Examination of Security Challenges in the East African Community (EAC) Region

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Abstract

It is well settled worldwide that the most basic purpose of the state is to make people safe or feel safe within their secured state thereby gaining confidence, reassurance, and predictability of life. Partner states in the East African Community (EAC) strive to individually and collectively ensure that the security and development of the region and its people is guaranteed. This paper seeks to critically examine the security challenges in the EAC region, which range from resource – based conflicts, climate change, and organised crimes to maritime security. Data was collected through documentary review. It is concluded that much as the EAC region faces security challenges, efforts are made to address them. However, given the dynamic nature of those challenges, the efforts seem to be inadequate. The author recommends the establishment of a specific organ dedicated to security, having regional strategic engagement to tap the marine resources, strengthening regional security initiatives, enhancing the implementation of the legal regime to address the security challenges, the need for regional multijurisdictional taskforces and joint operations and spearheading implementation of regional and international security strategies.

Keywords: conflicts, East African Community, sustainable development, security challenges, resources.

1.0.   Introduction

It is known that among the basic purposes of the state is to provide for the security of itself and its people. The aim is to make people safe or feel safe within their secure state thereby gaining confidence, reassurance, and predictability of life. Socioeconomic and political activities cannot be carried out effectively in an environment of insecurity. In this context, the importance of keeping states secure cannot be overemphasized. States in the EAC region, namely strive

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to collectively ensure that the security of the region and its people is guaranteed.

There is a need for a secure environment in the region because opportunities to advance sustainable economic growth and human development are increasing. However, much as the region is struggling to ensure that it continues to be safe, there are some security challenges, which, at times, threaten its very existence and survival. This paper seeks to examine these challenges and the legal provisions in place that are used to address the challenges in the region. Finally, it makes recommendations aiming at improving efforts to address these challenges.

2.0.   Methodology

The study used secondary data obtained from a documentary review. It was a desk-based research work, which involved a review and assessment of various documentary sources containing secondary information related to the East African Community region generally and security challenges facing the region in particular. These sources included monographs, peer-reviewed journals and other forms of reviews, theses, dissertations, official reports and documents, textbooks, and regional legal instruments.

3.0.   The Concept of Security in a Brief Historical Note

For a long time, the term security has been understood as the survival of the state and the protection of its sovereignty and territorial integrity from external military threats. It was simply seen to be the preservation of the state against external enemies and threats. From this understanding, the security of the nation was central and critical and was synonymous with state protection of its territorial borders, a defence against any foreign invasion, and maintenance of the political regime through military and diplomatic means. Conceptually, the more the state increased its military capabilities and diplomatic ties as well as influences, the more it was secure against external dangers. It was free from the threat of war and it felt safe from potential aggressors and remained assured of its survival.

However, changes in the types of threats as well as in the global political environment brought serious challenges to this traditional way of defining security in terms of the absence of war, the survival of the state, and the essence of military power in settling international conflicts. As such there was a need to adopt a broader definition of security to accommodate new emerging issues. This state of affairs is well summed up by Mihanjo (2015) in the following words:

> Noticeably, the definition of security has evolved. Its broad contemporary perception may be traced back to the fall of the Berlin Wall and the end of the Cold War. The emergence of new threats such as environmental degradation, excessive poverty, human rights violations and domestic conflicts, terrorism, widespread criminality, natural disasters, diseases, starvation, and desertification, have led to a broader definition of security and the search for a more holistic and integrated strategy for human development. The traditional concept of security focusing on preserving the nation-state from foreign threats has been discarded. This has finally led to a shift from a State-centric view of security to a human-centric view of security. The human – centred view calls for a more global and flexible appreciation of all sources of human and people's insecurity, focusing on the human person, the promotion of human rights, improving living conditions, and ensuring survival.[1]

It is noted that global development and challenges that were apparent in the 1990s have caused a paradigm shift from the way security was viewed in the past. The fall of the Berlin Wall on November 9, 1989[2], the end of the Cold War in 1991[3] , and the opening up of

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[1] Mihanjo, E.P. (2015). "Perspectives of National Security: A Roadmap for Tanzania," *NDC Journal*, National Defence College-Tanzania, First Edition, July, pp. 8-12, at p.8.

[2] Westerhof, G.J. and Keyes, C.L.M. (2006). "After the Fall of the Berlin Wall: Perceptions and Consequences of Stability and Change Among Middle-Aged and Older East and West Germans," *The Journals of Gerontology: Series B*, Volume 61, Issue 5, September, pp. S240–S247, p. S240, https://doi.org/10.1093/geronb/61.5.S240. According to these authors, Almost 1 year later, on October 3, 1990, following the fall of the Berlin Wall on November 9, 1989, the former German Democratic Republic and the Federal Republic of Germany reunited. The end of the Communist era and the reunification of Germany started a process of rapid societal change in both former countries, especially in the

world economies in the 1990s necessitated by improvement of science and technology, globalization, and the general international movement toward free trade called for a broadened definition of security. That is the definition that takes a human – centric as opposed to a state – centric view.[4] It is in this understanding that security may be defined as the absence of all threats to human life, way of life, and culture while ensuring necessities.[5] In this approach, human security takes an upper hand when considering the whole security issue in a state. Its main consideration is the individual and the community rather than the state.

