks but also contributed to the drift, experienced by the three countries, away from deeper integration.

On the political front, Tanzania's Julius Nyerere had great distaste for General Idi Amin Dada following the latter's violent overthrow of President Milton Obote in 1971. President Obote was Julius Nyerere's personal friend, which ensured that he would never sit with Amin at any EAC I summit meeting. Personality clashes between Nyerere and

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[63] Rwekaza S. Mukandala and Nestor N. Luanda, *"Tanzania's Regional Bilateral and Multilateral Co-operation,"* Mimeo, Dar es Salaam: University of Dar Es Salaam, July 2002, p. 7.
[64] Korwa G. Adar, op.cit.
[65] Ibid.

Amin eventually led to war between Tanzania and Uganda from 1978 to 1979. The immediate cause of the war was Uganda's annexation of part of Tanzanian territory in the Northwestern Kagera Region, but it eventually resulted in Tanzania's overthrow of the regime in Kampala.[66] By that time, General Amin had fled the country and abdicated leadership for good.

The favorable conclusion of the war on Tanzania's side allowed for the reinstatement of Milton Obote in 1979, but could not save the community from its collapse.[67] As a result of the Nyerere-Amin standoff, the EAC Summit could not convene from 1971 to 1977. By that time, the drums of war between the two countries had already reached their crescendo.

In addition, given the organization's top-down, command-oriented mode of decision-making, no major activity would be allowed to take place, whether in terms of budgetary appropriations or any policy-oriented initiatives. It was only a matter of time before the members officially acknowledged their organization's collapse.

As regards the perception about inequitable distribution of the benefits of integration in favor of Kenya, this was rooted in the pre-independence era. It will be recalled that, of the three countries, Kenya had been favored by the British colonial administration in 1919 when Mombasa became the customs center and its port the hub of British export/import trade on the East African coast.

Recognizing that imbalance from the inception of the community in 1967, the partner states introduced specific mechanisms in the region's trade regime, which were

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[66] David A. McDonald & Eunice Njeri Sahle (ed), *The Legacies of Nyerere: Influences on Development Discourse and Practice in Africa*, 2002, Trenton, NJ: African World Press, Inc., p.70.
[67] Ibid.

intended to reduce Kenya's industrial advantage over Tanzania and Uganda.[68] Among the mechanisms adopted was the establishment of a transfer tax system, which was intended to benefit Tanzania and Uganda by boosting their industrial competitiveness with Kenya. The transfer tax, it was thought, would encourage the development of manufacturing industries in the two countries and help to protect their markets against Kenyan goods.[69]

The result however was different. Instead of benefitting the two countries, the tax transfer system brought about a negative impact on Tanzanian and Ugandan industries. Mohabe Nyirabu points out that, rather than bolstering industrial development in the two countries, the transfer tax policy at best only allowed for a mushrooming of small to medium scale industrial units. In addition, the industrial units operated at comparatively higher costs than the larger and more advanced units in Kenya. This then resulted in trade diversion instead of trade creation for Tanzania and Uganda, leaving Kenya to retain a manufacturing and commercial edge over the other two, who remained underdogs.[70]

Lack of People-centeredness as a Key Factor for the Collapse of EAC I

Lack of people-centeredness has been mentioned widely in the literature on EAC I integration as among the principal factors for the organization's collapse in 1977.[71] The general argument here is that, the organization was not rooted in popular legitimacy. It is thus assumed that, had popular support existed from the inception of the EAC I, the political leaders would have had to reconsider any possibilities likely to lead to its collapse. That is because any political arrangement with popular support from the people

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[68] Rwekaza S. Mukandala and Nestor N. Luanda, *"Tanzania's Regional Bilateral and Multilateral Co-operation,"* Mimeo, Dar es Salaam: University of Dar Es Salaam, July 2002, p.7-9.
[69] Ibid.
[70] Ibid.
[71] Sengondo Mvungi (ed), *The Draft Treaty for the Establishment of the East African Community: A Critical Review*, Dar es Salaam: Dar es Salaam University Press, 2002. Others include Rwekaza Mukandala and Nestor Luanda, op.cit.

is likely to penalize politicians who make it fail and to reward those who make it succeed. Whereas penalties may be made manifest by election losses, rewards may be measured simply by the re-election of politicians who succeed.

Because the EAC I had come into existence solely based on the whims of the three countries' political leadership instead of being based on popular support from across the population, there were no penalties to be expected from the electorate. On the contrary, it seems that the political leadership had unabridged powers to decide on the fate of the EAC I – whether in a positive or negative direction, thereby completely ignoring any role for the people. Dani Wadada Nabudere has argued that, "people-centeredness" was not even a concept to be considered when the EAC I founders created the organization in 1967.[72]

Much of the rationalization for people-centeredness is deeply linked to the history of East African societies on the one hand, and Western European colonialism on the other. Thus, although in the pre-colonial era the societies and peoples of East Africa were traditionally interlinked in almost synonymous societies spanning present-day borders, the colonial borders which the EAC states inherited from their British former colonizers also completely distorted the pre-colonial borderless status.

Following the drawing of artificial boundaries at the Berlin Conference in 1884-1885 in what constituted the "Scramble for Africa," ethnic groups spanning the imposed borders such as the Luos and Maasai in Kenya and Tanzania were mercilessly divided into communities within the different countries. To date, the border peoples of East

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[72] Dani Wadada Nabudere, "*Pan-Africanism and the Challenges of East African Integration: Discussion of Professor Issa Shivji's Presentation,*" Paper presented at the 10th East African Anniversary Symposium, Arusha, Tanzania: 13-14th November 2009, pp.10-31. Retrieved from: http://www.wanafrika.org/2011/04/transformation-of-global-system-and-its.html.

Africa continue to cross the borders, without recourse to or care for visa or immigration requirements. Had the populations across the EAC partner states been comprehensively involved in the integration processes, it is likely that EAC I integration might have been more people-supported than merely seeming to be the work and drive of the EAC governments.

Mukandala and Luanda point out that the lack of strong participation of civil society and the private sector in the cooperation activities contributed to the collapse of the EAC I in 1977.[73] In fact, the two authors note that the lack of popular participation of the people of East Africa was so profound that the majority of East Africans remained indifferent to the disintegration of the EAC I, even as it reached its official demise in 1977.[74] In essence, that indifference appeals almost to some form of common sense: why would the population be concerned with the plight of an organization in which they had no stake?

In terms of decision-making, the Summit centralized the organization's processes, ideally based on recommendations from the Council of Ministers and the Secretariat, respectively, but almost solely based on the presidents' personal wishes. As a result, the East African Legislative Assembly (EALA) was merely a consultative organ, rather than an authoritative legislative entity, as it ought to have been. As such, the Council of Ministers and/or the Summit could override the EALA's legislative decisions at any time.[75]

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[73] Rwekaza S. Mukandala and Nestor N. Luanda, 2002, op.cit.
[74] ibid.
[75] Ali S Mchumo, *"An Overview of the EAC,"* Seminar for Members of the National Assembly (Mimeo: Dodoma Tanzania: February, 2003).

Based on the preceding analysis, it is no surprise that even the articles for the dissolution of the EAC I were not submitted to the EALA for deliberation. That lack of popular involvement, even at the representative democratic level of the EALA, also serves to highlight the point that the organization remained leadership-centered. Thus, when the heads of state decided they had no use for the organization, the EAC I was dissolved.[76]

The EAC II: Rapid Transformation of an Old Integration Idea

Following the collapse of the EAC I and after a transition period in which the partner states negotiated and reached agreement on the transfer of common assets, a process which was completed in 1984, an EAC II was re-established in 1999.The re-establishment was a significant event in that it provided an opportunity to ensure that the problems experienced in the EAC I would not recur in the new arrangement. These included the inherent lack of a unified vision for development which had afflicted the EAC I.

However, it is interesting that a similar lack of unified vision for joint regional development seems to persist to date within the context of the EAC II. Jacqueline Braveboy-Wagner notes, "the EAC II is perhaps the most ambitious political and economic program of the RECs, but lingering political differences and differing levels of development are still obstacles to rapid progress in integration."[77] Looked at in the context of its predecessor, that "most ambitious of Africa's RECs" known as EAC II is

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[76] Ali S. Mchumo,*"Popular Awareness and Participation in the East African Regional Integration Process,"* Seminar for Members of the Tanzania National Assembly (Mimeo: Dodoma, Tanzania: February, 2003).
[77]Jacqueline A. Braveboy-Wagner, *Institutions of the Global South*, London and New York: Routledge,2009, p.164.

fraught with integration challenges, including difficulties in the realization of a political federation.[78]

In Article 5.2 of the EAC II Treaty, the partner states expressed their will to achieve a federation. The EAC Development Strategy (2006 – 2010) included a focus on facilitating the process towards the realization of a political federation. Evidence related to the continued desire for the federation is reflected in some of the political leadership's official undertakings. For example, by a decision made at their summit in Nairobi on 27–29 August 2004, the EAC II's heads of state expressed a collective "concern at the slow pace of integration,"[79] and decided to form a "Committee on Fast Tracking the EAC Political Federation."[80] Also dubbed the "Wako Committee" due to the name of its Chair, the Committee was charged with carrying out region-wide consultations among East Africans, in order to determine their general willingness to become part of an East African Federation.[81]

The Wako Committee submitted its report to the regular summit meeting of the EAC Heads of State in Arusha on 29 November 2004. Among its recommendations was a blunt admonition to the (EAC II) heads of state that they would do better to refrain from attempting to forge a "leadership-driven federation." Rather the committee advised that the organization needed to become more citizenry-driven in order to reach the political federation goal. Thus, the committee argued in part that:

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[78] EAC Secretariat, Treaty for the Establishment of the East African Community 1999. Arusha: EAC Secretariat, 2000.

