

THE ROLE THAT THE EAST AFRICAN COURT OF JUSTICE (EACJ) PLAY IN THE PROMOTION, PROTECTION AND ENFORCEMENT OF HUMAN RIGHTS IN TANZANIA

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INTRODUCTION

The book who owns the problem? Africa and the struggle for Agency commences with the Late Pius Adesanmi articulating that he had been invited to a conference to reflect on the theme African solutions for African problemsⁱ Typical of his somewhat controversial view, he proclaimed that in Africa politics dictates problems that are defined as African.ⁱⁱ striking ,though ,is his assertion that solving Africa's perceived problems depends on the readiness of the institutions and opportunities of African modernity to rise up and solve them using critical human intelligence and innovation.ⁱⁱⁱ The advent of regional and sub-regional institution arrangements is an idea developed by the United Nations as early as 1968^{iv} for the fact that regional mechanisms have better grasp of regional interests and conditions; and not least because at the time ,there was clear reluctance on the part of Africa to be imposed upon by external parties given the history of colonization embedded in the identity and consciousness of Africans. Consequently, a number of sub-regional organizations and organs have been established one of which is the subject of this articles topic –is the east African Court of justice (EACJ) Established under Article 9 of the East African Community Treaty.^v The East African Community (EAC) is a transnational governance structure located somewhere beyond the reach of the nation-state and below the legal regime of international law .^{vi}as dieter Grimm explains in the case of conflict courts of arbitration are the conflict solving actors ,applying a transnational law ,which is to a large degree shaped by themselves ^{vii} confirming this description is the East African community ,which has demonstrated some effectiveness in promoting regional cooperation in economic relations in conjunction with

its principal judicial organ, the EACJ, which has been empowered to advance respect for human rights and to independently adjudicate cases brought before the court moreover the court has a special mandate in terms of areas to cover and independent ways of working.

The East African Court of Justice (EACJ) is one of the organs established under Article 9 of the East African Community Treaty.^{viii} The East African Community (EAC) has demonstrated some effectiveness in promoting regional cooperation in economic relations. It also disposes of a range of Institutions - including the EACJ and the Treaty - to advance the respect for human rights and to adjudicate independently cases brought before the court. Within the EAC Institutions or organs, the EACJ has a special mandate in terms of areas to cover and independent ways of working.

This article intends to deal with the formal arrangements in place, including those to implement its mandate. Secondly, the article will deal with challenges relating to the interpretation and implementation of its mandate. This has resulted in rulings by the court that were politically controversial to one or more EAC Partner States, given - among other things - the court's efforts to adjudicate on matters that hint on human rights, an area that it has no mandate yet to adjudicate upon. Section 3 then deals with the political backlash and the approaches by member states to eliminate the EACJ, undo rulings or otherwise constrain the actions, scope and independence of the court. The proposal will also look at key conduits which push for the EACJ to further take - what some have called - an activist stance in the pursuit of implementing its mandate and pushing the boundaries for the enforcement of the protection of human rights within the EAC.

BACKGROUND AND THE CONTEXT OF THE ARTICLE

The EAC is one of the officially recognized Regional Economic Communities of the African Union. Its ultimate objective is the establishment of a political federation.^{ix} Steps have been taken to achieve a customs union, common market and a monetary union, which are perceived to be prerequisites for the formation of a political federation. The EACJ was inaugurated in 2001 as the judicial organ of the EAC. When the EAC was founded, its executive organs did

not contemplate an active role for the EACJ in regional integration, and especially not in the adjudication of human rights matters.^x

The EACJ replaces the former East African Court of Appeal (EACA) that was operational under the former EAC. This appeals court was established in the colonial period in East Africa under the East African Common Services Organization Agreements of 1961 to 1966.^{xi} It was initially referred to as ‘His Britannic Majesty’s Court of Appeal for Eastern Africa’ when it was established in 1902 by the Order in Council^{xii} and later as ‘His Majesty’s Court of Appeal for East Africa’ in 1909. The East African Community was first established in 1967. It had three members - Kenya, Tanzania and Uganda-decided to keep the EACA as an Institution of the community.^{xiii} It served a role in the interpretation of the 1967 EAC Treaty and as an appeals court for civil and criminal matters.^{xiv} However, the EACA did not have jurisdiction over human rights matters.^{xv} This is mainly because human rights were not a priority for most newly independent East African states and the Constitutions of some of these states like Tanzania (Tanganyika) did not include a Bill of Rights at the time.^{xvi}

