

PEOPLE-CENTRED INTEGRATION IN THE EAST AFRICAN COMMUNITY:

CHALLENGES AND OPPORTUNITIES FOR
PARTICIPATORY REGIONALISM

Dr Peter O'Reilly and Dr Chris Vaughan



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DATA ANALYSIS AND RESEARCH ASSISTANCE

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THE PROJECT

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DESIGN

Designed by Maggie Dougherty.

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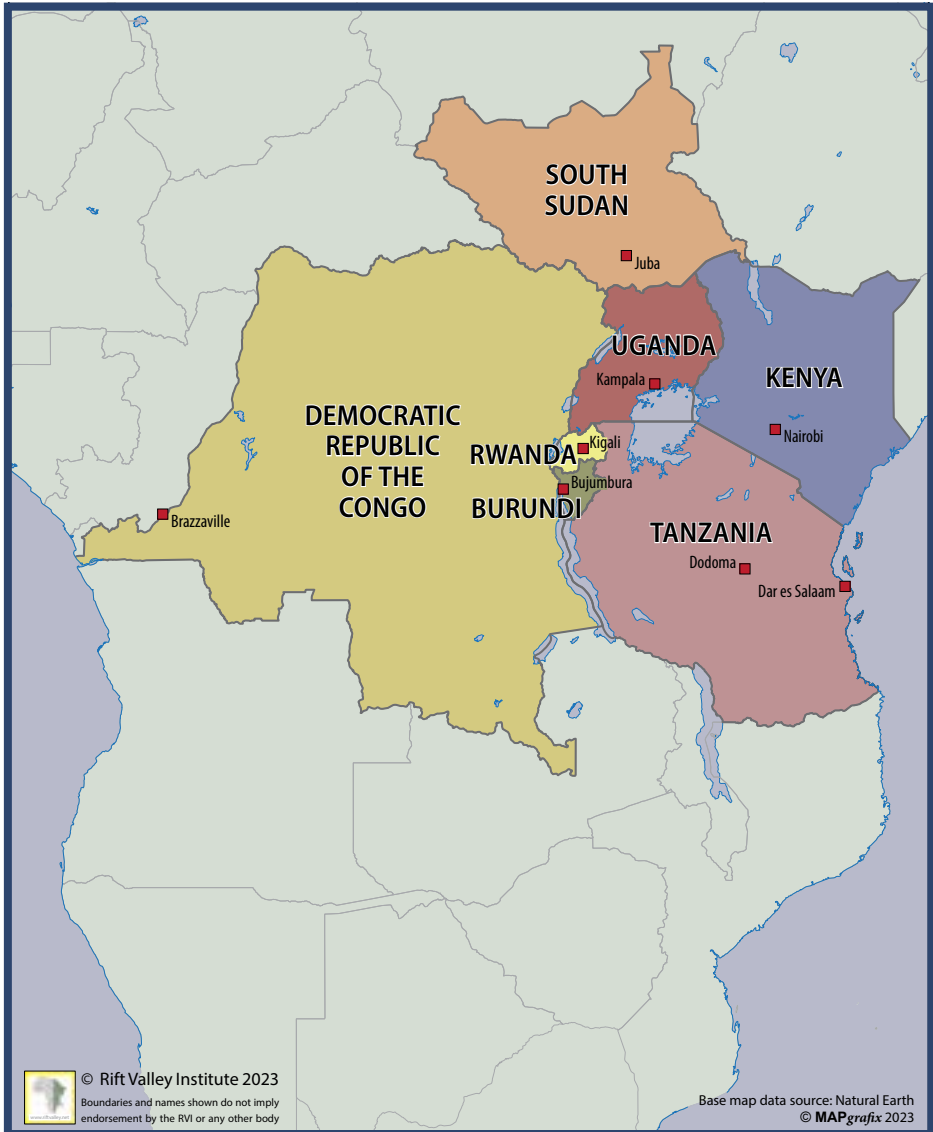
SUMMARY

- The idea of people-centred integration lies at the heart of the East African Community (EAC) revival in 2000 and is considered key to overcoming the failings of prior attempts at regional integration during the 1960s and 1970s, which were viewed to be dominated by political elites.
- Various mechanisms have been established in the EAC institutional architecture to enable participation by civil society and private sector organizations across the region. This includes granting stakeholder organizations observer status to attend EAC meetings, alongside an annual forum held by the EAC secretary general.
- Associated bodies such as the East African Legislative Assembly (EALA) and the East African Court of Justice (EACJ) serve as important avenues for civil society groups and the private sector to engage, lobby and advocate for issues at the regional level.
- Despite these avenues for participation, challenges remain to realizing the vision of people-centred integration in the EAC. Official mechanisms such as observer status have proven limited due to the stringent criteria for organizations seeking to acquire it, while the Secretary General's Forum offers very limited scope for stakeholders to meaningfully shape regional policy.
- Although interviewees speak highly of the EACJ and EALA as arenas for holding the EAC secretariat and national governments to account, both these organs have faced funding cuts and political interference in recent years that limits their capacity in this regard.
- There is an unevenness between the private sector and civil society regarding the levels of access they are afforded at the EAC. The private sector has more opportunities to participate at the EAC level due to their closer relationship with national governments – something that often eludes civil society organizations (CSOs) – and because of the centrality of economic integration to the community.
- People-centred integration is synonymous with the participation of organized civil society and the private sector. This can often limit the participation of a broader spectrum of actors from across the region.
- Many CSOs and, to a lesser extent, private sector groups are reliant on external donors to finance their engagement at the EAC. Anecdotal evidence suggests that funding for regional activities is increasingly more difficult to access as donors become more pre-occupied with impact generation, which is difficult to demonstrate through participation at the EAC.
- Despite specific limitations on public participation at the EAC, its institutions still offer important spaces through which issues and grievances can be publicized. This function of the EAC has proven particularly important in recent years as civic space in some

partner states is increasingly under threat.

- Although regional policymaking processes can be long and drawn out, both civil society and the private sector view engagement at the EAC as an important way to shape regional norms and standards over the longer term.
- Civil society and private sector participation in the EAC can be strengthened by: selecting more feasible criteria for organizations to acquire observer status; creating more bespoke and separate forums for civil society and private sector groups; encouraging external donors to fund regional engagement; and ensuring that a broader range of stakeholders across East Africa are able to access and participate in EAC affairs.

MAP: THE EAST AFRICAN COMMUNITY



INTRODUCTION

‘The new community is characterized by the fact that it is people inspired and its survival hinges on it continuing to be people centred.’¹

‘The treaty... It has that phrase that reads that the EAC shall be a “people-centred” community. Now I think we’ve not made a lot of progress beyond the text and beyond the pronouncement. It has been a very difficult experience trying to participate in the affairs of the EAC.’²

Since the official revival of the East African Community (EAC) in 2000, the notion of ‘people-centred’ integration has rhetorically been placed at the centre of its agenda. The principle being that the EAC promotes a participatory and accountable model of regionalism that allows societal stakeholders, including civil society organizations (CSOs) and private sector groups, across the region to engage with and contribute to the integration agenda. These principles are clearly outlined in the 1999 EAC treaty, which notes that the community should be ‘people-centred and market driven’ and aspire for the ‘enhancement and strengthening of partnerships with the private sector and civil society’.³

The contemporary EAC is a regional organization in eastern Africa. Initially comprising a membership of Kenya, Tanzania and Uganda, the organization has since expanded to include Burundi, Rwanda, South Sudan and, most recently, the Democratic Republic of Congo, which joined in 2022. The EAC treaty sets out an ambitious integration agenda aiming for the phased creation of a customs union, common market, monetary union and, ultimately, the creation of a political federation between its members. A customs union was formally inaugurated in 2005, following several years of negotiations.⁴ Protocols for an EAC common market and a monetary union were agreed in 2010 and 2013, although their implementation across the region has been

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- 1 Omar Ali Juma, Vice President of the United Republic of Tanzania, at the inauguration of first EAC Council of Ministers meeting, 13 January 2001.
 - 2 Interview 11, representative of a Tanzanian CSO, online, 7 September 2021.
 - 3 East African Community, ‘Treaty for the Establishment of the East African Community’, signed 30 November 1999 at Arusha, Tanzania, Arusha: East African Community Secretariat, 1999. Accessed 21 July 2023, https://www.eacj.org/?page_id=33. Unless otherwise specified, all subsequent references to the treaty or various articles therein are derived from this source.
 - 4 East African Community, ‘Protocol on the Establishment of an East African Customs Union’, Arusha: East African Community Secretariat, 2004.

partial and uneven.⁵

The emphasis on people-centred integration in the EAC treaty derives from the history of integration in the region. Debates around integration in East Africa have always been people-centred to the extent that its proponents have always emphasized the role of regionalism in breaking down the barriers between the people of East Africa. Yet, the actual participation of societal stakeholders in the integration process throughout history has always been limited. One of the reasons often stated for the collapse of the first EAC in the 1960s and 1970s is the ‘lack of strong participation of civil society and the private sector in the co-operation activities’.⁶ The participation and inclusion of civil society and the private sector is, therefore, seen as essential to the sustainability of the regional integration project in East Africa that might otherwise become undone by elite infighting, as was perceived to be the case in the 1970s.

AIMS AND OBJECTIVES

This report examines the extent to which the ideal of people-centred integration has been put into practice in EAC institutional structures. Specifically, it focuses on the role and degree of participation by CSOs and private sector groups in contributing to the EAC integration agenda. It focuses on three key research questions:

1. What institutional mechanisms exist to allow CSOs and private sector groups to participate at the EAC level and how effective are these?
2. What are the general opportunities and challenges for CSOs and private sector groups wanting to participate at the EAC level?
3. Why do CSOs and private sector groups participate and advocate for issues through EAC institutions?

The report contributes to existing studies on participatory regionalism in the EAC – and Africa more generally – in three ways. First, while existing studies focus on the participation

5 East African Community, ‘Protocol on the Establishment of the East African Community Common Market’, Arusha: East African Community Secretariat, 2010; East African Community, ‘Protocol on the Establishment of the East African Community Monetary Union’, Arusha: East African Community Secretariat, 2013.

6 East African Community, ‘East African Co-operation Development Strategy (1997–2000)’. Arusha: Secretariat for East African Co-operation, 1997, 3.

of CSOs in the EAC⁷ and other regional organizations across Africa,⁸ none have compared their participation alongside private sector groups, including attention to the level of access generally afforded to both.⁹ A key finding of this report is that while formal mechanisms exist to enable participation by both CSOs and private sector groups at the EAC level, private sector groups tend to have better access to shape regional policymaking by virtue of their closer ties to national governments and the EAC policy focus on matters of economic integration.

Second, the study adds new understandings as to why CSOs and private sector groups advocate and lobby for issues through regional institutions. Existing studies highlight that non-state actors in the EAC (and Africa more broadly) often face challenges in being able to participate and shape regional policymaking.¹⁰ Moreover, even when regional policies are agreed, their implementation and domestication at the national level can often remain partial or incomplete. In short, regional institutions can sometimes prove to be an inefficient avenue for CSOs and private sector groups wishing to effect change. The findings of this report indicate that both CSOs and private sector groups advocate for issues regionally for reasons other than immediate policy change. In particular, CSOs often instrumentally use EAC institutions as a way to publicize and bring visibility to particular issues to wider audiences. While regional policy implementation can be slow and cumbersome at times, both CSOs and private sector groups view it as an avenue to shape policy standards and norms in the region over the longer term.