[79] EAC Secretariat, *Towards and East African Federation.* Retrieved from http://www.eac.int/politicalfederation/index.php?option=com_content&view=article&id=50&Itemid=109 on March 09, 2012.

[80] Ibid.

[81] EAC Secretariat, *Summary Report of the Committee on Fast-tracking East African Federation*. Arusha, EAC Secretariat: 2004, p. 2. Retrieved from http://www.eac.int/politicalfederation/index.php?option=com_content&view=article&id=50&Itemid=109 on March 09, 2012.

…A sound foundation is needed to create a sustainable Political Federation. One contributor to such sustainability requires that the process towards Political Federation be reached through public mobilization pressure rather than through executive decisions…A public referendum process is desirable, since large numbers of the people of East Africa have stated very clearly that they want not only to understand what a Federation is, but also own it and participate in its formation…The process…will partly depend on the design and implementation of the strategic interventions during the period prior to the establishment of a Federation, and partly on the involvement of the people of East Africa, including the private sector, civil society organizations, and the professional bodies, among others. [82]

The Wako committee's findings were an initial eye-opener concerning the prospects of incorporating a "people-centered" approach to attain the political federation. The problem with that report, however was that it fell short of exploring or suggesting what avenues would be useful to ensure the popular participation of EAC II citizens in order to foster people centeredness. As such, that lack of guidance did not expand the rationale for implementing people-centeredness to the benefit of EAC II integration. For that reason, further guidance could be obtained from Article 7 of the EAC II Treaty, which details the key objectives for the establishment of the Community as being, *inter alia*:

    a. Improving the standard of living and quality of life of the people of East Africa;

    b. Ensuring balanced, orderly, consistent and fair development in East Africa;

    c. Promoting the active participation and benefit of the people in development;

    d. Enabling the business community and the general public to play a leading role; and

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[82] EAC Secretariat, *Summary Report of the Committee on Fast-tracking East African Federation*. Arusha, EAC Secretariat: 2004, p. 2. Retrieved from: http://www.eac.int/politicalfederation/index.php?option=com_content&view=article&id=50&Itemid=109 on March 09, 2012.

e. Strengthening and improving the role of women in development.

A number of these objectives are directly linked to people-centeredness; they include although may not be limited to, active participation and benefit of the people in development, allowing the business community and general public to play a leading role in the community's affairs, as well as improving the role of women in development. What is important is that, the EAC II treaty appears to be specific on the potential people-centeredness may have in EAC II integration. However, the zeal to allow that to happen has been missing. This is a view also expressed by Andrew Kiondo, who argued that involvement of the people in integration was not among the organization's strongest suits even during the commencement of EAC II integration.[83]

In this thesis, I am therefore interested in objectives c, d and e, above, in line of Article 7 of the treaty. In the next chapter I explore my first question: What institutional mechanisms are in place within the EAC II's decision-making processes, which would require incorporation of the views of the East African peoples? And, if such mechanisms exist, are they functioning as planned?

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[83] Andrew Kiondo, "The people's involvement in the estabishment of the EAC," in Sengndo Mvungi (ed), *The Draft Treaty for the Establishment of East African Community: A Critical Review*, Dar es Salaam: Dar es Salaam University Press, 2002.

CHAPTER FOUR

EAC II Decision-making Mechanisms

This chapter examines EAC II institutions to assess the extent to which the organization's institutional decision-making mechanisms are designed to allow for the input of civil society. If there are no such mechanisms then, despite the importance people centeredness is accorded in the EAC II charter, the idea should be regarded as rhetorical instead of concrete.

EAC II Institutional Structures

An organization's institutional structures and how they relate to its functioning and sustainability could be important indicators enabling one to gauge that organization's ability to achieve its objectives. In the case of the EAC II, Article 9 of the Treaty details the principal structures through which the organization functions. Those structures (or organs) of the community are: the Summit, Council of Ministers, Coordinating Committees, sectoral committees, the East African Court of Justice, the East African Legislative Assembly (EALA), the Secretariat, and "such other organs as may be established by the Summit."[84]

The Summit and its Omnipotent Decision-making Powers

The Summit is the final, hence most powerful decision-making organ of the EAC II. It thus retains its place "at the heart"[85] of the EAC II just as was the case during the era of the EAC I. The summit is where the EAC II heads of state meet in order to give overall direction to the organization. As such, the organ has sweeping powers on virtually everything that concerns the working and continuing existence of the EAC II.

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[84] EAC Secretariat, Treaty for the Establishment of the EAC 1999, Article 9 (1) (h)., EAC Secretariat, Arusha, 2000, p. 20.
[85] Ibid

For example, by virtue of Article 9 (1) (h) of the treaty, the Summit is the sole

organ mandated to create subordinate institutions in the EAC II. This is a function the

Summit can carry out, as it deems appropriate, without any limitations. Similarly, Article

11 alludes to the Summit's omnipotent powers of appointment and removal of judges of

the East African Court of Justice, without recourse to any other body. Article11 too

provides that the Summit admits new members and/or grants observer status to foreign

countries, just as it must also assent to (or dissent on) bills that may have been passed by

the East African Legislative Assembly (EALA).[86]

The significance of the Summit's unilaterally sweeping powers (without

democratic safeguards to put them in check) is that, it literally counteracts the treaty's

declared objective of establishing a people-centered EAC II. This concern is further

reinforced by the consensual mode of decision-making employed by the Summit in line

with Article 12(3) of the treaty. The treaty provision clearly states that the Summit shall

"reach its decisions by consensus."[87]

To optimize its decision-making, the EAC II could benefit from the experiences

of the European Economic Community (EEC), which initially also utilized the consensus

mode of decision-making. In 1966, President Charles de Gaulle instructed all French

delegates to the EEC to oppose all measures being debated until the membership agreed

to a better mode of decision-making other than consensus. De Gaulle's belief was that

France would be short-changed if she deemed a measure was important to her national

interests but smaller states did not feel as strongly about it. At the same time, smaller

states in the EEC could be disadvantaged by bigger states if the latter banded together to

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[86] EAC Secretariat, op, cit., pp. 21-22.
[87] Ibid.

pass a measure more advantageous to them than to the former. In the end, it was apparent that the consensus mode of decision-making risked organizational sustainability.[88]

The EEC eventually adopted both the qualified majority vote (QMV) system in order to safeguard the interests of smaller states, and the veto power to thereby accommodate interests across the membership, taking into account France's eminently pro-integration political stance, and the need to ensure that regional interests already achieved would not be regressed.[89]

The EAC II can hardly claim to be impervious to similar challenges as the EEC faced more than 40 years ago. This reality becomes apparent when one or more of the rest of the membership appear to be obstructionists. For example in June-August 2013 three of the Community's member states, Kenya, Rwanda and Uganda,[90] decided to move forward with a cross-border railway infrastructural construction project ending up at Mombasa Port, thereby likely to undermine Tanzania's ports, rather than linking them with the rest of the region. Although Kenya, Uganda and Rwanda had cited the principle of "variable geometry" enshrined in Article 7(3) of the EAC II Treaty as the justification for moving forward without Tanzania and Burundi, authorities in Tanzania argued that the cited provision of the treaty only allowed for flexible implementation of some aspects of integration variously by member states, and that such allowance did not extend to only a few of the member states establishing "coalitions of the willing" to decide on major EAC II decisions without the consensus of the other members.[91]

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[88] Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach," *Journal of Common Market Studies*, Vol.31, No.4, 1993.
[89] Ibid.
[90] *The East African* Newspaper: "Join Kenya, Uganda and Rwanda? Not us, says Dar," September 21, 2013. Retrieved from http://www.theeastafrican.co.ke/news/Tanzania-anger-over-isolation-by-East-Africa-neighbours-/-/2558/2001866/-/item/0/-/wejwbe/-/index.html.
[91] Ibid.

