

EAST AFRICAN CIVIL SOCIETY ORGANISATIONS FORUM
strengthening civil society in the intergration processes



The 4th Annual East African Civil Society Organizations' Forum on the theme

"The Role of the Civil Society in the EAC Common Market"

***SnowCrest Hotel, Arusha, Tanzania
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LIST OF ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
AU	African Union
CCOAIB	Umbrella Organisation of Rwandan Local NGO's in Development
CLARION	Centre for Law and Research International
COMESA	Common Market for East and Southern Africa
CSOs	Civil Society Organisations
EABC	East African Business Council
EAC	East African Community
EACJ	East African Court of Justice
EACSOF	East African Civil Society Organisations' Forum
EALS	East Africa Law Society
EANNASO	Eastern African National Networks of AIDS Services Organisation
ECOSOCC	Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
GTZ	German Technical Cooperation
ICGLR	International Conference on the Great Lakes Region
NGO	Non- Governmental Organisations
OSIEA	Open Society Initiative for East Africa
PALU	Pan African Lawyers Union
RECs	Regional Economic Communities
SADC	Southern African Development Community
SAfAIDS	Southern African HIV and AIDS Information Dissemination Service
SIDA	Swedish International Development Agency
UN	United Nations

UNNGOF	Uganda National NGO Forum
WACSI	West African Civil Society Institute
WACSO	West African Civil Society Organisations' Forum

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REPORT OF THE EACSOF FORUM 2010

1.0 Executive Summary

The 4th Annual East African Civil Society Organisations' Forum was held in Arusha, Tanzania, on April 22-23, 2010 under the theme "***The Role of the Civil Society in the EAC Common Market***". The Forum was attended by over 130 participants from East Africa and other parts of the African continent. (See Annex). The event was organised by the East African Civil Society Organizations' Forum in collaboration with the East Africa Law Society with the financial support from the German Technical Cooperation (GTZ), Oxfam GB and the Swedish International Development Agency (SIDA).

The meeting discussed among other areas: the contribution of the civil society towards strengthening the Common Market integrative pillar and sought to create awareness to both the CSOs and citizens on the EAC Common Market as well as the opportunities and challenges for the same. It also put in place necessary strategies to influence CSOs in their quest to effectively participate in the Common Market and the EAC integration process in general.

Discussions also included various cross-cutting human rights issues such as HIV and AIDS, the role and mandate of the East African Court of Justice (EACJ) and sharing of experiences on the analysis of regional peace and security with a bias in the role of CSOs in the promoting peace and democracy in the region and from other Regional Economic Community blocs.

The Forum drew the participation of representatives of civil society from East Africa, Southern Africa and West Africa. This ensured not only diverse opinions, but also facilitated the sharing and flow of best practises and experiences from across Africa.

During the discussions, resolutions and recommendations emanating from the Forum were drafted in a Communiqué to the East African Community that is attached to this Report as annex 1.

1.1 Opening Ceremony

The Master of Ceremony, Mr Faustin Vuningoma, Executive Secretary, CCOAIB and EACSOF Treasurer welcomed all delegates to the Forum noting that the 4th Annual Forum was timely and important for the CSO fraternity owing to the soon to be implemented Common Market Protocol at the EAC.

1.2 Opening Remarks by EALS President, Dr. Alan Shonubi

EALS President, Dr. Alan Shonubi, commenced his speech by welcoming all participants to Arusha. Dr. Shonubi noted with appreciation, the role that EACSOF continued to play in ensuring the inclusiveness and equal participation of civil society, as a platform for effective engagement in the EAC integration process.

At its (EACSOF) inception, Dr. Shonubi, noted, EALS (which was instrumental in the formation of EACSOF) was committed to nurturing the organization until such a time "...it

would stand on its own feet”. He re-stated that EALS would be willing to let go of EACSOF once the EACSOF Governing Council gave its approval.

The EALS President reiterated the need for the involvement of civil-society groups in the EAC - affirming it would both assist the EAC Secretariat and seek to provide checks and balances in the process.

Dr. Shonubi further urged CSOs to be involved in all stages in the integration process. The speaker suggested that CSOs fully participate in the EAC negotiations in their own capacity and more importantly as “buffer support” to government teams, who are at times often ill prepared and/or sometimes lack sufficient knowledge on issues. Generally, Dr. Shonubi stated that a partnership approach would be key and necessary if the civil society is to continue to respond effectively to region’s needs. At this point, he extended collaboration between EALS and EACSOF in information sharing and networking.