The 1967 EAC Treaty was also silent on the protection of human rights, indicating the reluctance of member states to commit to the adjudication of such cases at the community level. The EACA was shut down when the first EAC dissolved in 1977 mainly as a result of Kenyan dominance and divergent political positions and ideologies amongst the member states.^{xvii} The EAC was re-established in 2000. In contrast to its predecessor, the new EAC institutionalized the EACJ as one of its organs with the mandate to interpret and apply the EAC Treaty. In addition, article 27 confers on the EACJ such “original, appellate, human rights and other jurisdiction as will be determined by the Council at a suitable subsequent date”. The ‘Council’ refers to one of the key organs of the EAC, the Council of Ministers. This article indicated a formal recognition by the highest decision-making body of the EAC to recognize the role of the court in adjudication of human rights issues. However, in practice, the jurisdiction to hear human rights matters is not explicit and is subject to the conclusion of a Protocol to operationalize such jurisdiction.

Since its revival, the EAC has made rapid progress and is proceeding at a faster pace than any other African REC.^{xviii} there are a number of economic areas where interests of the member states align. But clearly, in other areas they remain competitors or opponents, which have

resulted in bilateral or trilateral agreements outside of the EAC. Kenya continues to play a dominant role in the region as a swing state^{xxix} due to its economic size, and its more elaborate institutional capabilities (including diplomacy and military might) to influence regional and national level Institutions and dynamics. EAC has gradually expanded its membership, with Rwanda and Burundi joining in 2009, and the newly independent South Sudan joining in 2016 and democratic Republic of Congo. All countries in the region except Tanzania have gone through major political upheaval, often combined with mass violence and even genocide as was the case in Rwanda (1994) and attempts at genocide in Burundi (1992), with ongoing faction fighting and major human rights violations in South Sudan.

Justice has no universally agreed definition. It means different things to different people and its requirements may change over time. Different kinds of justice are not always in harmony. One person's claim for legal justice may conflict with another person's demand for distributive justice.^{xx} However, justice is, or should be, benevolent. Justice seeks to be good, and so justice really involves doing well, not only to human beings, but to all that is good in nature. Law is the instrument of justice; hence courts of law should be courts of justice.^{xxi}

There is a core body of legal rules that most societies expect persons to observe as a matter of basic justice. The rules in the criminal law against murder, assault and other willful acts harming person and property belong to this class, and so do the fundamental rules of private law that impose obligations to perform contracts and make reparations for damage caused by negligent acts and these are what Adam Smith called rules of justice^{xxii}.

Justice therefore entails observance of egalitarianism and fair treatment of human being to the extent that they inborn rights are not violated. Henceforth, administration of justice means justice according to law or rule of law. The function of the court of law is to protect the rights of individuals and punish wrong-doers in accordance to the laws set out by a particular state. Administration of justice entails what courts and authorities do by means of the rules relating to reasonableness and fairness.^{xxiii} The East African Community is a state-centric intergovernmental organization formed by seven states such as Republics of Kenya, Rwanda, Burundi, South Sudan, Congo, Uganda, and the United Republic of Tanzania aiming to achieve co-operation among themselves through agreed stages such as Custom Union, Common Market, Monetary Union, and afterward Political Federation.^{xxiv}

The Treaty for establishment of East African Community^{xxv} established the East African Community upon failure for the first East African Cooperation.^{xxvi} The treaty also establishes, among other organs, The East African Court of Justice.^{xxvii} The Court was inaugurated in November 2001 and heard its first case in 2005, the case of *Callist Andrew Mwatella & 2 others vs. EAC*.^{xxviii} The court is temporarily operating in Arusha, Tanzania, until the Summit of Heads of Partner States determine the permanent seat of the court^{xxix}. Its jurisdiction is provided under Article 23^{xxx} to include adherence to law in the interpretation and application of and compliance with the Treaty. Article 27^{xxxi} goes further to provide other original, appellate human rights and other jurisdiction as will be determined by the EAC Council at a suitable subsequent date.

