

# THE EMERGING EAST AFRICAN FEDERATION AND ITS IMPLICATIONS FOR CIVIL SOCIETY, GOVERNANCE AND ACCOUNTABILITY, PARTICULARLY IN TANZANIA

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for a Breakfast Discussion convened by the Policy Forum

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## PRESENTATION OUTLINE

1.0	Introduction
2.0	Elements of the Federation
3.0	Civil Society Currently
4.0	Governance and Accountability Currently
5.0	The Way Forward

### 1.0 INTRODUCTION

I have been requested to speak about the (proposed) East African Federation, and its various implications for: -

- Civil Society
- Governance
- Accountability

In addition – as would be expected – I have been asked to place a special focus on Tanzania.

First, it is important to appreciate that the achievement of an East African Federation is envisaged and articulated in the **Treaty for the Establishment of the East African Community** (which I hereafter refer to as “the Treaty” or “the EACT”). Art. 5, on the Objectives of the Community, provides that: -

- 5 (2) (...) the Partner States undertake to establish among themselves and in accordance with the provisions of this Treaty, **a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation** in order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner States to the end that there shall be accelerated, harmonious and

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balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared.

I am happy to commence a discussion regarding how to get from here to the Federation, but for now, I just appreciate that, at the level of aspiration, the drafters and signatories to the EACT (and no doubt a significant section of East Africans) saw a Federation as the ultimate goal. In this discussion, I will attempt to analyze the EAC as it currently is and make projections and proposals for the immediate future, as we develop towards the proposed Federation.

Second, I would just like to appreciate – and confess – that attempting to comment about governance (within the larger society as well as within civil society) is somewhat tricky, since one tends to put forward their subjective views, which others may find inaccurate, inappropriate or even offensive. So I apologize in advance for that.

## **2.0 THE ELEMENTS OF THE (PROPOSED) FEDERATION**

### **2.1 THE (CURRENT) EAC SUPERSTRUCTURE**

Many times, public discourse on the EAC is denied value by adopting a very narrow vision of the EAC. Many people seem to equate the EAC with the Summit of Heads of State (in the few times in the year that it meets) or the EAC Secretary General and some of his<sup>2</sup> more prominent departments or officers. This also means that attempts at engaging with the EAC may be delayed, ineffective or even counter-productive since they are addressed to the wrong “place” within the increasingly complex superstructure.

The EACT envisages at least three kinds of “agencies”:-

1. **Organs** of the EAC (established by Art. 9 of the EACT and, potentially others that may be established by Protocols or amendments to the EACT)
2. **Surviving Institutions** of the EAC (which are institutions that survived the collapse of the old EAC and have been re-energized or re-examined in the new EAC)
3. (Other) **Institutions** of the EAC (established by Art. 9 of the EACT and, potentially others that may be established by Protocols or amendments to the EACT)<sup>3</sup>

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<sup>2</sup> I use this term deliberately (and pejoratively!) because, thus far, there has never been a woman member of the EAC Summit or Council of Ministers. Neither has there been a woman Speaker or Clerk of the Assembly, nor President nor Registrar of the Court, nor Secretary General, Deputy Secretary General nor Counsel to the Community.

I must, however, congratulate the Republic of Uganda, which provided us with the first woman Vice President, and the United Republic Tanzania which has provided us with the first women Foreign Affairs and Finance Ministers, amidst many other firsts!

<sup>3</sup> Art. 9(2) of the EACT specifically provides that:

- 9(2) The institutions of the Community shall be such **bodies, departments** and **services** as may be established by the Summit.  
*(Emphases mine!)*

The seven key organs of the EAC, established by the EACT<sup>4</sup> are: -

1. The **Summit** (of Heads of State or Government)
2. The **Council** (of Ministers of the Partner States responsible for regional co-operation; and such others as may be deputed by the respective governments)
3. The **Co-ordination Committee** (of Permanent Secretaries in the Ministries of the Partner States responsible for regional co-operation; and such others as may be deputed by the respective governments)
4. Such **Sectoral Committees** as are established by the Council, on the recommendation of the Co-ordination Committee.
5. The **East African Court of Justice**
6. The **East African Legislative Assembly**
7. The **Secretariat** of the Community (headed by the Secretary General, and with [currently two] Deputy Secretaries General, the Counsel to the Community and other offices established by the Council of Ministers<sup>5</sup>.)
  - *Such other organs as may be established by the Summit.*

