Effects of Political, Legal, and Governance Challenges: Case Study of East African Community

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Effects of Political, Legal, and Governance Challenges:

Case Study of the East African Community

Tumaini Joe Lugalla

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Abstract

This thesis investigates the effects of political, legal, and governance challenges regional integration policy within the East African Community (EAC), and questions the motivations of partner states and their institutional preparation. I have analyzed the effects of selected dominant political, legal and governance fears, concerns, and challenges (collectively referred to as FCCs) reported by a team of experts that identified a wide spectrum of these FCCs.

I also assess the path being taken by the partner states as they move toward a political federation and full regional integration. I also look at the processes that seek to resolve the prevailing political, legal, and governance challenges.

This research determined that political, legal, and governance issues create FCCs that influence the policies and motivations of partner states, thus also affecting the integration process. At the same time, confusion in the integration process generates even more political, legal, and governance FCCs.

I sought to determine whether one or more factors underlying the political, legal, and governance FCCs might affect regional integration policy by (1) accelerating regional integration so as to reap expected benefits as quickly as possible; (2) staying the course on regional integration in order to mitigate costs and facilitate resolution of challenges; and (3) stalling or even halting regional integration to avoid associated risks and or costs to the partners in the process.

My research found that political, legal, and governance FCCs affect regional integration policy during the process by staying the course on regional integration in order to mitigate costs and facilitate resolution of challenges. I believe this is the best possible path forward.

Dedication

I dedicate this thesis to my late mother Mary, for whom I strive to live life and be all I can be, so she will be proud and smile at her first-born as she watches over me from heaven.

To my father Joe, for his inspiration, support, and guidance. Without his financial assistance throughout the course of this research, it would have been far more difficult to accomplish all that was needed.

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Table of Contents

List of Tables

List of Figures

List of Acronyms

ACP   African Caribbean and Pacific Groups of States

AU PSC   African Union Peace and Security Council

CET   Common External Tariff

CEWM   Conflict Early Warning Mechanism

CMESA   Common Market for Eastern and Southern Africa

CPMR   Conflict Prevention, Management and Resolution

EAC I   East African Community I

EAC   East Africa Community

EACB   East African Currency Board

EACJ   East Africa Court of Justice

EADB   East African Development Bank

EAHC   East African High Commission

EACLA   East African Central Legislative Authority

EALA   East Africa Legislative Assembly

EAMU   East African Monetary Union

EAPF   East African Political Federation

EASCO   East African Common Services Organization

ECGLC   Economic Community for Great Lakes Countries

ECOWAS   Economic Community of West African States

EPA   Economic Partnership Agreement

FCC	Fears, Concerns, and Challenges
IBEAA	Imperial British East Africa Association
IBEAC	Imperial British East African Company
ICGLR	International Conference on the Great Lakes Region
IGAD	Intergovernmental Authority for Development
JATT	Joint Anti-Terrorist Team
LEGCO	Legislative Council
PSC	Peace and Security Council
REC	Regional Economic Community
RPF	Rwanda Patriotic Front
SADC	South African Development Community
SALW	Small Arms and Light Weapons

Chapter I

Introduction to Research

The East African Community (EAC) is an intergovernmental organization comprised of five nations: Kenya, Tanzania, Uganda, Rwanda, and Burundi. The bloc is located in the Great Lakes region of East Africa and is headquartered in Arusha, Tanzania. The official language is English, and its *lingua franca* is Swahili.

Article 9 of the East African Community Treaty states that the EAC community is comprised of three arms: Executive, Legislative, and Legal/Judicial. The Executive arm includes the Summit of the Heads of State (responsible for the vision of the EAC); the Council (the strategy-making organ); the Secretariat (the official administrative organ of the Community), and the EAC institutions themselves. The Legislative and the Legal/Judicial arms include the East African Legislative Assembly and the East African Court of Justice, respectively. The capacities, orders, and operating systems of these institutions are set out in the Treaty, Protocols, and Rules of Operation.

The Vision of the EAC is to achieve a prosperous, secure, and politically united East Africa. The EAC Mission is to extend and develop "economic, political, social and cultural integration" so as to progress the personal satisfaction of the general population of East Africa through expanded "competitiveness, value-added production, improved trade, and investment." The brand of the East African Community is "One People, One Destiny." The target of the EAC, as stipulated in Article 5 of the Treaty, is to create strategies and projects among the partner-states that develop and augment collaboration

in political, social, and cultural fields; and support exploration, innovation, defense, security, legitimacy, and legal issues.[1]

This chapter introduces my research regarding the EAC. It begins by identifying the research problem, as well as overall objectives, core questions, and the significance of the research, followed by a discussion of hypothetical relationships and the methodology used.

Research Problem

The protocols establishing the EAC customs union were signed on 2 March 2004 in Arusha, Tanzania, and thereafter the instruments were applied to each partner-state.[2] In 2010, the EAC launched its own common market for goods, labor, and capital within the region, with the goal of a common currency by 2012, and a full political federation in 2015.[3]

The conundrum in this process is that the targets for regional integration have been difficult to meet. The next target of establishing a monetary union and having a common currency by 2012, and the following goal of establishing a political federation by 2015, have not yet been met as of late 2016. The new projected date for the monetary union is now 2024, which in turn pushes the ultimate goal of a political federation far into the future.

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[1] EAC, "EAC Development Strategy 2011-2016: Deepening and Accelerating Integration, Vision and Mission" (August 2011): 12.

[2] Rwanda and Burundi, latecomers to the game, joined the Customs Union in 2008, and the instruments were applied in 2009.

[3] D. Miriri, and G. Elgood, "Fact Box: East African Common Market Begins" (Reuters, 01 July 2010). Available from <http://www.reuters.com/article/2010/07/01/eastafrica-market-idAFLDE65T2AJ20100701>. Retrieved 14 October 2013.

There have been several challenges during the initial phases of integration:

- The political behavior of Tanzania, an important partner in this process, resulted in the country being sidelined during a key meeting on the subject of a coalition of the willing countries. To reassure the other partners, Tanzania became the first country to ratify the EAC Monetary Union Protocol on 25 June 2014.

- The EAC Customs Union is calling for a common trade policy.

- The EAC Common Market is calling for liberalization of the labor, capital, and services market.

- The EAC Monetary Union is calling for a regional currency.

<p style="text-align:center">Research Objectives and Questions</p>

This research found that progress on regional integration was seriously affected by political, legal, and governance challenges to EAC policy, specifically, challenges revolving around the issue of regional integration versus regional secession. My investigation identified several key factors that will undoubtedly have an influence on the ultimate outcome: the motivations of each partner-state for integration; the path and strategic plan for integrating the EAC, and how institutionally prepared are partner-states. I also found current processes that might resolve these challenges and usher in a mode of operation that could adjust the prevailing challenges.

The central question to be answered by this investigation is: how could political, legal, and governance challenges prevent the successful integration process of the EAC, and how can partner-states overcome these challenges and chart a way forward toward integration? During my investigation, other core questions were uncovered.

The research questions are these:

1. What are the key motivations for integration for each partner-state?

2. What is the path and strategic plan for the integration of the EAC?

3. How prepared institutionally are the partner-states?

4. Are there mitigating processes to resolve these challenges and, if so, what are they?

5. What can the parties do to ensure a smooth integrating process?

Research Proposition

I hypothesize that underlying political, legal, and governance fears, concerns, and challenges (hereafter collectively referred to as FCCs) will affect EAC regional integration policy by:

- accelerating regional integration to reap expected benefits as soon as possible;

- staying the course of regional integration to reduce costs and facilitate resolution of challenges;

- stalling or halting regional integration to avoid associated risks and/or costs to the partners in the process;

- fears of losing autonomy; and

- fears of loss of identity as a result of the proposed federation.

These issues were identified in a 2011 report commissioned by the East African Community Summit (EACS) titled "Report by the Team of Experts on Addressing the Fears, Concerns and Challenges of the East African Federation."[4] The report listed

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[4] A. Barumpozako, P. Kabudi, S. Kamuhinda, M. Kituyi, H. Makmot, J. Mpawenayo, et al., "Report by the Team of Experts Addressing the Fears, Concerns and Challenges of the East African Federation" (EAC, 2011).

political, legal, and governance FCCs about the EAC regional integration process, and it suggested a path toward a political federation. It also gave recommendations about how to mitigate the FCCs; most of those recommendations have yet to be implemented. What the report did not do is highlight the actual effect of these issues on policy.

Hypothesized Relationship

This research determined that political, legal, and governance issues create FCCs that influence the policies and motivations of partner-states, thus affecting the integration process. Confusion regarding the integration process generates further political, legal, and governance concerns. The reverse can also occur: political, legal, and governance issues influence the integration process, which then influences the policies and motivations of partner-states, generating fears and concerns that solidify existing political, legal and governance issues. Figure 1 illustrates these relationships.
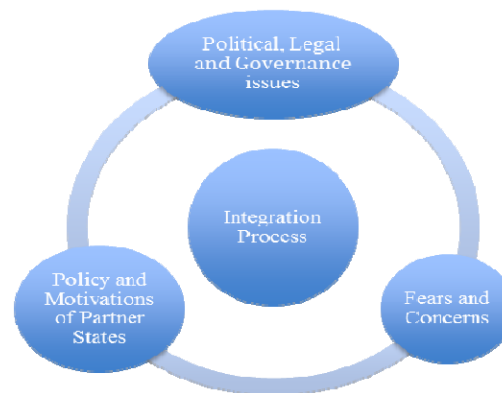
Fig. 1. Hypothesized relationships

Justification for the Research

My research differs from the expert study undertaken by Barumpozako *et al.* in that I look at a selection of political, legal, and governance FCCs from among those highlighted in their report and seek to understand the effects of the selected FCCs on current policy and integration plans. I also investigate how the selected FCCs have affected the development of the EAC. More specifically, I ask how FCCs have affected decision making and how that may have affected the growth of the EAC toward a political federation.

In my view, the expert study merely established the presence of the FCCs. I neither anticipate nor argue that my study is more effective than the expert study. My research is different but valuable for the following reasons:

- I expanded my analysis beyond the expert study by investigating the effect on regional integration policy.

- The underlying assumption of my research is that full integration is possible—even if slow.

- My research is open to recommending against integration if the obstacles are found to be insurmountable and/or they could prevent a successful integration process from occurring.

- I provide a comprehensive analysis of obstacles to a successful integration process in the EAC and their effects on policy.

- I propose recommendations for the political engagement of EAC partner countries in the process.

The significance of this research is that it identifies selected political, legal, and governance challenges and their effects on policy, and it makes recommendations to deal with those challenges to EAC integration. I question the modes of operation within the process and the motives of the partners. I also seek to validate or invalidate the current process while providing a thorough assessment of how the process can be better conducted. It is my hope that this thesis will provide a path forward for the EAC, one that is careful as it addresses all the needs of partner countries.

Chapter II

Background of the EAC

The background and history of the EAC can be broken in two over-arching segments: the colonial period and the post-colonial period. Within these segments are four stages: stages I and II are part of the EAC's colonial history of integration, while stages III and IV include the EAC's post-colonial history of integration. As of 2016, the EAC is now in Stage V, which began in 2000 and is part of the contemporary history of the EAC. My research is conducted within this contemporary period.

In this chapter, I touch briefly on the period of European interest in East African countries, which thereafter led to British colonial rule. I summarize the colonial and post-colonial history of the EAC, respectively. Stages I and II are elaborated as they emerged during the period of British colonial rule: how British colonial rule emerged, its objectives, and the context in which it operated. Political, socio-economic complexities from the colonial period are given at the conclusion of Stage II. A discussion of the post-colonial history of the EAC is rendered in Stages III and IV, including complexities that developed in those stages.

Emergence of European Interests and British Rule

In the mid-1880s, European interest in Africa expanded significantly. The scramble for Africa prompted German interest in 1884 and 1885. The European powers ignored tribal groupings, and instead reached agreement on which territory each would

call its colony, and agreed not to obstruct anything other power was pursuing. However, the meeting was not just to "divvy up" the African landmass between European powers. As indicated by the Berlin Act of 1885 Principle of Effectivity, expressing some amount of authority over a region was one thing; yet, for a European authority to hold that territory, it needed some semblance of legality: e.g., arrange with local authorities, fly the European country banner, build an organization with police power, and exploit the territory economically. Any inability to do this meant that another power could take over administration and control of the region.

Amid this race to Africa, two European powers—Britain and Germany—communicated interest in and enthusiasm for the East African coast and its interior. In the 1840s, a British presence was established via British missionaries in the interior, and along the coast by traders under the protection of the Sultan of Zanzibar. The settling of British missionaries and traders meant increasing strategic interest in the region by the British government. Moreover, the British saw the Nile River as essential to their strategy to control the Suez Canal and solidify their occupation of Egypt.

The Germans were interested in these East African countries as well. To solve this conflict amicably, the two powers came to an agreement in 1886. Germany was given the shoreline and interior of Tanganyika,[5] while Britain retained access to the region that covered Kenya and Uganda. Soon thereafter, England began to instill its prominence over its locale, but it was hesitant to assume dynamic liability as its assets were centered on a wide range of interests in the continent.

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[5] Known today as Tanzania.

Background of Colonial EAC

In 1888, the British government empowered Sir William Mackinnon, a Scottish ship-builder and businessman, to solidify a presence within the British district. Mackinnon's trade organization had special arrangements with the Sultan of Zanzibar and leased his inland possessions amounting to a 16-kilometer-wide portion of the area along the coast. Mackinnon's organization instituted wide-ranging exchange activities in the district, with Mombasa and its harbor a vital part of those operations. The organization also had an office in Shimoni, 80 kilometers south of Mombasa.

Mackinnon formed the Imperial British East Africa Association (IBEAA). In turn, a secondary commercial organization was established called the Imperial British East African Company (IBEAC), which received a contract in 1888 with a unique mandate to regulate on behalf of British interests. The organization was given a clear objective to expand and fully exploit the region.

The IBEAA, through the IBEAC, accepted and executed regulatory control of British East Africa, a district extending from the eastern bank of Africa to the Kingdom of Buganda on the northwest shore of Lake Victoria (a zone of roughly 639,209 sq.km.). Aside from the work of administering exports, products, and agribusiness, the primary role of IBEAC was to facilitate the development of a railroad linking the coast of Mombasa to Lake Victoria, as well as key infrastructure projects.

In 1890, IBEAC began building the Mackinnon-Scalter Road, a 1,000-kilometer track from Mombasa to Busia on the Uganda border. However, struggles between adversary groups in the organization prevented it from putting essential time and cash into the development of the road. Instead, the IBEAC contracted Frederick Lugard to

construct a fort for the organization in Uganda, but conflicts arose between Kabaka (the king of Buganda), the French Catholics, Protestants, and the IBEAC, culminating in a civil war in 1892. Although the IBEAC won the war, the damage was irreparable; the cash spent to finance the war almost bankrupted the organization, making plans for a railroad seem impractical. The organization was unable to proceed with the British government's endeavor to colonize Eastern Africa.

In 1894 the British government broke from the IBEAC, announced the area to be a protectorate, and assumed full administration of the territory. The British government finished the Mackinnon-Scalter road and from 1896 to 1901 it also built the Kenya-Uganda railroad, which extended from the port of Mombasa to Lake Victoria.

Stage I: Overview

The completion of Uganda Railways (as it was initially named by the British colonial administration), established Stage I (1903-1947) of the formal socioeconomic and political cooperation and coordination in the area.[6] The first notable instance of inter-territorial cooperation occurred between Kenya and Uganda in 1917 when the two countries established a customs union (later joined by Tanganyika (now Tanzania)) in 1927. Cooperation between these colonies of the British Empire extended to other areas, along with the creation of a common currency, and common services such as telegraph and postal services, EA Airways, research institutions, and directorates. During this period, colonial administrators began discussing the idea of a federation.

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[6] G. Kinyua, "The East African Community: A Critical and Comparative Study." Available from: <https://www.academia.edu/7550324/THE_EAST_AFRICAN_COMMUNITY_EAC_A_CRITICAL_AND_COMPARATIVE_STUDY?auto=download>, 1. Retrieved June 19, 2016.