1.3 Welcome remarks by Professor Chris Maina Peter, President of EACSOF and Chairperson, Zanzibar Legal Services Centre

EACSOF President, Prof Chris Maina Peter, welcomed members and other delegates and paid gratitude to all participants for their contribution to EACSOF. He further acknowledged the support received from EALS, GTZ, Oxfam and SIDA. He stated that EACSOF had modestly grown over the past four years since inception and elaborated a number of key achievements *interalia*:

- i) The inaugural establishment of a Steering Committee as the policy guiding body of EACSOF charged with providing oversight and guidance to the organization. The Steering Committee was later replaced by an elected Governing Council at the 2009 Forum;
- ii) The completion of the Strategic Plan and the revision of the mission, vision and mandate of the Forum at the Governing Council retreat held in Arusha on April 20-21, 2010;
- iii) The establishment of a monthly e-newsletter that seeks to inform its members and stakeholders about the activities;
- iv) Development of various promotional materials including an EACSOF logo and a web-page;
- v) Registration of EACSOF in Tanzania, and;
- vi) The submission of proposals to GTZ and DFID for initial seed support.

The EACSOF President hailed EALS for its continued support and requested that EALS continues hosting the Forum. He urged development partners to continue with the partnership and appealed to those present to be the “Ambassadors of the Forum.”

He noted the EAC Common Market Protocol was already ratified by the United Republic of Tanzania and the Republics of Kenya, Rwanda and Uganda respectively. He urged the republic of Burundi to follow suit. Prof Maina noted that the role of the civil society in the process was key and fundamental.

1.4 Keynote Address

Joaquine De Mello, Commissioner for the Commission of Human Rights and Good Governance of the United Republic of Tanzania.

In her keynote remarks, Commissioner Joaquine De Mello expressed appreciation to both EACSOFF & EALS as well as German Technical Co-operation (GTZ/EAC), Oxfam GB and Swedish International Development Agency (SIDA) for organising the important Forum. She further hailed the role the EAC continued to play in the process to date.

Commissioner De Mello challenged CSOs to change their mindsets and orientation saying there was every compelling need to do so. At present, Commissioner De Mello noted, most of the CSOs were nationally-based and did not transcend beyond their national boundaries.

Commissioner De Mello enumerated the various ways in which the civil society can make contribution to the process of the Common Market. Three salient points in her speech were the following:-

- i) Monitoring and evaluating the integration process and activities;
- ii) Advocacy especially with regards to issues affecting citizens;
- iii) Research into a number of areas of EAC activities focusing on pro-poor policies.

The speaker narrated that if the civil society's work in the region was to be given the final stamp of approval, the job of establishing an effective yet sustainable organization had to be carried out through to its logical conclusion.

Commissioner De Mello reiterated what she termed as 'simple yet noble objectives' that all East Africans should and must strive to achieve for their region - that it should be free, that it should be democratic and prosperous, that it must respect human rights and that it deserves success.

Commissioner De Mello concluded her remarks by thanking the entire civil society in the region and all other stakeholders for their tireless work and effort in difficult and at times that were extremely challenging.

She paid tribute to all those who lay down their lives in the region and sacrificed their time to ensure vibrancy of the civil society. In particular, she paid tribute to the late Prof Haroub Othman, a great regional and international civil society advocate, academician, and key contact person for the first President of EACSOFF.

2.0 SESSION 2

Presentations

A number of presentations were made during the two day meeting. The report captures a synopsis of the presentations. The full texts of the presentations (annexed herein) were disseminated in the compact discs to all participants.

2.1 PRESENTATION 1

Topic: The EAC Common Market: Expectations, opportunities and challenges for the civil society in the region

Presenter: Maurice Odhiambo, Executive Director, CLARION

Chair: Don Deya, Chief Executive Officer, PALU

2.2 Highlights

The presenter brought delegates to speed with developments at the EAC and its integrative pillars. He examined the various aspects of the Common Market including the freedoms as envisaged in the Protocol. He further highlighted the aspects of human rights in the Protocol and called for protection of the same as we move towards cross-border practice.

He posed the question: What best would civil society do/contribute in the dispensation. In answering, he urged the civil society among other things to organize themselves, learn, publish, educate. He further called on the civil society to ensure application of observer status individually and collectively at the EAC was done. However, in this regard, participants noted that the threshold of applying for observer status at the EAC was too high, too tight and too rigid.