Third, drawing on the insight and experience provided by 28 interview participants – including representatives from civil society and private sector organizations, among others – conducted between 2020 and 2022, the report offers up-to-date perspectives on the status of people-centred integration in East Africa. More importantly, it offers greater understanding of the role of CSOs and private sector groups in the EAC integration project (see Appendix 1 for list of interviewees).

7 M Odhiambo, 'Towards Greater Civil Society Participation in the East African Community: Challenges and Prospects', *Kituo cha Katiba* Occasional Publication No.5. Kampala: Fountain, 2010; Open Society Foundations, 'The Civil Society Guide to Regional Economic Communities in Africa', New York: Open Society Foundations, 2016, 31–32; M Reiss, 'Make it a People's Integration!' *The Role of Organised Civil Society in the Regionalization Process of the East African Community*, Marburg: Tectum Verlag, 2014.

8 For example, see: A Godsäter, 'Civil society and regional governance: Knowledge production and issue-framing around SADC', *Journal of Civil Society* 11/1 (2015); A Godsäter and F Söderbaum, 'Civil society participation in regional social policy: The case of HIV/AIDS in the Southern African Development Community (SADC)', *Global Social Policy* 17/2 (2017); O Iheduru, 'Civil Society and Regional Integration in West Africa', in *Civil Society and World Regions: How Citizens are Reshaping Regional Governance in Times of Crisis*, ed. L Fioramonti, Lanham: Lexington Books, 2013; T Reinold, 'Civil society participation in regional integration in Africa: A comparative analysis of ECOWAS, SADC, and the EAC', *South African Journal of International Affairs* 26/1 (2019).

9 The possible exception here is James Gathii (2016), who compares how CSOs and private sector groups use the EACJ. See J Gathii, 'Variation in the use of subregional integration courts between business and human rights actors: The case of the East African Court of Justice', *Law & Contemp. Probs*, 79/37 (2016).

10 Godsäter, 2015; Godsäter and Söderbaum, 'Civil society participation'; Odhiambo, 'Greater Civil Society Participation'; Reiss, 'Make it a People's Integration!'.

METHODOLOGY

The report presents the findings based on interviews with 28 representatives of national and regional CSOs and private sector groups across the EAC, as well as officials working for national governments, the EAC secretariat and other affiliated regional institutions. This study employs a non-probability sampling method. Preliminary research was conducted to identify key individuals and organizations in East African civil society and the private sector. These individuals and organizations were then contacted and invited to participate in an interview for this research. The interviews primarily centred around questions about experiences of participating and engaging at the EAC level.

One limitation of the interview material is that the participants are almost exclusively from the EAC founding partner states – Kenya, Uganda and Tanzania. In part, this is due to resource constraints that meant travel to all seven EAC states was not feasible. Enquiries made with individuals and organizations in other EAC partner states about participating in this study remotely via a phone or video call, were unsuccessful. The interviews were conducted between June 2021 and August 2022. Some of the initial interviews were conducted online over Zoom and Skype due to travel restrictions associated with the COVID-19 pandemic. Alongside the interviews, the report also draws widely from policy documents, archival materials, media reports and secondary sources.

Strict anonymization is applied to protect the identities of those who kindly gave their time to be interviewed for this research. Generic descriptors are used for the interviewees, without reference to their affiliated organization; for example, a Tanzanian civil society representative or a Kenyan private sector representative. If the organization is based in Arusha, Tanzania, where the EAC secretariat and headquarters is based, this is indicated in the citation of the interview; for example, interview 5 with representative of Arusha-based regional CSO. Interviews conducted with legal professionals in the region also used a generic descriptor: representative of East African legal profession. Reference to representatives of the East African Community is a generic descriptor for interviews conducted with any participant affiliated with an EAC organ or institution, including officials from national ministries, the EAC secretariat, the East African Legislative Assembly (EALA) and the East African Court of Justice (EACJ).

PEOPLE-CENTRED INTEGRATION IN EAST AFRICA: A HISTORY

‘It is impossible to draw a line anywhere on the map of Africa which does not violate the history or future needs of the *people*’ [emphasis added].¹¹

The idea that regionalism in East Africa tends to function in a sphere of elite political and bureaucratic power, far removed from citizens of the states involved in such projects, is not a new critique; nor is it unique to East Africa. Regional organizations in many parts of the world have often been criticized for their lack of accountability to populations at large. Most notoriously in the recent past, one of the arguments deployed to persuade British voters to leave the European Union (EU) was that of a democratic deficit in the bureaucratic structures of the EU. By their nature, formal regionalist projects are created by national governments deciding to pursue economic or political arrangements for integration. Other forms of everyday regionalism driven by ordinary people might exist (for example, informal cross-border trading networks) but formal structures are necessarily state led, and often elite driven. At the same time, the more idealistic rhetoric behind such projects frequently envisages a future when populations start thinking of themselves as citizens of a wider region, beyond the nation state. The rhetoric of the contemporary East African Community (EAC) with regard to its stated ambition to create a more people-centred form of regional integration needs to be understood within this wider global context.

Various iterations of regional integration in East Africa have been attempted over the previous century. Initially, these were associated with colonial power and bolstering the power of white elites in the region. Since the years leading up to and following independence, however, regionalist projects have been repeatedly legitimated through the rhetoric of a common East African people. This is still evident in the contemporary EAC and its motto of ‘One people. One destiny’. Although these integration projects carry with them a degree of popular support, in practice their workings and design are dominated by political and government elites, largely to the exclusion of a wider range of societal stakeholders.

THE CLOSER UNION DEBATES IN BRITISH EAST AFRICA, 1920S–1930S

During the period of British colonial rule in East Africa, an issue referred to as ‘closer union’

11 Julius Nyerere, president of Tanzania, in 1962; cited in CS Chachage and CS Chachage, ‘Nyerere: nationalism and post-colonial developmentalism’, *African Sociological Review*, 8/2 (2004): 158.

was repeatedly debated by British elites in London and in East Africa. Debate focused on three East African territories – Kenya, Tanganyika and Uganda. In the 1920s, the idea of an East African federation was envisaged by British elites as a way of cementing settler power in the region (especially that of the substantial community of white settlers in Kenya) and creating the potential for a self-governing white dominion. By definition, regionalism was a racialized project in its origins, designed to entrench the power of a racial minority over the African majority population.

Unsurprisingly, African views on closer integration in the region during this period were almost universally negative. The kings (*kabakas*) of the Buganda kingdom in Uganda were particularly persistent in their rejection of ideas about federation, articulating very clearly their unwillingness to surrender their significant autonomy within the structures of colonial governance in Uganda. African witnesses who travelled to give evidence in London to the Joint Select Committee on Closer Union in East Africa in 1931 also expressed their alarm at the prospect of the settler population in Kenya growing even more powerful in the context of regional politics. International legal obstacles, related to the special status of Tanganyika as a League of Nations mandate, put paid to this scheme, along with the unease of left-wing politicians in London. These debates did, however, set the foundations for a more limited form of integration.

By the end of World War II, a series of common institutions had come to exist between the three territories. This included a common market and currency, a joint income tax system, and a series of jointly owned and operated services in areas such as transport and telecommunications. In 1948, the East African High Commission (EAHC) was also established as the apex organization that held jurisdiction over the management of these regional institutions. Colonial officials were nonetheless explicit that the establishment of the EAHC should not be read as a stepping stone towards the creation of a single political authority. This was made clear in a colonial office report published in 1945 that recommended the creation of the EAHC.¹² As such, integration at this stage was rationalized through a technocratic logic, that was ‘largely driven by financial and budgetary considerations’, rather than a broader political project.¹³

EAST AFRICAN FEDERATION DEBATES, 1950S–1964

Despite the origins of the federal idea in East Africa as a colonial project, African nationalist politicians revived the project in the late 1950s and into the early years of independence. In this period, federation was recast as a Pan African project, promising strength and unity for a region of economically weak nation states emerging from colonial domination. Leading figures in the region such as Julius Nyerere, first prime minister and president of Tanzania, and Tom Mboya, the first secretary general of the Kenya African National Union, were strong advocates for a full

12 British Colonial Office, ‘Inter-territorial Organisation in East Africa’, Note by the Secretary of State for the Colonies presented to the British Cabinet, London: British Colonial Office, 1945.

13 D Bach, *Regionalism in Africa: Genealogies, Institutions and Trans-State Networks*, London: Routledge, 2016, 8.

federation of states, and repeatedly claimed the will of the people to be on their side. Public opinion surveys conducted in the region with regard to federation provided some evidence to support this view, as did the letters pages of major newspapers. Students at Makerere College in Kampala, drawn from across the region, were a core constituency of youthful support for unity in East Africa.

Yet the substantive politics of federation in this period was highly personalized and exclusive, driven by a small male elite of allied nationalist politicians in each territory. These men also envisaged the East African federation to be governed by themselves. They also assumed that a regional one-party system would emerge within the structures of federal unity. Their domestic opponents would have even less political oxygen in a centralized federation. This was clearly evident among those in the working party tasked with drafting a constitution for the East African Federation in 1963, the membership of which was comprised of associates closely linked to the leaders of three newly independent East African states.

As elite enthusiasm for a federation diminished in Uganda, in particular, after independence, politicians there moved to criticise the idea of a federation for its lack of attention to the interests of the people, raising concerns for Ugandan workers who would be exposed to competition from the unrestricted movement of labour, especially from neighbouring Kenya. Accusations of secrecy and a lack of transparency among those involved in the negotiations for a federation were common in the debates played out in the letter pages of national newspapers. In 1962, Milton Obote, the first premier of independent Uganda, reassured the Ugandan parliament he had:

no intention of doing any secret deal on this matter. ...Matters affecting the federation would not be discussed only with politicians because it affected the sovereignty of the whole country and the people of Uganda. ...Any constitution of the federation would have to be publicly displayed...before any final decision was taken.¹⁴

The idea that a regional federation was a concept that suited specific politicians rather than the public thus became an important strand in regional public debate, exhibiting continuity with earlier concerns about the overweening power of a small elite in the region, even as the racial and political identity of that elite had shifted.

THE RISE AND FALL OF THE FIRST EAST AFRICAN COMMUNITY, 1967–1977

The first EAC was established in 1967, against the backdrop of regional disintegration. The common currency inherited from the colonial period was abandoned by Tanzania in 1965. There were also protracted difficulties in negotiating arrangements for a common market. Designed to overcome these differences, the birth of the first EAC was accompanied by a wave of optimism in

14 Obote speech to Uganda parliament, 13 Nov. 1962, reported in The National Archives, Colonial Office 822/2730.

official rhetoric, press columns and letters surrounding the prospects for unity and cooperation in the region. It did serve as a means to preserve common services and corporations that had a regional remit. School civics textbooks in the years after independence promoted the idea that East Africa formed a single unit. Clearly the vision of unity retained some allure in these years. As is now widely recognized, however, the first EAC was also very much dependent on the personal relationships between the presidents of East Africa. This reflected the increasingly personalized nature of political power in the region in the years following independence. The 1970 coup of Idi Amin in Uganda is a key moment in shattering the relatively warm relations among the elite who had led the region to independence. The disintegration of the University of East Africa, which had done much to foster the sense of a regional identity among an educated elite, into three national universities in the same year as Amin's coup is an equally significant moment in the decline of regional cooperation. Public opinion as expressed in press columns and letters pages convey greater scepticism about the community as time passed, although this came to be framed more through the lens of national rivalries and resentments rather than through a broader critique of the distance between EAC institutions and a regional public at large.