Stage I: Integration

Integration became a necessity owing to low-population densities that required added expense in order to control the expansive regions. This expense was in no way covered by the negligible income from exchange and taxation. Keeping in mind the over-arching objective of extraction and exploitation, the British administration's immediate strategic objective was to transform the East African locale into a working entity with rights and obligations in international relations.[7] This meant first creating a regional governing structure with formal institutions that would institutionalize the colonial administration's agenda. Various administrative systems were set up with this specific purpose. Among them were: the East African Posts and Telegraphs in 1890, the East African Currency Board in 1905, the Customs Union in 1917, the East African Income Tax Board in 1940, and East African Airways in 1946.[8]

These institutions, together with the Uganda Railway, served the important strategic function of providing the protectorate with economic stability, access, working capital, and much needed revenue. The task of the East African Currency Board (EACB) was to maintain the East African shilling at par with the United Kingdom shilling. Collection of post and telegraph revenues, harbor dues and other customs duties; miscellaneous taxes such as a hut tax; and revenues from operations and the exchange of goods via airways and railways that provided excess cash that sustained the entire

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[7] Kinyua, "The East African Community," 1.

[8] Kinyua,, "The East African Community," 1.

endeavor.[9] Every aspect of colonial administration was organized in support of the requirement to generate revenue and as a rent-seeking enterprise.

Tanganyika was integrated into these common services at different stages after Germany lost World War II, thus prompting an exit from the territory it had earlier occupied. It turned into a British Trustee Territory at the end of World War II. The Treaty of Versailles officiated that transfer.

Stage II: Overview

Stage II of EAC integration (1948–1961) was the "golden age of EA integration with over 40-plus institutions established in areas of defense, education, culture, research."[10] It saw the creation of a more organized cooperation framework, with coordination falling under the structure of the East African High Commission (EAHC) which administered regional institutions. The EAHC was managed by the governors of Kenya, Uganda, and Tanganyika. In 1948, the EAHC created the East African Central Legislative Authority (EACLA), also known as the Legislative Council (LEGCO).

Stage II: Integration

From 1948 on, operations became centralized, with the EAHC and the EACLA as the key leadership bodies responsible for functional obligations in the district.[11] This

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[9] "Colonial Reports: Annual No. 519: Report For 1905-06" (Champaign-Urbana, IL: University of Illinois, 1907): 4. Available from: <http://libsysdigi.library.illinois.edu/ ilharvest/Africana/Books2011-05/5530244/5530244_1905_ 1906/5530244_1905_1906_opt.pdf>. Retrieved 19 June 2016.

[10] K. P. Apuuli, "History and Processes of Integration in East Africa." Available from <http://www.deniva.or.ug/reports/eac/ProcessesofIntegrationInEastAfricaByDrKasaijja.pdf>. Slide #7. Retrieved November 21, 2013.

[11] Kinyua, "The East African Community," 1.

stage also produced a customs union, a common external tariff, currency and postage, while managing transport and communication services, research, and education.

Complexities of Colonial EAC

The colonial history of the EAC is complex, causing numerous difficulties during the creation of political, socioeconomic, ideological organizations. Such difficulties include:

- The systematic and arbitrary partition of territories, undertaken with little care of understanding of the ethno-social, geological, and environmental aspects of the region, forcing diverse ethnic tribes with distinctive recorded traditions, cultures, and languages to exist under one or more colonial forces. This situation upset the political improvement of these social groups causing them to become fragmented. It also resulted in unequal economic opportunities, unresolved border disputes, and ethnic conflicts.

- Colonialism in the region restricted or ignored requests for empowerment, for the advancement of Africans to meaningful occupations, or the expression of political rights, such as the freedom to express political thoughts or structure political associations. This created a culture of subordination and authoritarianism in leadership roles and responsibilities.

- In order to exert control, the colonial government selected certain tribes and elevated them economically, thereby giving them a competitive advantage over other tribes in terms of resources and access. This fermented deep tribal divisions

that to this day continue to complicate political, socio-cultural, and economic

relations in the region.

- The extractive nature of the colonial rule meant that little was done to develop the

region economically. What was undertaken was done for the benefit and interests

of colonial rule. This created regional asymmetries that are evident today in

unequally developed areas. For example, areas through which the railroad passes

are more developed than areas where it did not transit; areas where settlers lived

are much more developed, have better hospitals, more churches, planned roads,

and decent housing, than areas where there were no settlers.

Background of Post-Colonial EAC

The post-colonial era of the EAC evolved over several periods of trial and error.

During these periods, the EAHC was formed and subsequently disbanded, replaced by

the East African Common Services Organization (EASCO). Then, because of

disagreements among partner-states, that initiative halted but was revived with the advent

of the 1967 EAC Treaty, which also collapsed. The EAC Secretariat of the Permanent

Tripartite Commission, at the direction of heads of the partner-states, revived cooperation

by upgrading the original agreement to a solid treaty implemented in 1999. Table 1

provides a list of events that occurred during Stages III and IV of the post-colonial EAC

integration.

Table 1. Historical Events During Post-Colonial EAC Integration

STAGE III
• 1961: Tanzania independence, inquiry by the EAHC to address claims of exploitation, and dominance. Leads to the disbanding of EAHC and creation of the EACSO.
• 1962: Uganda independence.
• 1963: Kenya independence.
• 1963: Uganda withdraws from Tourist Travel Association and limits cooperation in EAC.
• 1964: Kampala Agreement on redistribution of industries in the region.
• 1964: Kenya fails to ratify.
• 1964: Tanzania reacts by introducing its own currency, followed by Kenya and Uganda.
• 1965: Leads to collapse of EAMU.
• 1966: Philip Kjeld Commission created to study lessons learned and formulate a plan forward.
Stage IV
• 1967: First EAC treaty signed.
• 1977: Collapse of First EAC treaty.
• 1984: Mediation Agreement for the Division of Assets and Liabilities.
• 1993: Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation.
• 2000: Second EAC treaty signed.

Source: thesis author

Stage III: Overview

Stage III occurred between 1961 and 1967, when the East African countries accomplished autonomous statehood, and the EAHC was reframed into the East African Common Services Organization (EACSO) in 1961, which expanded the functions of the organization and created "operationalization of common services." Later, there were business sector imbalances that were "coupled by centralization" of the "headquarters of

the common services in Nairobi (Kenya)," in this way posing systemic difficulties for the EACSO.[12]

Stage III: Integration

EASCO was established in June 1961 to take the place of EAHC. The former differed from the latter in that policy-making capability was given to the heads of government and ministers, not colonial governors, as was previously the case with the EAHC.[13] The EA legislative authority was given broad powers over budgets and other services of critical strategic importance. This newly devised system had several drawbacks, among them: the headquarters of all common services remained centralized in Nairobi, Kenya, and inequalities in the market remained.[14]

The EAHC was undone by the continued exploitation and dominance of the colonialists until 1961 when Tanganyika gained independence from the British, and Julius Kambarage Nyerere became Tanganyika's first prime minister. Nyerere promised to pull out of the federation if past issues and problems were not remedied. In response, the Colonial Office in London created the Sir Jeremy Raisman Commission and tasked it with reviewing and reporting on the signed EAHC provisions.[15] The Commission found that the EA market had been interfered with by all three partner-countries, particularly Kenya, which dominated the market in production, industrial licensing, and

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[12] Kinyua, "The East African Community," 2.

[13] Apuuli, "History and Processes of Integration in East Africa," slide 2.

[14] Apuuli, "History and Processes of Integration in East Africa," slides 10-11.

[15] Apuuli, "History and Processes of Integration in East Africa," slides 5-6.

distortions in statutory marketing authorities.[16] The Commission recommended "retaining of the common market as well as the strengthening of common services."[17]

Also in 1962, Uganda gained independence, followed by Kenya in 1963. This meant that key policy decisions were made independently. 1963 also saw Uganda's withdrawal from the EA Tourist Travel Association. Subsequently the issue of an EA federation came back to the agenda, and a working group on the establishment of the federation was established, but Uganda resisted for fear of centralization.[18] This move infuriated Tanzania which had made significant investment in the federation and had more to lose in a breakup of the EA common market.

In 1964, "the Kampala agreement on the redistribution of industries in the region, including a proposition of allocation of selected new major industries, increased sells from a country in deficit to one with surplus, and application of a quota system from more industrialized partner-states."[19] This agreement never came into force because Kenya failed to ratify it. Tanzania reacted by introducing its own currency, followed by Kenya and Uganda.

In 1966 the Philip Kjeld Commission was created to study the lessons learned and to formulate a plan of "how a functioning common market could be created and maintained now that partner-countries were independent" from colonial rule.[20] The commission "recommended the diversification of headquarters from Nairobi to other

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[16] Apuuli, "History and Processes of Integration in East Africa," slides 8-9.

[17] Apuuli, "History and Processes of Integration in East Africa," slide 9.

[18] Apuuli, "History and Processes of Integration in East Africa," slides 12-13.

[19] Apuuli, "History and Processes of Integration in East Africa," slides 13-14.

[20] Apuuli, "History and Processes of Integration in East Africa," slides 14-15.

capitals, the creation of an East African Development Bank (EADB) to fund integration, and the creation of resident ministers."[21]

Stage IV: Overview

Persistent organizational difficulties required the reconceptualization and rebuilding of the EACSO into the East African Community I (EAC I), which survived for ten years from 1967 to 1977. The treaty creating the EAC I was signed by Kenya, Tanzania, and Uganda in 1967. It expanded the extent of economic and political coordination obligations of the EAC I. Ultimately, the EAC I failed in 1977 because it did not represent the desires of the East African decision elites who wanted to build a suitable territorial association for bridling the range of cooperation. This period marks Stage IV of the integration history of the EAC.

The 1999 treaty that built East African Community II (EAC II) with Kenya, Uganda, and Tanzania activated Stage V. This treaty went into power in July 2000 after ratification by the partner-states. Subsequently, Rwanda and Burundi joined EAC II in June 2007 and July 2007, respectively.[22]

Stage IV: Integration

In 1967, the first treaty of the EAC was signed by all three partner-countries. "It introduced five EAC councils tasked with the common market, communications,

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[21] Apuuli, "History and Processes of Integration in East Africa," slide 15.

[22] Kinyua, "The East African Community," 2.

finance and economic planning, research, and social affairs."[23] The East African

legislative authority became the highest decision-making body to have a consensus

decision-making process. However, trade imbalances in favor of Kenya remained.[24]

Apuuli notes: "The EADB, which was supposed to allocate resources in order to correct

industrial imbalances, failed, and the pace of transaction and responses to regional

policy initiatives dropped with the death of the East African Monetary Union (EAMU)

in 1965."[25]

The eventual collapse of the EAC came in 1977, brought about by a number of

factors, chief among them: perceptions of unequal additions by Kenya, ideological

contrasts, Idi Amin's rise to power in Uganda, the inability to exchange money between

related administrations, limitations on cross-border activities of nationals, the removal

of outside nationals in Kenya and Tanzania in 1974 and the resulting shutdown of the

Tanzania-Kenya border. All of these damaging actions were made worse by the absence

of any strong decision-making authority.[26]

Complexities of Post-Colonial EAC

There were several widely observed complexities that developed in the post-

colonial stages of EAC integration that, in addition to the complexities accumulated

during the colonial stages, emerged as fears, concerns and challenges (FCCs). Some of

those complexities contributed to the collapse of the first EAC treaty; others complicated

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[23] Apuuli, "History and Processes of Integration in East Africa," slide 16.

[24] Apuuli, "History and Processes of Integration in East Africa," slide 16.

[25] Apuuli, "History and Processes of Integration in East Africa," slide 17.

[26] Apuuli, "History and Processes of Integration in East Africa," slide 18.

the second EAC treaty. The following complexities led to the collapse of the initial EAC treaty:

- Unbalanced sharing of benefits between 1967 and 1977, when Kenya was economically stronger than Tanzania and Uganda, and enjoyed major exports to the partner-states, far more than it imported, resulting in stagnated economic conditions in Tanzania and Uganda. This prompted mistrust by both countries against Kenya.[27]

- Political events in Uganda, particularly after the coup by Idi Amin in 1971, destroyed growing optimism regarding integration in the region. Kenya needed access to Uganda's market, but Tanzania did not recognize the Amin government. This period saw individual rivalries and a lack of political will. To this day, individual bitterness between heads of state continued among subsequent leadership personalities and regimes in the EAC. There is a general mistrust of motives between partner-states, which at times has flared into personal attacks between leaders.[28]

- Tanzania embraced "African Socialism" (*ujamaa*), Uganda pursued a so-called "Common Man's Charter" that pushed for a liberal blended economy, while Kenya held fast to the free market arrangement. Consequently, economic cooperation between the partners was not possible.[29]

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[27] Kinyua, "The East African Community, "2.

[28] Kinyua, "The East African Community," 3.

[29] Kinyua, "The East African Community," 3.

- In each of the three nations, there were political associations and parties that perceived the EAC as a danger to their political base. They were not ready to surrender their freshly discovered political and economic control for an effective community.[30]

- Pressures from various European nations undermined the rule that EAC should join trade arrangements and ventures as a single entity rather than as individual states.[31]

- A large number of EAC institutions were either headquartered in Nairobi or headed by Kenyans. This heightened the belief held by Tanzanians and Ugandans that Kenya was taking advantage of their economies.[32]

Following dissolution of the EAC, the partner countries negotiated the "Mediation Agreement for the Division of Assets and Liabilities," signed in 1984.[33] In it, the partners agreed to resume negotiations in the future. These negotiations, by heads of state, brought about the "Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation," on November 30, 1993.[34] In 1996, in Arusha, Tanzania, the EAC secretariat of the Permanent Tripartite Commission commenced operations. In an attempt to consolidate cooperation, the heads of state directed the Permanent Tripartite Commission to start the process of upgrading the Agreement

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[30] Kinyua, "The East African Community," 3.

[31] Kinyua, "The East African Community," 3.

[32] Kinyua, "The East African Community," 3.

[33] Apuuli, "History and Processes of Integration in East Africa," slide 19.

[34] EAC, "History of the East African Community." Available from <http://www.Eac.int/>. Retrieved 21 November 2013.

Establishing the Permanent Tripartite Commission for East African Co-operation into a

Treaty.[35]

The present Treaty for Establishment of the EAC was signed in November

1999 and became effective in July 2000.[36] In spite of the advancements that have been

accomplished subsequent to the breakdown of the initial EAC treaty, various

difficulties still exist that are stalling coordination and cooperation in the second

EAC arrangement:

- All EAC partner-states have a place with more than one Regional Economic

  Community (REC). While this may empower more extensive regional

  integration, it can also bring about conflict between the needs of the

  distinctive RECs and the attainment of overall progress. Various types of

  participation mean that human capital and a range of assets are divided

  between unions, which will hopefully bring progress.[37]

- It has been suggested that integration be sought after not in successive stages

  but rather in stages parallel to each other.[38] A read of the EAC Treaty and the

  majority of its statutory instruments finds an exceptionally aggressive

  association, with close flawless language on paper. However, there is

  extremely poor or non-existent usage of what is in the document. Case in

  point: the Protocol for the Common Market has been active since 1 July 2010,

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[35] EAC, "History of the East African Community."

[36] A. Tindyebwa, *Capacity Building for International Negotiations and Trade Facilitation in the East African Community* (Addis Ababa, Ethiopia: African Trade Policy Centre, Economic Commission for Africa, 2011), 84, 85.

[37] Kinyua, "The East African Community," 4.

[38] Kinyua, "The East African Community," 4.

but its execution is still floundering. This convention gives flexibility to individuals, capital, administrations, and merchandise. Nevertheless, freedom of movement is not completely acknowledged, even with a common East Africa passport.[39] Indeed, the partner-states have instead moved in the opposite direction with protectionist labor policies.