Where people-centeredness is concerned, the Summit's omnipotence in decision-making does not provide room for the "people" of East Africa to counteract their heads of state especially when the latter seem to be making controversial decisions that the people may wish to reverse. Non-governmental organizations, professional associations and the East African Bussiness Council (EABC) are not allowed observer status at the Summit level meetings and other senior decision-making and bureaucratic/advisory meetings. However, Civil society and business communities may hold debates and non-governmental sector-oriented consultations on particular areas of integration and formally submit reports to the Secretariat for conveyance to the partner states.

For example, on March 8, 2014, the East African Law Society (EALS) formally filed Case Reference No.1 of 2014 in the EACJ against the Government of the Republic of Burundi. In the lawsuit, the EALS bemoaned allegations of extrajudicial killings and persecution of the political opposition in Burundi, which the EALS argued amounted to the Government's violations of its obligations under Articles 6(d) and 7(d) of the EAC II treaty. The provisions require that the partner states abide by the principles of good governance, adherence to the rule of law, and social justice as well as adherence to the principles of human rights.[92] The EALS has therefore requested the EACJ to compel the EAC Secretary-General to "evaluate and advise on whether Burundi [was] still in consonance with those fundamental principles that underpinned the EAC."[93] Although the case remains on-going in the EACJ, a guilty finding against Burundi could entail adoption by the Council of Ministers and Summit of the EALS proposal to allow application of sanctions, against Burundi by the other partner states, under Articles 146

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[92] EAC Treaty, op. cit.
[93] *All Africa Online Newspaper*. "East African Law Society wants Burundi suspended from EAC," March 8, 2014. Retrieved from: http://allafrica.com/stories/201403100083.html.

and 147 of the treaty. It could also create a precedent with regard to actions civil society actors in the EAC II can undertake to enable them to actively participate in the affairs of the community. The role of civil society is discussed further in the last section of this chapter.

The Council of Ministers

The Council of Ministers plays an important policy-setting role. It consists of the ministers responsible for regional integration from each partner state. Like the Summit, the Council is fully "state-centric" in that it does not involve any actors outside the executive branch of member states in its deliberations. The Council also provides support and monitors implementation of its decisions in the national context across the partner states. It also prepares legislation to be tabled in the East African Legislative Assembly (EALA).

Ultimately, the Council must report and submit its recommendations to the Summit for approval. In addition, all the sectoral committees detailed in the treaty must follow a similar approval process. However actors outside the executive realm of governments cannot present their views to the council.

The East African Court of Justice

The East African Court of Justice (EACJ) is one of two organs of the EAC II (together with the East African Legislative Assembly -EALA) which have a better chance to showcase the incorporation of people-centeredness into the community. Charged with ensuring "adherence to the law in the interpretation and application of and compliance with [the] Treaty,"[94] the EACJ is supposed to be autonomous from the partner states in its

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[94] EAC Secretariat, Treaty for the Establishment of the EAC 1999. EAC Secretariat, Arusha, Tanzania, 2000, p.30.

work. However, a number of legal bottlenecks present challenges to the functioning of the institution. Those challenges beg the question of the extent to which the judicial autonomy of the EACJ can be safeguarded. Three main characteristics relate to this. I analyze each of them in detail below.

Firstly, under Article 24 (1) of the Treaty, the judges of the EACJ are directly appointed by the Summit, without recourse to consultations with either professional organizations or parliaments of the partner states they come from. As a result, given the lack of oversight in the appointment process, there is likelihood of cronyism. The judges remain accountable to their heads of state, which then begs the question of guaranteeing judicial independence, given that the justices remain answerable to their respective national appointing authorities. This challenge is further compounded by the fact that, despite their being appointed to serve on the EACJ bench, the judges still retain their respective national judicial positions. This is a recipe for conflict of interest, especially when judges are asked to rule against their primary employers, i.e. the national governments.

Secondly, when the partner states enacted the EAC II Treaty, they slipped in a number of claw-back clauses, some of which the EACJ has had to rule against as being contrary to the spirit and objectives of the treaty. The relevance of this argument is well documented in the EACJ's landmark ruling in the case of *Prof. Anyang' Nyong'o and 10 others v. the Attorney General Kenya, the Clerk of the EALA, and the Secretary-General of the EAC and 4 others (interveners) 2006.*[95]

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[95] Ruling of the East African Court of Justice in "Prof. Peter Anyang' Nyong'o and 10 others v The Attorney General of Kenya, the Clerk of the EALA, and the Secretary-General of the EAC & 4 others (interveners)." Retrieved from: http://www.eacj.org/docs/judgements/EACJ_Reference_No_1_2006.pdf, on July 26, 2012.

The circumstances of the case were that the claimants alleged to the Court (EACJ) that Kenya's nine Members to the East African Legislative Assembly (EALA) in 2005 were elected from only one political party, which contravened the spirit of Article 50(1) of the EAC II Treaty. The treaty provision requires EALA members to be elected from as wide a national representational spectrum as possible, ranging from across a nation's political parties represented in parliament, including various opinion, gender, and special interest groups according to procedures set by each partner state's parliament.[96]

The claimants requested that the Court strike down said presidential appointments, as they were null and void, and order the Government of Kenya to elect its members to the EALA from parliament, as was the practice in the other partner states. The case involved the Clerk of the EALA and Secretary-General of the EAC because they had already accepted the appointees as Members of the EALA. During his submissions to the Court, the Attorney-General of Kenya, as Respondent in the case, pointed to the jurisdictional limits of the EACJ enshrined in Article 27(1) of the EAC II Treaty, which refers to the EACJ only as a Court of initial jurisdiction.[97] Consequently, in the opinion of the Kenyan Government, the EACJ had no jurisdiction in the matter at hand, which was to be deemed as inherently within the domestic purview of the EAC II partner state.

In its determination, the Court indeed agreed that Article 27 (1) of the EAC II Treaty was attempting to limit its powers by declaring that the Court "shall *initially* have jurisdiction over the interpretation and application of [the] Treaty."[98] Thus the use of the

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[96] EAC Secretariat, Treaty for the Establishment of the EAC 1999EAC Secretariat, . Arusha, Tanzania, 2000, p.42.
[97] EAC Treaty, Art.27(1), p.33.
[98] EAC Treaty, p.33.

term "*initially*" in Art.27 (1) left the implication that "final" jurisdiction over the

provisions of the treaty rested with the national courts of the partner states rather than the

EACJ as an ideal referral court. As a matter of jurisprudential premise, however, the

Court invoked its jurisdiction based on the tenets of the *Vienna Convention on the Law of*

Treaties 1969 to which all the EAC II partner states are signatories. Accordingly, the

EACJ called for uniform application of all (EAC II) treaty provisions by the partner states

because they all had uniform stake in the organization.[99] At least in the specific case

under reference, the Government of Kenya eventually reversed its decision and

eventually implemented the Court's decision a couple of years later.

In accordance with articles 26 and 27 of the *Vienna Convention 1969*, the EACJ

also required the partner states to observe two key principles enshrined in the

Convention: The first principle is that of *pacta sunt servanda* (i.e. agreements, once

made, must be respected). The second principle the Court required the partner states to

observe was the prohibition that "no party to a treaty shall invoke its internal laws as

justification for not observing or failing to perform the obligations it entered into under

the treaty."[100] The basis of the latter argument was rooted in Article 31 of the Vienna

Convention, which stipulates that treaty interpretation has to be based "on good faith"

and in accordance with the "ordinary meaning, object and purpose"[101] of the treaty.

The EACJ also took issue with Article 50 of the EAC II Treaty. The Article

provides for the election of the members of the EALA but leaves open the manner in

which the national assemblies in the respective partner states would carry out the

elections. In the Court's opinion, the partner states needed to make a conscious decision

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[99] Ruling of the EACJ, op. cit.
[100] Ruling of the EACJ, op. cit., p.10.
[101] Ibid.

to cede some of their sovereign powers to the broader regional interest. This would

enable the partner states to submit uniformly to a common set of regional legal standards

where the EACJ would have jurisdiction.

To-date, the landmark EACJ ruling just explained has not been domesticated by

any of the partner states, a reality also observed by Stefan Reith and Moritz Boltz who

said in 2011 that, it was rather an unfortunate omission that no partner states' national

courts had been able to refer to the important precedent set by that EACJ ruling.[102]

Where people-centeredness is concerned, this is one area where the influence of

professional associations such as the East African Law Society and the national law

societies in each member state as well as NGOs could have provided much needed

pressure on the governments to better observe the rule of law. This would include

ensuring that the partner states' governments honor the rulings of the EACJ as ordered.

To-date, the much-lamented EACJ jurisdictional state of affairs remains, requiring

change from within and across the partner states.