Additionally, the court has jurisdiction to render Advisory Opinions when requested to do so by the Summit, the Council of Ministers, or a Partner State. Likewise, the Court has a mandate to conduct Arbitration proceedings, when specially called upon to do so by the relevant parties to a contract or by special agreement between the Partner States. It is also mandated to entertain employment disputes between the Community (including its Organs or Institutions), and its employees.^{xxxii} Now, among the powers provided by the EAC Treaty to the Court, it is very clear from this observation that, the intention of the drafters was to give the court (EACJ) very limited jurisdiction arising from what one may call a residue of bold contention of sovereignty by African leaders even when they chose to integrate. Undeniably, a reading of the provisions on jurisdiction laid out above shows a clear intention to exclude human rights from the jurisdiction of the court.

In spite of this, the Treaty leaves room for the extension of the jurisdiction of the court which has never been done. The EAC fundamental and operational principles as set out in the Treaty^{xxxiii} includes good governance, adherence to the principles of democracy, rule of law, accountability, transparency, social justice, equal opportunities, gender equality as well as the recognition, promotion and protection of human and peoples' rights. And all these principles if looked with a legal eye, falls in the puddle of human rights, which guarantees, among other things, access to justice by persons whose rights is infringed.

Conversely, the court is not yet granted with human rights powers to ensure the above fundamental and operational principles attainment and fulfillment to its satisfaction. This is

because access to justice is indispensable in achieving human development. The extension of the East African Court of Justice (EACJ) jurisdiction in regard to human rights would be a very important step in the right direction, as it will give teeth and meaning to the rights guaranteed in the EAC treaty such as right to residence, right of movement of labour, non-discrimination, right to establishment (just to mention few) and finally leave an integrated and just community.

In mind that, cooperation and interaction between countries and people are possible only on the basis of commonly accepted norms. Norms here means the imperatives which regulate the conduct of people as they pursue their interests and in East Africa and elsewhere in the world, basic norms mean human rights and obligations.^{xxxiv} The court in one case articulated plainly that the delay to extend the appellate jurisdiction of the East African Court of Justice (EACJ) was in contravention with the fundamental principles of the EAC treaty and declared that “...quick action should be taken by the EAC in order to conclude the protocol to operationalize the extended jurisdiction of the East African Court of Justice under Article 27 of the treaty”. The decision of the court, although challengeable, but still, it is important in compelling Partner States to oblige with the treaty’s requirements of extending the court’s jurisdiction to entertain appellate human rights matters.

Overview of the East African Court of Justice

The EACJ is a sub-regional court that is mandated to resolve disputes involving the East African Community and its Member States. The EACJ was established by article 9 of the Treaty for the Establishment of the East African Community (EAC Treaty) and is tasked with interpreting and enforcing the treaty.^{xxxv}

The East African Court of Justice Rules of Procedure (EACJ Rules) govern its functioning while it seeks to ensure adherence to law in the interpretations and application of, and compliance with, the EAC Treaty. The EACJ serves the East African Community (EAC), namely Burundi; Kenya; Rwanda; Congo;South Sudan; United Republic of Tanzania; and Uganda. It has a First Instance Division and an Appellate Division. The former administers justice and applies relevant law, while the latter confirms, denies or changes decisions taken by the First Instance Division.

Litigating at the East African Court of Justice

➤ **Statement reference and statement of claim**

A statement of reference (similar to a claim or complaint in domestic litigation) should include an allegation of a human rights violation made by a Partner State, the Secretary-General, or a legal or natural person. Article 24 of the EACJ Rules^{xxxvi} provides for the lodging of a statement of claim. It should be lodged at the court as a statement of reference and should include:

- i. The designation, name, address and the residence of both the applicant and respondent(s).
- ii. The subject-matter of the reference and a summary of the points of law on which the application is based.
- iii. The nature of any supporting evidence offered
- iv. The relief sought.