- Community laws are subordinate to the constitutions of the partner-states. It is unrealistic for national assemblies to restrict the legitimate sway of their nations for the community.[40]

- Local laws in the partner-states may have different effects when applied locally than when applied regionally.[41]

- The EAC faces various challenges to peace, including "piracy in the Indian Ocean, Al Shabaab in neighboring Somalia, Democratic Forces for the Liberation of Rwanda, the Lord Resistance Army in the area neighboring Uganda, and the Front Nationale Pour la Liberation in Burundi. These contentions destabilize the region and decrease the appeal of EAC as a business destination.[42]

- While all partner-states stand to profit as a result of the EAC, their needs are not adjusted accordingly. Contrasting needs between EAC partner-states, and

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[39] Kinyua, "The East African Community," 4.

[40] Kinyua, "The East African Community," 4.

[41] Kinyua, "The East African Community," 4.

[42] Kinyua, "The East African Community," 5.

the conflict between national and regional interests test the commitment of partner-states to integration.[43]

There have been several personal clashes between leaders of the partner-states. For example, in 2013, the presidents of Tanzania and Rwanda traded insults regarding the character of each to their constituents, a circumstance that appears to have resulted to a diplomatic row between the two countries.[44] Recently, relations between Kenya and Uganda were inflamed when a disagreement emerged regarding ownership of the islands of Migingo and Ugingo in Lake Victoria. If the question is not resolved in the interests of an EAC settlement, it might end in confrontation, which can hinder the progress of EAC integration.[45]

EAC Path and Strategy

According to the EAC mission and vision statement, "The goal of the EAC is to widen and deepen economic, political, social, and cultural integration in order to improve the quality of life of the people of East Africa through increased competitiveness, value added production, trade, and investments."[46] Table 2 shows these strategic missions and visions.

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[43] Kinyua, "The East African Community," 5.

[44] Kinyua, "The East African Community," 5.

[45] Kinyua, "The East African Community," 5.

[46] EAC, "Deepening and Accelerating Integration: Vision and Mission," *EAC Development Strategy,* (August 2011): 12.

Table 2. EAC Partner-States: Strategic Visions

Partner-state	Time Frame	Strategic Vision	Priority Areas
Kenya	Vision 2030	Globally competitive and prosperous, with a high quality of life.	Achieve sectoral objectives including meeting regional and global commitments.
Uganda	Vision 2035	Transform Ugandan society from peasant to a modern prosperous country.	Prominence given to a knowledge-based economy.
Tanzania	Vision 2025	High quality of life anchored on peace, stability, unity, and good governance, rule of law, resilient economy, and competitiveness.	Inculcate hard work, investment and savings culture; knowledge-based economy; infrastructure development; private-sector development.
Rwanda	Vision 2020	Become a middle-income country by 2020.	Reconstruction, HR development and integration to regional and global economy.
Burundi	Vision 2025	Sustainable peace and stability and achievement of global development commitments in line with MDGS.	Poverty reduction, reconstruction and institutional development.
EAC	Treaty	Attain a prosperous competitive, secure, and politically united East Africa.	Widen and deepen economic, political, social, and cultural integration at regional and global levels.

Source: EAC, Aug. 2011:13.

It is apparent that the partner-states' over-arching motivation is economic development by attracting foreign direct investment (FDI) and a focus on expanding intra-regional and extra-regional trade. According to the 4th EAC Development Strategy (2011–2016), "FDI inflows, accompanied by growth of intra-regional and extra-regional

trade, are expected to contribute to the realization of the economic potential in the EAC region.".[47]

The EAC partner-states are economically similar, led by Kenya and followed by Tanzania, Uganda, Rwanda, and Burundi. There is no dominant actor; strong competition runs parallel with strong cooperation and coordination among the partner-states. Krapohl and Fink surmise that this pattern corresponds to their theoretical path and strategy. The bloc aims to achieve deep integration through incremental steps buttressed by key principles of the community enumerated in its treaty: "The principle of variable geometry, allows for progression in cooperation among groups within the community for wider integration schemes in various fields and at different speeds and the principle of asymmetry."[48]

The provisions in the treaty were designed to allay fears that Kenya would dominate the region's economy. Furthermore, the EAC trade regime is governed by Chapter 11 of the Treaty, entitled "Cooperation in Trade Liberalization and Development." It states that the "customs union is to be set up progressively over the course of a transitional period,"[49] and that the convention controlling the procedure during this transitional period was to be finished within four years of the treaty's implementation. This plan was decidedly uncommon compared to more typical procedures outlined in economics writing which generally cite movement from a free

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[47] EAC, "EAC Development Strategy," 22.

[48] H. K. Mutai, "Regional Trade Integration Strategies Under SADC and the EAC: A Comparative Analysis," *SADC Law Journal*, 1 (2011): 83.

[49] Mutai, "Regional Trade Integration Strategies," 83.

trade area, to a customs union, and thereafter to a common market.[50] The FTA and customs union stages in the EAC were implemented simultaneously."[51]

EAC Institutional Problems

There is a lack of strong institutional capacity across the EAC region and is prevalent among all EAC institutions. For example, the East Africa Legislative Assembly (EALA) has trouble solidifying its gains; there are insufficient institutional structures between the regional and national parliaments to promote implementation and correspondence; there are limits on imperatives as an after-effect of an extended mandate; an absence of independence in money-related and administrative issues; a lack of assets needed to execute the business of the Assembly, coupled with insufficient human resources; poor oversight and knowledge management as a result of high turnover among elected members; differences in parliamentary frameworks among the partner-states, especially with regard to the confirmation of Burundi and Rwanda which practice a French parliamentary framework.[52]

In another example, the East Africa Court of Justice (EACJ) is experiencing statutory and capacity challenges. Its limited jurisdiction and function as an *ad hoc* court hamper its ability to operate efficiently. This problem was apparent in a case challenging delays to implementing the protocol that would expand the court's jurisdiction to appellate and human rights issues. These changes are necessary and without them, the

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[50] Mutai, "Regional Trade Integration Strategies, 83.

[51] Mutai, "Regional Trade Integration Strategies, 1, 83.

[52] EAC, "Assessment of Achievements of the Third Development Strategy and Challenges Experienced." 4th EAC Development Strategy (2011-2016): 47-52.

court is unable to implement the principles and objectives in the EAC treaty, including good governance, rules of law, and universally accepted standards of human rights—so much so that even its jurisdiction over the treaty has been questioned. On some occasions the EACJ has had to defer to other legal and semi-legal bodies for situations involving the Common Market Protocol and the East African Trade Remedies Committee that was set up under the Customs Union Protocol. Resolving situations concerning the Common Market Protocol is especially difficult as the EACJ is constrained "as far as dispute settlement is concerned."[53] Furthermore, because the EACJ operates on an *ad hoc* basis, it is increasingly difficult to secure judges, which increases the caseload, and makes it difficult to schedule court dates that match with the few available judges.

EAC Institutional Achievements

Cooperation and coordination is growing among the EAC partner-states, and this has generated some notable achievements in establishing a regional parliament and court system. Regional mechanisms and programs for early warning and disaster preparedness are now in place. Efforts to improve conflict prevention, management, and resolution; refugee management; combating the proliferation of illegal small arms and light weapons are ongoing.[54] Cooperation and coordination of these regional security matters will strengthen the move toward a political federation, especially after the implementation of achievements aimed at the three pillars of the EAC: the Customs Union, the Common

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[53] EAC, "Assessment of Achievements of the 3rd Development Strategy," 47-52.

[54] EAC, "Assessment of Achievements of the 3rd Development Strategy," 32-33.

Market, and Monetary Union. The EAC has made substantial progress toward these pillars, although much work still needs to be done.

Regarding the Customs Union endeavor, the EAC has accomplished a number of things:

- liberalized intra-community trade

- implemented a Common External Tariff (CET) and Rules of Origin (RoO)

- implemented a strategy of gradual internal tariff elimination and established mechanisms and programs to monitor that trend

- established the EAC Customs Management Act

- concluded the regional Competition Act (2006), with policies and strategies

- promoted the EAC as a single investment area

- initiated common trade policy frameworks and reviews.

The results of these achievements have been a "common trade policy, improved market access particularly for Small and Medium Enterprises (SMEs), and diversification of product ranges," among other positive outcomes.[55]

Achievements on behalf of the Common Market, in addition to signing and operationalizing the protocol, are:

- a steady currency convertibility and full-scale economic union

- adoption of regular travel reports, work permits, and fees for education, tourism

- common negotiating frameworks

- significant advancement in harmonizing scholastic and expert capabilities

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[55] EAC, "Assessment of Achievements of the 3rd Development Strategy," 32-33.

- free movement of capital

- harmonization of transport facilitating instruments.[56]

These achievements have brought about the free movement of human capital within the community, free exchange and cross-border activities and, most importantly, new markets for development resources.

Although negotiations for a common currency and monetary union began in January 2010, progress has occurred in partner-states' currency convertibility, the review of banking rules and regulations, and harmonization of fiscal and monetary policies and trading practices and regulations in the stock exchanges.

Conclusion

The EAC has made significant strides toward integration, more so than any other bloc in the continent. However, the complexity of the process and continuing uncertainties leave the looming question of whether the process will succeed ultimately. Doubts are compounded if one considers the level of distrust amongst the partner-states. Questions remain as to whether secession might occur, or if full regional integration will occur, and how sustainable such integration would be. Answers remain up in the air, even though resolution to all such questions appear to be possible.

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[56] EAC, "Assessment of Achievements of the 3rd Development Strategy," 32-33.

Chapter III

Research Methodology, Analyses, and Limitations

Any research venture requires that thought be given to strategies and proposed data analysis. In this chapter, I provide information about my research methodology, in the form of an outline I followed for this research. In addition, research limitations and a theoretical analysis of theories of regional integration and regional secession are discussed.

Methodology: Approach and Analyses

Specific FCCs were selected because of their wide range and ability to affect the entire segment of political, legal, and governance FCCs. Among the selected FCCs, one can truly gauge the broad effect of the FCCs on integration policy without having to assess the effect of every single FCC.

Institutional, Legal, and Policy Analysis

Institutional, legal, and policy analyses were undertaken to generate information on these respective environments, the institutional and legal frameworks of the EAC, and the institutional and legal frameworks and policies of partner-states against integration. This approach helped me to understand the institutional framework, the legal and regulatory policies that are enforced and facilitated in the region, and the capacity for regional cooperation and implementation of regional mechanisms.

Part of my strategy included research on existing mechanisms: how they are constituted and coordinated, and the leading institutions in the bloc. This was useful for obtaining a comprehensive analysis of the regulatory and policy frameworks that could counteract the integration process. Finally, it enabled me to understand how this is affected by specific political, legal, and governance issues that partner-states may encounter in the integration process.

Path and Strategic Plans Analysis

Undertaking a strategic plans analysis of the EAC enabled me to identify the broad strategic goals of the EAC, achievable targets for reaching those goals, and several methods that partner-states might take to achieve the goals. That strategy highlighted lessons learned through the EAC integration experience. My analysis produced political, legal, and governance assessments of the region, as well as assessments of achievements and challenges in the sectors. Such research highlighted a clear path for resolving the selected political, legal, and governance FCCs, which helped me understand the path and pace of the EAC integration process. Finally, I was able to gauge the impact and mitigating processes of the political, legal, and governance issues of concern.

Empirical Analysis

Qualitative data from primary, secondary, and tertiary sources were used in this analysis. My focus was on the political dimension rather than the economic dimension of integration theory. Historical and contemporary data sources were explored. This empirical analysis allowed me to compile indicators that demonstrated the effects of

selected political, legal, and governance issues and FCCs about policy and the integration process.

Selected FCCs, Policy Areas, and Indicators

Table 3(a) introduces selected FCCs, policy area, and indicators that measure the effects of loss of sovereignty and lack of clarity on a model of federation FCCs. It refers specifically to cooperation and coordination policy.

Table 3(a). Selected FCCs, Policy Area, and Indicators: Cooperation and Coordination Policy

FCCs	Policy Area	Indicators
Loss of Sovereignty Lack of Clarity on model of federation	Cooperation and Coordination	Framework Performance of institutions

Table 3(b) introduces selected FCCs, policy areas, and indicators that measure the effect of disparities in governance FCCs on good governance. It refers specifically to legal and regulatory policy.

Table 3(b). Selected FCC, Policy Area, and Indicators: Legal and Regulatory Policy

FCC	Policy Area	Indicators
Disparities in governance effects on policies	Good Governance (legal policy)	• Freedom from government influence on the judicial system • Level of transparency and accountability of the judiciary
	Good Governance (regulatory policy)	Capacity of EAC institutions to safeguard regulatory quality

Research Limitations

The research was limited to existing institutions and partner-states that are attempting to integrate into the EAC. It analyzes the effects of political, legal, and governance FCCs on policy in those partner-states. The culture and socioeconomics of integration theory were not analyzed to any great extent. In addition, I limited my research to a discussion of globalization and the influences of multinationals on the EAC political process. I did not use quantitative methodologies.

The purpose of this research was to look at integrative processes as a boiling pot with locally specific political, legal, and governance elements that affected policy and each partner-state's motivation. Thus, the investigation examined only relationship(s) between concerned internal units.

While remaining attentive to the boundaries of my research investigation, no limitations were put on the types of literature that could be reviewed. However, as in any

academic research, the majority of the literature reviewed was related to the topic in

question.

Chapter IV

Regional Integration versus Regional Secession

According to E. G. Haas, regional integration is the procedure by which partner-states in a specific geographical area agree to blend in a way that causes them to lose their individual sovereignty while strengthening their collective political and socioeconomic security and preventing clashes among themselves.[57] S. E. N. Ebaye defines regional integration as "an association of countries occupying a particular geographical area for the safeguarding or promotion of members, which operate on terms that are fixed by treaties or other rules of and regulations."[58] In contrast to Haas's definition, Ebaye establishes a fundamental criterion for regional integration, saying that "to be successful, regional and sub-regional integrations need to embrace the concepts of good governance, sound civil-military relations, and commitment to democracy and human rights, rather than just on military components of security cooperation."[59]

Regional integration implies a cross-sectoral process that is not exclusive to one sector or functional area, with positive and negative effects. This definition has been

[57] E. B. Haas, "The Study of Regional Integration: Reflections on the Joy and Anguish of Pretheorizing," *International Organization*, 24, no. 4 (October 1970): 606-646. Also available from: <https://www.cambridge.org/core/journals/international-organization/article/the-study-of-regional-integration-reflections-on-the-joy-and-anguish-of-pretheorizing/ 250BBD87AF3249FC8A8280A 58EFDA6BF>. Retrieved 6 September 2016. See also: Leon N. Lindberg and Stuart A. Scheingold (eds.), *Regional Integration: Theory and Research* (Cambridge, MA: Harvard University Press, 1971), 3-44.

[58] S. E. N. Ebaye, "Regional Integration and Conflict Management in Africa," *African Research Review: An International Multi-Disciplinary Journal*, 4, no. 2 (2010): 276.

[59] Ebaye, "Regional Integration and Conflict Management in Africa," 276.

established by the growing volume of research and literature on the concept. It began

with Jacob Viner who stated that the impacts of regional integration on exchange can be

either exchange making (when exchange replaces or supplements local content) or

exchange occupying (when accomplice nation production replaces exchange). If a nation

turns into an accomplice of a regional framework that diverts exchange to its partners, it

is unlikely that nation would liberalize internationally.[60]

Authors P. De Lombaerde and L. Van Langenhove identified a global

phenomenon of regional frameworks that expand the associations between their parts to

create new types of association that coincide with conventional state-driven associations

at the national level.[61] This line of thinking opines that activities ought to reinforce trade

coordination in the area, developed a proper empowering environment for private-sector

growth, create infrastructure programs that encourage economic growth, build solid

public-sector institutions and good governance, minimize social exclusion, encourage

growth of an inclusive civil society, add to regional peace and security, establish regional

environmental programs, and strengthen the region's cooperation with other areas of the

world.[62]

H. Van Ginkel and L. Van Langenhove have suggested that regional integration is

"a process wherein states inside a specific locale expand their level of association with

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[60] J. Viner, cited in: D. W. Velde, "Regional Integration, Growth and Convergence", *Journal of Economic Integration,* 26, no. 1 (2011): 3. Also available from <http://www.jstor.org/stable/23000906>.