The surviving institutions of the EAC<sup>6</sup> are: -

8. The East African Civil Aviation Academy, Soroti
9. The East African Development Bank<sup>7</sup>
10. The East African School of Librarianship
11. The Inter-University Council for East Africa
12. The Lake Victoria Fisheries Organization<sup>8</sup>

Some of the “new” institutions of the EAC include: -

13. The Directorate-General of Customs and Trade<sup>9</sup>
14. The Lake Victoria Basin Commission<sup>10</sup>

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<sup>4</sup> Art. 9(1), EACT

<sup>5</sup> Art. 66, EACT

Currently there are TWO Deputy Secretaries General: for Projects and Programmes, and Finance and Administration, respectively. However, the EAC Summit, at its Dar es Salaam, May 2005 meeting, established the office of a THIRD Deputy Secretary General, exclusively charged with Fast Tracking the East African Federation. To the best of my knowledge, this position is yet to be filled.

<sup>6</sup> Arts. 9(3) and 1, EACT

<sup>7</sup> Established by the **Treaty Amending and Re-enacting the Charter of the East African Development Bank, 1980**

<sup>8</sup> Established by the **Convention (Final Act) for the Establishment of the Lake Victoria Fisheries Organization, 1994**

<sup>9</sup> Established by the **Protocol on the Establishment of the East African Community Customs Union, 2004**. It is headed by a Director-General of Customs and Trade, deputized by Directors of Customs and of Trade, respectively, and has its seat in Arusha, Tanzania.

<sup>10</sup> Established by the **Protocol for Sustainable Development of Lake Victoria Basin**. It is (to be) headed by an Executive Secretary (who was recently appointed). In May 2005, the Summit decided that its seat shall be in Kisumu, Kenya. The Protocol stipulates that it shall encompass, under its umbrella, the existing **Lake Victoria Fisheries Organization (LVFO)** and the **Lake Victoria Environmental Management Programme (LVEMP)**, which is currently in its second phase.

## 2.2 THE STAGES TOWARDS THE (PROPOSED) EAST AFRICAN FEDERATION

The elements, or stages towards the Federation, as provided in the EACT are: -

No	Stage	Comments
1	Commencement of the East African Community (EAC)	Treaty signed 30 Nov 1999; came into force July 2000
2	Commencement of the EAC Customs Union	Protocol signed March 2004; ratified Dec 2004; came into force on 1 Jan 2005
3	Commencement of the EAC Common Market	Precise dates yet to be agreed; each stage will require a Protocol
4	Commencement of the EAC Monetary Union	
5	Commencement of the EA Federation	Precise dates yet to be agreed; <i>but the EAC Fast Tracking Committee proposed 2010 as the Commencement date</i>

The EACT thus envisaged that the EAC will go through the five stages tabulated above, to arrive at the Federation.

### The EAC Fast Tracking Committee

On 28<sup>th</sup> August 2004, the EAC Heads of State, at a Special Summit held in Nairobi, Kenya, established a Committee **“to examine ways and means to expedite and compress the process of regional integration so that the ultimate goal of political federation is achieved through a fast track mechanism.”**<sup>11</sup> The pervading perception was that the Summit was concerned that regional integration was proceeding too slowly, and that East African citizens had not yet begun to reap tangible benefits from the EAC.