The East African Legislative Assembly (EALA)

Established under Chapter 9 of the EAC II Treaty, the EALA should be the most

people-centered institution of the community. The institution has however been said to

"lack much popular legitimacy and input from civil society."[103] Also it lacks any

significant influence over the partner states' governments' decisions regarding the

process of integration. For example, although the EALA passes laws, most of the bills

brought to its floor come from the Council (of Ministers) while only a minority of the

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[102] Ibid.
[103] Reith, Stefan and Boltz, Moritz, "The East African Community Regional Integration: Between Aspiration and Reality," *International Reports*, Dar es Salaam, Konrad-Adeneur –Stiftung (KAS) , October 2011.

bills comes privately from the legislators. In addition, given the lack of a regionally binding legal system embodied in the EACJ, the EAC II governments have unmitigated freedom to cherry-pick from the legislation the EALA adopts.

The composition of the EALA is set under Article 48 of the treaty, to be nine members from each of the partner states. The general election criteria are set in Article 50(1),namely that the members are to be elected by the respective national parliaments "not from among the members" and that the elections be as broadly representative of the country's population, political parties, gender and special interest groups as possible. But uniform procedures for those elections do not exist.[104] This is a source of national disagreements in some of the partner states as discussed earlier in the Kenyan case before the EACJ.[105]

At present it is still difficult for the EALA to play a role significant enough to legally call on the accountability of the governments, because its members' lack linkage to the national electorates, hence the people of East Africa. The election procedures need to be amended to ensure that EALA candidates are either elected directly by their national electorates so they would report to them or, if elected by the national parliaments as is currently the case, then they should be able to report to the parliament in as regular and transparent manner as possible. This will have the advantage of making the EAC II integration agenda more of a matter for national debate and public involvement.

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[104] EAC Treaty 2000, p.42.

[105] *The Monitor Newspaper*, Uganda. "EALA elections: The ruling party's argument on numbers is superficial," May 25, 2012. A case similar to the Kenyan one deliberated on by the EACJ in 2006 on the basis of representational imbalances also occurred in 2012 in Uganda, where the government sought to send to the EALA 7 of the 9 members from the ruling NRM party and 2 from one opposition party, even though other opposition parties had gained representation in the national parliament. Retrieved from: http://www.monitor.co.ug/OpEd/OpEdColumnists/AugustineRuzindana/EALA-elections/-/887296/1412818/-/nfigs2/-/index.html.

Overview of people-centeredness in the EAC II's institutional decision-making processes

In sum, where the functioning of the EAC II's principal organs is concerned, credible evidence does not so far exist to show that the organization's institutional decision-making processes benefit in any regularized fashion from incorporating the people's views. Civil society organizations are unable to send reports to the Summit directly, although they can hold debates and make recommendations to other organs. Also, although the EAC parliament is representative to some degree still no formal mechanisms exist that would enable wider participation of civil society or the people at large in the election of their representatives to the EAC parliament.

Thus, given that absence of such linkages between most of the EAC institutions and the people, it is not surprising that J. Oloka-Onyango's concludes that the mere mention of people-centeredness in the EAC II Treaty does not in any concrete way constitute popular participation.[106] The reality seems to be that, the organization's decision-making mechanisms, as well as its survival, continue to remain firmly in the hands of the EAC political elite, in particular the Executive Branch, whose role is epitomized by the Summit. For that reason, Oloka-Onyango's answer to the title of, "Who Owns the East African Community?"[107] is that the traditional "strong leaders' ownership" of the community, which so tragically dogged the EAC I, seems to have been carried over into the EAC II.

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[106] Oloka-Onyango, J. "Who owns the East African Community", presentation at DENVIA public dialogue on the East African Community (Unpublished), Hotel Equatoria, Kampala, November 23, 2005.
[107] Ibid.

The East African Business Council as Representative of the Private Sector

The East African Business Council (EABC) is the umbrella organization representing the private sector within the EAC II region. The EABC was established in 1997 and comprises a variety of member organizations in the region. They include 54 Associations and 102 corporate members.[108] The association members of the EABC, include: "all National Private sector apex bodies, four manufacturing associations, five Chambers of Commerce, three Employer Associations, two Women Associations, two Bankers Associations and the Confederation of Informal Sector Associations of East Africa."[109]

The EABC does not, however, seem to have any formalized way to influence EAC II policy or strongly lobby the partner states' governments to deliver on their treaty obligations, both for people-centered and private sector driven integration. A report on January 26, 2014, alluded to the EABC's own frustrations with attempting to influence developments within the EAC II towards deeper integration. The report laments that the EAC II governments have not implemented protocols they have already signed and ratified. These include the implementation of a single EAC tourist visa, abolishing working permits across the member states, and abolishing all non-tariff barriers to trade and industrial production. The partner states have not also allowed the use of national identity documents (IDs) for their citizens as they travel within the region; rather national passports are still required of EAC travelers.[110] As recently as January 2014, the EABC

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[108] The East African Business Council website: http://www.eabc.info/eabc/about/category/who-we-are. Retrieved on February 20, 2014.
[109] *The East African Business Council* Founding document, 1997. Retrieved from: http://www.eabc.info on February 20, 2014.

[110] *East African Business Week Newspaper*, "East African Business Council touts advocacy role."

was still planning to lobby the respective EAC presidents individually, country to country, to ask them to speed up the process of regional integration.[111]

Looking at all the hurdles in the area of business that the EABC continues to face, it is worthwhile to note that the organization was established (in 1997), so it was already in operation by the time the EAC II treaty was signed in 1999. That it is still unable to have formal lobbying mechanisms in place, capable of influencing decisions at the national and EAC-wide level in favor of the business community speaks to its still nascent capability to engage within the EAC in a manner beneficial to its member organizations' interests. The EABC provided inputs during the making of the EAC II treaty, hence the recognition of the role of the private sector in the community's integration processes. In fact, the framers of the treaty accorded that role much importance by enshrining it in Article 127(1b) of the treaty, which states clearly that: "…The partner states agree to provide opportunities for entrepreneurs to participate actively in improving the policies and activities of the institutions of the community that affect them."[112] How the EABC has ended up not being central to the EAC II's decision-making is the subject of another research study. The reality is however that business is not influential as might have been expected.

Retrieved from: http://www.busiweek.com/index1.php?Ctp=2&pI=434&pLv=3&srI=67&spI=120&cI=15. January 26, 2014

[111] Ibid.
[112] EAC Treaty 1999, p.115.

Gender Groups, Civil Society and Community Based Organizations' (CBOs) Roles in EAC Institutional Mechanisms and Processes

It is rather curious that the EABC lists gender groups among its member organizations, since they are usually seen as part of the broader civil society and community-based organizations (CSOs and CBOs) framework. However, in East Africa, women are very much engaged in small business enterprises.

Article 121 of the EAC II's treaty explicitly recognizes the role of women and their ability to make a significant contribution to socio-economic transformation and sustainable growth; their full participation in the community at the institutional level is seen as imperative. It is for that reason that Lwaitama, Kasombo and Mkumbo[113] have underlined the importance accorded to the word "women" in the treaty, wherein it is mentioned 20 times, a frequency only rivaled by the mention of "private sector" (22 times). On the other hand, the terminology "civil society" appears13 times in the treaty, and "citizens" 5 times.[114]

It is ironical that, despite "women" being accorded such prominence in the treaty, they still lack organized participation in the affairs of the community as a unified gender group. However, Lwaitama, Kasombo and Mkumbo[115] may have hinted to part of the explanation for the dire state of affairs. The authors argued that, despite women's involvement in business in the respective individual countries of the EAC, where the community and cross-border trade are concerned, women's involvement has remained

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[113] Azaveli Feza Lwaitama, James Kasombo and Kitila Mkumbo (eds.), "A Synthesis Research Report on the Participation of Citizens in the East African Community Process," *Friedrich Ebert Stiftung*, Dar es Salaam: April 2013. Retrieved from http://library.fes.de/pdf-files/bueros/tanzania/10173.pdf on April 20, 2014.
[114] Ibid.
[115] Ibid.

informal, mainly manifested either in smaller scale or illegal cross-border trading. This

has resulted in women's participation not featuring prominently as a net cross-border

contribution.