[61] P. De Lombaerde, and L. Van Langenhove, "Regional Integration, Poverty and Social Policy," *Global Social Policy,* 7, no. 3 (2007): 377-383.

[62] De Lombaerde and Van Langenhove, cited in Ebaye, "Regional Integration and Conflict Management in Africa," 277.

respect to economic, security, political, and social issues."[63] The authors conclude that, "regional integration is the joining of individual states within a region into a larger whole. The degree of integration depends upon the willingness and commitment of independent sovereign states to share their sovereignty."[64]

There are two theories of regional integration. Neofunctionalism and intergovernmentalism are unique to the process of regional integration.

Neofunctionalism

The neofunctionalist theory of international relations is concerned principally with the interaction of three factors that explain the process of regional integration: "(a) growing economic interdependence between nation states, (b) organizational capacity to resolve disputes and build international legal regimes, and (c) supranational market rules that replace national regulatory regimes."[65]

An alternative theory of integration is intergovernmentalism, which posits that decision-making processes are decentralized and are vested locally by national governments rather than at the regional level. National governments appoint representatives to act at regional levels with some implementation powers. Those representatives then act at the direction of local governments based on the interests of the local governments. They vote unanimously in decisions and are tasked with negotiating

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[63] H. Van Ginkel, and L. Van Langenhove, "Introduction and Context." In: H. Van Ginkel, J. Court, and L. Van Langenhove (eds.), *Integrating Africa: Perspectives on Regional Integration and Development* (Tokyo: UNU Press, 2003): 1-9.

[64] Ebaye, "Regional Integration and Conflict Management in Africa," 277.

[65] W. Sandholtz, and A. S. Sweet, (eds.), "European Integration and Supranational Governance," *Journal of European Public Policy*, 4, no. 3 (1997): 297–317. See also: A. Sweet, W. Sandholtz, and N. Fligstein, (eds.), *The Institutionalization of Europe* (New York: Oxford University Press, 2001).

to reach beneficial outcomes for their local governments. To fully capture the dichotomy between these two concepts, I will elaborate on them and point out their comparative differences.

In neofunctionalism, Haas hypothesized three systems in the process he believed would drive joining forward: (1) positive overflow, (2) the exchange of local devotions, and (3) technocratic automaticity. In this process we see the following impacts:

- A positive overflow impact, that is, the joining between states in one segment of the integration process generates a more grounded motivating force for combination in different parts. Keep in mind that the end goal is to completely take advantage of reconciliation in the area where it initially began. Expansion of exchanges and power arrangements then occur simultaneously with the expanding provincial joining. This prompts the formation of foundations that work without reference to neighborhood governments.

- The transfer of residential fidelity occurs, i.e., the neofunctional presumption that gatherings and affiliations will see it as a great advantage to place their faith in supranational organizations as the process expands. As a result of the multi-faceted nature of this procedure, neofunctionalists estimate that more administrative predictability is required and more organizations at the local level are needed as the exchange procedure moves toward higher choice-making systems.

- As reconciliation continues, the supranational establishments established to administer the process will themselves lead efforts at further joining as they turn out to be all the more effective and more independent of the collaborator states. In

the Haas model, size of unit, rate of exchanges, pluralism, and top

complementarity are the foundations on which coordination depends.[66]

Intergovernmentalism

Theoretical developers of the intergovernmentalism concept, Stanley Hoffman[67]

and Andrew Moravcsik,[68] describe national governments in the EU process as decision

makers, in that they retain a tremendous amount of control in the process and how it

proceeds. Apart from rejecting supranational political machination and effect on par with

national governments, intergovernmentalism rejects any spillover effect in the integration

process.

One point of criticism of intergovernmentalism questions the theory's disposition

that every country has fixed preferences on the shape or nature of the bloc. It challenges

this assumption in reference to the EU, and further questions that the division of

functions in the bloc and the partner-states are in constant equilibrium, because it is

argued that those preferences can change as the states position in the world is un-fixed

and can vary due to constant changes in the global context. It purports, for example, that

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[66] E. B. Haas, *The Uniting of Europe: Political, Social, and Economic Forces* (Palo Alto, CA: Stanford University Press, 1958), 283-317.

[67] S. Hoffmann, "Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe," *Daedalus*, 95, no. 3 (1966): 862–915. Retrieved from <http://www.jstor.org/stable/20027004>.

[68] A. Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastrich* (Ithaca, NY: Cornell University Press, 1998).

"citizens demand greater integration if it benefits them, and they refuse it if it degenerates their conditions."[69]

Comparison of Neofunctional and Intergovernmental Theories

The clearest difference between these two theories is the role of the state. In the intergovernmental theory, the role of the state in the integration process is comparatively stronger. By comparison, in the neofunctional theory the role of the state is diluted as decision-making power is gradually transferred to the center of the bloc as the integration process proceeds.

In an intergovernmental system, a nation-state retains power, advocates its own interests, and comes to unanimous consent through machination and bargaining. By contrast, in a neofunctional system, power is transferred to key functional bodies in a process that drives the interests of the process gradually, at times even overriding nation-state policy initiatives in favor of the common good of the bloc. The nation-state gives up this power by gradually increasing cooperation with the center as the process proceeds.

Moreover, in the intergovernmental construct, "nation-states actively create limitations on the process by maintaining control of policy areas to where the process may evolve, thereby protecting policy areas of special national interests."[70] They actively work to avoid whatever might bring about a decision that is ultimately detrimental to their interests. By comparison, in the neofunctional construct "the process is a state-

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[69] D. J. Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism: A Comparison of Regional Integration Theories and Their Connectedness with the European Parliament." Final Exam Paper for course "Regional Integration and the EU," Copenhagen Business School, 2013: 6.

[70] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 7.

independent spill-over process, extending integration from one sector to another based on their connectedness." It works as a "powerful, semi-automatic progress that forces the less influential burgeoning national governments to follow the integration."[71] Non-state actors, such as special interest groups and civil society groups, push this process by levying pressure on national governments which then act accordingly at the international stage in their relations with partner-states during the process. Kleinschmidt notes, "Agreements on the supranational level are reached by interactions between international organizations and the constituencies the integration created. All elite groups have the same equal weight and can outnumber each other to reach a consensus."[72] In intergovernmentalism, "governments decide the directions for the interest groups, again positioning the nation-state as the main center, deciding on the others."[73]

Critics of the neofunctional theory point to the spillover process.[74] The model expects that joining will start with one segment, then move on to the next. However, the development of coordination between low legislative issues and high governmental issues that are of extraordinary national priority, is unreasonable since national governments would need to concur on a typical priority. Due to the vagaries inherent in a coalition or a broadened alliance, it would likely be impossible to achieve consent. Subsequently, the overflow work should be surveyed carefully and to the furthest reaches of various commonwealth ranges.[75]

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[71] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 7.

[72] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 7.

[73] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 7.

[74] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 5.

[75] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 5.

A point of contention in the intergovernmental construct is the argument that policy and legislative activities typically emulate national priorities. In the EU, this point implies that administrations are compelled to work in Brussels. However, with a change in a state's administration after a vote, the new government might have different political philosophies and priorities, but they find themselves constrained to take after the choices of the past government because they cannot generally be fixed. In such a case, subsequent national priorities are often hindered.[76]

Regional Secession

The 2001 European Regional Conference on Secession and International Law, held at The Hague, Netherlands, defined secession as the circumstance in which a significant number of inhabitants in a given region but as part of a state express the desire to become a sovereign state in itself, or to join with and become a part of another sovereign state.[77]

Until recently, secession has been a disregarded theme among academics. However, within the accumulated body of work on the subject of secession, two paradigms arise. At one end of the spectrum is choice theory, espousing a general right to secede. At the other end is just-cause theory, espousing secession for the rectification of grave injustices. The middle ground incorporates both choice theory and just-cause theory.

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[76] Kleinschmidt, "Neofunctionalism vs. Intergovernmentalism," 5.

[77] J. Dahlitz, *Secession and International Law: Conflict Avoidance: Regional Appraisals* (United Nations, 2003), 269.

In general, there are several justifications for secession, including political, economic, governance, resources, and cultural/ethnic causes. The following are relevant to the EAC experience, as they are typical threats to the integration process:

- dissolution of the EAC when EAC objectives are viewed as outlandish and frustrated;

- disappointment among a financially abused class that resides inside a larger national region;

- preserving a society, a dialect, a tribe (among others) from absorption or obliteration;

- preserving institutional control, and/or property and land rights;

- escaping biased redistribution of (among others) duty plans, administrative arrangements, and monetary projects that appropriate assets to another region, especially in an undemocratic manner;

- preserving national boundaries and security;

- determination to go around a procedure and win at the expense of others in the alliance.[78]

Allan Buchanan describes what he calls "constrained rights to withdrawal" for particular situations, including those identifying with persecution of a specific ethnic group, those identifying with groups that have been beforehand ruled by others and have

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[78] D. Gordon, *Secession, State, and Liberty* (New Brunswick, NJ: Transactional Publishers, 1988), 35-241.

endured considerable hardship in that subjection.[79] Buchanan also provides reasons why

secession may be inappropriate or unacceptable:

- preservation of legitimate needs by persons inhabiting land that is being claimed

  by secessionists.

- a desire for self-protection, especially if loss of part of the region causes

  powerlessness or increased security dangers to the remaining domain.

- securing democracy: if secession hinders a generally accepted voter-based system,

  or if secession results in elites or minorities gaining dominance thereby creating a

  government that is useful solely to their priorities and not to the priorities of the

  dominant portion of that society.

Withdrawal

Withdrawal can be troublesome if it minimizes vital exchanges, requires an

expense or assessment in order to withdraw, or requires the assent of all individuals in the

coalition. If a domain withdraws, the outcome could mean more regions will withdraw,

creating a tumult that can prompt the failure of the alliance. Wrongful withdrawal means

the unwilling exchange and/or capture of assets by the withdrawing state. Distributive

equity, or the withdrawal of an asset-rich domain could result in an asset-poor region that

might stagnate.[80]

Robert McGee discusses the subject of withdrawal in an article in which he takes

a libertarian position but supports Buchanan. McGee holds that "secessionists are

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[79] A. Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder, CO: Westview Press, 1991), 29-81.

[80] Buchanan, "Secession," 87-124.

justified only if that act of secession is aimed at creating a viable, if minimal, state in contiguous territory."[81]

Several conferences, books and papers have contributed to this growing body of literature, including a secession conference organized by the Ludwig Von Mises Institute, which generated a body of papers that were subsequently combined into the book by David Gordon (referenced in footnote 78); the 1998 Symposium of Secession and Nationalism at the Millennium, which generated several papers that were subsequently published by the Rutgers University journal *Society*;[82] and a 2007 University of South Carolina conference entitled "Secession as an International Phenomenon."[83]

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[81] R. W. McGee, "Secession Reconsidered," *Journal of Libertarian Studies*, 11, no. 1 (1994): 11-33.

[82] See: <https://en.wikipedia.org/wiki/Secession>. Retrieved September 6, 2016.

[83] Association for Research on Ethnicity and Nationalism in the Americas. "Secession as an International Phenomenon." Sponsored by the University of South Carolina, Richard Walker Institute for International Studies, 2007.

Chapter V

The Effects of Political, Legal, and Governance FCCs on Policy, and

Mitigating Processes Toward Federation

This chapter discusses my research findings. It highlights the effects of select

political, legal, and governance FCCs on specific policy areas, as well as current efforts

to mitigate these FCCs. This is followed by the report from the team of experts: their

assessments and recommendations for mitigating those fears. Thereafter is a discussion of

how these FCCs affect EAC integration policies.

Overview

The EAC Treaty of 2000 notes connections between the original partner-states,

and stipulates the reasons for establishing the EAC and its mission. The original parties to

the treaty—Tanzania, Uganda, and Kenya—each had distinct aspirations for their part in

the EAC. Kenya was intent on exporting surplus capital, Uganda sought an outlet for its

surplus labor, and Tanzania hoped to realize a Pan-African vision.[84] Thereafter, the

possibility of a customs union convinced Rwanda and Burundi to join the federation

because such a regional alliance would be useful because both countries are

topographically landlocked and rely on ports in Kenya and Tanzania for imports and

exports.

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[84] D. Booth, D. Cammack, T. Kibua, J. Kweka, et al., *East African Integration: How Can it Contribute to East African Development?* (London: Overseas Development Institute, 2007), 3.

O. N. Mwasha describes other advantages of regional economic integration. For example, the countries rely on some level of economic incorporation; therefore, closer partnerships result in greater advantages to partner-states. The degree of combination also relies on the readiness and commitment of these sovereign states to share their influence,[85] but that willingness and commitment have been tempered because the partner-states bring significant differences to the community that would result in a second collapse of the community. These differences can be traced back to key negotiations where it became apparent that the partner-states harbored specific fears and concerns.

To address these fears and concerns, in November 2009 the heads of the partner-states directed the EAC Council to establish a team of experts to conduct a detailed study of the fears, concerns, and challenges (FCCs) that were raised in the 2008 and 2009 national meetings of the political federation, attended by Burundi, Kenya, Rwanda, Uganda, and Tanzania.[86]

The team of experts discovered that the beginning phases of integration encountered implementation difficulties that undermined the integration process. Furthermore, no model of a proposed East African Federation had yet emerged, which provoked added alarm and further slowed the pace of implementation. It became clear that the methodologies for addressing these FCCs would dictate the pace of integration of the organization.

The experts divided their examination into four areas of study: political, legal, and governance FCCs; economic FCCs; sociocultural FCCs, and cross-cutting/over-arching

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[85] O. N. Mwasha, "The Benefits of Regional Economic Integration for Developing Countries in Africa: A Case of East African Community (EAC)," *Korea Review of International Studies*, 2005: 74.

[86] Barumpozako, "Report by the Team of Experts."

issues needing action.[87] As noted earlier, while each of these areas is worthy of further study, my thesis will focus solely on the political, legal, and governance FCCs and how those affect EAC policy.

Selected FCCs and Their Policy Implications

The following FCCs were selected based on their effects on the political, legal, and governance sectors. In each case, I also describe the team's findings and recommendations as outlined in their report.

Fear: Loss of Sovereignty

The team of experts identified a strong fear among partner-states that they might be required to surrender their global identity, which would mean a loss of influence and freedom to make decisions. The partner-states were unclear as to how a political federation could maintain the sovereignty of each singular state, as well as what kind of power might arise among the states as a result of joining the federation. The experts pointed out that the possibility of a nation-state surrendering its global identity is a key fear.

The experts' report offers several recommendations regarding the topic of sovereignty:

- The people of East Africa should be helped to understand that membership in such a political organization does include the surrender of some power and

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[87] Barumpozako, "Report by the Team of Experts," vi.

influence, but the advantages outweigh the disadvantages, and the gains need to be highlighted and promoted.

- The EAC should execute the phases of integration while reassuring the partner-states of the advantages of trusting the federation;

- As a transitional measure before establishing the political federation, and to empower some surrender of influence at the regional level, further powers should be given to the EAC Secretariat.

- Partner-states should be prepared to surrender their global legitimacy status while also bearing in mind that the end goal is integration.[88]

Fear: Lack of Clarity on the Model of Federation

The experts' report said there was no clarity regarding the model of federation that could give the partner-states a description of what a political alliance would look like and what such an alliance would mean to them. As a result, there was a strong fear of the unknown. The report suggests that this fear was even stronger when citizens read the wording in the treaty and found no description of the nature of the Federation.

To remedy this fear, the group of experts suggested:

- negotiate an agreement to found the East African Political Federation (EAPF) based on solid standards; and

- provide a description of a model of the EAPF.[89]

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[88] Barumpozako, "Report by the Team of Experts," 4-5.

[89] Barumpozako, "Report by the Team of Experts," 6.

Fear: Poor Administrative Practices

The team of experts found that East Africans fear poor administrative practices, corruption, human rights abuses, an unwillingness to respect constitutionalism, and a fear that new laws might favor partner-states with better administration and governance records. This could derail advances made at the national level to accomplish a peaceful constitutional transfer of power or to battle corrupt practices.