The “*EAC Fast Tracking Committee*”, as it was commonly referred to, consisted of: -

- Hon Amos Wako (Kenya) - Chairman of the Committee
- Prof. Haidari K. Amani (Tanzania) - Vice Chairman
- Dr Ezra Suruma (Uganda) - Secretary
  
- Ms Margaret Chemengich (Kenya) - Associate Member
- Prof. Sam Tulya-Muhika (Uganda) - Associate Member
- Mr. Mohamed Fakh Mohamed (Tanzania) - Associate Member

The Committee traversed East Africa and held consultations with and received memoranda, submissions and views from a broad diversity of East African individuals and institutions. They also held a number of brainstorming sessions with groups of experts and academics. Manifestly, the time and opportunity allowed to East Africans to interact with the

<sup>11</sup> Ref: The Communique released by the Summit on 28<sup>th</sup> August 2004. Downloaded from the EAC Web Site (<http://www.eac.int/>) on Mon 18 October 2004, 11.00 a.m.

Committee was short; perhaps due to the relatively short time that the Committee was given to collate views and ideas and report back to the Summit.

Ultimately, they presented a **“Report of the Committee on Fast Tracking East African Federation”** to the Heads of State, at their Ordinary Summit, held in Arusha, on 26<sup>th</sup> November 2004. The Report explored and proposed a number of scenarios, suggesting that the above five stages could be compressed within as short a time as possible.

Thereafter the Summit, echoing the views of myriad East Africans, declared that a strong Federation was only possible if the people of East Africa were comprehensively consulted and involved, and if they owned the Federation themselves, “through effective and informed participation from the very beginning of the process up to the end.”<sup>12</sup> They noted, however, that the principles of acceleration and federation are “warmly welcomed by the people of East Africa who need it sooner rather than later.”<sup>13</sup>

### **Seek ye first the political kingdom?**

This concession by the Summit seemed to lay to rest – at least for the moment – the campaign by a section of East Africans, that we should immediately create a political union, and then resolve the other outstanding bottlenecks and issues.<sup>14</sup> In my humble view, this option, however enticing it may seem, carries with it the promise of many agonies. This is because we would sweep under the carpet many “soft” issues that would continue popping out at the most inconvenient junctures. The several controversies that accompanied the roll-out of the EAC Customs Union are sufficiently illustrative of the perils of following this path.

### **Sequential Development**

Several East African individuals and institutions<sup>15</sup> favoured a more gradual, negotiated process of intensifying regional integration towards ultimate political union. In the context of the EACT, this may mean expediting the five stages as much as is practicably and prudently possible. It may also mean running two or more stages concurrently. Thus however long a stage takes, we only move to the next stage after we have solidified gains of the previous stage. This does not, however, necessarily mean conservatism or slow-paced growth.

### **Popular Participation**

But the most salient point is that, for any stage of regional integration to be successful and sustainable, it must incorporate full ownership and participation by the people, especially through their institutions of choice, be they political parties, trade unions, membership organizations, NGOs CBOs, etc. And ultimately the decision of when and how to federate must be put to East Africans in a referendum, possibly to endorse (or reject) a widely negotiated draft Federal Constitution.

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<sup>12</sup> In the Report “Summit reaffirms vision of Federation: Will of the People of East Africa to prevail”, in “The Community – Magazine of the East African Community”, Issue 3, June 2005, page 1.

<sup>13</sup> *ibid.*

<sup>14</sup> This view was popular with, among others, the members of the East African Legislative Assembly.

<sup>15</sup> Including, among others, the East Africa Law Society.

### **3.0 CIVIL SOCIETY IN EAST AFRICA CURRENTLY**

Civil Society has been undergoing a rebirth within East Africa – and in most of the developing world – in the wake of the fall of the Berlin wall. In the 1960s, the post-independent governments in the three EAC countries moved fast to diminish the dynamism of civil society, which, ironically, had been instrumental in the attainment of independence from the colonial powers. This campaign of attrition was carried out either through co-optation, bludgeoning into submission or outright banning of existing trade unions, co-operatives, peoples’ movements and other citizens’ associations. The governments also banned or sidelined (opposition) political parties, designing virtual top-down, one-party states. In East Africa therefore, it is only from around 1990 that, gradually, civil society was allowed to operate independently. This has led to the proliferation of a hitherto insignificant genre of institutions, known as Non-Governmental Organizations (NGOs) and Community-Based Organizations (CBOs), a large percentage of whom are funded from external sources. Even then, this growth has been accompanied with significant reluctance and occasional recidivism (into the tactics of the past!) by the governments.