This line of argument is supported by Masheti Masinjila,[116] whose research study

on the gender dimensions of cross border trade within the EAC came to a similar

conclusions that, the participation of women in regional cross-border trade had not been

affected in any way by the adoption of the Customs Union.[117] Masinjila's argues that:

> …informal cross border women traders across the region do not use available
> formal systems/structures for most of their transactions. This makes it difficult for
> regional trade policy initiatives such as under East African Community (EAC)
> and the Customs Protocol to have any significant impact on this informal trade by
> women. The women show little evidence of knowledge regarding the East African
> Community Customs Protocol and even less motivation to use it to facilitate
> trading activities. Women traders continue to trade, largely the same way they
> have done for many decades gone by as admitted by [the] majority of respondents
> who have been in the trade for over ten years. Preference for the old way of
> conducting informal cross border trade was evident in the manner in which
> women traders operating through Kenya for a considerable period of time
> expressed their doubts or outright discomfort with the opening up of trade under
> the evolving customs protocol…[118]

What is even more interesting is Masinjila's finding that cross-border traders, including

women who were interviewed, expressed their desire that governments not open up more

region-wide trade opportunities as a result of the customs union protocol because it

would "attract more traders eager to take advantage of attendant opportunities to the

detriment of current traders."[119] Views like this may perhaps have not existed 10 years

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[116] Masinjila, Masheti, "Gender Dimensions of Cross Border Trade in the East African Community –
Kenya/Uganda and Rwanda Burundi Border," African Trade Policy Center (ATPC) Work in Progress
No.78. United Nations Commission for Africa (UNECA): October 2009. Retrieved from:
http://www.uneca.org/sites/default/files/publications/78.pdf on April 28, 2014.

[117] Ibid. p.1.
[118] Ibid.
[119] Ibid.

after the re-establishment of the EAC, if the community had remained true to its charter and ensured a truly broad-based people-centered approach to integration.

In addition, where EAC women traders are concerned, Masinjila's study noted that the majority of those interviewed (59.7%) conceded that their cross-border trade linkages, like those of many generations before them, remained only informal, based either on their ethnic origins across the border or on mutual social needs, such as the traders' needs to send their children to cheaper schools in the neighboring country, for example in Kenya education costs are higher than in neighboring Uganda.[120]

Civil Society/Community Based Organizations Participation in EAC Institutional Processes

Even though the EAC II charter has a seemingly straightforward objective of incorporating civil society into the EAC II decision- making, actual implementation remains limited. This reality has been bemoaned by Lwaitama et al, who have argued that the difficulty of incorporating CBOs and other non-governmental organizations into the EAC institutional processes does not only manifest itself at the regional level, but stems from the partner states' local environment. Using Tanzania as an example, the authors argue that, where these groups exist and try to exert influence locally, they are mostly elitist and urban-based, without the ability or will to reach the rural areas where the majority of the population are.[121]

An additional problem is that EAC II member states legally limit the operations of CSOs in their countries. In the case of Tanzania, for example, the Non-Government

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[120] Ibid. p.26. Cross border ethnic groups on opposite sides of the EAC states are usually based on the fact that the borders separating the countries were done arbitrarily by the Western colonial powers that controlled the countries prior to the 1960s. As such, people sharing similar ethnic backgrounds usually see themselves as blood-related.

[121] Azaveli Lwaitama, James Kasombo and Kitila Mkumbo (eds), op.cit, p.24.

Organizations Act No.24 of 2002 and Societies Act Cap.337, R.E. 2002 all limit the

activities of CSOs and CBOs by broadly requiring them to abstain from being partisan to

any political party or position, in the course of their advocacies. Contravention of that

regulation is risky for the CSO or CBO concerned as any of them so accused, usually

faces de-registration.[122] Based on that legal stipulation against CSOs and CBOs therefore,

any campaigns they may wish to conduct in relation to the attainment of the East African

political federation or the fast tracking of the community, would be deemed "political." It

is therefore not surprising that, like their gender counterparts, CSOs and CBOs have not

featured prominently enough in EAC efforts to attain or fast track the federation.

 In the next chapter, I discuss one attempt by the partner states in 2004 to solicit

the views of the broader population specifically on the possibility of fast tracking the

political federation

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[122] Ibid, p.25.

CHAPTER FIVE

Establishment of the Wako Committee as a Non-institutionalized

Attempt to People-centeredness

In August 2004, the EAC II Summit decided that the East African Federation should be fast tracked. This decision was not novel, given the fact that formation of the EAC I in 1967 had only come about as a result of the failure of the Nairobi Declaration of 1963, which had sought to establish an East African Political Federation.

What factors led to this decision in 2004? Dani Wadada Nabudere provides some explanations regarding the new dynamics. Nabudere's argument is that the "fast tracking" idea had come from Uganda's President Yoweri Kaguta Museveni, who had suddenly developed a ''vision'' that the federation and integration of the region had to occur before he retired."[123] Museveni's pronouncements had been quoted in the public media for some time. Importantly, the Summit reached the decision to fast track but wanted to explore how best it would be achieved. The leadership decided to form a committee, tasking Kenya's Attorney General, Amos Wako, to head it.

The Wako Committee on fast tracking the East African Federation was thus formed during the extraordinary Summit meeting of the EAC Heads of State held in Nairobi on August 27–29, 2004. At the meeting, Presidents Mwai Kibaki, Yoweri Museveni and Benjamin Mkapa of Kenya, Uganda and Tanzania, respectively, decided that it would be good to accelerate the process of integration in order to achieve the

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[123] Dani Wadada Nabudere, "*Pan-Africanism and the Challenges of East African Integration: Discussion of Professor Issa Shivji's Presentation.*" Paper presented at the 10th East African Anniversary Symposium, Arusha, Tanzania: 13-14th November 2009, p.13. Retrieved from: http://www.wanafrika.org/2011/04/transformation-of-global-system-and-its.html.

"ultimate goal of political federation through a fast track mechanism."[124] Among the

Wako Committee's terms of reference (TORs) was the requirement to discern the

"feelings" of the broader population of East Africa on the possibility of fast tracking the

federation. The Summit also requested that the Committee submit its report for

consideration within three months. The report was submitted on November 30, 2004.[125]

Records of the Wako Committee's work show that it consulted, via interviews,

with all three EAC heads of state, ministers, permanent secretaries and senior officials

from all three EAC governments. The Committee also consulted academicians,

parliamentarians and members of the East African Legislative Assembly (EALA), civic

leaders, representatives of EAC business communities, and "ordinary" (sic!) East

Africans."[126] What is most important is the fact that, along with the expected respondents

from the political and bureaucratic elites, the Wako Committee also consulted with

"ordinary" East Africans.[127]This would be the first ever large-scale broad consultation of

its kind; it deserves that recognition.

Composition of the Wako Committee

The Wako Committee was chaired by Mr. Amos Wako (Attorney General of the

Republic of Kenya at the time) and included Prof. Haidari Amani (Tanzania as the Vice

Chairman and Dr. Ezra Suruma (Uganda) as Secretary. The presidents also appointed

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[124] EAC Secretariat, "Report of the Committee on Fast Tracking East African Federation," 2004, para.2, p. 10. The Committee on Fast Tracking was composed of three core members and three associate members and was headed by Kenya's Attorney General Amos Wako as its Chairman. Other members of the Committee were Prof. Haidari Amani (Tanzania), Committee Vice Chairman; and Dr Ezra Suruma (Uganda), as Secretary of the Committee. The Associate Members were Ms. Margaret Chemengich (Kenya), Prof. Sam Tulya-Muhika (Uganda), and Mr. Mohamed Fakih Mohamed (Tanzania).
[125] Ibid. p10
[126] ibid. pp.11-12.
[127] Ibid p.10.

three other associate members –one from each partner state - based on their respective presidents' national preferences.[128]

The Wako Report's Conclusions and Recommendations

The Wako Committee submitted its report to the ordinary session of the Summit in Arusha, Tanzania, on November 30, 2004. In the voluminous 378-page report, the committee provided a lengthy expose on what plagued EAC II integration, and proposed what would be done to correct it. I discuss some of the Committee's conclusions and recommendations in brief.

Firstly, the Committee argued in its report that a sound foundation was required for the EAC II in order to build a sustainable federation. To achieve that, the federation needed to be based on both the popular support of the majority of East Africans and on a sound regional economic base. Only then, it was argued, would East Africans identify with the federation as their own, enabling the organization's survival.[129]

Thus the Wako committee members remained convinced of the necessity for people-centeredness to remain at the center of the EAC II integration process. The Committee also advised that, in order to attain popular support for the federation, the partner states should endeavor to hold referenda, whose objective would be to "sensitize the people about the benefits and merits of the federation and to allow them to express their views."[130]

Secondly, the Wako report called for rectification of anomalies found in the relationships exhibited by some of the key institutions of the EAC II, especially the

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[128] Ibid. The associate members and their nationalities were, Ms. Margaret Chemengich (Kenya), Prof. Sam Tulya-Muhika (Uganda) and Mohamed Fakih Mohamed (Tanzania).
[129] Ibid, p.8.
[130] Ibid.

EALA and the East African Court of Justice (EACJ). For the EALA, the problem

remained that partner states could elect the members of the institution from each state in

accordance with Article 50 of the treaty but not use a uniform rule in doing so.[131] As we

saw in the last chapter, ultimately, the EALA members, being elected to office through

their respective national parliaments are not accountable to the public, but to the national

assemblies. In the case of the EACJ, the non-binding character of its decisions was cause

for concern. This was due to the stipulation under Article 27(1) of the Treaty that the

EACJ was only for initial jurisdiction on matters concerning the EAC II.[132] This left the

final jurisdiction of referrals to national courts instead of the EACJ. The lack of

commitment by the partner states in that regard remained problematic.