A notice of the reference and a copy of the application must be served on each respondent on the Secretary-General. Article 25 provides for the lodging of a statement of claim.^{xxxvii} This is used where the issue is between the East African Community and its employees and should include: The name, designation, address and where applicable residence of the claimant.

- i. The designation, name, address and where applicable residence of the respondent.
- ii. A concise statement of facts on which a claim is based and of the law applicable.
- iii. The order sought.

The EACJ User Guide explains that once a claim or reference has been filed, the Registrar will issue a notification requiring the respondents to file their statement of defence, accompanied by a copy of the statement.

➤ **Standing**

Article 30(1) of the EACJ Rules^{xxxviii} provides that any legal or natural person who is resident in a partner state has standing to refer a determination to the EACJ; specifically, the party must be:

- i. A legal or natural person.
- ii. A resident of an EAC Partner State.

- iii. Challenging the legality of any Act, regulation, directive, decision, and action of the said Partner State or an institution of the Community.

Article 37 of the EAC Treaty^{xxxix} allows for parties to be represented when they appear before the EACJ. Parties can be represented by an advocate entitled to appear before a superior court of any of the Partner States.

➤ **Jurisdiction**

The jurisdictional requirements of the EACJ are set out in articles 27 and 30 of the EAC Treaty.^{xl} Article 27^{xli} states as follows:

“(1) The Court shall initially have jurisdiction over the interpretation and application of this Treaty: Provided that the Court’s jurisdiction to interpret under this paragraph shall not include the application of any such interpretation to jurisdiction conferred by the Treaty on organs of Partner States.

(2) The Court shall have such other original, appellate, human rights and other jurisdiction as will be determined by the Council at a suitable subsequent date. To this end, the Partner States shall conclude a protocol to operationalize the extended jurisdiction.”

Article 30 states further that:

“(1) Subject to the provisions of Article 27 of this Treaty,^{xlii} any person who is resident in a Partner State may refer for determination by the Court, the legality of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community on the grounds that such Act, regulation, directive, decision or action is unlawful or is an infringement of the provisions of this Treaty.

(2) The proceedings provided for in this Article shall be instituted within two months of the enactment, publication, directive, decision or action complained of, or in the absence thereof, of the day in which it came to the knowledge of the complainant, as the case may be.

(3) The Court shall have no jurisdiction under this Article where an Act, regulation, directive, decision or action has been reserved under this Treaty to an institution of a Partner State.”

Accordingly, jurisdiction can be exercised in the following ways:

Ratione personae: Article 30(1) of the EAC Treaty provides that any natural or legal resident in the EAC may bring a case to the EACJ.^{xliii}

Ratione temporis: Cases could fall within the temporal jurisdiction of the EACJ if they occurred subsequent to the EAC Treaty coming into force. There is a strict two-month rule that guides this exercise of jurisdiction.

Ratione materiae: Article 30(1) of the EAC Treaty^{xliv} authorises legal and natural persons, resident in a state party to the EAC Treaty, to make a reference (the same as filing a complaint) to the EACJ on whether an act or omission of a state party is an infringement of the EAC Treaty.

Jurisdiction over human rights violations

It is necessary to note that the EACJ does not explicitly have jurisdiction over human rights matters. However, articles 6(d) and 7(2) of the EAC Treaty^{xlv} create scope for human rights matters to be brought before the EACJ. Article 6(d) states:

“The fundamental principles that shall govern the achievement of the objectives of the Community by the Partner States shall include: good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights”.^{xlvi}

Article 7(2) states:

“The Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights.”^{xlvii}

These articles were relied on in **Burundi Journalists' Union v Attorney General of the Republic of Burundi**.^{xlviii} In 2013, the Burundi Journalists Union filed a reference with the EACJ alleging that the Press Law enacted in Burundi restricted freedom of the press, which is a cornerstone of the principles of democracy, rule of law, accountability, transparency, and good governance. Before turning to the merits of the matter the EACJ needed to determine whether the reference was properly before it and whether it had jurisdiction to engage it. Finding that it did have jurisdiction, the EACJ reasoned that the interpretation of the question whether articles 6(d) and 7(2) of the EAC Treaty were violated in the enactment of the Press Law is a matter squarely within the ambit of this EACJ's jurisdiction. In essence, the EACJ read freedom of expression into the above articles and held that the violations of freedom are justiciable as violations of the EAC Treaty, accordingly, clothing it with jurisdiction.