As such, civil society is – by and large – still quite young in the region, and has quite some “growing up” of its own to do. Government is also not static, and this “maturity” of civil society has to be concurrent with the developments within the Partner States, and, secondarily, at higher, intergovernmental levels. These higher levels include regional economic communities (RECs), e.g. the EAC, the Southern African Development Community (SADC), the Intergovernmental Authority on Development (IGAD) and the Common Market for Eastern and Southern Africa (COMESA). Even higher up, these CSO developments must be alive to developments at the level of the African Union (and its various organs, agencies and programmes), and the United Nations (and other crucial vehicles within such as the World Trade Organization and the *Bretton Woods* Institutions.)

Within each of the EAC Partner States, there have been admirable pioneers and islands of excellence within the broad world of civil society: organizations – however formed, registered or operating – that have mastered the arts of good internal (corporate) governance as well as effective and efficient delivery of their respective visions, missions, objectives and programmes to their respective stakeholders<sup>16</sup>. These organizations have devised how to partner with, engage, intervene or interact with (central or local) government and other policy-makers<sup>17</sup>.

There are many other organizations that are still at various stages of metamorphosis, aspiring to reach the ideal level of effectiveness and efficiency. Some will make it; some may not.

With regard to the pursuit of regional integration, there have emerged a number of CSOs that have a permanent or part-time focus on the EAC. These include international, regional, national or sub-national (i.e. community-based) organizations. The EAC organs have also

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<sup>16</sup> Here I adopt a broad definition of “delivery”, incorporating both “service”, “advocacy” as well as “hybrid” organizations, which are continually emerging across the East African landscape.

<sup>17</sup> Here I make no preference between those organizations that choose to “constructively co-operate” with government and those that play “hard-ball” advocacy of the whistleblower type. In my humble view, both are necessary in a thriving democracy.

committed themselves to improving their capacity to increasingly consult, involve or otherwise work with civil society, as is demanded by the EACT. This is based on the realization that engagement with civil society has been insufficient in the past. The jury is still out on how effective the engagement between EAC and civil society has been or could be. Nevertheless, there are a number of civil society and private sector institutions that I personally know to be active, at the regional level. These include: -

- Association of Professional Societies in East Africa (APSEA)
- East African Business Council (EABC)
- East African Communities' Organization for Management of Lake Victoria Resources (ECOVIC)
- East African Constitutional Development Forum (*Kituo cha Katiba*)
- East African Human Rights Institute (EAHRI)
- East Africa Law Society (EALS)
- East African Magistrates and Judges Association (EAMJA)
- East African National Networks of Aids Service Organizations (EANNASO)
- East African Support Unit for NGOs (EASUN)
- Society for International Development – Office for East Africa (SID-EA)<sup>18</sup>

These organizations carry out research; publications; and training and dialogue activities for their members, stakeholders and/ or the public at large. They also engage in lobbying or advocacy with the national and regional governments (on issues germane to regional integration); and in networking: with each other, with other East Africans and, sometimes, with stakeholders or institutions further afield. However, these organizations still tend to work in isolation from each other. Few platforms or opportunities have been provided in which they can network, share information or collaborate.

### **Networking**

Granted, there have been attempts by a number of civil society players to revive the moribund Non-Governmental Organizations' Coalition for Eastern Africa (NGOCEA), which had been established a few years previously. These efforts are still on going. Meanwhile, a number of East African civil society institutions got together and formed the Regional Integration Civil Society Network for East Africa (RECINET), whose main objective is to try and create knowledge and collaboration networks amongst East African CSOs that are working on/ interested in regional integration.<sup>19</sup> The Network has

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<sup>18</sup> There could very well be many others that I do not personally know of. For instance, there exists an East African Sub-Regional Support Institute for the Advancement of Women (EASSI) and East African Trade Union Congress (EATUC), which I have not yet been able to interact with. Regrettably, this kind of information is not easily or readily available even within the EAC itself.