A citizen is an important aspect of the development of a nation or state. As such, security should ensure that all the human aspects of life are protected so that the human being attains development. This explains why the scope of human security should address such dimensions as economic security, food security, health security, environmental security, personal security, community security, political security, water security, and energy security.[6] It is thus argued that human security has nowadays emerged to form a larger part of national security.[7] Noting from the foregoing analysis, it may, therefore, be underscored that any discussion on national security should consider human security, which encompasses all important aspects of human life.

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eastern part of Germany. A democratic regime and free market economy replaced the authoritarian regime and planned economy.

[3] Ahmad, I.(2017). "The Third World Perspective on the Cold War: Making Curriculum and Pedagogy in History Classrooms," *Journal of International Social Studies*, Vol.7 No.2, pp.121-135, p124.

[4] See Mihanjo, E.P. (2015), *op cit*., pp.8-9.

[5] *Ibid.*

[6] For better understanding of some of these dimensions, see Kalanzi, A.T.K. (2020). "A Sneak Peek into the Environmental Security Sphere," *The Defender Magazine*, Senior Command and Staff College, Kimaka, Jinja, Vol.15 No.15, June, pp.28-31.

[7] Mjenga, O.R. (2016). "Tanzania's New Foreign Policy and its Contribution to National Security." *The Security Limelight, A Newsletter of the National Defence College-Tanzania*, Third Edition, July, pp.18-22, p.18.

4.0. The East African Community Region

By the time of writing this article, the EAC is an Intergovernmental Organization, which is comprised of seven partner states, namely Burundi, Rwanda, Uganda, South Sudan, Kenya, and Tanzania. Kenya and Tanzania are the only coastal states; the rest are landlocked. Through Kenya and Tanzania, EAC has a coastline of approximately 1,950 kilometers, a possibility of an outer limit of the Continental Shelf of about 164,520 square kilometers, and an Exclusive Economic Zone (EEZ) of 383,541 square kilometers.[8] The EAC is not a federation. However, according to Article 5(2) of the EAC Treaty, the ultimate goal of the Community is to have a federation government (political unification). The organization was originally founded in 1967 by Kenya, Tanzania, and Uganda.[9] It collapsed in 1977. The following events were evident: Tanzania and Kenya set up autonomous harbor services; Kenya established its railway system; the East African Airways Corporation collapsed. Tanzania closed borders with Kenya, which ended the Common Market. Member countries could not agree on the General Fund Services budget; Consequently, Kenya announced its withdrawal and took over all EAC services operating in Kenya; eventually, the EAC ceased operations.

The main reasons contributing to the collapse of the East African Community included a lack of strong political will, lack of strong participation of the private sector and civil society in the cooperation activities, the continued disproportionate sharing of benefits of the Community among the Partner states due to differences in their levels

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[8] Hamad, H.B. (2016). *The East African Community's Maritime Domain: An Innovative Institutional Framework,* PhD Thesis, University of Greenwich, United Kingdom, December, p.7, quoting Ruitenbeek, H.J., *et al.* (2005). *Blueprint 2050: Sustaining the Maritime Environment in Mainland Tanzania and Zanzibar,* World Bank, Washington. See also Hamad, B. H. (2016). "Maritime Security Concerns of the East African Community (EAC)," *Western Indian Ocean Journal of Marine Science,* Volume 15, Issue 2, July-December, 75-92, 75 and 76.

[9] The Treaty for the Establishment of the East African Cooperation, establishing the East African Community, was signed in Kampala on 6th June, 1967. It came into effect on 1st December, 1967.

of development and lack of adequate policies to address this situation.[10]

The EAC was revived in 1999 when Kenya, Uganda, and Tanzania signed the Treaty establishing the East African Community which came into force in July 2000. This tripartite initiative was geared toward having a community whose objectives were to develop policies and programs that aimed at widening and deepening cooperation among the Partner states in political, economic, social, and cultural fields, research and technology, defence, security, and legal and judicial affairs, for their mutual benefit.[11] Looking at these objectives, it is apparent that the signing of the Treaty, which meant to bring back the original three partner states to cooperation, was one of the milestones in the integration processes and another attempt at cooperation whose ultimate goal is to establish a political federation.[12] It has been remarked that:

> "The signing of the Treaty for the Establishment of the East African Community in Arusha, Tanzania on November 30th, 1999, its entry into force on July 7th, 2000, and the formal launching of the Community on January 15th, 2001 marked a culmination of seven years of committed efforts by the erstwhile East African Co-operation Member States of Kenya, Uganda and the United Republic of Tanzania in re-kindling their tested long co-operation"[13].

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[10] See the Preamble to the Treaty for the Establishment of the East African Community, 1999 as amended on 14th December, 2006 and 20th August, 2007. For critical and detailed discussion on reasons for the collapsing of the EAC in 1977, see Walsh, B. (2015) "Human Security in East Africa: The EAC's Illusive Quest for Inclusive Citizenship," *Strategic Review for Southern Africa,* Vol.37, No.1, May, pp.75-98, pp.77-79.