Media Defence has noted that “the judgment is strong precedent for future cases as it removes any doubts over whether the EACJ can consider freedom of expression cases despite its lack of explicit human rights jurisdiction. This makes the EACJ a viable forum before which to test the laws of East African states relevant to the media.”

➤ **Admissibility**

The EACJ does not apply the same admissibility criteria applied by the ACHPR and the African Court. The two key considerations for the EACJ are as follows:

Two-month rule: Article 30(2) of the EAC Treaty requires references to be filed with the EACJ within two months of the alleged violation. This time frame is narrow and can be difficult to comply with. In **Attorney General of Uganda and Another v Awadh and Others**, the EACJ held that it would not be flexible on this requirement. It is also necessary to note that there is no provision in the EAC Treaty that recognises the concept of continuing violations.

Local remedies: There is no requirement that all domestic remedies must be exhausted first. In **Democratic Party v Secretary-General and the Attorneys General of the Republics of Uganda, Kenya, Rwanda and Burundi**, the EACJ held that this jurisdiction is not voluntary and that once an applicant can show an alleged violation of the EAC Treaty, the EACJ must exercise jurisdiction. Where it does not have jurisdiction, the EACJ has held that:

“Jurisdiction is quite different from the specific merits of any case ... As it is, it should be noted that one of the issues of agreement as set out by the parties is that there are triable issues based on Articles 6, 7, 27 and 30 of the Treaty. That is correctly so since once a party has invoked certain relevant provisions of the Treaty and alleges infringement thereon, it is incumbent upon the Court to seize the matter and within its jurisdiction under Articles 23, 27 and 30 [to] determine whether the claim has merit or not. But where clearly the Court has no jurisdiction because the issue is not one that it can legitimately make a determination on, then it must down its tools and decline to take one more step.”

➤ **Procedure**

Chapters VII and XII of the EACJ Rules provide for written and oral proceedings. Rule 54(1) provides that pre-trial proceedings take place after the close of pleading and allow the Principal Judge to determine issues in dispute, the possibility of mediation, the need for evidence and whether argument should be written or oral. Rule 53(3) and (4) provides:

“If the matter is to proceed to hearing the Division shall fix the date for commencement of hearing. In any case where there is no need for evidence and all parties opt to present legal arguments in writing, the Division shall prescribe the time within which the parties shall file their respective written legal arguments and may fix the date on which the parties shall appear before a bench of three judges to deal with any other matter the Division thinks necessary.”

The process of oral hearings is as follows:

“One Party, usually the Claimant, first begins.^{xlix} It was stated that this case and produces his evidence including calling his witness (es) to give evidence. The Respondent questions the Claimant (in cross-examination). If there is anything that is not clear, the Claimant may re-examine the witness further; and/or comment on any new points raised.¹ As the witnesses give evidence, the judge(s) take down notes. Simultaneously, a full audio recording of the proceedings is made.^{li} If the case is not concluded for each hearing, a new date is set when the hearing will be continued. That process is known as Adjournment. The Court will always fix a specific date when the case will carry on. If any date is fixed at a later stage, then the Court

will notify all the parties of the new date.” The above steps take place at the level of the First Instance Divisions. Judgment shall be delivered within sixty (60) days from the conclusion of the hearing except where the EACJ is unable to do so. In some instances, the EACJ might elect to provide a decision at the close of the hearing and provide reasons at a later date.

A decision from the judgment or any order of the First Instance Division can be appealed per article 77 of the Rules^{lii} of Procedure on:

- i. Points of law.
- ii. Grounds of lack of jurisdiction.
- iii. Procedural irregularity.