<sup>19</sup> RECINET appreciates that the diversity of civil society goes beyond NGOs and CBOs, which are/ were the primary target of NGOCEA.

held a meeting/ workshop with the East African Legislative Assembly<sup>20</sup>, and a number of other planning/ confidence-building/ programmatic activities<sup>21</sup>. But it is also yet to make its full impact felt in the region.

The emergence of a strong and vibrant regional civil society is vital, if we are to achieve our ambitious goals of a thriving East African Community that is economically prosperous, and in which constitutionalism, democracy and good governance, a just rule of law and an efficient and efficacious administration of justice are the norm; and in which the human rights of all peoples (especially social, economic, cultural and developmental rights) are recognized, observed, respected, protected and promoted.

To that end, emergent regional institutions – as well as national and sub-national institutions with a regional agenda – must ally with each other, if they are to have a positive impact on the unfolding new world. They need to share information and initiatives, offer each other solidarity, support, networking and partnerships, and even formulate joint advocacy or action plans. The more that professionals, entrepreneurs, civil society and other groups of citizens associate at the East African level, the faster we will begin to acquire a meaningful East African identity. And consequently and subsequently, these institutions will begin to interact with the organs, institutions agencies and offices of the EAC (as well as other national and international organizations) in geometric proportions.

### **Specialization and Niche Competencies**

My humble proposal is that, in tandem with the networking and collaboration, the various organizations and networks will begin to identify and refine their specific areas of interest or operation. Then they will accordingly identify and target the particular organs, institutions, agencies or offices that address (or are capable of addressing) their niche areas. In this they could bear in mind that the legislative arm of the EAC, the Assembly, operates through parliamentary Committees that are, oft-times, more appropriate and accessible than the full House. Similarly, the Executive arm of the EAC has, within it, both Sectoral Committees as well as Desk Officers at the Secretariat that could be sufficiently specialized and more attractive, depending on the objective of any particular engagement.

This will ensure a higher level of achievement and success for both the governmental as well as the non-governmental agencies, since the regional government will have been broken down to levels that are much more accessible and approachable to the people. It also ensures that there can be much more work going on simultaneously, at these various levels.

## **4.0 GOVERNANCE AND ACCOUNTABILITY IN EAST AFRICA CURRENTLY**

Two things come to my mind immediately governance and accountability are mentioned alongside regional integration: -

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<sup>20</sup> In Nairobi, in April 2004

<sup>21</sup> For instance, it is currently undertaking a regional project of assessing the impact of the African Peer Review Mechanism (APRM) process in Kenya, and promoting APRM-readiness in Uganda and Tanzania.

- The possibility of cross-border solidarity and alliances for democracy, good governance and human rights (this is *inward-looking*)
- The urgent need for preparing, at this time, a superstructure for regional governance and accountability (this is *outward-looking*)

As I have highlighted above, certain sections of the governments of the three Partner States sporadically exhibit occasional recidivism back to the “dark ages” of intimidation or co-optation of civil society. This has been somewhat addressed by solidarity initiatives and activities, within the respective Partner States, whereby activists, sister organizations or networks have rallied to the assistance of individuals, institutions or communities they perceive to be under siege (*intra-national* or *inward-looking action*). This can and should be supplemented by solidarity and collective efforts from like-minded individuals, institutions and communities from the other Partner States (*regional* or *inter-national action*). On a more positive note, regional caucuses of individuals or institutions interested or working towards a particular policy imperative can be oriented towards devising plans of action at the regional level, which are then pursued or implemented at the national or sub-national level. For instance, communities living around Lake Victoria have been able to exchange information and “best practice” ideas at a regional level<sup>22</sup>, which they then pursue with their various local government authorities in the three countries. They have harmonized a single agenda that they simultaneously and relentlessly pursue with their local governments, their national governments AND the EAC, thus drastically increasing their chances of success. The same can be said of the business fraternity, under the umbrella of the East African Business Council, and the legal profession, under the umbrella of the East Africa Law Society. Many other positive examples, undoubtedly, exist.