Nonetheless, at the moment of the EAC collapse in 1977, a wave of regret was expressed in the press and in parliaments that a long-standing marriage of states and peoples had ended in acrimonious divorce. A sense that genuine economic and institutional benefits had been squandered due to elite squabbles would remain an important strand of public discourse in East Africa. This would also inform the rhetorical aspiration of the second EAC to be more people-centred in its orientation.

THE REVIVAL OF THE EAST AFRICAN COMMUNITY, 1990S TO PRESENT

Tensions between the three East African states continued in the years following 1977. It was only in the aftermath of the Tanzania–Uganda War in 1978, and the subsequent removal of Amin, that relations began to stabilize. In 1984, the three former members of the EAC even finalized a mediation agreement that formalized the EAC dissolution and distributed its assets and liabilities between the three governments. This agreement also included a clause for the former EAC states to explore future areas of cooperation, resulting in a working group being formed to explore modalities for achieving this. In 1993, this led to the creation of the Permanent Tripartite Commission for Cooperation between Kenya, Tanzania and Uganda, which addressed cooperation in areas such as infrastructure and fiscal and monetary policy. By 1999, the three states had committed to re-establishing the EAC under the Treaty for the Establishment of the East African Community, which occurred in 2000.

The revival of the EAC occurred within a broader context of economic uncertainty for the region. The intervening years between the EAC collapse and revival had been one of economic decline for Kenya, Tanzania and Uganda, as it had been for most African countries. Each of the three countries had to turn to the International Monetary Fund (IMF) for bailouts in a context of falling global commodity prices and rising public debt. The revival of regionalism was,

therefore, increasingly viewed as a route to reversing this economic decline. As the Ugandan foreign minister, Eriya Kategya, remarks at workshop in 1999, the collapse of the EAC ‘had led to a great loss of opportunities’ and meant that ‘the region had lagged behind most others in development’.¹⁵ This economic uncertainty was compounded further by globalization processes and the threat of marginalization this posed to the economies of the three countries.¹⁶

As with other eras of integration in East Africa, appeals were also made to the commonalities and bonds shared between the three countries and their peoples. In a media interview with the *Financial Times* in 1996, the first secretary general of the revived EAC, Francis Muthaura, notes that:

The East African region is unique. We’re talking about three countries which for a long time were managed as one federal state, which more or less speak the same language, whose citizens went to the same schools. These countries feel they have to be united.¹⁷

In a speech that same year, Kenyan president Daniel Arap Moi expresses similar sentiments, stating that: ‘We are here because we believe that the destinies of our three countries are strongly linked ... because of our common history, our common culture and indeed our common aspiration’.¹⁸

In contrast to previous eras, this rhetoric of people-centred integration both extended to issues of collective identity (‘East Africanness’) and involved more concrete ideas about the role of societal actors in the regional integration process. As the first East African regional development strategy noted in 1997, the ‘lack of strong participation of civil society and the private sector in the cooperation activities, contributed to the collapse of the East African Community in 1977’.¹⁹ Political rhetoric at the time, therefore, strongly emphasized the importance of including and consulting civil society and private sector groups as part of the revived integration process. The EAC treaty also includes several references to facilitating the inclusion of civil society and private sector groups. Civil society organizations (CSOs) were also actively agitating for greater inclusion in the EAC. Across the three states, democratic reforms had been introduced at the domestic level in the 1990s. According to one Ugandan civil society representative, CSOs were eager to ensure that democratic and civil space acquired at the national level would not be

15 East African Community, ‘Perspectives on Regional Integration and Co-operation in East Africa’, Proceedings of the First Ministerial Seminar on East African Co-operation, Arusha, East African Community Secretariat, 2000: 12.

16 P O’Reilly, ‘African regionalism, economic nationalism and the contested politics of social purpose: The East African Community and the “new developmentalism”’, *Journal of Modern African Studies*, 61/1 (2023).

17 M Wrong and A Goldman, ‘United by a common policy’, *Financial Times Archive* 5 (November 1996).

18 Moi 1996, cited in East African Community, ‘East African Customs Union: Information and implications’, Occasional Paper No 2, Arusha: East African Community Secretariat, 2002, 8.

19 East African Community, ‘Development Strategy (1997–2000)’, 3.

eroded at the regional level.²⁰

Despite the rhetoric about making the EAC participatory and inclusive, in practice there were few concrete policy measures outlined in the treaty about how this would be achieved. As one Tanzanian civil society representative observes, there were a lot of informalities during these early years around participating at EAC meetings and events.²¹ This interviewee goes on to recount how their own organization managed to acquire observer status during this period by simply visiting the EAC secretary general and getting a letter of accreditation that allowed them to observe and participate in official EAC meetings. This Tanzanian CSO representative is generally positive about the access afforded to societal organizations during this period, particularly in contrast to the present, which is now considered more closed to stakeholder engagement. Arguably, however, this previous informality also meant that access and inclusion in EAC policy processes was often based upon personal networks, rather than institutional rules and procedures. This could be potentially exclusionary to other stakeholder groups. In the years following the 2000 EAC revival, several mechanisms were created to attempt to enable participation from societal organizations in the region.

20 Interview 17, representative of Ugandan CSO, Kampala, Uganda, 13 June 2022.

21 Interview 10, representative of Tanzanian CSO, online, 22 July 2021. The remaining interviewee comments in this paragraph are derived from this source.

PEOPLE-CENTRED INTEGRATION: KEY INSTITUTIONS AND ACTORS

Although the rhetoric of people-centred integration is central to the East African Community (EAC) revival in 2000, there are no formal policy measures in the treaty to enable participation by societal groups across the region. Key institutional instruments of the EAC did eventually emerge to enable participation by civil society organizations (CSOs) and private sector groups.

EAC ORGANS AND INSTITUTIONS

As an organization, the EAC is comprised of several key organs and institutions that are hierarchically ordered in terms of their decision-making authority. At the top of this hierarchy is the EAC Heads of State Summit, an organ that includes each head of state from the seven EAC partner states. The summit is meant to meet twice a year, although this can be less or more often depending on prevailing circumstances in the region. The summit gives assent to major protocols and directives of the community and provides general direction to the achievement of its objectives, as laid out in its founding treaty.

Directly below the summit is the EAC Council of Ministers, which is comprised of the relevant ministers from each partner state whose portfolio covers EAC affairs. While the summit gives assent to major protocols and directives, the council is responsible for monitoring their implementation. The council also has a major gatekeeping role in terms of deciding which issues are forwarded to the summit for consideration by the heads of state. It is also responsible for setting the EAC budget. The council can also submit bills to the East African Legislative Assembly (EALA) for consideration by its members. Associated with the council is the EAC Coordination Committee, which is composed of the permanent secretaries from each national ministry responsible for EAC affairs.

Finally, there are several EAC sectoral committees with a mandate to monitor and develop policy in the various sectors for which the EAC is responsible (for example, trade and customs, health, free movement). These committees submit recommendations to the EAC Coordination Committee and the Council of Ministers. These committees usually consist of officials from relevant national ministries and, often times, relevant civil society and private sector organizations. For instance, the East African Law Society (EALS) regularly participates and

contributes to the EAC Sectoral Council on Legal and Judicial Affairs.²²

The EAC secretariat is another important institution that, while not having any formal regional decision-making authority, plays an important role as the executive authority and face of the EAC and its agenda. On a day-to-day basis, the secretariat is responsible for organizing relevant meetings of EAC organs and its staff often carry out research and contribute to the development of specific regional policies. As head of the secretariat, the EAC secretary general also has powers under the treaty to highlight to partner states instances where they may be in violation of treaty provisions or protocols of the community. Currently, therefore, the EAC secretariat largely plays a coordinating role by ensuring decision-making organs of the community meet regularly and that necessary information is disseminated to stakeholders. In 2010, an institutional review was conducted of the secretariat role, which recommended that more decision-making authority be given to it.²³ As yet, however, the recommendations in the 2010 review have not been implemented.²⁴

Two further EAC institutions bear mention: the East African Legislative Assembly (EALA) and the East African Court of Justice (EACJ). EALA is the legislative arm of the EAC and is comprised of elected members from across the EAC states. EALA members are not elected directly by citizens across the EAC but rather are elected by the representatives in the national parliaments of partner state. EALA terms run for five years and after that period, the national parliaments elect a new assembly. There are nine elected members from each partner state and eight ex-officio members, including each minister responsible for EAC affairs, the secretary general and the counsel to the community.²⁵ The assembly is led by the speaker, who is an elected member of the assembly. EALA is administered by a non-political clerk.

The main decision-making authority vested in EALA is its ability to pass bills which, when assented to by the summit, become acts of the community that all partner states are required to abide by. Through their ex-officio membership, the Council of Ministers can introduce bills to EALA for consideration by its members. Individual EALA members are also able to introduce private member's bills for consideration. EALA also fulfils several other functions, including liaising with the national parliaments on EAC matters, approving the EAC budget and maintaining general oversight over regional matters.²⁶ The budget of EALA is enclosed as part of the broader budget for the EAC secretariat. This has been a contentious issue and some of have been pushing for EALA to have more financial and administrative independence from the

22 Interview 18, representative of East African legal profession, online, 9 July 2021.

23 East African Community, 'Institutional Review of the EAC, Organs and Institutions', Arusha: East African Community Secretariat, 2010b.

24 Interview 21, representative of East African legal profession, Kampala, Uganda, 21 June 2022.

25 Interview 3, representative of East African Community, Arusha, Tanzania, 14 July 2022.

26 Interview 3, representative of East African Community, Arusha, Tanzania, 14 July 2022.

EAC secretariat.²⁷

The EACJ is the judicial organ of the EAC and is comprised of judges from across the EAC partner states. The court is divided into two divisions: the first instance division and the appellate court. The latter hears appeals on previous decisions issued by the court. The mandate of the court encompasses the interpretation and application of the EAC treaty. It can offer advisory opinions on matters relating to the treaty if requested by the summit, council of ministers or a partner state. It can also hear and issue judgements on disputes brought to it from relevant organizations or individuals from across the region, so long as the dispute is in reference to the interpretation and application of the EAC treaty.

EAC PARTICIPATORY MECHANISMS

Since its re-establishment in 2000, several institutional mechanisms have been introduced into EAC structures to enable participation by civil society and private sector stakeholders. These include observer status, the Consultative Dialogue Framework and memoranda of understanding (typically on specific issues). The EACJ and EALA are also key for civil society and private sector engagement in the EAC.