Written notice must be given when doing so and state the grounds of the appeal. An intended appellant must lodge a notice of appeal within 30 days from the date of the decision. Parties are also entitled to review a judgment. Article 35 of the EAC Treaty^{liii} read with article 72 of the EACJ Rules of procedure provides^{liv}:

“An application for review of a judgment may be made to the Court only if it is based upon the discovery of some fact which by its nature might have had a decisive influence on the judgment if it had been known to the Court at the time the judgment was given, but which fact, at that time, was unknown to both the Court and the party making the application, and which could not, with reasonable diligence, have been discovered by that party before the judgment was made, or on account of some mistake, fraud or error on the face of the record or because an injustice has been done.”

An application for review of a judgment may be made to the EACJ only if it is based upon the discovery of some fact which by its nature might have had a decisive influence on the judgment if it had been known to the Court at the time the judgment was given, but which fact, at that time, was unknown to both the Court and the party making the application, and which could not, with reasonable diligence, have been discovered by that party before the judgment was made, or on account of some mistake, fraud or error on the face of the record or because an injustice has occurred.

➤ **Measures and Remedies**

Article 38(3) of the EACJ Treaty^{lv} provides that a partner state or the Council shall take, without delay, the measures required to implement a judgment of the EACJ. Article 39 of the EACJ Treaty^{lvi} allows for the issuance of interim orders when it is considered necessary to do so. Article 69(2)^{lvii} of the EACJ requires all orders of the EACJ to clearly specify the relief granted or other determination of the case.

➤ **Enforcement**

Article 44^{lviii} provides, amongst other things, that the rules of civil procedure applicable in the state in question will govern the execution of a judgment of the EACJ that imposes a pecuniary obligation. Rule 74^{lix} provides that a party who wishes to execute an order of the EACJ must make an application in accordance with Form 9 of the Second Schedule to the EACJ Rules.^{lx} Practicalities of litigating before the EACJ were that the time limitations of the EACJ undoubtedly pose practical challenges for litigants. Other challenges that have been noted include administrative challenges, lack of enforcement mechanisms, and funding challenges.^{lxi}

CONCLUSION

The EACJ has a lot to do with the administration of justice in EAC as to the achievement of the fundamental principles set out in the treaty.^{lxii} The court mandate derives from the EAC Treaty and the main role of the court in this integration process is to ensure adherence to law in interpretation and application of and compliance with the provision of the treaty. Consequently, the court would have no direct jurisdiction over Human Rights disputes,^{lxiii} despite the efforts made by different stakeholders to fasten the adoption of extension protocol which was signed in 2014 but very distressingly contain no provision for extension of EACJ to human rights matters.

The growing scope of the East Africa Community integration process necessitates a corresponding extension of the East African Court of Justice (EACJ) human rights jurisdiction which was among the jurisdictions pushed by different stakeholders. The EAC treaty bestows upon the East Africa Community's citizens a rich concoction of economic, social, political and

civil rights and freedoms. However, these cannot easily be achieved without imposing human rights jurisdiction to the court so that to guarantee the rights provided as a way to further integration process under Custom Union and Common Market protocols. The absence of human rights jurisdiction to the court (EACJ) has undermined public confidence to the court. It has denied citizens of the EAC, the East African human rights system, preventing states from being compelled, jurisprudence from being developed, remedies from being given and necessary publicity from being made.

The article is motivated by the fact that the EACJ whose main objective is to adjudicate on matters concerning trade within the community has now ventured into human rights adjudication but with no legal framework.

Though despite lack of explicitly jurisdiction on matters of human rights the court has addressed cases involving individual rights like the case of **Katabazi V. Secretary General Of The East African Community**, it was petitioned to determine the lawfulness of the detention of Ugandan prisoners. The court conceded that jurisdiction with respect to human rights requires determination of the council and conclusion of protocol to that effect and both of those steps have not taken place but however the court did not abdicate from exercising its jurisdiction of interpretation under article 27(1) merely because the reference includes allegation of human rights violation the court did not evaluate the claims within a human rights framework, the court found that the respondent had violated the principle of the rule of law and contravened the treaty. Further decided in the case of **Sitenda Sebule V. Secretary General Of The East African Community Et Al** which also help that failure to extend jurisdiction of the court pursuant to article 27 violated the applicants legitimate expectations that the matter be expedited and contravened the principles of good governance stipulated in article 6 of the Treaty.