The Wako Committee's report proposed a specific timeline and phases within

which it thought it would be possible to attain the federation. It was envisaged that a

maximum of 5 years was needed to realize the feat, based on three phases. The first

phase, a prelude phase (2004-5), required a display of the political will to federate by the

EAC II leadership. Given the fact that the leadership had demonstrated that when it

formed the committee, the Wako Report concluded that the prelude phase would hardly

span more than one year.[133] The second phase was to be a transitional phase (2006-2009).

This entailed systemic implementation of the three core remaining stages of integration

before attaining the federation: a Customs Union, a Common Market and Monetary

Union. The three stages would be attained quickly in an "overlapping and parallel"

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[131] EAC Secretariat, *Treaty for the Establishment of the East Afrcan Community*, Arusha: EAC Secretariat, 2000.
[132] Ibid, p.28.
[133] ,ibid. pp.21-22.

fashion, especially because they all depended on the need for the partner states to harmonize their economic and fiscal policies and as well as governance and administrative structures.

The report further argued that success in economic integration would provide the foundation to achieve the federation. Hence concurrent regional programs had to be undertaken in the areas of infrastructural development, science and technology, as well as constitutional and financial aspects. The Report went on to forecast that the East African Political Federation could be launched by January 1, 2010, when the first federal president would be sworn in.[134] The last phase, a consolidation phase (2010-2013) would follow the swearing in of the East African federal president. During this phase, a federal electoral system would be put in place, enabling the Federal State of East Africa to fully discharge its local and international responsibilities.[135]

In its conclusions, the Wako Committee gave the rationale for the establishment of a fast tracked federation as two-fold: One, that it would be a "catalyst for economic growth," and two, that it would serve as a "major pillar for the attainment and maintenance of peace, political stability and security in the member states."[136] The Committee further argued that the federation would avert the possibility of East African states fighting each other.[137]

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[134] ibid. p.21-22
[135] Ibid.,p.22.
[136] Ibid.
[137] Ibid.

Collection of Views on fast tracking from East Africans through National

Consultation Committees (NCC)

In the aftermath of the submission of the Wako Report to the Summit in November 2004, the political leadership decided that it would need wider consultations with the people of East Africa in order to go ahead with fast tracking the federation. The consultations would help the EAC II leadership to get the necessary political support from their citizens, at the respective national levels.

During their Extraordinary Summit meeting in May 2005 at Dar es Salaam, therefore, the EAC II presidents instructed the Council of Ministers to establish National Consultative Committees (NCC) on fast tracking the East African federation. The EAC Secretary-General would chair the effort. The partner states (Kenya, Tanzania and Uganda) launched their NCC simultaneously on 13[th]October 2006, tasking them to submit their reports by November 2008. The following discussion analyses the NCC consultation outcomes.

Composition of the NCC

The overall composition of the NCC generally differed from one country to another, without uniform criteria. As a result, where Kenya's NCC membership totaled 33 persons (28 males, 5 females), Tanzania's total stood at 18 persons (12 males, 6 females) and Uganda's stood at 19 people (14 males, 5 females). **Table 5.1** (below) depicts that composition:

Table 5.1: Composition of the NCC for Each Partner State

Country	Total No. of Members per NCC	Male (By head count)	Female (By head count)
Kenya	33	28	5
Tanzania	18	12	6
Uganda	19	14	5

Source: EAC Secretariat, Reports from the National Consultative Committees on Fast Tracking the East African Political Federation, August 2007.

The NCCs varied in their scope of work from one partner state to another, each national authority making its decisions based on its own local conditions. For that reason, while the general methodological approach to the consultations can be discussed, issues pertaining to statistical significance and errors will be ignored. In addition, because each country conducted the consultations in a different way, it is difficult to compare them in terms of the breadth of consultations. However even accounting for population size, Tanzania seems to have drawn the largest proportion of participants. Below, **Table 5.2** depicts a summary of the scope and methods of the consultations carried out in each country.

Table 5.2: Summary of Scope and Methods of Consultations by the NCC

Kenya	Tanzania	Uganda
a. **Household survey:** 5,000 households targeted, 5,000 responded.	a. **Household survey**: Nil	a. **Household survey**: 2,505 Targeted, 2,223 Responded.
b. **Public meetings**: Nil.	b.**Public meetings**: 426 Meetings; 65,379 participants.	b. **Public meetings**: Nil

c. Regional Distribution: 2,556 participants in Provincial consultations, 5,330 participants in 32 targeted Districts.	**c. Regional Distribution:** All 26 Regions covered.	**c**. **Regional Distribution:** Central 29.54%; Eastern, 21.57%; Northern, 24.9% Western, 24.0%. (Urban 56.46%, Rural, 43.54%. *Gender*: 56% Female, 44% Male).
d. Memoranda: 123 from General Public, 26 from sector groups.	**d. Memoranda:** 15 from organized groups and individuals	**d. Memoranda**: 18 from organized groups and individuals
e. **Focus Group Discussions (FGDs)**: 80 Discussions with 29 Groups involving 2,922 participants and 500 Questionnaires	**e**. **Focus Group Discussions (FGDs)**: Nil	**e**. **Focus Group Discussions (FGDs**):53
f. TV/Radio Talk Shows: 21 TV and 12 Radio shows.	**f. TV/Radio Talk Shows**: 58 contributions	**f. TV/Radio Talk Shows**: Several in all districts and major towns.
g. Special programs: School Broadcast Program, covering - students in primary, secondary and teachers' training colleges**.**	**g. Special programs:** Nil	**g. Special programs:** Tertiary institutions, public debate and awareness walk.
h. Newspapers Responses: Nil.	**h. Newspapers Responses**: 307 Articles and letters.	**h. Newspapers Responses**: Nil.
i. Internet: Nil.	**i. Internet**: 61 contributions.	**i. Internet**: Nil.
j. Key informants: Nil.	**j. Key informants**: Nil.	**j. Key informants**: 214.

Source: EAC Secretariat, Reports from the National Consultative Committees on Fast Tracking the East African Political Federation, August 2007.

Key Findings from the NCC Consultations

The consultations across the partner states lasted from 2006 through 2008, the

NCC findings are summarized in **Table 5.3** below:

Table 5.3: Summary of Key Findings by the National Consultative Committees on Fast Tracking East Africa Political Federation

Question	Awareness/Support	Kenya	Tanzania	Uganda
1	Level of awareness about EAC integration	Generally aware (above 90%)	80.2%	82.1%
2	Level of support for integration	Generally aware (above 90%)	57.9%	74.2%
3	Level of support for Political Federation	85.4%	66.5%	88.2%
4	Level of support for fast tracking the Political Integration process (all stages)	69.9%	74.4%	77.6%
5	Level of support for fast tracking the Political Federation (2013)	64.9%	25.4%	56.3%

Source: EAC Secretariat, Reports from the National Consultative Committee on Fast Tracking the East African Political Federation, August 2007.

General Analysis of the NCC Findings

Looking at the level of awareness about EAC integration, as displayed in

Question No.1 of **Table 5.3,** the majority of East Africans who participated in the

consultations seemed to be relatively aware of the EAC II's integration processes; with

percentages ranging from 80.2% for Tanzania, through Uganda's 82.1% to Kenya's

above 90%. On the other hand, on **Question No.2** (Level of support for integration) there

was a remarkable disparity in perceptions. Where Tanzania's support for integration

stood at 57.9%, Kenya's was above 90% and Uganda's was 74.2%. This may be

indicative of how each country's sample population perceived the benefits their countries were gaining from the integration.

On the **Question** of "support for political federation" (**No.3**), however, there was a significant change in the perceptions of Tanzanians compared to the level of support for fast tracking. Support for the political federation in Tanzania increased to 66.5%, while in Kenya support stood at 85.4% and Uganda 88.2%.

On **Question No.4** (Support to Fast Tracking the Political Integration Process - All stages), it is interesting to note that Kenya's support was the lowest at 69.9%(recall that its support for integration was above 90%), followed by Tanzania's at 74.4%, and Uganda displayed the highest at 77.6%. From the data, it appears that citizens in all the three states supported, with a majority, fast-tracking the political integration process through the various stages.

On the other hand, on **Question No.5** the results seem to be the most alarming in that Tanzania's support for *fast tracking the EAC political federation* only was low at 25.4%. Moreover, Uganda's support at 56.3% (although above 50%) was not high enough to match the unrelenting advocacy for fast tracking the political federation that President Yoweri Museveni had continued to herald. It is also equally notable that Kenya's support for fast tracking the political federation, which stood at 64.9%, was the country's lowest level of support in all the five questions under analysis.