Observer status is the most established process for societal stakeholders to be able to participate in EAC procedures and affairs. Acquiring observer status provides civil society and private sector organizations the ability to attend meetings of EAC organs (including the Heads of State Summit). If called upon to do so, observer status also enables societal organizations to contribute both to deliberations and policymaking. The granting of observer status has some grounding in the EAC treaty, with Article 11 noting that the summit can grant observer status to foreign countries. In the past, this has been used to allow prospective new member countries to join EAC meetings. For instance, both Rwanda and Burundi were granted observer status in the run-up to their accession to the EAC in 2007. It has also been used to grant observer status to major donors to the EAC, including GIZ (*Deutsche Gesellschaft für Internationale Zusammenarbeit*; German Agency for International Cooperation), among others.

In 2001, rules for granting observer status at the EAC were introduced to allow CSOs and private sector groups to also participate. Two key criteria need to be met for such organizations to be granted observer status under these rules. The first is that an organization seeking to attain observer status must be involved in activities that operate at a regional level and have at least three years of active operation. The second is that an organization must be registered in each of the EAC partner states.²⁸

27 East African Legislative Assembly, 'Call for financial and administrative autonomy as EALA ends induction programme', Press release, 2 February 2023. Accessed 3 March 2023, <https://www.eala.org/media/view/call-for-financial-and-administrative-autonomy-as-eala-ends-induction-programme>.

28 As subsequent discussion indicates, this is a significant barrier to many stakeholder groups being able to attain observer status. See: Open Society Foundations, 'The Civil Society Guide to Regional Economic Communities in Africa', New York: Open Society Foundations, 2016, 31–32.

The second key mechanism to facilitate stakeholder engagement is through the EAC Consultative Dialogue Framework. Established in 2012, this framework aims to enable wider participation from both regional and national stakeholders in EAC affairs. At the national level, it created avenues for private sector groups and CSOs to lobby ministries of EAC affairs in their own country on issues related to the regional integration agenda. At the regional level, there is formal EAC recognition of both the East African Business Council (EABC) and the East African Civil Society Organisations Forum (EACSOFF) as the two apex bodies representing the private sector and civil society, respectively. As part of this framework, an annual EAC Secretary General's Forum is held that brings together civil society and private sector organizations across the region to put forward recommendations to the EAC secretary general. These recommendations are then put forward to the Council of Ministers for consideration. This framework, therefore, gives private sector and civil society stakeholders a potential avenue to shape the EAC agenda. Beyond these two key mechanisms (observer status and the Consultative Dialogue Framework), there is another mechanism for stakeholder engagement at the EAC. A number of organizations, for instance, have signed memoranda of understanding with the EAC secretariat to enable their more direct involvement in regional policymaking areas in which they have specific expertise. Various CSOs have been directly involved in the development regional policies on HIV/AIDS prevention and gender equality.²⁹

The other two key mechanisms for private sector and civil society engagement at the EAC is through the EACJ and EALA. Various cases have been brought to the EACJ by both CSOs and private sector groups. Article 30 of the EAC treaty stipulates that any person who is resident in a partner state can bring a case where a law, regulation, decision or action is in infringement of the treaty. Given the breadth of issues covered under the EAC treaty, this gives considerable discretion for stakeholders to arbitrate at the EACJ. This has included cases brought regarding trade and free movement of goods within the region. For instance, in 2019 British American Tobacco brought and won a case against the Ugandan government at the EACJ. This case concerned excise taxes imposed on cigarettes imported into Uganda that had been produced in Kenya and were, therefore, viewed to be in violation of various treaty stipulations around the free movement of goods.³⁰

There are also debates surrounding EACJ jurisdiction over matters of human rights. Under Article 27 of the treaty, it was declared that jurisdiction over human rights and other matters would be operationalized by the summit at a later date, which has yet to occur. Despite this, EACJ judges have demonstrated a willingness to consider human rights-related matters under other articles of the treaty. The precedent was set for this in 2007, when a case was brought to the EACJ concerning the prolonged imprisonment, without due process, of 14 persons in

29 Interview 6, representative of Kenyan CSO, online, 24 June 2021.

30 HO Mbori, 'Case Commentary on the British American Tobacco v Attorney General of Uganda (EACJ) and GETMA International v The Republic of Guinea (OHADA CCJA)', *AfJIEL* 1 (2020). Accessed 3 March 2023, <https://www.afronomicslaw.org/journal-file/case-note-british-american-tobacco-bat-v-attorney-general-uganda-eacj-first-instance>.

Uganda.³¹ While the judges acknowledged that the case involved allegations of human rights abuses, they noted that they could still hear it under other articles of the treaty, notably Article 7(2), which stipulates that partner states abide by principles of good governance, democracy, the rule of law, social justice and accepted standards of human rights. Since 2007, CSOs have used this case to bring further law suits to the EACJ alleging human rights cases that have been purportedly committed. In 2021, for instance, two separate cases were brought to the EACJ against the Tanzanian and Ugandan governments over alleged abuses committed during election periods in both countries.³²

EALA also serves as an important forum for stakeholders to attempt to shape the EAC agenda. Legislation can be introduced to EALA either by the Council of Ministers, via their ex-officio status, or through a private member's bill introduced by an EALA member. For instance, in 2021 'The East African Community Sexual and Reproductive Health Bill' was introduced to EALA for consideration by the South Sudanese member Kennedy Mukalia Ayason.³³ During its development, this bill had considerable input from the regional health advocacy network EANNASO (Eastern Africa National Networks of AIDS and Health Services Organisations); it is still under consideration by the legislature.³⁴ EALA is also a mechanism for engagement by private sector groups. A Ugandan private sector representative notes that they have recently been engaging EALA members on a proposed regional livestock bill.³⁵ The obvious challenge, however, of pursuing advocacy through EALA is the uncertainty of whether the summit will assent to it becoming an act of the community and, therefore, making a bill legally binding on partner states.

KEY NON-STATE ORGANIZATIONS

A brief overview of some of the key CSOs and private sector groups that actively engage at the EAC level offers further insight into participation at the EAC. This overview is not exhaustive but rather captures and briefly describes the main non-state organizations active at the regional

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- 31 East African Court of Justice, 'James Katabazi and 21 others vs Secretary General of the East African Community and Attorney General of the Republic of Kenya', Reference No. 1 of 2007. Accessed 3 March 2023, <https://www.eacj.org/?cases=reference-no-1-of-2007-between-james-katabazi-and-21-others-versus-secretary-general-of-the-east-african-community-the-attorney-general-of-the-republic-of-uganda>.
 - 32 East African Court of Justice, 'Centre for Constitutional Governance and 3 others v. Attorney General of the United Republic of Kenya', Reference No. 43 of 2020. Accessed 3 March 2023, <https://www.eacj.org/?cases=reference-no-43-of-2020-centre-for-constitutional-governance-3-others-v-the-attorney-general-of-the-united-republic-of-tanzania>; J Kamoga, 'Uganda election petition filed at EACJ', *The East African*, 1 April 2021. Accessed 3 March 2023, <https://www.theeastafrican.co.ke/tea/news/east-africa/uganda-election-petition-filed-at-eacj-3344352>.
 - 33 East African Legislative Assembly, 'The East African Community Sexual and Reproductive Health Bill, 2021', Bill supplement No. 5, 15 June 2021. Accessed 20 July 2023, <https://www.eala.org/documents/view/the-east-african-community-sexual-and-reproductive-health-bill-2021>.
 - 34 AI Ajayi and NO Etyang, 'Why sexual and reproductive law for east Africa countries is being resisted', *The Conversation*, 19 July 2022. Accessed 31 July 2023, <https://theconversation.com/why-sexual-and-reproductive-law-for-east-african-countries-is-being-resisted-186954>.
 - 35 Interview 27, representative of Ugandan private sector, online, 12 October 2021.

level.

CSOs, NGOs and legal organizations

The *East African Civil Society Organisations Forum (EACSOF)* is effectively an umbrella organization representing CSOs in EAC affairs. EACSOF has a small secretariat based in Arusha, Tanzania, along with national chapters that are typically hosted by major CSOs based in each EAC partner state. For instance, the Tanzanian chapter of EACSOF is hosted by the Tanzanian Association of Non-Governmental Organizations (TANGO). EACSOF was formally established in 2007 and grew out of an initiative led by the *East African Law Society (EALS)* to give the views of CSOs more prominence at the EAC level. As one representative of East African legal profession remarks, EACSOF was the brainchild of the law society but it soon took on an independent dynamic of its own and has now outgrown EALS in importance.³⁶ Under the EAC Consultative Dialogue Framework, EACSOF is officially recognized as the apex body representing CSOs across the region.

The EALS is the regional society representing the legal profession at the EAC. It was established in 1995, as discussions on reviving regional cooperation were gathering pace. The EALS is one of the most active stakeholder organizations at the EAC. Having observer status, the EALS often participates in the EAC Sectoral Council on Legal and Judicial Affairs.³⁷ Between 2005 and 2011, it was also actively involved in advocacy for a protocol to extend the jurisdiction of the EACJ to cover human rights matters – a protocol that was ultimately rejected by the summit in 2012. The EALS is also highly active in arbitrating at the EACJ and litigating on cases where alleged breaches of the EAC treaty have been committed.

The *East African Trade Union Confederation (EATUC)* is another major stakeholder at the EAC level. The role of EATUC is to ‘bring the views of unions and labour to the East African Community structures’.³⁸ Established in 1988, EATUC is a long-standing regional organization. It primarily advocates for issues relating to the freedom of movement of workers across the region. With EAC observer status, EATUC staff regularly attend EAC meetings, particularly those that are labour related.³⁹ It also advocates through EALA and has recently been involved in the development of a private member’s bill on social security portability across the EAC partner states.⁴⁰ This bill aims to ensure that workers have access to social security benefits across the region.

The *Eastern Africa National Networks of AIDS and Health Services Organisations (EANNASO)* is a regional umbrella organization bringing together civil society groups from across Eastern

36 Interview 19, representative of East African legal profession, online, 30 July 2021.

37 Interview 18, representative of East African legal profession, online, 9 July 2021.

38 Interview 5, representative of Arusha-based CSO, online, 1 July 2021.

39 Interview 5, representative of Arusha-based CSO, online, 1 July 2021.

40 Interview 5, representative of Arusha-based CSO, online, 1 July 2021.

Africa (including the EAC and Ethiopia) that work on pressing health issues facing the region. EANNASO was established in the late 1990s, at the height of the HIV/AIDS pandemic. It has since grown beyond the sole mandate of HIV/AIDS programmes to address other major diseases in the region, including malaria and tuberculosis.⁴¹ The organization has EAC observer status and has been active in advocating for various regional health policies and provisions. Currently, EANNASO is advocating for an EAC sexual and reproductive health bill at EALA, which attempts to facilitate access to sexual and reproductive rights and services across the region. It is also pushing for an EAC pharmaceuticals bill to promote access to essential medicines across East Africa.