The team worried that deficiencies and the absence of responsibility, which exists in some partner-states, might be imitated at the regional level. Their report called attention to the similar and contrasting political frameworks of the partner-states. For reasons of efficiency and accommodation, it might be better to push for harmonization and union, the absence of which is problematic to economies.

Fears about different political values and culture also were identified among administration practices of the partner-states coming from the constrained political space, insufficient legal autonomy, confinements in practicing civil rights, corruption, and absence of respect for the principles of law.[90]

Fear: Diverse Governance Practices Among the Partner-States

The team of experts noted that as far as governance practices, partner-states have diverse shortcomings. Also, adherence to EAC central standards is a condition for entrance into the bloc, yet consistency is not enforced among the existing partners. The most widespread worry among East Africans was the militarization of politics,

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[90] Barumpozako, "Report by the Team of Experts," 7-8.

electoral violence, the removal of presidential term limits, loss of insurance, slowed pace of human rights, and equal opportunities for all.

The report recommended:

- The EAC partner-states should facilitate the completion of a protocol on good governance and build a solid system to implement it.

- Partner-states should amend their constitutions to guarantee presidential term limits, orchestrate the length of the presidential term, and harmonize electoral cycles and administrative procedures.

- Enable the East African Court of Justice as a sound regional organization that will ensure the consistency of all agreed territorial principles of good governance, including human rights.

- Create regional components to observe and assess issues of constitutionalism and good governance, including an EAC peer survey system.[91]

Fear: Impact of the Federation on National Defense Policies

There are fears about the impact of the political federation on existing national and foreign defense policies in the partner-states. At the time, the partner-states had their own distinct security systems and procedures as well as relations with foreign entities. Membership in the EAC raised questions about how the alliance would influence the foreign relations of each partner-state given that the general population of East Africa—but especially in post-conflict nations—dreaded losing their security and defense autonomy. This was especially true for Burundi and Rwanda. Despite the

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[91] Barumpozako, "Report by the Team of Experts," 8-9.

fact that Article 123 of the EAC treaty specifically mandates that the partner-states should develop normal foreign and security strategies, the main move taken by the partner-states to date is to sign a convention consenting to do so.

The team of experts' report suggested:

- expediting the harmonization of the partner-states' foreign, security, and defense approaches and practices; and

- speeding up completion of the Conflict Prevention, Management and Resolution (CPMR) and execution of the Conflict Early Warning Mechanism(CEWM).[92]

Two further difficulties were identified that could influence the partner-states: (1) the experts' report referenced the issue in Uganda where parts of its society have requested that while Uganda would become a federal state, it wanted certain locations to be semi-self-governing; and (2) in the issue of union with Tanzania, it was hoped that cooperation in the political alliance will include free expression when shaping the union. The experts suggested that both issues should be dealt with through the EAC political alliance, and that both should receive specific attention when forming the model of the federation.[93]

Mitigating Processes for Resolving FCCs

When analyzing the prevailing political, legal, and governance-related FCCs, I found several achievements in key areas that were recommended by the team of experts.

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[92] Barumpozako, "Report by the Team of Experts," 9-10.

[93] Barumpozako, "Report by the Team of Experts," 10-11.

These achievements are cited in a report entitled, "Achievements and Challenges: Towards EAC Political Federation." The following is a review of those achievements in specific areas of concern as stipulated in the report.

Good Governance

Recognizing good governance as a necessity for a political federation is an area that requires constant observation and development. To that end, the EAC has initiated a program on good governance that highlights the need to develop and consolidate democracy, establish standards of law, and recognize human rights and essential opportunities for all. These principles are also benchmarks applied to new entities seeking entrance into the EAC under Article 3 of the EAC Treaty. The program has created a national organization to administer trade data, offer encounters and dialogue on arrangements, techniques, laws and projects with an eye toward creating regional models. It also unites national organizations and entities responsible for human rights; and monitoring anti-corruption efforts, electoral procedures, legal and judicial procedures, and parliamentary bodies.[94]

Good Governance Challenges. While the arrangement of the EAC basic leadership structure was intended to simplify decision making, the lack of a specific Sectoral Council on Political Affairs has become a bottleneck to policy making in political undertakings. This missing piece has resulted in deferred consideration or slow reception of proposals, implying that services or organizations at the national level may not be included in EAC policy-making forums.

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[94] EAC, *Achievements and Challenges: Toward EAC Political Federation* (Arusha, Tanzania: EAC, 2013), 17.

The challenge is intensified by the way most political affairs sectors have free-wheeling or semi-self-ruling organizations based on a perception by the national government of its sacred right to establish such organizations. These include human rights commissions, anti-corruption agencies, the electoral commission, and the judiciary.

Further, the absence of an instrument to follow up Council policies has been a challenge. In its place, a directive from the 15th Summit of EAC heads of state to establish a standing agenda on the issue may turn things around. Moreover, the EAC Secretariat has no official force to uphold strategy mandates and choices, and insufficient staff resources and monetary shortfalls hamper any possibility for reconciliation even on non-dubious issues. All in all, the need to reconcile these political issues has set the ground for further discussions on the subject of political alliance.[95]

Peace and Security Strategies

Developing and maintaining peace and security in East Africa is a major consideration for a political federation. The East African pioneers perceived linkages between socioeconomic growth and security, while also recognizing that there can be no improvement without stability and security. They understood that a local solution for dealing with peace and security will bring stability and socioeconomic growth to the area.

The EAC partner-states have endowed the EAC with broad political power in territories needing conflict prevention and management as well as peace building. Article 5 (3) of the Treaty orders the EAC to participate in peace and security issues. It stipulates the advancement of peace, security and stability, and greater neighborliness among the

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[95] EAC, "Achievements and Challenges," 25.

partner-states as one of the Community's targets. Article 123 of the EAC Treaty states that the Community might identify targets by "peaceful resolution of disputes and conflicts between and within partner-states." Article 124 recognizes the "linkage between peace and security and social and economic development." and the eventual accomplishment of the Community goals. [96]

Until April 2006, the Peace and Security Department was overseen by the Office of the Council to the Community. After the establishment of the Office of Political Federation in April 2006, activities supporting peace and security were domiciled in the new office. In March 2008, the Sectoral Council on Interstate Security was formed to give strategic goals and direction.[97] To encourage the work of the subsectors in the Peace and Security department, a third meeting of the Sectoral Council was held in April 2011 during which added agencies and police chiefs were established.

The EAC bodies that manage political and security cooperation are the Summit of Heads of State and the Gathering of Ministers. [98] The key structures directing basic leadership of peace and security are the EAC treaty, the Protocol for Peace and Security, and the Strategy for Regional Peace and Security. In accordance with Article 123 (5), the EAC has set up a system of different sectoral councils and committees to provide guidance for collaboration among defense, interstate security, and foreign policy coordination with the goal of supporting peace, security, and governance activities.

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[96] EAC, "Achievements and Challenges," 25-26.

[97] EAC, "Achievements and Challenges," 26.

[98] EAC, "Achievements and Challenges," 26.

Peace and Security Challenges. Despite past, present, and developing peace and security challenges in the region, East Africa has been generally perceived as a place of refuge. However, it remains a subsidized territory with the fewest allocated resources in the EAC spending plan. Other regional economic groups, such as the South African Development Community (SADC) and Economic Community of West African States (ECOWAS), receive a conspicuously larger portion for human resources funding. Currently, 95% of the financial requirements of the peace and security sector are met through the European Union and the German International Cooperation. Two other departments, International Relations, and Political Affairs, are co-financed by the EAC Secretariat.[99]

The institutional structure of Peace and Security sector mirrors the EAC hierarchical structure, and basic leadership procedures of the Sectoral Councils are hindered by this complex arrangement. For example, the Sectoral Council on Cooperation in Defense, Interstate Security and Foreign Policy Coordination draws its authority from the Ministries in charge of Defense, Security, Home Affairs, Foreign Affairs, Finance, Justice and EAC Affairs. This includes contribution from the Chiefs of Military Intelligence, Chiefs of Police, and the head of Defense Forces. Such a complex organization means communication is slow and cumbersome prior to taking important decisions and transferring communications and directives to other key organizations.

This situation also complicates the leadership process and poses an obstacle to implementing procedures. When decisions are needed in an imminent situation, it still requires re-looking at decisions already made. This often prompts a circumstance where the community cannot contain security dangers effectively. To address this, the Council

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[99] EAC, "Achievements and Challenges," 33.

meeting of August 2013 considered establishing an EAC Peace and Security Council (PSC) similar to the existing African Union Peace and Security Council (AU PSC).[100] In November 2013, the Council drafted and concurred on the fundamentals of setting up a proposed Peace and Security Council, to be formed during the 15th Summit of Heads of State.[101]

Foreign Policy Coordination

Foreign policy coordination is another key need in the Community. Even before the EAC Treaty was signed by the partner-states in November 1999, agreement had already been reached on a Memorandum of Understanding on Foreign Approach Coordination in January 1999. The EAC Treaty states that the Community and its partner-states should execute common foreign and security arrangements (Article 123 (2) of the EAC Treaty.[102]

The partner-states have made considerable strides toward merging foreign security approaches as part of the Treaty's foreign affairs considerations.[103] Such arrangements present the EAC as a cohesive association in its relations with the global community. It seeks to advance collaboration, including commitment to dialogue in a multilateral forum. The partner-states have agreed to work together in diplomatic and consular services, economic and social exercises, multilateral diplomacy and liaison, and data trade within the Community setting. As improvement of such strategies take place,

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[100] EAC, "Achievements and Challenges," 33.

[101] EAC, "Achievements and Challenges," 33.

[102] EAC, "Achievements and Challenges," 34.

[103] EAC, "Achievements and Challenges," 34.

they are a precursor to the foundation of the political federation. Various techniques and arrangements are being negotiated continually, as others proceed with the end goal of establishing the necessary structure for building the political federation.

The Department of International Relations has established approaches and propositions around which the partner-states can concur on sectors involving joint activity. It facilitates program execution through commonly agreed strategies. Projects and exercises overseen by the department include:

- set up and improvement of regional systems for encouraging the joint efforts of partner-states in matters of foreign affairs

- establishing measures to reinforce participation in the partner-states' diplomatic missions

- coordinate procedures for precise collaboration between the EAC and various regional economic groups, the EU, the African Caribbean and Pacific Groups of States (ACP), and the United Nations

- establishing successful methods for promoting the EAC abroad

- cultivating coordinated efforts with the various diplomatic missions and global offices recognized by the EAC.

The Sectoral Council on Foreign Policy Coordination was formed in March 2008. Occasional gatherings of the council monitor projects and decisions taken, and set a path forward. Working groups are set up as and when essential, whose organization is reliant on the current workload. At the level of the Secretariat, the Department of International Relations oversees matters of foreign issues.[104]

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[104] EAC, "Achievements and Challenges," 34.

Foreign Policy Challenges. The success of the above activities relies on several components. One is accessible human and monetary resources, as the degree to which success is achieved is limited by such constraints. It is especially reliant on the backing of the partner-states and their diplomatic missions, particularly the former's part in establishing approaches. Since the Community is not yet a political federation, the partner-states have their own foreign interests, and despite their shared characteristics, the difficulties of executing sovereign foreign arrangements within the Community cannot be ignored.[105]

How the EAC positions itself, both within and between regional, continental, and international levels, will decide the degree to which such joint efforts yield the sought-after advantage. To this end, there is need to:

- fortify department staffing levels to empower it to lead and make arrangements and recommendations after agreed measures

- check and assess strategy use, so that it remains consistent with agreed approaches

- support the interests of partner-states in reconciliation forums. Some partner-states believe strategic engagement of their diplomatic missions by the Secretariat need not be broad. This reasoning may discourage greater engagement of the missions vis-à-vis the Community, while also disregarding the yearning for economic diplomacy as upheld by the partner-states.

- address the issue of influence at all levels, with the goal of not backing off the mix procedure. At the present level of EAC integration, specifically political

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[105] EAC, "Achievements and Challenges," 39.

coordination, state influence affects the pace and degree to which basic outside strategies will be viably sought.[106]

Loss of Sovereignty

Partner-states fear erosion of their policy-making power and ability to influence power at the national level.[107] This is particularly true in some of the regional organizations. Some of the partner-states believe that by diversifying their memberships in a regional organization, they will lessen the danger of being overruled by individuals from any group and thus can remain autonomous. These problems are perceived to constrain the possibilities of political federation in East Africa, so an enduring arrangement has yet to be found.[108]

Loss of Sovereignty Challenges. An obstacle arises from incongruities in the partner-states' national constitutions as to definitions of the executive, legislative, and judiciary branches. Further, the autonomy of the judiciary and national democratic systems, as well as issues of good governance, anti-corruption, human rights, and principles of law vary from state to state.[109]

Political parties cannot agree on whether inclusion advances national interests. Greater anxiety focuses on building national agreement, and substantially less on establishing consensus between the political parties of the EAC partner-states. Establishing the EAC political federation is still at its founding stages, and despite the

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[106] EAC, "Achievements and Challenges," 39.

[107] EAC, "Achievements and Challenges," 45.

[108] EAC, "Achievements and Challenges," 45.

[109] EAC, "Achievements and Challenges," 39.

fact that various interim goals have been achieved, the walk to completion remains long. Current fears of the unknown and certain worries that are specific to each partner-state could hinder the political reconciliation procedure. To defuse these worries, the East African heads of states need to articulate an unmistakable vision and portray solid political will, while also keeping in mind the goal of helping East African residents fully understand all aspects of the political federation.

Effects of FCCs on Integration Policy

In this section, I present my findings on the effects of political, legal, and governance FCCs on integration policy. In measuring these effects, my research examined specific policy segments mentioned in the report of the team of experts. The experts demonstrated broad reach and an ability to diagnose the effects of the entire spectrum of political, legal, and governance FCCs.

I decided to group "Loss of Sovereignty" and "Lack of Clarity on the Model of Federation" together as one FCC because of the relationship between the two and the mutual effects they produce on one another. The Lack of Clarity on Model of Federation fear is largely caused by the Loss of Sovereignty fear. The reverse is also true: the Loss of Sovereignty fear is propelled by the Lack of Clarity on the Model of Federation fear.

Effects of Loss of Sovereignty/Lack of Clarity of the Model

Cooperation and coordination are the policy areas most affected by the FCC Loss of Sovereignty/Lack of Clarity of the Model of Federation. To measure the effects and determine the influence of that fear on prevailing policy, my research looked at the effect

of framework on the policy area. In addition, I assessed the performance of institutions that are key to cooperation and coordination in the integration process.

Table 4 shows the selected FCC, the policy area affected, and indicators I used to measure the effects of this FCC on cooperation and coordination policy.

Table 4. Effects of Loss of Sovereignty and Lack of Clarity of the Model of Federation on Policy

FCC	Policy Area	Indicators
• Loss of Sovereignty • Lack of Clarity of Model on Federation	Cooperation and Coordination	Framework and performance of institutions

Effects on Cooperation and Coordination

The intricacy of this framework makes it cumbersome to communicate decisions or transfer them to other key organs as required. This situation hinders the basic leadership process and poses an obstacle to execution procedures.[110]

I found that several challenges occurring across sectors, and the macro effects of this bureaucratic framework on the cooperation and coordination policies, are the primary causes for the weak performance of the sectors and their institutions. I found that there exists in general:

a) weak budgetary management and reckless spending creates a constant situation of insufficient money to fully execute programs and policies.