With regard to the envisaged future political Federation, there has not been sufficient public discourse – thus far – on just how that regional government will operate. For instance, how will ultimate federal elections be held? What will be the vehicles (*read*: political parties or platforms) for competition for political power? In the current scenario, in which there are really no distinctions of political ideology between the disparate political parties and actors competing for power WITHIN the Partner States, how will regional (federal) political parties, or at least cross-border political alliances, be devised? While it may be easy to establish regional (or at least federal) electoral authorities, it may not be equally easy to answer the preceding questions. My thesis is that it is not too early to commence public discourse on these issues.

## **5.0 SOME IDEAS FOR THE WAY FORWARD**

I conclude with five ideas: more to spur debate than to offer practical solutions to some of the existing challenges or dilemmas that I have posed in this discussion.

### **5.1 (Belabouring the point of) Networking and Collaboration**

I consciously belabour the point – already reiterated above – that it is imperative for the broad diversity of civil society in the region to more deliberately structure REGIONAL solidarity, networking and platforms for action. This is important, both to achieve *intra-national* objectives as well as address the fast-moving regional integration train.

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<sup>22</sup> Under the umbrella of the East African Communities’ Organization for Management of Lake Victoria Resources (ECOVIC)

The East Africa Law Society (along with a number of other institutions) are currently engaged in talks with the Secretariat of the EAC towards catalyzing or convening an **Annual East African Civil Society Forum**, coalescing around the EAC, probably as early as April 2006. This will neither be the first nor the last of such initiatives; it will be just one more milestone along a continuum of action that propels us towards the vision of a united East Africa.

## **5.2 Budget Literacy and Advocacy**

Several stakeholders – as well as EAC Officers themselves – have lamented that the EAC is under-resourced, in human, financial and technical terms.<sup>23</sup> The Partner States just do not allocate enough resources to enable the organs of the EAC, especially the Assembly, the Court and the Secretariat to properly undertake their mandate and accomplish tasks which, ironically, are demanded of them by the same Partner States. And even after the Partner States have allocated resources to the EAC in their annual Budgets (unveiled each June), these are disbursed in *ad hoc*, piecemeal instalments throughout the year; a practice that is clearly inconvenient and counter-productive to the EAC. This despite the fact that East African citizens and other stakeholders have put the EAC organs – especially the Assembly, Court and Secretariat – under uncompromising scrutiny, as they wait to enjoy the practical, tangible benefits of regional integration.

I humbly propose that these East African citizens and institutions should analyze and monitor the budgetary processes of the EAC more comprehensively, asking themselves: -

- What are the stages in the negotiation processes for the EAC Budget, and what opportunities – if any – are afforded to the various organs, and to civil society and the private sector to contribute?
- How much is actually allocated to the EAC by the Partner States?
- Is it enough? If not, what can be done to ensure that the Partner States allocate enough resources – in a timely manner – to the EAC?
- How much is allocated to the EAC – in grants or loans – by bilateral and multilateral institutions and partners?
- What practical financial sustainability measures can the EAC undertake on its own?
- What financial, material or other contributions can East African private sector and civil society make to the EAC?

This will entail formulating and implementing budget literacy and budget advocacy programmes. This will be additionally useful since the same focus is required at national and community levels. These programmes could form part of joint activities proposed under 3.0 and 5.1 above.

## **5.3 Public-Private Partnerships**

Article 127 of the EACT obligates the Partner States to provide an enabling environment for the private sector and civil society to take full advantage of the EAC. It specifically requires the formulation of strategies to achieve this. Paragraphs (3) and (4) therein articulate: -

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<sup>23</sup> See, for instance, the East Africa Law Society's Memorandum to the EAC Fast Tracking Committee, presented 21 October 2004. <http://www.ealawsociety.org>

3. The Partner States agree to promote enabling environment for the participation of civil society in the development activities within the Community.
4. The Secretary General shall provide the forum for consultations between the private sector, civil society organizations, other interest groups and appropriate institutions of the Community.