2.3 Discussions

During the discussions, delegates ascertained that all efforts should be done to ensure the freedoms as envisaged within the Protocol of the Common Market were realized. It was further stated that the EAC needs to identify and increase its breath of services rendered including creating awareness on the Common Market Protocol. Participants further requested for the removal of all barriers including language and translation of the constitutive documents of the EAC in to other local languages to allow for easy understanding.

3.0 Presentation 2

Topic: The structure of EACSOF within the architecture of the EAC: The appropriate way to strengthen civil society participation at the EAC

Presenter: Dr. Mohammed Kerre, Executive Director, Perc-Pace International and

Chair: Dr. David Nahimana, Deputy Secretary General, EACSOF

3.1 Highlights

The presentation delved on the need to adhere to human rights, equity, equality and justice. It was stated that EACSOF shall need ideally to re-define its self-mandate, ownership and resource base capacity. It would also be appropriate for EACSOF to enhance strategic and technical capacities, develop administration and communication capacities as a repository of information, sensitization programmes.

EACSOFF shall need to seek the full mandate of the people and likewise seek good governance and democratization in its mode of operations. It was suggested that structure(s) of engagement need to be developed at EACSOFF all the way from community organizations to regional organizations.

3.2 Discussions

Members questioned the rationale behind the requirement by the United Republic of Tanzania that all EAC citizens gaining entry into the country (via the airports) produce yellow fever certificates. The same requirement is not adhered to at the inland border posts and points.

The issue of observer status and what it entails also arose. In response, EAC Principal Gender and Community Development Officer, Perpetue Miganda, indicated that the requirements of granting institutions of observation status were documented and available on request. Nevertheless, she indicated that it was possible for organizations to enter into a MoU with the EAC. She further noted that the place of the civil society went beyond the observer status category and was provided for in the Treaty establishing the EAC. On the issue of the mandatory yellow fever certificates, it was reported that the matter was being addressed by the EAC Secretariat.

AFTERNOON SESSION

4.0 Presentation

3

Topic: An Analysis of regional peace and security: The roles of civil society in promotion and protection of democracy, good governance and public accountability in the region and the African Union

4.1: Highlights

Four presentations were lined up under this topic by the following speakers:

Silas Sinyigaya, Programme Coordinator, Democracy and Good Governance, ICGLR

Gima Forje, Peace and Conflict Resolution Officer, WACSOFF

Boichoko A. Dithlake, Secretary General, SADC-CNGO

Dr. Ibrahima Kane, Africa Union Advocacy Director, OSI

A number of salient points were raised from the above presentations. The presenters stated the need for the year 2010 to be declared a year of promoting peace in the continent. It was noted that 38% of the conflicts in the year 2007 took place in Africa despite the fact that the continent holds eight offices of the United Nations. A number of pertinent reasons were stated as being responsible for conflicts in the continent. They include:

- i) A shift from the state based security concern to human centred security. This is especially with due respect to conflicts in elections in a number of countries in Africa despite clear electoral conduct. Cases in point are the elections in Kenya, Zimbabwe and Lesotho. Participants noted there seems to be a new yet unconstitutional model called mediated democracy resulting from disputed elections which was becoming more entrenched in Africa
- ii) Weak security governance

- iii) Weak culture of constitutionalism and the rule of law
- iv) Weak institutions of oversight
- v) Domination of the political scene by the ruling parties
- vi) Territorial disputes around shared resources
- vii) Regional crime including trafficking. An example of this could be widespread in the Southern part of Africa considering the fact that plans to host the world cup during the months of June-July 2010 are at an advanced stage.
- viii) Historical imbalances including inequalities, fundamental challenges of poverty

4.2 Discussions

It was further stated that the continent has gone through painful experiences. The case of Kenya which suffered following a disputed election was noted. The continent also suffered from abuses and crimes against humanity. Consequences include increase in IDPs which according to Dr. Ibrahima Kane, Africa Union Director at OSI, is pegged at 11 million people in 19 countries in Africa against a global total of 26 million people (over 50% in Africa). Annually, the continent loses billions of dollars arising from insecurities and conflict in the continent. There are other socio-economic vices including poverty and illegal exportation of resources.