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[110] EAC, "Achievements and Challenges," 33.

b) an inability to mobilize resources further exacerbates already-insufficient resources. An acceptable level of resources are a fundamental requirement for executing incorporation at both the national and provincial levels of territorial integration.

c) difficulties in the EAC Parliament:

- deficient institutional structures between the provincial and local parliaments for implementation and correspondence;

- capability limitations as an effect of extended command of the body;

- an absence of self-sufficiency in financial and basic managerial leadership;

- few assets to enable execution of the exercises of the Assembly, particularly human assets;

- feeble oversight capacity and information administration as the result of high turnover among members;

- differences in the parliamentary frameworks of the partner-states, especially with Burundi and Rwanda, which practice the French parliamentary system.

d) statutory difficulties in the East African Court of Justice, including its restricted purview and its function on an impromptu basis. This constrained jurisdiction keeps it from being helpful to the Community;

e) weak institutions are slow to consider or implement new approaches, laws and regulatory reforms, while not harmonizing all sectors. These include:

- slow procedures for creating and embracing structures for conflict prevention, management, and resolution

- slow implementation of small arms and light weapons control programs;

- slow execution of other previously agreed strategies, particularly cross-sectoral development strategies;

- incorrect or not approved measures for battling terrorism;

- separate and not approved strategies for internally displaced persons and refugee administration;

- lack of coordinated interventions to combat transmission of disease throughout the region;

- weak coordination of regional health procedures while enforcing compliance with HIV/AIDS commitments;

- improper alignment of health matters with regional and national key arrangements;

- laws, approaches, directions, strategies, and benchmarks that do not coordinate with other regional members;

- incorrect statutory counsel and service to organizations of the Community;

- feeble laws, settlement instruments, and imperative forces for EAC to authorize Community commitments and choices;

- lack of approval and backing for EAC's oversight, managerial, and information and communication frameworks; and

- ineffective laws to advance inclusion.[111]

In general, these issues create a lack of will, adaptability, and willingness to pursue regional approaches. Partner-states with such behaviors are typically unwilling to commit to the process because they are unsure of its framework or are apprehensive when

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[111] EAC, "Achievements and Challenges," 33.

it comes to questions of how much influence they may have to relinquish. This creates a scenario where partner-states make arrangements but are slow or unwilling to fulfill those arrangements. Examples of these consequences can be found in every phase of the integration process and in numerous arrangements concluded by partner-states that were slow to ratify the agreed arrangements or have ratified but implemented slowly. In some cases, they have simply done nothing, once again slowing the pace of integration and requiring recalibration of timeframes for fulfillment.

Effects of Disparities in Governance Practices

Disparities in governance practices in EAC partner-states cause worry about how integration will correct democratic and governance shortfalls in partner-states and maintain democracy-based standards at the regional level. This has generated a fear among weaker partner-states who grumble at a lack of support at the national level; these partner-states fear becoming unimportant in an extended regional context.[112]

The policy area most affected by the fear of government disparities is good governance. To measure the effect and determine the influence of that fear on prevailing policy, I divided the policy area into two categories, legal and regulatory, and looked at the effects of the following indicators on these categories:

- freedom of the judicial system from government influence
- level of transparency and accountability of the judiciary
- capacity of EAC institutions to safeguard regulatory quality.

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[112] EAC, *Expert Report on the East African Political Federation: Addressing East Africa's Fears, Concerns and Challenges, and Consolidating its Pillars* (Arusha, Tanzania: East African Community, 2013), 22.

Table 5 shows the policy areas and indicators used to measure the effects on policy of disparities in governance.

Table 5. Effects on Policy of Disparities in Governance

FCC	Policy Area	Indicators
Disparities in government	Good legal policy	Freedom of judicial system from government influence. Level of transparency and accountability of the judiciary.
	Good regulatory policy	Capacity of EAC institutions to safeguard regulatory quality

The Judiciary and Freedom From Government Influence

Regional disparities regarding the issue of judiciary independence threaten to derail the integration goal of achieving good governance. Negative practices by one partner-state could spill over to another, or might become standard in another partner-state or even at the regional level. Recognition of the rule of law and admiration for human rights are among the most imperative parts of good governance and a strong market economy. The judiciary is perceived as the overseer of most, if not all, beliefs underlying the rule of law and human rights. Consequently, the judiciary and the law are among the fundamental pillars of good governance, and both are the focus of

administrative procedures.[113] There can be no good governance without the rule of law, and there can be no rule of law without a strong judiciary.

A strong judiciary is one that is independent constitutionally, but also in practice is independent from other branches of government and other impediments that might limit its capacity as overseer of the law and its implementation. Patterns of EAC government influence on the Judiciary range from moderate to highly influenced. Table 6 shows the levels of government influence on the Judiciary in the five EAC partner-states.

Table 6. Level of Government Influence on the Judiciary

Country	Level of Government Influence	Rank
Kenya	Moderate	1
Tanzania	Substantial	2
Rwanda	More than moderate/substantial but far from extreme	3
Uganda	More than moderate/substantial and closer to extreme	4
Burundi	Extreme	5

In the following sections, I discuss each partner-state in terms of its judicial systems and the likelihood of more or less government influence.

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[113] S. H. Bukurura, "Judiciary and Good Governance in Contemporary Tanzania: Problems and Prospects," CMI Report Series (Bergen, Norway: Michelsen Institute Bergen, 1989): 1.

Kenya

In Kenya, the courts work on two levels; high courts and low courts. The court framework is decentralized as a result of a new constitution put in place in 2010, which substantially increased the independence of the Judiciary from the Executive branch.

Kenya has a Judiciary fund that is managed by the Chief Registrar, who is charged each fiscal year with preparing expenditure estimates for the coming year. The Registrar submits the plan to the National Assembly for approval, which reserves the right to cut expenditures in that plan. After approval of the plan, money is put into a consolidated fund that feeds the Judiciary fund. These funds are regulated by legislation from Parliament.[114] Although this is arguably more democratic than having an executive who retains power over the Judiciary, the entire procedure gives the Legislative arm exceptional power over the Judiciary and its ability to fulfill its administrative and financial responsibilities.

The Supreme Court of Kenya has seven judges, including the Chief Justice, who holds the position of President of the Court; the Deputy Chief Justice, who is the delegate to the Chief Justice and vice president of the Supreme Court; and five additional judges There is also a Court of Appeal.

The Supreme Court has four divisions: Division of Land and Environment, Division of Judicial Review, Division of Commercial and Admiralty, and the Constitution and Human Rights Division. The Constitution forbids any office or person

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[114] Government of Kenya, Ministry of Foreign Affairs, "The Constitution of the Republic of Kenya: The Judiciary," 2010. Article 173 (1), Chapter 10, part 4: 107). Available from: <https://www.kenyaembassy.com/pdfs/the%20constitution%20of%20kenya.pdf>. Retrieved July 6, 2016.

from exercising authority over the Judiciary, pointing out that the Judiciary is subject only to the Constitution.[115]

The budget for all Judiciary divisions is at times constrained by the Executive and Legislative arms. This sometimes creates instability in the Court's arrangements. Article 168(1) gives permission to initiate the removal of Superior Court judges only to the Judicial Service Commission; suspension of a judge is allowed only by the president via recommendation from a special tribunal guided by enacted legislation from Parliament.[116] This makes the removal of a Superior Court judge by the Executive or Legislative very difficult and can only be initiated if there are exceptional reasons, such as gross misconduct or incompetence, bankruptcy, or inability to perform his/her duties. Moreover, these allegations must be backed with strong evidence.

An autonomous Judicial Service Commission has been established to handle the selection of judges for possible appointment. The Commission produces a biography of the persons designated as possible judges. This process has little bearing on appointed judges since they are Constitutionally autonomous agents. Not even the High Court and Judicial Service Commission can influence judges in the execution of their duties.

Although judges have an exceptional degree of independence, it is not clear that the Judiciary is truly independent. Years of malpractice by the Judiciary and Executive arms have, in the public view, eroded their legitimacy. Because increased judicial independence is continuously evolving, distrust of the decentralized system is strong.

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[115] "Constitution of the Republic of Kenya: The Judiciary," 96.

[116] "The Constitution of the Republic of Kenya: The Judiciary," 102-104.

Nevertheless, in the recent years judges have focused particularly on preserving the Court's independence as evidenced by rulings in opposition of government wishes.

In Kenya, what compromises the Judiciary is delivery of justice, specifically administrative and ethical graft issues. However, the Executive's influence over the Judiciary has significantly weakened.

Tanzania

The Tanzanian Judiciary branch was established via Article 107A(1) of the 1977 Constitution of Tanzania. It mandates a Court of Appeals, the High Court of Tanzania, and the High Court of Zanzibar. Article 107B (1) is clear about Judiciary independence: "In exercising the powers of dispensing justice, all courts shall have freedom, and shall be required only to observe the provisions of the Constitution and those of the laws of the land."[117]

However, independence of the Judiciary in Tanzania is undermined by the following:

- Article 107B(1) of the Constitution is not specific on the factors that must be upheld. The net effect is that the tenets establishing the autonomy of the Judiciary have become ineffectual, creating disappointments and shortcomings.[118]

- The Judiciary does not have an autonomously created spending plan. The Executive arm determines budget allocations, and the Legislative branch concurs.

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[117] Government of Tanzania, Ministry of Law and Constitutional Affairs, "The Constitution of the United Republic of Tanzania: Dispensation of Justice in The United Republic," Article 107A(1), 1977: 6 Available from http://www.judiciary.go.tz/downloads/constitution.pdf.>. Retrieved July 6, 2016.

[118] A. Magalla, "Independence of the Judiciary and Administration of Justice in Tanzania: A Critical Assessment of Its Interpretation and Practical Application by the Courts in Tanzania." Iringa University College, unpublished Bachelor of Laws thesis, 2012: 58.

The ruling party, Chama Cha Mapinduzi, holds a large majority in Parliament, thus giving it considerable power over the Legislative. This ensures an indirect but substantial dictate over the Judiciary budget.

- Political appointees, such as regional and district commissioners, are given broad roles, and they chair the regional and district Judicial Officers Ethics Committees.[119]

Despite these weaknesses, the Judiciary branch has maintained its integrity and avoided compromising situations. In theory, the Judiciary is free from the pressures of political weight and it is not told what cases to consider. However, it is questionable how independent the Judiciary actually is because of the excessive influence the ruling party can exercise if it so desires. Nevertheless, judges seem to be focused on preserving the courts' independence as evidenced by several rulings against the government and the political party Chama Cha Mapinduzi—a feat that rarely occurs in countries facing similar conditions.

Both Kenya and Tanzania show a marked contrast to Uganda, where the Executive exercises authoritative influence over the Judiciary.

Uganda

In Uganda, the highest court is the Supreme Court, followed by the Court of Appeals, the High Court, the Chief Magistrate's Court, and district council courts.

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[119] Magalla, "Independence of the Judiciary and Administration of Justice In Tanzania," 59.

Tribunals likewise sit notwithstanding the military court framework.[120] The Court of

Appeal has appellate jurisdiction over the High Court, and it hears constitutional cases.

The High Court is separated into the civil, criminal, commercial, family, and

circuit divisions. The Circuit Division hears cases from seven territories in Uganda. The

High Court has unlimited purview in all matters and an investigative mandate over

magistrates and other subordinate courts.[121] The Chief Magistrate's Court handles most

of the civil and criminal cases in Uganda. Twenty-six Chief Magistrates supervise three

levels of magistrate courts.[122] Local Council Courts are not courts in the typical sense;

rather, they settle minor civil matters.

Finally, there is a chain of military courts established under the Uganda People's

Defense Forces Act of 2005. The main connection between the military courts and the

regular citizen legal court framework emerges when there is an appeal from the Military

Appeals Court (the most superior court in the military framework) to the Supreme Court,

where a capital punishment or life sentence has been imposed.[123]

Article 128 (1-2) of the Uganda constitution mandates the independence of the

Judiciary from the "control or direction of any person or authority."[124] However, this

constitutional rule is not taken seriously by the current ruling regime of President Yoweri

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[120] "Judicial Independence Undermined: A Report on Uganda," (London: International Bar Association, Human Rights Institute, 2007): 14.

[121] "Judicial Independence Undermined," 14.

[122] "Judicial Independence Undermined," 14-15.

[123] "Judicial Independence Undermined," 15.

[124] Government of Uganda, "The Constitution of the Republic of Uganda: The Judiciary," Article 128, 1995: 91-92. Available from <http://www.statehouse.go.ug/government/constitution>. Retrieved July 7, 2016.

Kagatu Museveni, who has been in office for more than 30 years, developing a quasi-authoritarian government. During this time there has been:

- resistance to court requests

- direct impedance of Judiciary obligations

- repeated backlash against judges and court decisions

- allegations that some Judiciary individuals were compelled to conspire with the police against political opposition to the regime

- a lack of Judiciary financing, resulting in fewer judges available to hear cases, which in turn has prompted a backlog of cases

- a failure to choose senior judges, a responsibility of the Executive branch, resulting in a lack of quorum to handle constitutional appeals

- politicization of the selection process for judges

- use of military courts to try civilians for ownership of illicit arms

- presence of alleged safe houses, where people are kept outside the legal system and are at risk of abuse.[125]

In March 2007, reports surfaced that government security forces had stormed the Kampala High Court in a bid to scare the Judiciary. This followed a similar event in November 2005. Both episodes were the subjects of extensive media coverage.[126] Both events refer to the trial of opposition leader Kizza Besigye, who ran for election in the presidential races of 2001 and 2006. On 14 November 2005, Besigye and 22 suspected renegades to whom he was purportedly connected were arrested and accused of treason

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[125] "Judicial Independence Undermined," 7.

[126] "Judicial Independence Undermined," 7.

and rape. On 16 November, when Judge Edmond Ssempa Lugayizi granted bail to

Besigye, individuals from the Joint Anti-Terrorist Team (JATT) surrounded the

Courthouse and attempted to re-arrest Besigye and his associates on new charges. A few

days later, Judge Lugayizi recused himself, saying that the military had obstructed his

ability to handle the case.[127]

Shortly thereafter, Besigye and his accused colleagues were charged with terrorist

offenses in a military court martial despite parallel procedures already in progress at the

civilian High Court. When Besigye was granted bail by the High Court later in November,

the prison where he was held declined to discharge him while the court martial

proceedings were ongoing. When the case was brought before Uganda's Constitutional

Court in January 2006, it was decided that the military trial of Besigye and his co-accused

defendants violated the constitution. President Museveni openly disparaged the

decision.[128] In February 2006, a second judge in the High Court recused himself, citing

allegations that he was politically one-sided. In the presidential elections later that month,

President Museveni won by 59 percent.[129]

Then followed an argument between the High Court and the military court as to

which venue should try Besigye and his co-accused. On 5 January 2007, court martial

proceedings went forward—with Besigye's name removed. The High Court reconfirmed

its prior decision on the unlawfulness of the court martial proceedings, and requested the

presence of the suspects, but the government declined and instead filed an appeal.

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[127] "Judicial Independence Undermined," 7.

[128] "Judicial Independence Undermined," 7.

[129] "Judicial Independence Undermined," 7.

On 1 March 2007 Besigye and the co-accused were granted bail yet again. However, in a move reminiscent of the early interference by JATT, armed men raged into the court chamber and attempted to push their way into the Registrar's office. The accused were then taken hostage and re-arrested on new charges.[130]

This incident illustrates the excessive influence of the Uganda government, but also shows that the Judiciary is willing to resist that influence.

Rwanda

Rwanda is different from Uganda in that it has soft government influence over the Judiciary, but the Judiciary is not resistant or protective of its independence. Article 140 of the Constitution of Rwanda of 2003 provides institutional autonomy for the Judiciary, which is autonomous and deliberately separate from the Legislative and Executive. The Judicial branch enjoys financial and regulatory autonomy.[131] Judicial rulings are binding on all concerned parties, whether they are public authorities or common citizens, and cannot be challenged, with the exception of techniques dictated by law.[132]

The Rwandan Constitution created the Superior Council of the Judiciary, which is responsible for the appointment, advancement, and discipline of judicial officials. The Superior Council is led by the Chief Justice and ruled by judges from all court levels. Only 4 of 32 individuals are named from outside the Judiciary: the President of the

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[130] "Judicial Independence Undermined," 7.

[131] S. Rugege, "Judicial Independence in Rwanda," *Global Business and Development Law Journal*, 19 (2006): 416.

[132] Rugege, "Judicial Independence in Rwanda." 416.