We have, hitherto, tended to focus on the core obligations of the various organs, agencies and offices of the EAC: towards East African citizens, and especially towards civil society and the private sector. We have not sufficiently explored what East African individuals and institutions CAN DO for the EAC project. This is especially important, bearing in mind that the EAC is resource-strapped. Further that, even if advocacy for greater budgetary allocations from the Partner States is successful, the Partner States are themselves ultimately cash-strapped, and do not have enough resources to fully meet their obligations to their citizenry even at the national and sub-national (community) levels.

Civil Society and the private sector need to innovatively explore in what practical ways they can help advance East African regional integration. Some examples already exist: -

- 1) Publishing and disseminating the laws, policies and other documents of the EAC: in their full-text form; popular/ pocketbook versions; translations into local languages; illustrations; posters; booklets, etc. The pioneer in this endeavor was Kituo cha Katiba, which published a simplified, pocket version of the EACT as early as 2003. In the course of 2004, for instance, the East Africa Law Society published the East African Court of Justice's Procedural and Arbitration Rules.<sup>24</sup> By the end of the year, the Court had not published the said Rules in any form; thus the EALS publication remained the only source of those Rules.<sup>25</sup> Similarly, a private company, M/S Lawafrica Publishing Limited, has been publishing and commercially distributing the East Africa Law Reports, in print, CD-Rom and online (internet) versions. EALS has also published two thematic, Case Law Digests showcasing noteworthy decisions from the region's apex national Courts: one on Constitutional Case Law (to support the EACJ) and another on Tax Law (to support the EAC Customs Union.)

These have gone a long way in assisting the EAC, which is obliged, under Art. 126(2)(c) of the EACT, to "revive the publication of the East African Law Reports or publish similar Reports (and) Journals (...)."

- 2) Holding training workshops and dialogue fora for East Africans to learn about and contribute to the EAC, such as have been convened by, among others, Kituo cha Katiba, East Africa Law Society, East African Communities' Organization for Management of Lake Victoria Resources (ECOVIC), etc.

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<sup>24</sup> In its **Compendium of Codes of Legal Practice, Conduct, Ethics and Etiquette in East Africa.**

<sup>25</sup> In 2005, the EACJ published its Procedural and Arbitration Rules. EALS, in a pioneering partnership with the EACJ, now purchases these booklets in bulk and resells to its members wherever they are in the region, at cost price; to enable the Court to have a revolving fund with which to publish more booklets.

Several of these have been co-hosted with the EAC or the Partner States' governments, or key EAC and Partner States officials incorporated as Trainers, Facilitators or Guests.

- 3) Carrying out training and trade promotional activities for East African entrepreneurs and traders, such as has been undertaken by the East African Business Council (EABC) and the annual East African *Jua Kali/ Nguvu Kaz*i Exhibitions.
- 4) Promoting research on issues germane to the EAC and regional integration, such as has been undertaken under the auspices of the Inter-University Council for East Africa<sup>26</sup>, the Economic and Social Research Foundation (ESRF, of Dar es Salaam), and the African Centre for Economic Growth (ACEG, of Nairobi), among others.

These initiatives need to be replicated, and new, bolder ones explored.

#### **5.4 Social and Cultural Integration**

Regional integration, within the EAC, but even elsewhere in the continent, tends to focus on ECONOMIC integration. When a concession is made, it is extended to POLITICAL integration, usually with meek, under-resourced regional legislatures, whose ability to intervene is carefully circumscribed by the founding Treaty or other statute<sup>27</sup>. Integration on other fronts, such as SOCIAL or CULTURAL integration is under-emphasized, if it is considered at all. Yet these “soft” areas are the ones that provide the **glue** that holds the regional superstructure, and the **oil** that greases the heavy machinery of regional integration. Without them, the regional integration project may flounder, just like the serial rejection of the draft EU Constitution in a number of national plebiscites, forced a shock to the system. And it is in these “soft” areas that the broad diversity of civil society can play a crucial role.