The role of the civil society is wide and diverse and includes *interalia*;

- i) Capacity building encompassing the development where possible, of a regional centre for the promotion of democracy, good governance, human rights and civic education,
- ii) Monitoring of systems that enhance good governance including press freedom to monitoring corruption and the rational management of resources.

In addition, the CSO fraternity should engage and advocate among the respective governments for;

- i) Mechanism(s) for conflict prevention, management resolution, peacekeeping and security
- ii) Moratorium on the importation, exportation and manufacture of small arms
- iii) Instituting supplementary protocol on democracy and good governance

5.0 Presentation 4

Topic: Reviewing the trends in the region to control CSOs and change the power matrix, a case of Uganda, Burundi, Kenya and Ethiopia

Presenter: Don Deya, Chief Executive Officer PALU

Chair: Dennis Busobozi, Programme Officer, Kituo Cha Katiba

5.1 Highlights

The presenter analysed country profiles of Burundi, Ethiopia, Kenya and Uganda. It was noted that despite some attempts for improvement, generally, the following were the challenges:

- i) Hostile working environment(s)
- ii) Laws, policies, regulations and practices not progressive
- iii) Governance and capacity challenges
- iv) Sustainability challenges
- v) The case of a retrogressive piece of legislation in the Republic of Ethiopia was noted
- vi) Governments on their part also failed to meet their commitments made under their REC level or input given by civil societies.

On the way forward, the presenter suggested

- i) Much more proactivity on the part of the civil society.
- ii) The strengthening of regional, national and sectoral CSO umbrellas and networks
- iii) Engagement of legislative bodies in advocacy by the CSOs.

At the EAC level, it was indicated that the following should be encouraged:

- i) The strengthening of EACSOF,
- ii) Advocacy for review of the observer status criteria and or formulation of additional entry points e.g. revolving door mechanisms and entering into MoUs on sectoral issues,
- iii) Proactively engaging the EAC and the AU as well as related organs including the AU-ECOSOC and the CCP-AU,
- iv) Need for multi faceted campaigns for ratification and domestication of key international instruments,
- v) Consideration of legal options to some of the challenges facing CSOs.

He further suggested a number of areas/initiatives that EACSOF can do

- i) At the SUMMIT level – there is need for high level dialogues and the need to ensure ratification of protocols, treaties that are pro-civil society in their nature,
- ii) Council of Ministers and the EAC Secretariat – EACSOF needs to enhance and encourage dialogues and submit policy proposals,
- iii) At the legislature (EALA) – EACSOF should engage by submitting draft bills, motions, and further carry out if necessary fact-finding missions with the legislators
- iv) EACJ- here, the civil society could/should consider filing of cases and seeking arbitration.

DAY 2 – APRIL 23, 2010

6.0 Presentation 5

Topic: HIV and AIDS Prevention and Management Bill 2010

Presenters: Julius Sabuni, Team leader, Policy and Advocacy, EANNASO & Roman Mukendi, Team Leader, Information, Communications and Research, EANNASO

Chair: Amon Nkrunziza, Rwanda NGO Forum on HIV and AIDS

The presenters took delegates through the developments realised from inception to date on the HIV and AIDS Prevention and Management Bill 2010.

6.1 Background

The AIDS law project was initiated by a few regional organizations in 2008 with aim of exploring ways of facilitating enactment of good AIDS laws at EAC countries. This was prompted by need for better legislation

In the regard, EANNASO and EALS constituted a multi-stakeholder regional task force on HIV law and policy. The key objectives were to

- i) Lobby for in-country support towards advocacy for assent once passed to EALA,
- ii) Agree and work with possible allied network organizations that monitor, report on and advocate against violation of human rights as they relate to information,
- iii) Enhance the regional and national responses to HIV and AIDS laws with respectful to human rights issues.

6.2 Process

The Task Force came up with a resource mobilization plan and participated in capacity building exercises organised by SAFAIDS. It also lobbied EALA by holding meetings with the EALA Speaker, Hon Abdirahin Abdi and getting buy- in from the General Purpose Committee (GPC) of the EALA, which in turn mandated it to construct the draft Bill.

It went ahead to carry a policy and legal audit by November 2010. There are a number of on-going activities including country level multi-stakeholders consultations and lobbying/advocacy activities.