The *Eastern African Sub-Regional Support Initiative for the Advancement of Women (EASSI)* is a regional CSO based in Kampala, Uganda that advocates for women's rights and gender equality. It was established in the 1996, following the conclusion of the Fourth World Conference on Women in Beijing in 1995. EASSI has been active at the EAC since the late 1990s and was one of the key groups that successfully advocated for a chapter on gender in the EAC treaty.⁴² In 2012, it began collaborating with the EAC secretariat to develop an EAC gender policy, which was published in 2018,⁴³ and was active in lobbying for the EAC gender equality, equity and development bill at EALA, which passed in 2017. More recently, in collaboration with TradeMark East Africa, EASSI has been active in supporting cross-border women traders to be able to access regional markets.⁴⁴

The *Southern and Eastern African Trade Information and Negotiations Institute (SEATINI)* is a CSO based in Kampala, Uganda that advocates on economic and social justice issues related to trade, investment, agriculture and taxation to achieve improved livelihoods and sustainable development. SEATINI has observer status at the EAC and regularly publishes policy briefs and research tracking the implementation of EAC policies.

Kituo Cha Katiba (Eastern Africa Centre for Constitutional Development) is a major CSO based in Kampala, Uganda advocating on issues such as good governance, human rights, democracy and constitutionalism. It was established in 1997 by prominent academics and civil society activists from across the region. *Kituo cha Katiba* regularly commissions and publishes research on matters relating to the status of democracy and good governance across East Africa. Until recently, it published its annual 'Constitutionalism in East Africa' series, which provides an overview of key developments on matters of human rights and good governance at the EAC and in each of the seven partner states. It was one of the earliest organizations to acquire

41 Interview 4, representative of Arusha-based CSO, online, 6 July 2021.

42 Interview 17, representative of Ugandan CSO, Kampala, Uganda, 13 June 2022.

43 East African Community, 'East African Community Gender Policy', Arusha: East African Community Secretariat, 2018.

44 Eastern African Sub-Regional Support Initiative for the Advancement of Women, 'Making Trade Work for Women: A Simplified Trade Guide for Women Cross Border Traders in Eastern Africa', Kampala: Eastern African Sub-Regional Support Initiative for the Advancement of Women, 2020.

observer status at the EAC and has worked closely to promote its issue areas through regional institutions. For instance, *Kituo cha Katiba* worked closely with EALA members to pass a EAC human and peoples' rights bill in 2012, although this bill was not accepted by the EAC heads of state.⁴⁵

Private sector groups

The most prominent and recognized organization representing private sector interests at the EAC is the *East African Business Council (EABC)*. The EABC has observer status at the EAC and, through the Consultative Dialogue Framework, it is recognized as the official apex body representing the private sector at the regional level. The EABC is a membership-based organization with a secretariat based in Arusha, Tanzania, close to the headquarters of the EAC secretariat. In each EAC partner state, national private sector groups serve as the focal point for EABC activities. For instance, the *Kenya Private Sector Alliance (KEPSA)* serves as the focal point in Kenya, while in Uganda it is the *Private Sector Foundation Uganda (PSFU)*. The EABC lobbies on behalf of its members to improve the business environment across the EAC, including removing barriers to the movement of goods, services and people. Through its observer status, the EABC actively engages with EAC organs and institutions, and often contributes to sectoral policy development. For instance, along with national private sector and industry groups, the EABC played an advisory role in the renegotiation of the EAC common external tariff, which concluded in 2022.⁴⁶

The *East African Chamber of Commerce, Industry and Agriculture (EACCIA)* is another prominent private sector actor. The EACCIA is an umbrella organization for each of the national chambers of commerce and industry based across the EAC partner states. It is headquartered in Nairobi, Kenya and, similar to the EABC, it aims to advance the interests of the private sector and facilitate a conducive business environment across the region. While engaged at the EAC level, interviews with private sector representatives indicate that the EACCIA is less active in advocacy and policy development at the regional level compared to the EABC.⁴⁷

While the EABC and the EACCIA are the two major private sector groups active at the regional level, it is important to note that individual private sector groups, whether organized nationally (for example, the Confederation of Tanzanian Industries) or sectorally (for example, the Kenya Flower Council) can also engage with EAC policy issues through their own initiatives. This can involve, for instance, bringing cases to the EACJ or lobbying EALA members. More significantly, many of these groups can also lobby their national governments to represent issues on their behalf through EAC decision-making structures.

45 Interview 15, representative of Ugandan CSO, online, 12 October 2021.

46 Interview 22, representative of Arusha-based private sector group, online, 26 July 2022.

47 Interview 23, representative of Kenyan private sector, online, 9 November 2021; interview 26, representative of Tanzanian private sector, Dar es Salaam, Tanzania, 29 June 2022.

Other organizations

In addition to CSOs and private sector groups, other actors play an important role at the EAC. The first of these is TradeMark East Africa (TMEA), which is an aid-for-trade organization that supports programmes to reduce physical, legal and bureaucratic barriers to trade in eastern Africa. Based in Nairobi, Kenya, TMEA provides significant funding for projects to facilitate trade and improve the business environment across the EAC partner states, as well as in Ethiopia, Somalia and Djibouti. This includes funding the construction of one-stop border posts to facilitate the movement of goods and updating ICT systems for customs agencies. Although TMEA is an independent non-state agency, it is primarily funded by development agencies based in Europe and North America.

Another notable agency active in the EAC integration agenda is GIZ, the German government development agency. The EAC relies upon significant external donor funding for its operations and programmes, with 41 per cent of its annual budget coming from development partners in the 2020–2021 financial year.⁴⁸ Alongside German government contributions to the EAC annual budget, GIZ is also active in providing financial and technical support to various EAC programmes, more so than any other external development agency. GIZ has supported the EAC integration process since it was revived in the late 1990s. Its close involvement in this process is reflected by the fact that GIZ has offices at the EAC secretariat headquarters in Arusha, Tanzania.

48 East African Community, 'Presentation of the Budget of the East African Community for the Financial Year 2021/2022 to the East African Legislative Assembly', Press release, 28 June 2021. Accessed 20 July 2023, <https://www.eac.int/press-releases/2122-eac-tables-usd-91-7-million-budget-estimates-before-eala-for-the-2021-2022-financial-year>.

PEOPLE-CENTRED INTEGRATION: KEY FINDINGS

This assessment of the status of people-centred or participatory regionalism in the East African Community (EAC) draws on interview data with 28 stakeholders across East Africa. While challenges exist, it is important to emphasize the value of regional institutions for both civil society organizations (CSOs) and private sector groups.

OBSERVER STATUS AND THE CONSULTATIVE DIALOGUE FRAMEWORK

EAC observer status and the Consultative Dialogue Framework represent the two main formal mechanisms for CSOs and private sector groups to engage and participate in EAC decision-making structures. In principle, these two mechanisms offer access to societal actors to participate in EAC policy discussion processes. Interviews with stakeholders from across the EAC indicate, however, that there are several practical issues that impact participation through these mechanisms.

EAC observer status offers civil society and private sector stakeholders several important privileges. Most notably, observer status opens up the possibility to attend meetings of EAC organs – ranging from sectoral committees to head of state summits. This gives EAC observer organizations the ability to keep track of internal policy processes and, if called upon, to be able to contribute their expertise on various issues under deliberation. The issue that many interviewees flag is the strict and exacting criteria that must be met for an organization to obtain EAC observer status.⁴⁹ To have observer status, organizations need to be able to demonstrate at least three years of activity in regional affairs and be registered in each of the seven partner states. It is the latter criteria that many CSOs and private sector groups in East Africa struggle to meet. For one thing, many non-state organizations do not have the administrative or financial capacity to acquire accreditation in each of the partner states, especially as EAC membership has increased from three states in 2000, to seven in 2022. Many current EAC observers work around these criteria by registering through established national organizations. For instance, the East African Law Society (EALS) is registered in each of the partner states through national law societies and the East African Business Council (EABC) through national private sector groups. Even with this work around, acquiring accreditation across all EAC partner states is still a high threshold to meet for many organizations, especially CSOs.

49 Various interviewees mention issues around meeting the criteria to acquire EAC observer status.

The challenge that organizations face in this regard is illustrated by the fact that East African Civil Society Organizations Forum (EACSOFF) has not acquired EAC observer status, despite being recognized through the Consultative Dialogue Framework as the apex body representing civil society at the regional level. One interviewee who has been active in EACSOFF activities since its creation in 2007 mentions that the issue they face is significant variations in the openness of EAC partner states to civil society, the primary consequence of which is getting accreditation in some national contexts proves to be especially difficult.⁵⁰ This same interviewee specifically references the challenges of getting national accreditation in Burundi. The Burundi EACSOFF national chapter, for example, is hosted by the Forum for the Reinforcement of Civil Society (FORSC), a CSO that is currently banned in the country.⁵¹ An EACSOFF annual report from 2017 indicates that while other national chapters had managed to register in Kenya and Tanzania, they were still facing difficulties in the remaining EAC partner states.⁵²

The consequence of stringent criteria for acquiring observer status is that it limits both the quantity and breadth of organizations that can participate in EAC meetings and policy processes. The EAC does not publicly list the number of organizations with observer status but a 2016 report lists 15 such organizations.⁵³ The number of registered observer organizations that actively and regularly participate at EAC meetings is, however, likely lower. As an interviewee from an organization with observer status indicates, they are no longer actively engaged with EAC meetings or processes due to financial constraints.⁵⁴ Another issue interviewees highlight is that agendas for EAC meetings are often not communicated to observer organizations in advance, making it difficult for them to prepare and contribute to the issues under consideration.⁵⁵ Ultimately, this results in only the most well-resourced CSOs and private sector groups being able to effectively utilize their observer status.

Criticisms are also expressed about the Consultative Dialogue Framework, particularly by the CSO representatives interviewed for this study. Recall that the Consultative Dialogue Framework was established in 2012 to enable dialogue on EAC matters between CSOs and private sector groups, on the one hand, and national governments and the EAC secretariat, on the other. The main focal point of this framework is the annual Secretary General's Forum,

50 Interview 10, representative of Tanzanian CSO, online, 22 July 2021. Further interviewee comments in this paragraph are derived from this source.

51 A joint statement by Burundian civil society in February 2022 listed FORSC, among other groups in the country, as still being banned by the Burundian government. See: *Déclaration conjointe de la société civile burundaise : nous déplorons la levée des sanctions de l'Union européenne contre le Burundi*, Forum pour le Renforcement de la Société Civile, 9 février 2022. Accessed 20 July 2023, <https://forscburundi.org/declaration-conjointe-de-la-societe-civile-burundaise-nous-deplorons-la-levée-des-sanctions-de-lunion-europeenne-contre-le-burundi/>.

52 East African Civil Society Organisations Forum, 'The 2017 Annual Report', Arusha: East African Civil Society Organisations Forum Secretariat, 2017.