I am happy to report that the EAC has taken some steps in this regard, such as: -

- The Annual EAC Schools' Essay Competition
- Unveiling of the EAC flag
- Commissioning of a region-wide creative competition to compose an EAC Anthem (I am informed that this will be unveiled at the next EAC Summit, in March/ April 2006.)
- Some regional, sporting competitions, such as of the postal authorities, the disciplined forces, etc.

East African citizens and corporations have also taken the cue and formulated/ re-energized, among others: -

- The annual East Africa's Most Respected Chief Executive Officer (CEO) competition (organized by PriceWaterhouseCoopers and the Nation Media Group)
- The annual East African Business Summit (organized by the East African Business Council, and which directly feeds into national and regional policy-making)
- The annual East African Safari Rally

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<sup>26</sup> An independent institution of the EAC.

<sup>27</sup> This has been the experience of not only the East African Legislative Assembly (ref Arts. 49 and 59(2), EACT), but also the Pan African Parliament (established under the **Constitutive Act of the African Union**.)

- Regional media houses such as East Africa FM, East Africa TV, the East African Newspaper and regional editions of continental publications such as African Business, True Love, etc that disseminate and promote art, music, lifestyle and culture across the borders.

I humbly propose that the EAC can formulate a detailed Social and Cultural Integration **Policy** and **Strategy**, with attendant budgetary provisions that can “fast track” these, as much as it is fast tracking economic and political integration. Such a policy can help eliminate or redress existing mutual suspicions and perceptions, such as of arrogance, conservatism or duplicity. They can also help evolve an East African CULTURE and ART of negotiation, which will assist those engaged in fast tracking the stages of integration as we head towards the proposed political union. Ultimately, they can help us design a **“Brand East Africa”** with which we can jointly market our economy, tourism and natural resources as a priority destination of choice to the rest of the world.

### **5.5 Revisiting the Legal Framework of the EAC**

Several actors and analysts of the EAC have also highlighted the need for revisiting of the legal framework underpinning the EAC, to redress institutionalized bottlenecks that impede or slow regional integration. For instance: -

- EACT provisions limit the ability of the East African Legislative Assembly (EALA) to legislate proactively in areas that would touch the ordinary East African citizen’s day-to-day existence and economic enterprise.
- The same EACT provisions limit the jurisdiction of the East African Court of Justice (EACJ), such that it can neither comfortably address violations of human rights brought before it, nor become the final appellate Court in the region, the way the East African Court of Appeal (EACA) was, during the old EAC.
- The statutory provisions for attainment of **formal Observer Status** at the EAC for the region’s Civil Society Organizations (CSOs) place the barrier so high that only the most sophisticated and well-resourced organizations could ever hope to attain it. While there is nothing intrinsically wrong with formulating elaborate criteria for formal Observer Status, here is need to structure more attainable and flexible frameworks for engaging East Africans, such as through a secondary tier of **Consultative Status** for national-level CSOs and CBOs (Community-Based Organizations) and/ or a **Revolving Door Mechanism**, whereby organizations that have only a part-time focus or specific, niche agenda with the EAC can engage a particular organ, institution, agency or office for the duration of addressing that specific policy imperative, and then retreat back to their ordinary arena of engagement until they next need to engage the EAC.

I am glad to report that EALA has initiated public discussions towards amendment of the EACT. At the same time the EAC Council of Ministers and the Secretariat have also formulated a **Draft Protocol to Operationalize the Extended Jurisdiction of the East African Court of Justice**. They have also nominated national Focal Points, within their respective Ministries charged with regional integration, to consult and involve citizens in dialogue on the EAC Fast Tracking process. I am also made to understand that the Lake Victoria Basin Commission is formulating a plan of action and calendar of activities for launching itself, on the ground, in the lake region. These avail prime avenues for civil society

in the region to constructively engage the national and regional governmental authorities in  
**Project East Africa**

**IN A SENSE, THEREFORE, THE BALL IS IN OUR COURT!!!**