National Human Rights Commission, the Ombudsman, and two Deans of Law chosen by legal sources.

The Supreme Council is perceived to be free and independent. However, the reality is it does not adequately represent greater Ugandan society. Neither the Parliament nor the Bar Association are constitutionally appointed. It has been contended that there is some likelihood that judges appoint each other and are not adequately objective in matters influencing themselves and their peers.[133] However, Article 142 ensures the individual freedom of judges. It requires fair-mindedness and gives them security of tenure, their terms and conditions of service. Judges have lifetime tenure with no suspension or transfer even for reasons for advancement, early retirement, or expulsion from office. If there are allegations of undignified conduct or incompetence, the Chief Justice and Deputy Chief Justice may only be expelled from office by a petition of three-fifths of either the Chamber of Representatives or Senate and a two-thirds majority vote of each Chamber.[134] Clearly, these judges enjoy extensive job security. The Law on the Status of Judges and Other Court Personnel allows for their sacking only because of genuine poor behavior, ineptitude, or an inability to perform legal obligations for reasons other than disease.[135]

The Constitution discusses the appointment of the Chief Justice, Deputy Chief Justice, and the judges of the Supreme Court. Despite the fact that judges of the Supreme Court have a lifetime appointment (subject to retirement age), in fact the Chief Justice

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[133] Rugege, "Judicial Independence in Rwanda," 417-418.

[134] Rugege, "Judicial Independence in Rwanda," 417.

[135] Rugege, "Judicial Independence in Rwanda," 417.

and the Deputy Chief Justice are selected for a non-renewable term of eight years. The President appoints them after consulting with his/her cabinet, the Superior Council of the Judiciary, and a vote by the Senate. The Superior Council of the Judiciary names judges for all courts after a competitive process through tests and interviews handled by the Superior Council.[136] The Executive branch has no part in judges' appointments, which is an essential marker of autonomy. For the administration of the Judiciary and judges of the Supreme Court, it is reasonable that participation by the Executive arm and the Senate ought to be required, as the Supreme Court sets the course and strategy of the Judiciary.[137]

The post-genocide era has brought dramatic changes, particularly for the Judiciary. The 2003 Constitution introduced a framework that gives tremendous autonomy to the Judiciary, far exceeding other partner-states in the region. However, there remain critical impediments to judicial independence, especially in the area of ensuring human rights. Moreover, changes in the administration of justice have not lessened the influence of the political framework, which means the Judiciary remains largely subordinate to the Executive and to elites who enjoy both financial and factional political power.[138]

The following are critical impediments to judicial independence in Rwanda:

- Limited administrative independence:

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[136] Rugege, "Judicial Independence in Rwanda," 417.

[137] Rugege, "Judicial Independence in Rwanda," 417.

[138] Human Rights Watch, "Law and Reality: Progress of Judicial Reform in Rwanda, Independence of the Judiciary" (New York: Human Rights Watch, 2008): 44.

o Executive makes appointments without the endorsement and recommendation of the Supreme Council.[139]

o Appointments of judges, required by law to be based on merit, are influenced by political factors.[140]

o Ethnicity and connection(s) with Rwanda Patriotic Front (RPF) (the ruling party in Rwanda) are considered when choosing judges.[141]

o Numerous judges hold political RPF membership, despite the fact that the law forbids judges from holding political party membership.[142]

- Abuse of prosecutorial force:

o Considerations (financial and other) for individuals willing to cooperate with the government.

o Prosecutions for "divisionism" and "genocide ideology" are especially subject to political impact as a result of hazy interpretations of laws disallowing these acts.[143]

o Cases can be prosecuted in *Gacaca* courts,[144] where the accused has no right to counsel. Amended legislation expanded the force of *Gacaca* courts.

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[139] Human Rights Watch, "Law and Reality," 45.

[140] Human Rights Watch, "Law and Reality," 45.

[141] Human Rights Watch, "Law and Reality," 45-46.

[142] Human Rights Watch, "Law and Reality," 46.

[143] Human Rights Watch, "Law and Reality," 46-47.

[144] *Gacaca* (loosely translated as "justice amongst the grass") courts are a system of local Rwandan justice adapted in 2001 following the 1994 Rwandan genocides. Rwanda implemented the *gacaca* court system focused on community rebuilding and placing judicial decisions in the hands of trusted citizens. However, the system has come under criticism due to dangers to survivors, with some being targeted for giving evidence in court. The Rwandan government maintains that the *gacaca* courts are successful.

- o Distortion of evidence, distorting witness statements, and substitution of charges.

  - o Courts used weapons to cripple people perceived as a threat to RPF.[145]

- Direct executive and elite intervention on cases:

  - o On controversial cases where there's scrutiny and it's difficult to bribe, judges have instead been directed on expected outcomes from the Executive and elite parties with ties to the Executive (Human Rights Interview, 2007; as cited in Law and Reality, 2008, p. 52).[146]

- Absence of respect for judicial requests:

  - o Cases of illegal detention of acquitted persons and disobedience to court requests by government agents.[147]

Rwanda demonstrates an exceptionally high level of government influence through arrangements, appointments, and other tactics, as compared to Tanzania and Kenya. Unlike Uganda, however, it shows no signs of excessive authoritative government influence over the Judiciary.

Burundi

The worst-case scenario in the region is Burundi. Article 209 of the 2005 Constitution states that the Judiciary is independent of the Legislative and Executive branches. In carrying out his capacities, a judge is subject solely to the Constitution and

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[145] Human Rights Watch, "Law and Reality," 47-52.

[146] Human Rights Watch, "Law and Reality," 52.

[147] Human Rights Watch, "Law and Reality," 67.

the law. It also states that the President and Head of State enforces the autonomy of the

Magistrature. The Superior Council of the Magistrature helps the President with this

mission.[148]

The vagueness of these statements regarding the role of the President is the source

of considerable erosion of Judiciary independence and in turn the over-reaching actions

of the Executive. The statements imply that the President has authority over the Judiciary

and is the guarantor of its autonomy. Interestingly, however, Articles 210 to 217

contradict Article 209 and give power to the Superior Council as the guarantor of the

Judiciary.[149] Thus, although it is clear that the Judiciary is to be an independent body, it is

imprecise on the practicality of exercising that independence.

Apart from these contradictions, the Judiciary is meant to be set up as a particular

and separate branch of government, theoretically ready to work autonomously from every

single other organ of the state. However, "judicial appointments are made by the

Executive (by the minister of justice, in counsel with the president)," and political weight

is progressively applied on the judicial framework. By and large, Burundi's Judiciary is

subservient to the "will of the Executive."

In a questionable treason case in 2006, the Supreme Court ruled against solid

government weight, yet succumbed to it in other very political cases (for example, the

removal of nonconformist parliamentarians from the lawmaking body as a consequence

of their conflict with the official partisan principal). Later signs that the Judiciary is

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[148] The Constitution of the Republic of Burundi, "Judicial Independence, Title VIII: Judicial Power, Article 209 (2005): 41. Available from: <https://www.constituteproject.org/constitution/Burundi_2005.pdf>. Retrieved July 18, 2016.

[149] Constitution of the Republic of Burundi, 42-43.

clearly politicized can be seen in the continuing court body of evidence against political opposition and the lopsided sentencing of many opposition party supporters in March 2014. Individuals from lower levels of the Judiciary are inadequately prepared, and the entire judicial framework is susceptible to the allurements of corruption.

Burundi's Judiciary is not independent and is quite inefficient. The following are critical impediments to judicial independence in Burundi.[150] Note that not a lot can be deduced about how the government maintains its influence over the Judiciary. These are some facts associated with the Burundi Judiciary, which illustrate the excesses.

- Excessive influence of the Executive

  o Over-reaching by the President and Ministry of Justice

- Lack of transparency

- Corruption and political bias

- Fear of investigating and prosecuting politically sensitive cases

- Reprisals for decisions made against government

  o Absence of measures to secure personal independence of judges

  o Judges are transferred randomly and/or delayed promotion as punishment

- Violation of the legal framework giving power to the Superior Council of the Magistrature.

  o Decisions are made outside that framework by the Executive, ignoring endorsements of Superior Council of the Magistrature

- Limited administrative independence

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[150] Bertelsmann-Stiftung Transformation Index (BTI), "Burundi Country Report," 2016. Available from: <https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/ BTI_2016_Burundi.pdf>. Retrieved 18 July 2016.

o Executive makes appointments without the endorsement and recommendation of the Supreme Council of the Magistrature.

- Abuse of prosecutorial force

  o Considerations for those individuals willing to cooperate with the government.

  o Distortion of evidence and "cooking up" witness statements and substitute charges.

  o Courts used as tool to harm persons seen as threat to ruling party and government.

- Absence of respect for judicial requests

  o Cases of illegal detention of acquitted persons and disobedience to court requests by government agents.

- Lack of financial independence

  o Ministry of Justice prepares and manages the budget.

Ranking the Judiciary in the EAC Countries

The Global Competitiveness Report of 2015-2016 assesses the influence of governments on the Judiciary. It also includes the influence of individuals and private enterprises.

Judicial Independence

Table 7(a) illustrates the rankings of EAC partner-states on the subject of judicial independence. Rwanda ranks 26 globally and number 1 among EAC partner-states, while Burundi ranks at 139 globally and is number 5.

Table 7(a). Influence of Government on the Judiciary (GCR)

Country	Score Value*	Global Rank	EAC Rank
Rwanda	5.2	26	1
Kenya	4.1	61	2
Tanzania	3.4	89	3
Uganda	3.4	91	4
Burundi	1.6	139	5

* Note: score value: 1 = not independent at all; 7 = entirely independent
Source: Global Competitiveness Report (2015-2016), Section 1.06.

The rankings in Table 7(a) differ from the findings of my research. My rankings are shown in Table 7(b), and place Kenya as number one among the five partner states with moderate government influence, followed by Tanzania, Rwanda, Uganda, and Burundi.

Table 7(b): Influence of Government on the Judiciary (thesis findings)

Country	Level of Government Influence	Rank
Kenya	Moderate	1
Tanzania	Substantial	2
Rwanda	More than moderate/substantial but far from extreme	3
Uganda	More than moderate/substantial and closer to extreme	4
Burundi	Extreme	5

Source: thesis author

One explanation for the differences between the GCR report and my findings is that the GCR measures more than just the influence of governments on the Judiciary; it also includes the influence of individuals and private enterprises. Thus there were two

additional independent variables—individuals and private enterprises—and they had an added influence on the dependent variable, the Judiciary.

Corruption

Corruption is the primary path through which individuals and private enterprises influence the Judiciary, so level of corruption is a pivotal indicator. In Rwanda, the issue is the influence of the Executive over the Judiciary, whereas in Kenya the issue that undermines the independence of the Judiciary is corruption. The 2010 constitution of Kenya squashed the influence of the Executive over the Judiciary. Like Kenya, Tanzania is affected by corruption if the influence of individuals and private enterprises is also included. Unlike Kenya, Tanzania is also affected by government influence on the Judiciary. This combination ranks Tanzania below Kenya in the GCR findings shown in Table 7(a). Thus, the GCR rankings directly support my own research findings regarding measures for Uganda and Burundi, and when considering only government influence over the Judiciary.

Corruption in the region, based on the 2015 Transparency International Corruption Perception Index, is shown in Table 8. It shows that Rwanda ranks number one as the least corrupt country among partner-states, while Burundi is the most corrupt.

Table 8: Corruption in the Judiciary (TICP Index)

Country	Score Value	Global Rank	EAC Rank
Rwanda	54	44/168	1
Tanzania	30	117/168	2
Uganda	25	139/168	3
Kenya	25	139/168	3
Burundi	21	150/168	4

* Note: score value: higher number = less corrupt ; 0 = extremely corrupt
Source: Transparency International Corruption Perception Index, 2015.

Table 9, based on the 2015 WJP Rule of Law Index, covers only three of the EAC

partner-states.

Table 9. Corruption in the Judiciary (WJP Rule of Law Index)

Country	Score Value*	Global Rank	Corruption in Judiciary**
Tanzania	0.47	72/102	0.33
Kenya	0.45	95/102	0.36
Uganda	0.41	84/102	0.39

Notes:
*   0.0 = (lowest); 1.0 = (highest)
**   0.0 = (lowest); 1.0 = (highest)
Source: WJP Rule of Law Index, 2015

Since the WJP Rule of Law Index 2015 only measured Tanzania, Kenya, and

Uganda, no information is available to rank Rwanda and Burundi. However, based on my

research data and findings, I deduced that Rwanda ranks number 1 and Burundi number 5.

This puts Tanzania at 2, Kenya at 3, and Uganda at 4 (as shown in the table) when measuring corruption in the Judiciary.

Overall Good Governance

Taking into account all these information sources, I believe my findings on the effects of government influence on Judiciary independence are reliable and valid. My research excluded the influence of individuals and private enterprises on the Judiciary, which therefore excluded corruption as an indicator; I focused solely on the influence of the government on the Judiciary.

Fear of disparities in governance is valid when considering government influence on the Judiciary. My research shows that a correlation exists between independence of the Judiciary and good governance. The 2015 Ibrahim Index of African Governance, which ranks overall governance performance of all 54 countries in Africa, provides the rankings shown in Table 10. Note that these are similar to those shown in the GCR rankings (refer back to Table 7(a)).

Table 10: Overall Good Governance Performance

Country	Score Value /100	Africa Rank / 54	EAC Rank
Rwanda	60.7	11	1
Kenya	58.8	14	2
Tanzania	56.7	18	3
Uganda	54.6	19	4
Burundi	45.6	38	5

Source: Ibrahim Index of African Governance 2015.

Article 9 of the Treaty for the Establishment of the East African Community provides for the East African Court of Justice (EACJ) at the regional level. The EACJ is the primary body that guarantees adherence to the law and consistency with the EAC Treaty. Its independence from national authorities is key to good governance at the regional level. Thus, in detailing the standards for litigation in the EACJ, due respect was paid to the rules of the Treaty, the worldwide character of the Court itself, the need to make the tenets easy to use, while also maintaining a strategic distance from basic issues confronting cases in national courts.[151]

One aspect of the Court's purview is to render preliminary decisions on cases sent to it by national courts. This is one of the doors through which national courts, at all levels, are allowed to communicate with the EACJ. Otherwise, except when confronted with a case requiring the application or translation of the Treaty or an EAC law, the national courts are required to send all other matters to the EACJ for preliminary decisions. This rule minimizes the influence of national governments on the greater EAC judicial system. In some instances, cases were decided in favor of national governments, and citizens appealed the decision to the higher EACJ.[152]

Effects of Transparency and Accountability of Judiciary on Good Governance

My research found that the partner-states, by agreement in protocols of good governance, are obligated to increase the level of transparency and accountability of

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[151] J. E. Ruhangisa, "The East Africa Court of Justice: Ten Years of Operation—Achievements and Challenges." Paper presented at the Sensitization Workshop on the Role of the EACJ in the EAC Integration, Kampala, Uganda, November 1–2, 2011, 2.

[152] Ruhangisa, "The East Africa Court of Justice," 20.

Judiciary so as to make positive contributions to good governance. This is accomplished by developing accountability instruments for judicial officers that will assist them in the execution of their obligations. Furthermore, such instruments will highlight transparency activities that support the operational and administrative segments of the Judiciary.

In assessing the level of transparency and accountability of the Judiciary for each partner-state, my research found that all partner-states are grappling with corruption as the most serious problem of their Judiciary. Table 11 shows my estimates of the levels of transparency and accountability of the Judiciary for each partner-state. Note, also, that these estimates correlate with the findings given by the Transparency Index, as shown earlier in Table 8.

Table 11. Level of Transparency and Accountability of the Judiciary

Country	Level of Transparency and Accountability	EAC Rank
Rwanda	Moderate lack of transparency and accountability	1
Tanzania	Substantial lack of transparency and accountability	2
Kenya	More than Substantial lack of transparency and accountability, but far from Extreme	3
Uganda	More than Substantial lack of transparency and accountability, closer to Extreme	4
Burundi	Extreme lack of transparency and accountability	5

Source: thesis author

The effects on good governance when considering levels of transparency and accountability create apprehension about moving forward with regional integration. Thus, the partner-states have taken measures to mitigate this potential problem at the national level in order to prevent spillover to the regional level, and to support efforts toward good

governance. The partner-states have moved to initiate and institutionalize transparency, accountability, and participatory democracy.