53 Open Society Foundations, 'Civil Society Guide'.

54 Interview 15, representative of Ugandan CSO, online, 12 October 2021.

55 Interview 6, representative of Kenyan CSO, online, 24 June 2021.

which brings together civil society and private sector groups from across the region to provide input on the EAC calendar of activities and put forward recommendations for consideration by the Council of Ministers. Some interviewees explain that it is difficult to achieve much through this forum because CSOs and the private sector – which have distinct interests and needs – are grouped together. A Tanzanian civil society representative elaborates:

When you are telling me that the secretary general of the EAC is meeting business and civil society together, you are telling me that is unlikely to be a very effective space. ... Businesses are a very diverse group. Civil society is an even more diverse group. So, if we want to be heading towards meaningful participation of East Africans in the affairs of the community, we should be talking about maximizing space. We should be creating different spaces for different groups and that I am not seeing.⁵⁶

In other words, there is a feeling that the EAC should be attempting to create more bespoke spaces to address various stakeholder interests that cannot currently be accommodated in the given parameters of the Consultative Dialogue Framework. Other interviewees comment that the framework seems to have been forgotten about in recent years and that the annual Secretary General's Forum has not been in session since before the COVID-19 pandemic in 2020.⁵⁷ A more general feeling among some interviewees is that the Consultative Dialogue Framework has never really lived up to its original ambition.⁵⁸ This is compounded by the view that the EAC and its various organs have not yet been willing to open up and accept new ideas brought forward by societal actors.

COMPARING CIVIL SOCIETY AND PRIVATE SECTION ENGAGEMENT

A key issue highlighted during interviews is the apparent disparity in access provided to CSOs compared to those from the private sector, with the latter seen to have more opportunities to shape and influence regional policy. One reason for this is the privileged relationship private sector groups tend to have with their national governments.⁵⁹ In interviews with various private sector representatives, many comment that they maintain close ties with various national ministries and are often called upon to offer input into policy and decision-making. This influence at the national level can then cascade up to the regional level.

For instance, existing research shows that private sector interest groups have been influential in pushing for national deviations from the EAC common external tariff.⁶⁰ Moreover, during the

56 Interview 11, representative of Tanzanian CSO, online, 7 September 2021.

57 Interview 16, representative of Ugandan CSO, online, 12 November 2021.

58 Interview 11, representative of Tanzanian CSO, 7 September 2021; Interview 15, representative of Ugandan CSO, 12 October 2021; Interview 16, representative of Ugandan CSO, 15 November 2021.

59 C Lindblom, *Politics and markets: The world political-economic systems*, New York: Basic, 1977.

60 T Bündler, 'How common is the East African Community's common external tariff really? The influence of interest groups on the EAC's tariff negotiations', *Sage Open*, 8/1 (2018).

recent renegotiation of the common external tariff between 2017 and 2022, many private sector groups were included in the national negotiating teams for their country.⁶¹ While some civil society groups, particularly those working on issues such as health and gender, have also been able to build close ties with national and regional authorities in East Africa, generally speaking the relationship between civil society and governments across the region tends to be more adversarial.⁶² Many interviewees comment, for instance, on what they see as shrinking civic space across the EAC partner states in recent years.⁶³

A further point of note here is the centrality of market integration in the EAC regional integration agenda.⁶⁴ As is stated in the first East African cooperation development strategy in 1997, the purpose of reviving integration is 'based on the creation of an enabling environment for the establishment of a single market and investment area'.⁶⁵ In this context, the private sector is viewed as the key driver of integration through its role in driving cross-border trade and investment. As such, private sector groups have tended to have a more privileged position in EAC institutions and processes. This was recently illustrated in 2021, when a technical working group was established between the EAC secretariat and the EABC in order to create a more conducive environment for the private sector in East Africa. At its launch, the EAC secretary general, Peter Mathuki, describes the private sector as the heart of the integration process.⁶⁶ In contrast, CSO work is not directly linked to issues related to economic integration, so they can often find it difficult to have their views heard at the EAC. A good example of this is when *Kituo cha Katiba* attempted to introduce an EAC human and peoples' rights bill in 2012. This effort was rejected on the grounds that it was not of concern to the EAC (economic) agenda and would only be considered as part of future discussions regarding the creation of an East African political federation. Indeed, one Ugandan civil society representative notes that the increasingly narrow focus of the EAC on matters of economic integration has led them to disengage from actively participating at the regional level.⁶⁷

61 Interview 25, representative of Tanzania private sector, Dar es Salaam, Tanzania, 28 June 2022.

62 A Godsäter and F Söderbaum, 'Civil society in regional governance in Eastern and Southern Africa', in *Civil Society and International Governance: The role of non-state actors in global and regional regulatory frameworks*, edited by D Armstrong et al., 148-165. Abingdon: Routledge, 2010.

63 Interview 6, representative of Kenyan CSO, 24 June 2021; Interview 8, representative of Kenyan CSO, 19 July 2022; Interview 10, representative of Tanzanian CSO, 22 July 2021; Interview 11, representative of Tanzania CSO, 7 September 2021; Interview 15, representative of Ugandan CSO, 12 October 2021.

64 O'Reilly, 'African regionalism'.

65 East African Community, 'Development Strategy (1997-2000)', 11.

66 East African Community, 'EAC and EABC launch Technical Working Group to promote Private Sector Development', Press release' 8 July 2021. Accessed 20 July 2023, <https://www.eac.int/press-releases/152-investment-promotion-private-sector-development/2138-eac-and-eabc-launch-technical-working-group-to-promote-private-sector-development>.

67 Interview 15, representative of Ugandan CSO, online, 12 October 2021.

THE STRENGTHS AND LIMITATIONS OF EACSOFF AND THE EABC

When asked to share their thoughts on both EACSOFF and the EABC, interviewees express a general consensus on the importance of having regional apex bodies to represent both civil society and the private sector. As one Tanzanian civil society representative emphasizes, ‘The presence of EACSOFF, just the presence, has created some kind of visibility that East African civil society stands the potential of speaking with one voice.’⁶⁸ A Kenyan private sector representative explains that the EABC serves an important function in terms of peer-to-peer interactions with private sector groups in other EAC partner states, going on to mention particular instances when issues around market access across the region were smoothly resolved through EABC meetings, rather than going formally through their respective national governments.⁶⁹ Another private sector representative from Tanzania also remarks on the importance of having EABC lobby for specific issues in terms of optics.⁷⁰ This same interviewee points out that when the EABC lobbies to remove trade barriers in the region, the issue tends to carry more legitimacy; but in contrast, when national governments or national private sector groups do the same, they are seen to be motivated by more parochial interests.

Interviewees raise additional issues they encounter with both EACSOFF and the EABC. Notably, a recurring theme across several interviews is the dominance of Kenyan actors in both EACSOFF and the EABC. One Ugandan private sector representative expresses the view that the EABC is dominated by Kenyan interests, specifically noting: ‘We find quite a lot of the time that Ugandan issues are not EABC issues.’⁷¹ Similar issues are highlighted with EACSOFF, with one Kenyan civil society representative reflectively noting that CSOs from Kenya tend to be quite dominant in shaping the agenda of the regional civil society forum.⁷² Grievances about the perceived dominance by Kenya over the EAC are a long-standing historical feature of integration in the region. What these interviews indicate, however, is that such grievances extend not only to the EAC itself but to associated regional bodies such as EACSOFF and the EABC.

Linked to this is the fact that as broad umbrella organizations, both EACSOFF and the EABC often have to manage competing demands from different interests across the region. In recent years, for instance, trade disputes have emerged between different partner states. This has included restrictions imposed on the importation of Ugandan milk by the Kenyan government⁷³

68 Interview 11, representative of Tanzanian CSO, online, 7 September 2021.

69 Interview 24, representative of Kenyan private sector, online, 9 November 2021.

70 Interview 26, representative of Tanzanian private sector, Dar es Salaam, Tanzania, 30 June 2022. Further interviewee comments in this paragraph are derived from this source.

71 Interview 27, representative of Ugandan private sector, online, 12 October 2021.

72 Interview 6, representative of Kenyan CSO, online, 24 June 2021.

73 D Kiyonga, ‘Dairy wars: Uganda, Ruto press reset key’, Daily Monitor, 29 October 2022. Accessed 3 March 2023, <https://www.monitor.co.ug/uganda/special-reports/dairy-wars-uganda-ruto-press-reset-key-4001694>.

and closure of the main border crossing between Uganda and Rwanda from 2019 to 2022.⁷⁴ One interviewee notes that the EABC struggled to show leadership in these disputes.⁷⁵ Interviews with civil society representatives indicate that EACSOF faces similar challenges of mediating different interests from across the region. One Kenyan civil society representative explains that CSOs across the region operate in very different political contexts, so some are more hesitant than others about using EACSOF as a forum to criticise national governments.⁷⁶

A final issue highlighted by interviewees concerns the funding for both the EABC and EACSOF. Both organizations are partly funded by member contributions but they also rely significantly on external funding, especially from donors. For instance, TMEA (TradeMark East Africa) and GIZ (*Deutsche Gesellschaft für Internationale Zusammenarbeit*; German Agency for International Cooperation) provide funding for programmes run by the EABC and EACSOF. This reliance on external funding, however, also impacts the ability of both organizations to run and operationalize various programmes. This appears to have been a larger issue for EACSOF than for the EABC, with various interviewees commenting on its long-standing challenge of raising sufficient finances for its activities. Several participants from CSOs in the region also point out that external donors are becoming much more stringent in terms of what they are willing to fund and they often struggle to demonstrate to donors the observable impact of their lobbying and advocacy work at the EAC level.⁷⁷

THE EACJ AND EALA AS AVENUES FOR PARTICIPATION AND INFLUENCE

Both the EACJ and EALA offer CSOs and private sector groups the clearest avenues to engage with EAC affairs. EACJ rules and procedures allow any citizen of a partner state to bring a case when there has been a perceived or alleged breach of the EAC treaty. Furthermore, as EACJ judges have shown a willingness to take a broad interpretation of what constitutes a potential breach of the treaty, they have allowed actors and organizations to bring broad range of cases to the EACJ. This broad interpretation of the court mandate has proven important as this has enabled actors to litigate issues at the EACJ that might not be possible through national judicial mechanisms. In 2020, for instance, EACJ judges ruled in favour of Martha Karua (a prominent Kenyan politician and 2022 vice presidential candidate) against the Kenyan attorney general, finding that Kenya had violated Karua's access to justice and violated articles of the EAC treaty

74 F Reyntjens, 'Rwanda has reopened the border with Uganda but distrust could close it again', *The Conversation*, 10 March 2022. Accessed 3 March 2023, <https://theconversation.com/rwanda-has-reopened-the-border-with-uganda-but-distrust-could-close-it-again-176861>.

75 Interview 27, representative of Ugandan private sector, online, 12 October 2021.

76 Interview 6, representative of Kenyan CSO, online, 24 June 2021.

77 Interview 6, representative of Kenyan CSO, 24 June 2021; Interview 15, representative of Ugandan CSO, 12 October 2021.

around the rule of law.⁷⁸ This case centred around Karua's inability to get a 2017 election petition heard in a Kenyan court.