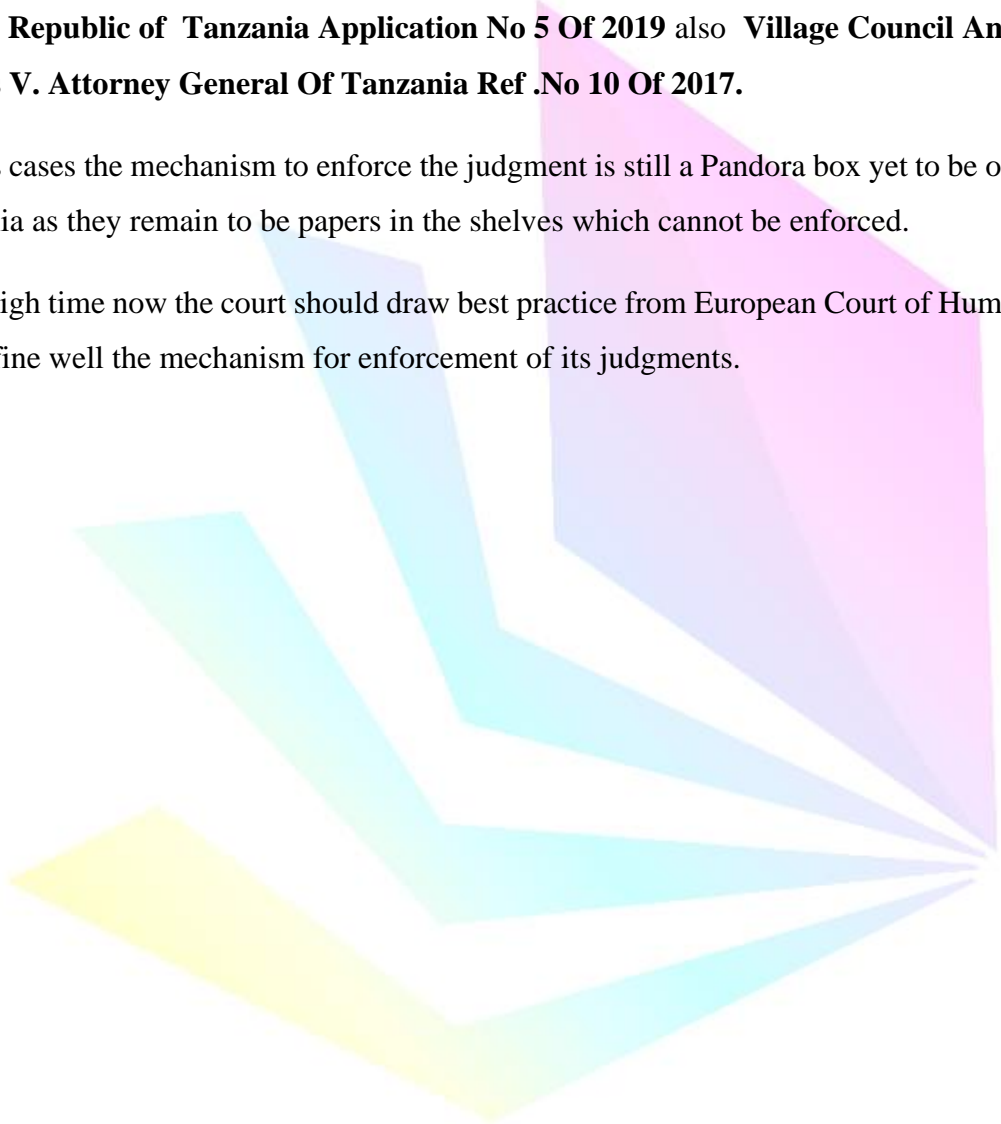
Tanzania has been blamed all through for violations of human rights within the community of east Africa but due to the circumstances given in the article above it has become very difficult to handle the situation lets call on the case of **East African Law Society v. Secretary General of the EAC Ref.No.7 of 2014**, judgement of 22 march 2016; the court held that the east African community breached its duties to effectively investigate and redress possible

violations of the principles in the EAC Treaty that arose from the allegedly illegal expulsion of Rwandan and Burundian immigrants from Tanzania in 2013.