All things considered, instances of corruption in four of the five partner-states is lessening. Burundi always the outlier, is currently facing political uncertainty so progress is slow. That said, the government has initiated a Special Anti-Corruption Brigade. The position of the Auditor General was created in 2007 to guarantee the administration and accountability of public spending. Thus Burundi remains a state to watch carefully and to be concerned about its position and role in the EAC as far as good governance is concerned.

Capacity of EAC Institutions to Safeguard Regulatory Quality

The EAC framework is more of a "negotiating forum for treaties than a dynamic regulatory framework," and it depends on numerous institutions working through negotiations and consensus regardless of partner association.[153] Multiple levels of political action are required for adoption of motions and protocols. Protocols are political archives that require endorsement, while annexes are living controls that require successive redesign and changes. These procedures appear to be immoderate, tedious, defenseless against extraordinary interests, and unresponsive to the changing needs of the business sector.[154] Thus, the current capacity of EAC institutions to safeguard regulatory quality is weak to non-existent, which understandably creates considerable worry because at the national level, partner-states exhibit different capacities for safeguarding regulatory

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[153] "Regulatory Capacity Review: East African Community," East African Community Investment Climate Program (Washington, DC: World Bank, 2011): 24.

[154] "Regulatory Capacity Review," 24.

quality. There is a need to develop capacities at the regional level that are more efficient in order to: protect regional interests against national and special interests; increase the level of expert inputs into regulation; expand the proficiency and lessen the expense of the framework; increase the responsiveness of the framework to changing needs; and increase transparency and civil society involvement in policy.[155]

Path Forward From Political, Legal, and Governance FCCs

I have shown that political, legal, and governance problems create fears and concerns that influence the policies and motivations of EAC partner-states and ultimately affect the integration process. Confusion within the integration process generates even more political, legal, and governance FCCs. The reverse is also true: political, legal, and governance FCCs influence the integration process, which then influences the policies and motivations of EAC partner-states, thereby generating FCCs that reinforce existing political, legal, and governance issues. In order to secure the federation, the partner-states have to thoroughly resolve the prevailing political, legal, and governance FCCs and facilitate resolution of its challenges.

Currently, the EAC is pursuing an accelerated path model. Given the findings of this research, it would be reasonable to pursue a more cautious approach. Successful integration in the EAC is possible, and simply stalling or halting regional integration to avoid the associated risks or costs to the partner-states, is not the answer. Such actions would unravel all the advancements that have been achieved to date in the integration process.

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[155] "Regulatory Capacity Review," 24.

Neither is accelerating regional integration to reap the expected benefits as soon as possible. That would mean taking a reckless path toward political federation and could lead to serious consequences including secession of one or more partner-states. Such an occurrence would be detrimental to the socioeconomic fabric of the community.

What follows is a series of recommendations: (1) those based on the report of the team of experts, and (2) those emerging from my research data and findings. Also included are examples of how the EAC partner-states might benefit by these recommendations.

Recommendations from the Team of Experts Report

In order to mitigate fears regarding loss of sovereignty and lack of clarity of the model, the partner-states should implement the recommendations offered in the report of the team of experts, including:

- The people of East Africa should remember that the process of federation includes surrendering some influence, but the advantages that accrue can be highlighted.

- The EAC should execute the phases of integration prior to political federation in order to demonstrate the advantages of building trust in the organization.

- As a transitional measure before establishing the political federation, and to encourage the ongoing surrender of influence at the regional level, some additional powers could to be given to the Secretariat.

- Partner-states should be prepared to surrender their global status as they keep in mind the end goal of integrating into the federation.

- Negotiate an agreement to found the East African Political Federation (EAPF) based on solid standards.

With regard to mitigating FCCs about disparities in governance, the partner-states should execute recommendations offered by the team of experts, including;

- Partner-states should facilitate the completion of a "protocol on good governance" and build a solid system for implementation.

- Partner-states should design their respective constitutions to guarantee presidential term limits, and harmonize electoral cycles and electoral administrative procedures.

- Empower the East African Court of Justice to be a solid regional establishment that ensures consistency among all agreed territorial principles of good governance, including extending the Court's purview to cover human rights.

- Create entities responsible for observing and assessing regional components to ensure that they comply with issues of constitutionalism and good governance, for instance, an EAC peer survey system.[156]

Recommendations Emerging from This Thesis Research

Partner-states need to find further common issues within which they can extend cooperation and coordination and deepen integration in areas they have heretofore neglected based on a fear of intensifying the fault lines that exist between partners. However, in doing this, they should be attentive to the effect of framework and the

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[156] Barumpozako, "Report by the Team of Experts," 8-9.

performance of sectors and institutions on cooperation and coordination. Below are recommendations based on my research.

Cooperation and Coordination

- Improve structures, systems, and capacities of the EAC Secretariat to allow a more active body capable of enforcing and overseeing cooperation and coordination in the region.

- Formulate a high-quality administrative framework and an East African framework for resolving performance issues among sectors and institutions on issues of cooperation and coordination.

- Strengthen budget management and stop reckless spending that creates a constant situation of insufficient funds to execute programs and policies.

- Become innovative and strengthen the ability to mobilize resources so that execution of regional motivation is strengthened at the national and provincial levels while sustaining the strength of other ongoing initiatives.

- Resolve difficulties in the EAC Parliament by strengthening institutional structures linking the provincial and local parliaments, including eliminate limitations generated as an effect of extended command of the body; gain the capability to manage funds with strong administrative leadership; improve availability of resources, especially human resources, to carry out the duties of the Assembly; strengthen oversight capacity and information administration resulting from high turnover of members; eliminate contrasts in Parliamentary frameworks among the

partner-states, especially with the inclusion of Burundi and Rwanda, which follow French parliamentary procedures.

Independence of the Judiciary

When considering issues that affect the independence and influence of the Judiciary, I recommend the following:

- Eliminate statutory difficulties in the East African Court of Justice that restrict its purview and constrain its ability to function on an impromptu basis. The constrained jurisdiction keeps it from being helpful to the full community.

- Strengthen and encourage institutions to move forward with their approaches to legal and regulatory reforms. For example, slow procedure for creating and embracing conflict prevention, management, and resolution procedures; slow execution of Small Arms and Light Weapons (SALW) control programs; slow execution of joint measures for other previously agreed strategies, particularly cross-sectoral development strategies; discard wrong measures for battling terrorism; and harmonize internally displaced persons and refugee administration strategies;

- Harmonize laws, approaches, directions, strategies and benchmarks; strengthen statutory counsel and services to the Community; improve feeble laws, settlement instruments and imperatives for EAC to authorize Community commitments and choices; improvement in the backing for EAC's oversight, management, and ICT frameworks; remove powerless laws that hinder the advance of inclusion.

Disparities in the Judiciary

Disparities in the Judicial arm of each partner-state need to be addressed. Each partner shows markedly contrasting levels of judicial independence, and varying levels of transparency and accountability. This means that the EAC organization demonstrates weak support of the partner-states, therefore slowing the integration process of good governance, which inevitably impacts the political federation being created. If a strong political federation is to take shape, the partner-states will have to resolve the prevailing disparities and unite behind a process of strengthening the EAC by reducing a little of each partner-state's influence. Without that concession, there is the risk of possible secession at the federation level. I recommend that partner-states should undertake the following:

- Set up legal frameworks that must be followed when evaluating, clarifying, and using factors that provide strong autonomous grounding of the Judiciaries.

- Establish independent mechanisms to procure and manage finances in the Judiciary branch without allowing heavy influence by the Executive and Legislative branches

- Avoid indirect dictation over the Judiciary budget by granting exceptional independence to the Judiciary.

- Limit political appointees in the Judiciary. This refers specifically to Tanzania where political appointees (regional commissioners, district commissioners) are given broad roles to chair the regional and district Judicial Officers Ethics Committees.

- Limit the politicizing of the Judiciary's role in selecting judges or in high-profile cases.

- Limit abuse of prosecutorial force, and/or direct executive intervention in cases.

- Increase overall discipline in the Judiciaries in order to improve the rule of law.

Transparency and Accountability of the Judiciary

The level of transparency and accountability of the Judiciary has a measurable effect on good governance. I recommend that partner-states should do the following:

- Persistently increase the level of transparency and accountability of the Judiciary as an obligation of good governance.

- Increase the institutionalization of mechanisms and strategies in a coordinated effort to combat corruption as the most prolific ailment in the EAC that retards initiatives to achieve good governance.

- Consider Burundi as a special case, and afford it special treatment coupled with extra vigilance.

Health and Well Being

With regard to issues of health and well-being among the citizens of the EAC partners, I recommend the following:

- Coordinate interventions to combat regional transmittable and non-transmittable diseases

- Increase coordination and harmonization of health approaches and procedures for the region

- Enforce compliance of HIV&AIDS commitments

- Improve training on transmittable diseases

- Align health matters into regional and national arrangements.

Safeguarding Regulatory Quality

When considering the capacity of the EAC institutions to safeguard regulatory quality, I recommend that the partner-states should develop more efficient capacities at the regional level, including:

- Protect regional interests against national and special interests

- Increase the level of expert inputs into regulation

- Expand the proficiency and lessen the expense of the framework

- Increase the responsiveness of the framework to changing needs

- Increase the transparency and civil society involvement in policy.

Chapter VI

Research Conclusions

This chapter presents conclusions stemming from my research. It highlights the overall thesis objectives, core research questions, followed by a discussion of empirical findings, theoretical implications, policy implication, and recommendations for future research. It concludes with suggestions for future research.

Research Objectives

This research sought to assess the effects of selected political, legal, and governance challenges as they affect EAC policy on regional integration. My research proposition was that underlying political, legal, and governance FCCs would affect regional integration policy in the following ways:

- accelerating regional integration to reap expected benefits as soon as possible.

- staying the course on regional integration to reduce costs and resolve challenges.

- stalling or halting regional integration so as to avoid its associated risks and/or costs to the partners in the process.

As part of this process, I was open to recommending against integration if the obstacles were insurmountable for a successful integration process to occur.

The central questions to be answered by this investigation were: (1) how might political, legal, and governance challenges prevent the successful integration process of the EAC, and (2) how can partner-states overcome these challenges and chart a way

forward in the integration process? As part of the research my investigation answered other core questions:

- What is the path and strategic plan for integrating the EAC?

- How well-prepared institutionally are the partner-states?

- Are there processes for resolving these challenges? If so, what are they?

- What can the parties do to have a smoother integrating process?

The East African countries are working toward merging into an EAC federation. In 2010, the EAC launched its own common market for goods, labor, and capital in the region, with the goal of a common currency by 2012, and full political federation in 2015. This was anticipated to occur as an outcome of signing the protocol establishing the EAC Customs Union in March 2004 in Arusha, Tanzania, and the application of relevant instruments by each partner-state. Subsequent hindrances to this process mean that these regional integration targets have been difficult to meet. The adjusted and current projected date for the monetary union goal is now 2024, pushing the ultimate goal of a political federation far into the future.

This research determined that political, legal, and governance issues create fears and concerns that influence the policies and motivations of partner-states, ultimately affecting the entire integration process. In addition, confusion within the integration process generates even further political, legal, and governance concerns. The opposite effect can also occur in this relationship: political, legal, and governance issues influence the integration process, which then influences the policies and motivations of partner-states, generating fears and concerns that solidify existing political, legal, and governance issues.

Empirical Findings

The main empirical findings of this research can be found in a series of questions and answers. These are provided in the following responses.

Question 1. What is the path and strategic plan for the integration of the EAC and how prepared institutionally are the partner-states?

The research revealed that the partner-states' overarching motivation for integration is increased economic development by attracting additional foreign direct investment while also growing intra-regional and extra-regional trade. The bloc aims to achieve integration in incremental steps buttressed by key principles of the community as outlined in the EAC treaty. As part of the treaty, the Free Trade Area and Customs Union were implemented simultaneously.[157] This is a major difference from the theoretical path typically found in the regional integration literature.

My research found that the EAC path and strategic plan has made progress, albeit with a few problems that resulted in recalibrating the plan. Chief among the problems is that partner-states seem to be unprepared institutionally to deal with disparities. They also exhibit a lack of motivation and some uncertainty about the integration process itself.

Question 2. Are there mitigating processes to resolve these challenges, and if so, what are they?

Various processes were identified to resolve the challenges to good governance, such as where a program had been initiated that depended on the need to develop and

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[157] Mutai, "Regional Trade Integration Strategies," 83.

consolidate democracy; standards of law; and an appreciation for human rights and essential opportunities. In the peace and security segment, there was a reframing of the coordination scheme, and an initiative constituted for conflict prevention, management, and resolution, as well as peace-building categories. In the foreign policy coordination segment, strides were made toward merging several foreign and security approaches. The partner-states resolved to work together in diplomatic and consular services, economic and social exercises, multilateral diplomacy, liaison, and data trade during the founding of the Community.[158]

Question 3. What Can the Parties Do to Achieve a Smoother Integration Process?

My analysis found that in order to secure a political federation, the partner-states need to resolve the prevailing political, legal, and governance FCCs, and do this at a slow but manageable pace. It is imperative to remain on course toward regional integration so as to reduce costs and facilitate resolution of challenges. This would enable a resolution of the challenges while providing to a favorable path.

Theoretical Implications

My findings in this research support the theory that regional integration is a complicated and messy process that requires a careful strategy and a consistent path. These elements support the hypothesis that regional integration requires a steady and positive overflow impact. This means that a slow and steady joining between states in one segment of the integration process will build a more grounded, motivating force for

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[158] EAC, "Achievements and Challenges," 34.

combination in different parts, keeping in mind the end goal: to take advantages of reconciliation in the area where the process initially began.

Policy Implications

This study produced empirical findings that show how political, legal, and governance FCCs can complicate the EAC integration process. The theoretical contentions for this justification suggest the need for a policy review.

Based on the empirical findings of this study, policymakers in the region can identify and revise strategies for resolving these challenges at a slower but manageable pace that specifically targets the effects of the selected political, legal, and governance FCCs.

Recommendations For Future Research

The effects of FCCs on regional integration policy in the EAC is broad and multifaceted. To produce achievable approach techniques and targets, there is need for a broader and more contextual investigations. These could also include the effects on EAC regional integration policy of socio-cultural, economic FCCs and those that are cross-cutting.

Studies could be conducted on the effects of the following on regional policy:

- Economic FCCs
    - economic imbalances
    - labor and competitiveness
    - loss of land and disparities in land tenure systems

- o increased costs/sharing of benefits of integration

    o environment and sustainable exploitation of natural resources.[159]

- Socio-cultural FCCs

    o loss of social cohesion and national identity

    o erosion of cultural and traditional norms and values

    o lack of identification documents

    o erosion of national affirmative action policies

    o disparities in partner-states social protection systems

    o spread of epidemics as result of free movement.[160]

- Cross-Cutting FCCs

    o recurrent challenges in the management of EAC integration

    o prerequisites for an East African Federation

    o principles for an East African Federation

    o reform of existing organs and institutions of the EAC

    o political leadership of the EAC integration process.[161]

Final Thoughts

Numerous studies have been conducted on aspects of the regional integration process in the EAC. What makes this study significant is that it identified the effects of selected political, legal, and governance challenges, and produced recommendations for

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[159] Barumpozako, "Report by the Team of Experts," vi.

[160] Barumpozako, "Report by the Team of Experts," vi.

[161] Barumpozako, "Report by the Team of Experts," vi.

mitigating those challenges during the EAC integration process. This research questioned the mode of operation within the process and the motives of the partners. I sought to validate or invalidate current progress while conducting an assessment of how the process could be done better. From all of this effort and data obtained, my research revealed that regional integration toward a political federation is possible, but only if the partner-states remain on track toward regional integration, while reducing costs and resolving the inevitable challenges.

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