The point of contention regarding East Africans' level of support for the federation seems to have been centered on the rationale for fast tracking. Tanzania's low percentage brought much backlash against Tanzania from the other partner states. However, on deeper analysis, one may note that the other two states too displayed the

lowest support for fast tracking the federation (Kenya at 64.9% and Uganda at 56.3%) when compared to what they had displayed on the other four factors. Still, Tanzania's outright rejection of fast tracking the political federation needs to be better understood. In that regard, Tanzania's President Jakaya Kikwete, speaking on the outcome of the NCC consultations in October 2011, argued:

> …Unfortunately, the views expressed by the people of Tanzania have widely been misunderstood to mean that they are against East African Federation. This is not the case. In fact, more Tanzanians supported the Federation than any of the three East African countries... But fewer Tanzanians supported fast tracking than their brothers and sisters in Kenya and Uganda. They are cautious about hurried integration.[138]

President Kikwete's center of argument is that, Tanzanians do not want to fast track the political federation, but want the EAC to continue in its step by step integration process, going into the next stage when all the conditions have been met in the previous stage.

However, with the responses for Tanzania in **Question No.2** (Level of support for integration) recorded at only 57.9% in comparison to Kenya's "above 90%" and Uganda's 74.4%, respectively, it appears indicative that, although Tanzanians may not indeed completely reject EAC integration, they still may not be as enthusiastic about it as their counterparts in the rest of the partner states. Whether or not that state of perception changes and in what direction depends, I argue, on the degree to which the population continues to participate in shaping the finer points relating to the integration.

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[138] Jakaya M. Kikwete, "EA Unity:Tanzania Should not be Misunderstood," *The African Executive*, 12-19 August 2009. Quoted from Mohabe Nyirabu, "The Past, Present and Future of Integration in East Africa," in *African Regional Integration Review,* Vol.5, No.1, African Union Commission, October 2011, p.19.

From a methodological standpoint, one may wish to look at the population area coverage, i.e. from where the respondents were drawn. **Table 5.4** (below) provides a snapshot of that data.

Table 5.4: Coverage of National Consultations by Regions and Districts

	Kenya	**Tanzania**	**Uganda**
Administrative Structures	8 Provinces 108 Districts	26 Regions 137 Districts	4 Regions 82 Districts
General sensitization Coverage	8 Provinces 108 Districts	26 Regions 137 Districts	4 Regions 82 Districts
Focus Groups/Public Meetings	32 Districts	26 Regions 137 Districts	53 Districts
Sampling Coverage	8 Provinces 69 Districts	26 Regions 137 Districts	4 Regions 17 Districts

Source: EAC Secretariat, Reports from the National Consultative Committees on Fast Tracking the East African Political Federation, August 2007.

Of the three partner states involved in the NCC exercise, Tanzania had the broadest coverage. It involved all of its 26 administrative regions and administrative districts (137 in total) of the time. This compares to Kenya's 8 provinces and 108 districts, from which the NCC in that country only drew samples from 69 districts. Uganda's population sample was even much smaller. Considering the country's 4 administrative regions (Northern, Central, Western, and Eastern) and a total of 111 districts, the NCC in Uganda had access to only 82 districts and the population sample was drawn from only 17 districts.

Whereas Tanzania's consultations involved 65,379 participants in 426 meetings, with a survey conducted involving 9,519 respondents, Kenya's involved only 5,000 households and 2,556 participants in the regional consultations to mention the largest group of respondents. Uganda's conduct of consultations involved an even smaller group

of 2,223 respondents to a survey questionnaire and 214 "key informants" of undisclosed spatial or interest values.

It therefore appears to be that, in line with President Kikwete's argument, the number of total respondents may have been higher in Tanzania compared to the other two states. In that regard, the 25% of the respondents in Tanzania appearing to not be in favor of fast tracking the political federation really seems to convey the idea that lack of support could be broad enough across the population. I will therefore explore possible explanations why that many Tanzanians may have been against fast tracking the federation.

The Challenge of "Territorial Nationalism"

In an attempt to explain why the federation was not happening fast enough as expected from a reading of the EAC II treaty, Dani Wadada Nabudere argued that *territorial nationalism*[139] is one of the challenges that continue to hold the partner states back from achieving the federation. Tanzania's case requires more analysis of the territorial nationalistic factor. The factor includes the country's system of land tenure, concerns about negative effects of ethnicity in the other two states, and the Zanzibar Question.

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[139] Dani W. Nabudere. "*Integration or federation? Towards political unity for Africa: Regional integration and the East African Federation*." Pambazuka. Retrieved from: http://pambazuka.org/en/category/features/68005 on October 25, 2013.

Land Tenure System

Tanzania's system of land tenure is lease based, whereby a company or individual cannot own land in perpetuity but would have to lease it, conditional on ensuring effective development of the land. That land tenure system is different from freehold systems employed by the other two partner states. The latter system ensures perpetual land ownership for individuals and/or companies, regardless of whether land is developed or remains undeveloped. For that reason, Pastory Nguvu has argued that the majority of Tanzanians believe that fast tracking the federation may have the negative impact of providing a potential for land grabbing by foreigners.[140]

Negative Effect of Ethnicity in Kenya and Uganda

Some parts of the Tanzanian public seem to believe that negative ethnicity is among the most portent problems facing their neighbors and has led them into civil wars. In reality, both Kenya and Uganda have had their share of the problem. Uganda was dogged by civil war, which involved the Lord's Resistance Army (LRA) in its Northern region for more than 20 years. Kenya on the other hand faced widespread post-electoral ethnic violence in 2007-2008. Tanzania has more than 153 ethnic groups who continue to live together in harmony.

Mohabe Nyirabu has pointed out the paranoia expressed by some Tanzanians that federating with countries whose populations are already used to violent ethnic politics is akin to importing the same into Tanzania.[141] An observation in The *Sunday Standard* (Kenya) quoting Tanzanians in an internet-based focus group on fast tracking the federation in 2006 may elaborate on the seriousness of that perception:

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[140] Pastory Nguvu, "Tanzanians reject fast-tracking EA unity," *The Guardian,* Dar es Salaam, 14 July 2007.
[141] Mohabe Nyirabu, "The Past, Present and Future of Integration in East Africa", in *African Regional Integration Review,* Vol.5, No.1, African Union Commission, October 2011, p.19

…Most Tanzanians are afraid that their country risks being infected with ethnicity problems that characterize politics in Kenya, Uganda, Rwanda and Burundi… people from the four enemy (sic!) countries who they deride to be … *washenzi* (nincompoops) should be kept out of the Tanzanian territory at whatever cost.[142]

Zanzibar

The case of Zanzibar is another challenge. The Isles, which are part of the United Republic of Tanzania, have had historical opposition to the possibility of an East African federal state. The opposition aims to avert Zanzibar's possibility of being subsumed into the (Tanzania) Union Government, where the country would lose its semi-autonomous status. It is envisioned that a similar fate would face Zanzibar under a regional federation.[143] An account in a regional newspaper, *The East African*, also alludes to that concern:

> Zanzibar need(s) to be accorded at least an associate membership in the community, in order to participate in decisions that affected the Isles…This (is) because Zanzibar was [allegedly] excluded from the talks that led to the [establishment of the] East Africa Custom Union [in 2005] despite the common external tariffs having serious implications for the islands' economy.[144]

More extreme views have even suggested that Zanzibar's right to opt out of the EAC II arrangement would not be different from that of Denmark and Greenland which, "being a region within the Danish Kingdom chose not to be part of the European Union."[145] All those factors seem to make the case for Tanzania's only 25% support to fast tracking the federation rather plausible.

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[142] *The Sunday Standard*, 5 November 2006, p. 25.
[143] EAC Secretariat, Review of Reports from the National Consultative Committees: Background Paper, Arusha, Tanzania, 2008, p.10. Retrieved from http://federation.eac.int/index.php?option=com_content&view=article&id=178&Itemid=139.
[144] *The East African* (Newspaper), August 14, 2006.
[145] Ibid.

Challenges to the EAC II Leadership in absence of people-centered decisions

The NCC consultations, while not intended to illustrate the involvement of people institutionally, seem to have yielded valuable insights on the potential for the population's participation in determining and shaping the EAC agenda for integration. Initially, the EAC political leadership had intended to fast track the federation so it would have become a reality by 2010, but it has not happened. The lack of favorable public opinion in that regard could have contributed to the non-occurrence.

Furthermore, it is notable that resistance to fast tracking the federation per se did not denote denial of the whole integration idea, including the possibility of fast tracking all the stages of integration but rather of just the political federation. The NCC consultations data thus provides invaluable information, which remains useful for the future analysis of the trajectory for EAC II integration.