Many cases has arisen from Tanzania to the court like **Managing Editor Mseto And Another V. Attorney General, Republic of Tanzania Application No.3 And 4 Of 2019 2020 EACJ 7 2june 2020**, also **Media Council of Tanzania And Others V Attorney General Of The United Republic of Tanzania Application No 5 Of 2019** also **Village Council And Three Others V. Attorney General Of Tanzania Ref .No 10 Of 2017**.

All this cases the mechanism to enforce the judgment is still a Pandora box yet to be opened in Tanzania as they remain to be papers in the shelves which cannot be enforced.

It is a high time now the court should draw best practice from European Court of Human Right and define well the mechanism for enforcement of its judgments.



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ENDNOTES

ⁱ Pius Adesanmi 'who owns the problem' in who owns the problem? Africa and the struggle for Agency (Michigan State university press 2020)3, referring to the fourth Annual African Renaissance for unity conference, held in Pretoria, South Africa on 22 May 2014.

ⁱⁱ Ibid 5-6

ⁱⁱⁱ Ibid 8

^{iv} Specifically the UN Secretary General was requested to consider the possibility of arranging suitable regional seminars under the programs of advisory services ... where no regional commission on human rights exist(sic) at present see 44 UN ESCOR.Supp.NO.4 at 152 UN DOC.E/4475(1968) and 64 UN ESCOR SUPP NO.4 at 132 UN DOC.E/1978/34.(1978)(Adopted on 6 March 1978).

^v Treaty for the Establishment of the East African Community, signed on 30 November 1999, came into force on 7 July 2000. Amended on 14 December 2006 and 20 August 2007 [herein EAC Treaty].

^{vi} Gunnar Folke Schuppert New Modes of Governance and the Rule of Law :The case of Transnational Rule making ni Michael Zurn, Andre Nollkaemper, and Randall Peerenboom (eds) Rule of Law Dynamics in an Era of International and Transnational Governance (Cambridge University Press 2012)91.

^{vii} Ibid

^{viii} Treaty for the Establishment of the East African Community, signed on 30 November 1999, came into force on 7 July 2000. Amended on 14 December 2006 and 20 August 2007 [herein EAC Treaty].

^{ix} EAC Treaty, Article 5(2).

^x Gathii J. (2014). Mission Creep or a Search for Relevance: The East African Court of Justice's Human Rights Strategy, *Duke Journal of Comparative and International Law* 24 250.

^{xi} Possi A. 2014. The East African Court of Justice; Towards Effective Protection of Human Rights In The East African Community. LLD Thesis, University of Pretoria, South Africa.

^{xii} Ibid, p 111.

^{xiii} Ibid, p 112.

^{xiv} Ibid

^{xv} Possi A. 2014. The East African Court of Justice; Towards Effective Protection of Human Rights In The East African Community. LLD Thesis, University of Pretoria, South Africa.

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^{xvii} Mathieson, C. 2016. The Political Economy of Regional Integration in Africa: the East African Community (EAC). European Centre for development Policy Management.

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^{xx} Ratnapala, S., *Jurisprudence*, Cambridge: Cambridge University Press, 2009, p.318.

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- xxv 1999.
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- xxx Treaty for the establishment of EAC, 1999.
- xxxi 'The East African Court of Justice: Tenth Year Report.', XIII.
- xxxii Article 6-8 The treaty for establishment of EAC, 1999.
- xxxiii Nyalali,F., 'Human Rights as Basis for East African Cooperation': *Human Rights and Democracy in East Africa.* 1997, pp.12-15.
- xxxiv Sitenda Sebalu v. The secretary General of the EAC and 3 others, EACJ Ref.No.1 of 2010.
- xxxv See further International Justice Resource Center 'East African Court of Justice' (accessible at <https://ijrcenter.org/regional-communities/east-african-court-of-justice/>) accessed on 22nd may 2022.
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