Many interviewees praise the court, particularly its record of judicial independence, even in the face of political pressure from national governments. The EACJ is not, however, immune from political interferences, especially in terms of its mandate and functions. In 2007, for instance, at the instigation of the Kenyan government, an amendment was made to the treaty that introduced more mechanisms to remove EACJ judges and placed a time limit of two months in which cases could be taken to the court from the point in which they occurred. These changes occurred in the aftermath of an unfavourable ruling against the Kenyan government over the process through which it elected representatives to EALA, ruling that the process needed to be re-run.⁷⁹

These treaty amendments are, therefore, largely interpreted as an attempt by the heads of state to curtail court abilities to challenge the actions of national governments. While the court demonstrates judicial independence, interviewees also note that its ability to enforce rulings, particularly against national governments, can be limited. One interviewee cites in-house research conducted by the EALS, which estimates that only around 50 per cent of the rulings issued by the EACJ are fully abided by.⁸⁰ As with other EAC institutions, in recent years the EACJ has also faced increased funding constraints, which has led to a backlog of cases and, ultimately, limited the ability actors and organizations to access the court.⁸¹

Similar trends have also been evident at EALA. The assembly has proven to be an important space for engagement by CSOs and private sector groups, which have lobbied various EALA members to introduce and pass bills. To greater and lesser extents, EALA members have shown independence over the years. As with the EACJ, however, the assembly is not immune from political interference from authorities in the region. For one thing, EALA members are increasingly being nominated from ruling parties across the EAC partner states. Recent elections to the fifth EALA assembly in 2022 have even seen opposition parties in Uganda and Burundi boycott the nomination process due to the dominance of ruling parties over the process.⁸² Another issue that EALA has faced in recent years is being able to meet quorum requirements, where all members are present, to allow proceedings to run. The quorum issue has become

78 HO Mbori, 'EACJ First Instance Court Decides Martha Karua v Republic of Kenya: The Litmus Test for EACJ Jurisdiction and Supremacy', *Afronomic Law*, 30 November 2020. Accessed 3 March 2023, <https://www.afronomiclaw.org/2020/11/30/eacj-first-instance-court-decides-martha-karua-v-republic-of-kenya-the-litmus-test-for-eacj-jurisdiction-and-supremacy>.

79 Open Society Foundations, 'Civil Society Guide', 21.

80 Interview 18, representative of East Africa legal profession, online, 9 July 2021.

81 Interview 2, representative of the East African Community, Nairobi, Kenya, 21 July 2022.

82 J Kamoga, 'Boycotts, ruling party meddling mark Uganda and Burundi Eala polls', *The East African*, 24 September 2022. Accessed 3 March 2023, <https://www.theeastafrican.co.ke/tea/news/east-africa/boycotts-ruling-party-meddling-mark-uganda-burundi-eala-polls-3960238>.

more pronounced in recent years as membership of the EAC has expanded to include seven states, which all have different election cycles. One representative of the EAC remarks that this often impacts the business of EALA as members are taken away to campaign in national elections.⁸³ Finally, as with the EACJ, the EALA budget has also been reduced in recent years, which has reduced its capabilities and functions. The same previously cited interviewee notes that funding cuts mean there is now a backlog of bills still to be heard at the assembly.⁸⁴

PEOPLE-CENTRED INTEGRATION, CIVIL SOCIETY AND THE PRIVATE SECTOR

A further issue interviewees highlight is the limited number of actors able to participate in EAC affairs. One reason for this is the strict criteria for acquiring observer status, as well as access to necessary finance and resources to engage at the EAC level. Another issue is that people-centred integration is synonymous with the participation of larger and more organized CSOs and private sector groups. Arguably, this can be traced to Article 127 of the EAC treaty, which specifically emphasizes and references the participation of civil society and the private sector. Consequently, a broader range of societal actors is often excluded or simply overlooked in terms of participation at the EAC level. As one interviewee explains, civil society is narrowly defined at the EAC, often being equated with organized NGOs:

We have been using a very narrow definition of civil society and the majority of members [of EACSOF] are only NGOs. So, in order to bring the voices of civil society, you have to really make sure that we bring on board other civil society actors. For example, we have worker associations, journalists and the media.⁸⁵

This interviewee goes on to remark on their own experience and how, despite working in various Tanzanian CSOs for decades, they had only recently heard of EACSOF and the possibilities of civil society participation at the EAC. Similar remarks are made by one private sector representative from Kenya who notes that while national private sector groups have a seat at the EAC, there is still a challenge in spreading awareness of the EAC and its opportunities to smaller and medium-sized business across the region.⁸⁶

Some interviewees criticize the operationalization of people-centred integration at the EAC on the grounds that it actually excludes the people of East Africa. As one Tanzanian civil society representative puts it:

I speak of citizens and civil society separately because they don't mean one and the same thing. ... Discourse around participation in the EAC has been focused on opening the EAC

83 Interview 3, representative of the East African Community, Arusha, Tanzania, 14 July 2022.

84 Interview 3, representative of the East African Community, Arusha, Tanzania, 14 July 2022.

85 Interview 12, representative of Tanzanian CSO, online, 22 September 2021.

86 Interview 23, representative of Kenyan private sector, online, 9 November 2021.

to civil society and the private sector, rather than to citizens.⁸⁷

This reflects a general sense among interviewees that the EAC is a very distant institution to many East Africans and that there is lack of awareness among ordinary people. As another Tanzanian civil society representative puts it:

The knowledge from people on the ground about the East African Community and its many policies is not known to many people. ...One of the challenges that I see is the connection between what is called people-centred integration and its actual practices on the ground.⁸⁸

WHY MOBILIZE REGIONALLY?

The findings of this report present a mixed picture concerning the practice and operational nature of people-centred integration. Since 2000, the partner states and the EAC secretariat have established mechanisms to facilitate engagement with and participation by CSOs and the private sector; namely, EAC observer status and the Consultative Dialogue Framework, along with memoranda of understanding (typically for issue-based cooperation). There are also avenues for engagement and participation through other EAC institutions, such as the EACJ and EALA. Although these mechanisms exist, challenges remain in their operationalization. These range from the stringent criteria for acquiring EAC observer status, questions over the future of the Consultative Dialogue Framework, unevenness in access for CSOs and the private sector, and funding constraints for primary organs such as the EACJ and EALA.

A more general problem for CSOs and private sector groups trying to effect change through regional institutions is that policymaking and decision-making at the EAC can often be a long and drawn-out process given the different national interests at play. For instance, an organization attempting to get a bill passed at EALA first has to mobilize enough assembly members to back the bill. Once it passes, they then have to lobby partner state governments to assent to it, all of which requires significant time and resources for the lead organization. Even when a bill, protocol or policy manages to make its way through EAC decision-making structures, implementation on the ground can often remain partial or, in some instances, non-existent. For instance, the EAC common market protocol was established in 2010 but more than a decade later, key components are yet to be implemented by the partner states.⁸⁹

These issues pose a question about why CSOs and private sector groups continue to mobilize and attempt to effect change through the EAC. This is especially the case, given that the outcomes of such advocacy efforts remain uncertain. As the interviews with various

87 Interview 11, representative of Tanzanian CSO, online, 7 September 2021.

88 Interview 12, representative of Tanzanian CSO, online, 22 September 2021.

89 East African Community, 'Protocol on Common Market'.

stakeholders across the region indicate, several motivations continue to underpin engagement and participation at the EAC level. First and foremost, many interviewees, representing a range of different organizations, express a desire for the realization of the aspirations of the EAC and regional integration. By participating at the EAC, they can stay up to date on various important policy areas, as well as keep pressure on national governments to progress and implement key decisions on the regional agenda. Many interviewees also speak of their role as a bridge between the EAC and the people of the region. Hence their need and interest to participate and engage at the regional level.

Another reason for continued engagement is that many stakeholders view the EAC as an important space to set policy standards and benchmarks across the region. In theory, once an EAC protocol, policy or bill is assented to at the Heads of State Summit, under the EAC treaty, partner states are required to align their laws and practices with the obligations set out. While implementation of many EAC protocols, policies and bills can be drawn out, many stakeholders across the region view the EAC as an important first step to effect policy change on the ground over the longer term. As one representative of a regional CSO based in Arusha explains:

If you look at the East African Community itself ... you are likely to see Kenya has a lot of progressive policies that you are unlikely to find in Burundi. So, what happens is that if you have a regional policy that tries to lift beyond the country, and these regional policies are actually passed and assented to by the country heads of state, then partner states are obliged to actually respect this regional policy. This is where civil society or advocates of policy change can actually take their country to task and say you are a signatory to this regional policy.⁹⁰

In other words, by pushing their agendas through EAC decision-making structures and getting them passed as a protocol, policy or bill, CSOs and private sector groups can then use their official legality under the EAC treaty to pressure partner states to abide by them. As such, influencing the EAC policy or legislative process is not an end in itself, but rather a means and legal resource to effect policy change on the ground.

Finally, given the status of EAC institutions, they also provide important spaces whereby particular issues can be publicized to broader audiences, which is the case even if nothing emerges in terms policy or legal changes. As a representative of the East African legal profession notes, in some instances they litigate at the EACJ in order to keep specific issues in the public domain.⁹¹ For example, they cite a 2019 ruling by the EACJ against the Tanzanian government regarding its 2016 Media Services Act, which places excessive restrictions on the media and

90 Interview 5, representative of Arusha-based CSO, online, 6 July 2021.

91 Interview 21, representative of East African legal profession, Kampala, Uganda, June 2022. This point is also made by Gathii, 'Variation in the use of sub-regional courts', who argues that the EACJ is often used to name and shame national governments.

press freedoms.⁹² Although the ruling did not force the Tanzanian government to repeal the law, the interviewee points out that condemnation by the court was important for keeping the issue of Tanzanian media freedoms in the public domain. Indeed, many CSO representatives note that EAC institutions have proven themselves increasingly important, especially as civic space has shrunk across several partner states in recent years. While a CSO might not be able to advocate for an issue at the national level, they can potentially do so through the EAC and its associated institutions. As one Kenyan civil society representative explains:

The governments look at the EAC as that organ that sits in Arusha that is not very close to them. So, in an interesting way that creates a certain space for organizations in some of these countries. There are things that they [CSOs] cannot articulate in their own country but they can articulate those very sort of things abroad, when they are in Arusha.⁹³

The same interviewee cites an example of the role the EACJ and EALA played during the political crisis in Burundi in 2015. The crisis emerged when then President Pierre Nkurunziza announced that he would be running for a third term in office, a move which many viewed as a violation of the Burundian constitution.⁹⁴ As a result, mass protest broke out against the Burundian government. This led to a major crackdown by security forces, including widespread rights abuses, with many Burundians fleeing the country. In response, several CSOs and legal organizations from across the EAC, including EACSOF and EALS, filed for a public hearing on the Burundian crisis at EALA⁹⁵ and brought a case against the Burundian government at the EACJ over alleged rights abuses.⁹⁶ In both instances, victims of the Burundian government crackdown were able to share their experiences of the repression and rights abuses they faced at the hands of Burundian security forces. In this way, both the EACJ and EALA served as important platforms to give voice to these victims, which they would not have had at the national level.