The central question that remains however is what format or mechanism is best suited to ensure that the people of East Africa have the opportunity to really drive the pace of integration, based on the material conditions they are in. Providing proper answers to this question may enable the EAC II to eventually not only attain people-centeredness, but also lead to the achievement of the political federation that has remained elusive to-date. In the next and final chapter to this study, I conclude by providing suggestions on how the EAC II could move towards achieving those objectives.

CHAPTER SIX

Conclusions

This study has examined whether the principle of people-centeredness espoused in the EAC II is being operationalized in a way that could enable the attainment of the organization's ultimate goal for integration, namely, a political federation.[146] The study was premised on the hypothesis that wider involvement of major stakeholders ("people centeredness") is necessary for the successful attainment of envisaged integration objectives.

The study's central argument was that, if the people of East Africa do not have a role in the process of EAC II integration and the political leadership continues to retain a top-down approach as was the case in the EAC I, then the EAC II is likely to collapse eventually, not unlike its predecessor, which collapsed in 1977.[147] That reality seems to continue with the EAC II. The study expresses doubts on the eventual end state of the Community, as long as it remains inadequately people-centered.

Liberal Intergovernmentalism as the Study's Theoretical Underpinning

To provide theoretical focus, the study sought to utilize a liberal inter-governmentalist theoretical framework. The main focus of the framework is that integrating states can only bring to the negotiation table the preferences of their national principal stakeholders for the integration to succeed. With the partner states' negotiations ideally based on their principal stakeholders (national) preferences, outcomes obtaining from that engagement will have the stakeholders' support.

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[146] East African Community Secretariat, *The Treaty for the Establishment of the East African Community*. Arusha, Tanzania, 2002: East African Secretariat, p.1

[147] Arthur Hazzlewood, "The End of the East African Community: What are the Lessons for Regional Schemes?" In R.I. Onwuka and Amadu Sesay (eds), *The Future of Regionalism in Africa*, London: Macmillan Publishers, 1985, p.18.

In order to achieve its analytical objective, the study examined the functioning and decision-making orientation of the main organs of the EAC II for indications that they have incorporated, within their processes, the primacy of people-centeredness. Having found only limited institutional incorporation of people-centeredness (via civil society reports to various organs including the Court of Justice) further examination was undertaken of initiatives undertaken outside the usual EAC II institutional decision-making processes, which would evidence inclusion of people-centeredness.

The establishment of the Wako Committee was used as an example of initiatives made outside the usual EAC II institutional channels. The Summit requested the Secretariat to undertake region-wide consultations about fast tracking EAC integration. The Wako Report led to the establishment of National Consultation Committees (NCCs) which sought popular view points on fast tracking the integration process. It may be fair to conclude that the NCC consultations exercise may have managed to stall the prospects for fast tracking for some time in as much as support for fast tracking toward a federation was relatively low. There is however still room in the future for the fast tracking to occur, provided the partner states endeavor to develop programs that would convince their citizens of the benefits of deepening EAC II integration.

In order to determine the extent of popular involvement in the organization, as advocated under Article 7 of the EAC II Treaty, I first examined the rationale for the inclusion of the concept in the current organization since it was not part of the integration process during the era of the EAC I. Although the adoption of the concept of people-centeredness aimed to address the top-down decision-making character of the EAC I, which contributed to its collapse, it appears that the insertion of the concept in the EAC II

charter has not resulted in a fundamental shift from the top-down decision making of the EAC I. More efforts therefore are required to make the incorporation of people-centeredness into the EAC II's institutional decision-making processes a reality.

The study also took note of consultations on fast tracking the EAC II political federation, which were conducted throughout the EAC II from 2006 to 2008. The exercise helped to build a body of evidence both on how the people's views can be aggregated outside the EAC II's institutional mechanisms and how people-centeredness as a concept requires demystifying. While contributing to stalling the impetus of fast tracking the political federation, the exercise also helped to shed light on the need to further institutionalize mechanisms for involvement of the population into the regional integration processes, in effect ensuring that the processes are really people-centered.

The Role of People-centeredness

The stronger a particular national population's interest is in deepening integration the more impetus a relevant government will have to push its national interests at the regional level, simply because the government enjoys the popular legitimacy to do so. Having attained the necessary legitimacy to push ahead with a particular stage in a regional integration arrangement, the partner states' governments may no longer have to worry about the fate of decisions they make at the regional level, because they will have their electorate's support.

On the other hand, unless each individual EAC II government sees that they had something to lose from their principal stakeholders -the people- they will continue to act only in line with their own whims. If the contrary were true and popular pressure really

became a determinant of integration, it would reduce the likelihood that political leaders would maintain the current top-down approach to integration. In other words, where a robust public perception for or against integration exists among a country's population, the potential to make political leaders losers vis-à-vis the interests of their respective populations becomes too high to risk not being re-elected by going counter to the perceived popular will.

On the other hand, as a concept, people-centeredness requires demystification, as it is also prone to abuse by unscrupulous politicians who may wish to employ statistics showing popular views to justify top-down decision-making on regional integration. For example, it is difficult to compare the level of support for fast tracking in the three countries studied because each country approached the consultations differently. Tanzanian views were presented in terms of numbers of meetings conducted (426) and number of participants (65,379), number of questionnaires which were administered (9,519) and the specificity of gender distribution in the same and the like. In Uganda's case, however, the results were broken-down by rural/urban origins, gender, regional origin and economic status. While both methods are valid, comparison are difficult.

Consequently, to provide a clear view of popular support, changes in methodology are desirable. Otherwise, an outcome can be heralded as having come out of a people-centered collection process, when in fact it may not necessarily be representative of the population.

Finally one may ask whether it is more important to reach out to the people than to develop programs for their economic development. Certainly both are necessary. However as many a scholar's arguments have demonstrated in this study, the utility of

people-centeredness as a concept cannot be disregarded. Sengondo Mvungi attests to the usefulness of the concept when he argues that, the collapse of the EAC I in 1977 came as no surprise to the majority of the people of East Africa because they had had no say in what was taking place in the EAC I.[148] Thus, the "collapse, though regrettable, drew very little sympathy from East Africans."[149] Similarly, ensuring popular legitimacy for EAC II regional integration is important. Given the potential of regional integration to change the livelihoods of whole populations across the partner states, it requires the broadest support from the population, in order to justify its implementation.

Parliament's Legitimatizing Role on Regional Integration

In terms of EAC II institutions, East Africa's national parliaments represent the broader sections of their societies from a democratic standpoint. However, there is so far no evidence that they have been adequately involved in debating progress in the various stages of integration. This is a missed opportunity because, if the EAC governments and leaders were to decide to bring about their visions concerning proposed integration trajectories, parliaments could serve as an initial point of entry for integration proposals to be debated and eventually reach the general public for debate and decision. If the EAC governments and leaders were to lobby their national parliaments more in advocating for deeper integration, including fast tracking the federation, they would perhaps be able to demystify some of the negative perceptions coming out of the debate on the rationale for fast tracking. Instead, the governments do not seem to have seized opportunities to address some of the criticisms generally leveled against the fast tracking idea, such as President Museveni's alleged personal ambition to become the first East African

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[148] Sengondo Mvungi (ed), The Draft Treaty for the Establishment of the East African Community: A Critical Review, Dar es Salaam: Dar es Salaam University Press, 2002, p.65.
[149] Ibid.

president. Such negative perceptions have not really been tackled; they have only continued to be discussed in passing, without the portrayal of an actual "reality."

In the Tanzania parliament, for example, some Members of Parliament (MPs) opposed fast tracking the federation based on news media reports that President Museveni had said his "desire was to see the East African Federation before his retirement." It was a negative allegation to which the government did not have an opportunity to respond properly in order to counter the scare mongering already circulating through the mass media.

Apart from institutional changes, a possible avenue for enshrining people-centeredness in EAC II integration which is yet to be employed is that of holding national referenda to let the public decide whether a particular facet or stage of integration is in their interest. This would prevent the political leadership from moving on blindly while assuming that they have the support of their peoples when in reality they do not. Adopting referenda on such potentially far reaching integration decisions can lend legitimacy to the Summit's proposals.

People-centeredness crucial element for reality check on integration

This study has consistently argued that, when properly utilized, people-centeredness has the potential to not only ensure continued popular support to the regional integration project, but also to contribute to the conditions necessary for the integration arrangement to remain sustainable. It is not the only condition but it is a necessary one because politics alone will not ensure the success of integration. This does not mean that political leadership must be proactive. However, political leadership needs to be there to only ensure direction and to foster support to the integration process. On the

other hand, the absence of a people-centered element is likely to make the integration moribund in the longer term.

Thus, although people-centeredness has not been adequately incorporated into the integration process; there is still room for re-organization and expansion of the mechanisms for popular involvement in the integration processes. The EAC II needs to re-align itself accordingly, to make the long term investments already put into the integration process a reality for the current and future generations of East Africans.

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December 23, 2013