6.3 Why a regional HIV and AIDS Law

The presenters noted that the proposed Bill was important as it among other things:

- i) Brings opportunities to East Africans
- ii) Facilitates harmonization of laws – commonality
- iii) Hastens regional integration by facilitating regional and cross border programmes
- iv) Caters for protection and enforcement of rights
- v) Provides the potential for local jurisprudence (legal science guiding court decisions)

7.0 Presentation 6

The role of the EACJ in the realization of the EAC Common Market

Presenter: Dr. John Ruhangisa, Registrar, East African Court of Justice.

Chair: Jackie Kabahinda, Program Officer, UNGOF.

7.1 Highlights

The presenter gave an overview of the EACJ since inception in 2001 by the Partner States (Then, Kenya Uganda and Tanzania). He stated that the Judges are elected by the

Partner States even though the Treaty of EAC does not exactly state the process of how this should be done.

The EACJ has Rules of Procedure in place. Initially, the EACJ had one major role which was to interpret the Treaty and there was no appeal. However today, the Court has a first Instance Division and an Appellate Court which receives appeals. There are a number of cases so far handled by the EACJ including the Anyang' Nyong'o and 12 Others, the Katabazi Case, the Rev. C. Mtikila Case and the Modern Holdings Case.

It was stated that under the Common Market Protocol, jurisdiction has been left to the national courts and this presents a challenge for the region. The danger in this lies in the fact that Partner States may interpret the Treaty and make decisions in their own way contrary to the intention of the treaty. This may affect the jurisprudence and implementation of the Treaty. The EAC Secretariat has researched and proposed some amendments to the treaty to give jurisdiction EACJ on the implementation of the Common Market Protocol.

The deadline on the matter of proposals shall have to be tabled by 30 June 2010. It is hoped the civil society will play a pivotal role in lobbying for the same.

It was noted that the EACJ can handle more cases than already done and that citizens of the region.

8.0 Presentation 7

Impacts of Climate Change on Food Security, Agriculture, and Trade in the East African Community

Presenter: Richard Kimbowa, Regional Facilitator – East African SusWatch Network Chair:

The presenter stated that climate change was more than warming, and significantly affected agricultural sector known as the backbone of EA regional development, affecting trade (tool for rural development) and other sectors. He emphasized the need for interventions ranging from humanitarian/disaster preparedness to long-term development ones.

According to the presenters, climate change impacts can be understood in 2 broad categories: these are:

- i) Sectoral: defined as changes likely to be felt across various sectors (covering both natural and human systems) with serious implications on societies, often exacerbating existing vulnerabilities.
- ii) Regional: stated as changes with respect to different regions with varied geography, exposure and socio-economic status across regions and their ability to respond to the changing climatic conditions.

He further presented an analytical view of the EAC Partner States. The role of the civil society was enumerated as the following:

- i) Awareness creation about climate change, associated impacts among stakeholders to illicit appropriate climate change adaptation actions
- ii) Policy lobbying and advocacy for integration of climate change in development planning and policy processes at national and local level with associated resource allocation to support climate change adaptation actions at the local level
- iii) Piloting and up-scaling climate change adaptation actions at community levels to reduce vulnerability of communities to impacts of climate change

On its part, it would be important for the EAC to strengthen the capacity on climate change impacts modelling, understanding and enhancing communication and possible adaptation within regional institutions and programs

In conclusion, it was noted that the EAC Agriculture and Rural Development Policy recognises the importance of eliminating hunger and ensuring sustainable food security within the region as a necessary step towards poverty eradication and consequently a stimulus for rational agricultural development. In that regard, it would be vital and necessary for the Partner States and EAC to achieve individual and collective durable food security status.

9.0 CONCLUSION & PANEL DISCUSSION ON THE PRESS COMMUNIQUÉ

EACSOFF President, Prof Chris Maina Peter thanked participants for their commitment and effort in attending the important Forum. He tasked the civil society to be vigilant, dedicated and committed to ensuring the regional integration process is realised. He said the Common Market Protocol was an important integrative pillar for the region and its implementation deserved unequivocal support from the CSO fraternity.

After two days of deliberation, the plenary agreed on the EACSOFF Communiqué to be presented to the EAC. The session was chaired by Dr. Ibrahima Kane, African Union Advocacy Director, Open Society Initiative and rapporteured by Bobi Odiko, EALS Information and Communications Officer and Mr. Selemani Kinyunyu, Programme Assistant, EALS. The Communiqué is hereby attached to this Report.

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