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- 92 Committee to Protect Journalists, 'East African court rules that Tanzania's Media Services Act violates press freedom', 28 March 2019. Accessed 3 March 2023, <https://cpj.org/2019/03/east-african-court-rules-that-tanzanias-media-serv/>.
- 93 Interview 6, representative of Kenyan CSO, online, 24 June 2021.
- 94 J Grauvogel, 'Burundi after the 2015 Elections: A Conference Report', *Africa Spectrum* 51/2 (2016).
- 95 East African Legislative Assembly, 'Report of the EALA Committee on Regional Affairs and Conflict Resolution on the Public Hearing on the Petition by Pan-African Lawyers Union (PALU) on the Deteriorating Human Rights and Humanitarian Situation in Burundi held in Arusha', Arusha: EALA Clerks Office, 2016. Accessed 3 March 2023, <https://www.eala.org/index.php/documents/view/report-of-eala-committee-on-racr-on-public-hearing-on-the-petition-of-palu>.
- 96 East African Civil Society Organisations Forum, 'PALU and EACSOF Jointly File a Case at the EACJ Challenging the Constitutional Court of Burundi's Decision Permitting President Nkurunziza's Third Term Re-Run for Elections', 6 July 2015. Accessed 20 July 2023, <http://eacsof.net/EACSOF/wp-content/uploads/2016/07/PALU-AND-EACSOF-JOINTLY-FILE-A-CASE-AT-THE-EACJ-CHALLENGING-THE-CONSTITUTIONAL-COURT-OF-BURUNDI%E2%80%99S-DECISION-PERMITTING-PRESIDENT-NKURUNZIZA%E2%80%99S-THIRD-TERM-RE-RUN-FOR-ELECTIONS.pdf>.

CONCLUSION AND POLICY CONSIDERATIONS

Since its re-establishment in 2000, the East African Community (EAC) claims to abide by and promote the principle of people-centred integration. While the exact meaning of the term ‘people’ has never clearly been defined, in practice the stated intention behind this ideal is to promote the participation and engagement of civil society and the private sector in the EAC, with a focus on the broader goal of creating an economically integrated and politically unified region. Now that the EAC has been operating for more than two decades, it is useful to take stock of the stated ambition of the EAC to be people centred.

The findings of this report present a mixed picture concerning the status of people-centred integration. To begin, the term ‘people’ in people-centred integration is narrowly defined (at least in practice) to refer to civil society organizations (CSOs) and private sector groups. While the participation of both these types of actors is important, a broader spectrum of societal interests and representatives is often overlooked or prevented from participating at the EAC. Although mechanisms exist, such as EAC observer status and the Consultative Dialogue Framework, to facilitate cooperation between EAC decision-making organs and societal interests, there are problems with their implementation. Acquiring EAC observer status depends on fulfilling stringent criteria – notably, registration in each of the seven partner states – that many organizations struggle to meet. Moreover, the key element of the Consultative Dialogue Framework, the Secretary General’s Forum, is viewed as involving too many organizations from across multiple sectors to be an effective space for engagement. There are also issues related to the future status of Secretary General’s Forum, as it has not operated in recent years. Funding cuts have limited the capacity of both the EACJ and EALA as sites for CSOs and the private sector to engage with the EAC.

Despite these structural constraints and challenges, the findings of this report also highlight the importance of EAC organs and institutions for CSOs and private sector groups. Stakeholders from across the region demonstrate significant support for the EAC and its goal of promoting integration and cooperation across East Africa. The EAC also serves as an important space in which CSOs and private sector groups can attempt to shape policy standards and norms across the region. In particular, the existence of regional policy instruments can set precedents through which these stakeholders can put pressure on their national governments to implement reforms. Finally, the EAC is an important space for publicizing issues and putting them in the public domain, which is another means of pressuring partner states to abide by their commitments under the EAC treaty.

POLICY CONSIDERATIONS

For the EAC secretariat and partner states

1. Reform EAC observer status

This is the most pressing recommendation. The criteria to acquire observer status is too difficult for most organizations across the region to fulfil. Registering in each EAC partner state initially made more sense when EAC membership comprised only Kenya, Tanzania and Uganda, but the inclusion of Burundi, the Democratic Republic of Congo, Rwanda and South Sudan now makes it near impossible for many organizations to acquire observer status. Although there is a need for specific and transparent observer status criteria, the requirement to register in all seven partner states places an unnecessary and unrealistic burden on civil society and private sector organizations aspiring to participate and engage through this EAC mechanism. This is especially the case for smaller and less well-resourced organizations and groups. It is therefore imperative that criteria for acquiring observer status be made more feasible to ensure that more organizations wishing to engage at the EAC are able to do so. Rather than being required to register in each partner state, organizations could instead be asked to demonstrate evidence of how their work relates to the EAC integration and cooperation agenda. They could also be required to maintain a satellite office in Arusha, Tanzania to enable to them to fully engage with personnel and participate in meetings at the EAC secretariat. These changes would allow a broader spectrum of relevant stakeholders to gain observer status and contribute to the EAC regional policy agenda.

2. Adapt the Consultative Dialogue Framework

In terms of the Consultative Dialogue Framework, there is a need to create more bespoke spaces to engage various sectoral interests instead of combining these disparate organizations and groups together in one brief large-scale forum. This would better enable the distinct and specific views of diverse stakeholder groups to be heard. The creation of the EAC-EABC (East African Business Council) Technical Working Group is a positive step in this regard. Similar initiatives should also be extended to civil society actors.

3. Broaden the scope of issues covered under the EAC integration agenda

CSO representatives find it increasingly difficult to push their agendas at the EAC due to an increasing focus on matters of economic integration. Consequently, organizations working on issues such as good governance, human rights and democracy feel their policy agendas are being sidelined at the EAC. Although not dismissing the importance of economic integration, it is important to note that the EAC treaty is not limited to these issues. Rather, the treaty emphasizes that integration should be underpinned by principles relating to democracy, human rights and the rule of law; for example, Article 6. The EAC secretariat and partner states should ensure that organizations working on promoting these issues also have meaningful access to relevant regional policy deliberations and decision-making processes.

FOR EAC DEVELOPMENT PARTNERS AND DONORS

4. Continue funding civil society and private sector engagement at the EAC

Acquiring funding for participation and engagement at the regional level is becoming more difficult. Demonstrating the observable impact of EAC-related activities to external donors is a challenge due to the slow process of EAC policymaking and the somewhat limited scope for stakeholder groups to shape regional policymaking. Nonetheless, the status of regional law over the partner states means that regional institutions and organs can be an effective space to influence policy change at national and regional levels alike. Both the EACJ and EALA have also proven to be valuable independent institutions for societal groups attempting to effect change and challenge abuses of power. This is particularly important for CSOs, given that national civic space across several EAC partner states has shrunk over recent years.⁹⁷ For external development partners and donors focused on promoting access to the rule of law, human rights and good governance across East Africa, supporting groups to access and engage the EAC should be imperative, factoring in both the long-term and sometimes indirect nature of potential impact.

FOR CSOS AND PRIVATE SECTOR GROUPS

5. Counter the perception that the EABC and EACSOFF are dominated by Kenya

The perceived dominance of both the EABC and EACSOFF by Kenyan groups and actors is potentially problematic for the cohesiveness and unity of the East African private sector and civil society. Those who work at these two organizations should attempt to identify the origins of this perception and constructively attempt to counter it. Although such an endeavour is not straightforward, a starting point could be for each organization to conduct a region-wide survey among private sector groups and CSOs, respectively. This could seek to gauge perceptions about the EABC and EACSOFF among its membership and how they represent their interests at the regional level.

6. Identify ways to disseminate knowledge of the EAC and its opportunities to wider audiences

The EAC and its activities are perceived as being somewhat detached from citizens on the ground. Within their financial and administrative limits, both private sector groups and CSOs should aim to identify ways in which they can disseminate knowledge about the EAC and its opportunities to wider audiences. One cost-effective way of doing this is for national chapters of both the EABC and EACSOFF to disseminate knowledge of the EAC and its activities through their networks. National chapters of both organizations, such as KEPSA or the Tanzanian Association of Non-Governmental Organizations (TANGO)

97 'East Africa: Civic space shrinking', Human Rights Watch, 17 January 2019. Accessed 3 March 2023, <https://www.hrw.org/news/2019/01/17/east-africa-civic-space-shrinking>.

maintain memberships that span the breadth of the countries in which they are based. One representative of a Ugandan CSO, for instance, notes they are planning to formulate and distribute a monthly e-newsletter to their members detailing ongoing events at the EAC⁹⁸ This is a practice that other national CSOs and private sector groups could easily replicate to disseminate knowledge of the EAC to wider audiences.

98 Interview 15, representative of Ugandan CSO, online, 28 September 2021.

GLOSSARY OF ACRONYMS, WORDS AND PHRASES

CSO	civil society organization
EABC	East African Business Council
EAC	East African Community
EACCI	East African Chamber of Commerce, Industry and Agriculture
EACJ	East African Court of Justice
EACSO	East African Civil Society Organisations Forum
EAHC	East African High Commission
EALA	East African Legislative Assembly
EALS	East African Law Society
EANNASO	Eastern Africa National Networks of AIDS and Health Services Organisations
EASSI	Eastern African Sub-Regional Support Initiative for the Advancement of Women
EATUC	East African Trade Union Confederation
EU	European Union
FORSC	Forum for the Reinforcement of Civil Society
GIZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> (German Agency for International Cooperation)
KEPSA	Kenya Private Sector Alliance
SEATINI	Southern and Eastern African Trade Information and Negotiations Institute
TANGO	Tanzanian Association of Non-Governmental Organizations
TMEA	TradeMark East Africa

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APPENDIX 1. LIST OF ANONYMIZED INTERVIEWS

Interview no.	Interview description	Date	Location
East African Community-affiliated organs and institutions			
1	Representative of the East African Community	20 July 2022	Nairobi, Kenya
2	Representative of the East African Community	21 July 2022	Nairobi, Kenya
3	Representative of the East African Community	14 July 2022	Arusha, Tanzania
East African civil society organizations (CSOs)			
4	Representative of Arusha-based CSO	6 July 2021	Online
5	Representative of Arusha-based CSO	1 July 2022	Online
6	Representative of Kenyan CSO	24 June 2021	Online
7	Representative of Kenyan CSO	5 July 2021	Online
8	Representative of Kenyan CSO	19 July 2022	Nairobi, Kenya
9	Representative of Kenyan CSO	19 July 2022	Nairobi, Kenya
10	Representative of Tanzanian CSO	22 July 2021	Online
11	Representative of Tanzanian CSO	4 August 2021	Online
12	Representative of Tanzanian CSO	22 September 2021	Online
13	Representative of Ugandan CSO	21 June 2021	Online
14	Representative of Ugandan CSO	28 September 2021	Online
15	Representative of Ugandan CSO	12 October 2021	Online
16	Representative of Ugandan CSO	15 November 2021	Online
17	Representative of Ugandan CSO	13 June 2022	Kampala, Uganda
East African legal profession			
18	Representative of East African legal profession	9 July 2021	Online
19	Representative of East African legal profession	30 July 2021	Online
20	Representative of East African legal profession	20 June 2022	Kampala, Uganda
21	Representative of East African legal profession	21 June 2022	Kampala, Uganda
East African private sector			
22	Representative of Arusha-based private sector group	26 August 2022	Online

23	Representative of Kenyan private sector	9 November 2021	Online
24	Representative of Kenyan private sector	9 November 2021	Online
25	Representative of Tanzanian private sector	28 June 2022	Dar es Salaam, Tanzania
26	Representative of Tanzanian private sector	30 June 2022	Dar es Salaam, Tanzania
27	Representative of Ugandan private sector	12 October 2021	Online
28	Representative of Ugandan private sector	24 June 2022	Kampala, Uganda