[11] Art. 5(1) of the Treaty for the Establishment of the East African Community, 1999 as amended on 14th December, 2006 and 20th August, 2007.

[12] Cichecka, A. (2018). "EAC-an Answer for Regional Problems or Failed Solutions in East Africa?", POLITEJA, 5 (56)/, pp.267-277, p.269. Source: https://doi.org/10.12797/Politeja.15.2018.56.15. Accessed on 9th November, 2021. POLITEJA is the Journal of the Faculty of International and Political Studies of the Jagiellonian University.

[13] Kaahwa, W.T.K. (2003). *East African Community: EAC Treaty and Challenges to the Community*, East African Community Secretariat Occasional Paper No.3, East African Community Secretariat, Arusha, p.1.

Given the above arguments, it is stated under Article 5 (2) of the Treaty that:

> "…[T]he Partner states undertake to establish among themselves and by the provisions of this Treaty, a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner states to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared."

In the bid to effect an enlargement of the community to have a large regional economic bloc, the three founders of the new EAC, welcomed new members, namely Burundi, Rwanda, and South Sudan.[14] Rwanda and Burundi acceded to the EAC Treaty on 18 June 2007 and became full Members of the Community with effect from 1 July 2007. One Burundian once commented on the benefits that are in place for Burundi joining the EAC by stating that:

> This is a logical option because membership of Burundi to the EAC is first natural if we analyse both geographically and historically. Then the Community occupies an important place in the life of Burundi economically, politically, and socially. Burundi depends on the EAC for 95% of the imports and exports via the ports of Mombasa and Dar es Salaam. The Nairobi airport plays the same role in the transport of people.[15]

The joining of Burundi opened doors not only for economic prosperity but also for stabilizing the country at the political and security levels and providing the foundation for sustainable

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[14] See Amule, J.W. (2016). "The Role of EAC in the Stability and Development of South Sudan (RSS)", *The Security Limelight, A Newsletter of the National Defence College-Tanzania,* Third Edition, July, pp.86-87, p.86, who states that the EAC aims at strengthening its economic, social, political, technological and other ties for its fast growth and sustainable development.

[15] Nduwayo, V. (2015). "Burundi Economy in Regional Integration: Threats or Benefits of East African Community," *The NDC Newsletter, A Newsletter of the National Defence College-Tanzania*, NDC Course 3- 2014/15, pp76-78, p.76.

development that had lacked for years.[16] After all, the EAC is one of the fast – growing regional economic integration blocs in Sub-Saharan Africa.[17] South Sudan, which is the newest member, joined the Community on 5th September 2016 following its admission on 3rd March 2016 by the Heads of State Summit held in Arusha, Tanzania, and its subsequent formal accession to the Treaty.[18] The Democratic Republic of Congo (DRC) has applied for membership.

As noted, according to Article 5(1) of the Treaty, the revived EAC has the objectives of developing policies and programs aiming at widening and deepening cooperation among the Partner states in political, economic, social, and cultural fields, research and technology, defense, security, and legal and judicial affairs, for their mutual benefit. Now that the EAC is revived, the main task ahead is for the partner states to sustain the community so that it attains its objectives as stipulated under the Treaty.

4.1. Importance of Security in the EAC Region

It is well settled that regional integration allows partner states to cooperate in, among other things, security matters within their jurisdictions to protect their territories, sovereignties, and interests from imminent threats.[19] The EAC as a region sees the issue of security as a very important aspect of regional integration. One of the objectives, as stipulated under Article 5 of the EAC Treaty, is that the Community should ensure the promotion of peace, security, stability, and good neighbourliness within and among the Partner states.

Keeping the Region secure is a matter of concern because its very existence and survival depend on how it is secured. Security is among

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[16] *Ibid*., p.78.
[17] Gastorn, K., "The East African Community and the Sovereignty Relinquishment Trail in the Constitution Making Process of Tanzania," *Nyerere Law Journal*, Volume 1, 2014, 35-67, 38.
[18] EAC Secretariat (2016). *EAC Development Strategy (2016/17-2020/21),* p. 1.
[19] Anjalo, R., *et al*. (2018). "Nature of Security Cooperation and Regional Integration within the Jurisdiction of the East African Community," *Journal of Education and Science*, Vol.9, No.27, pp.60-66, p.60.

the prerequisites to political and socio-economic development within the region and vital to the achievement of the objectives of the Community.[20] That is why the Partner states have entered into several agreements aiming at fostering security and stability within the region. Good examples are agreements to combat drug trafficking, terrorism, and maritime piracy.[21] This shows that the issue of security is given an upper hand in realising the vision of the EAC, which is to attain a prosperous, competitive, secure, and politically united East Africa.

It should be noted that insecurity poses the greatest threat to development and poverty reduction not only in the EAC region but also in Africa as a whole. Arguably, serious insecurity and anxiety trouble citizens when a state is no longer able to guarantee the safety of its people. In this understanding, security is a precondition to attaining sustainable development in the region. A wider market with a combined population of over160 million people and a GDP of about US$ 170 billion shall remain untapped if security in the EAC region is not guaranteed. Thus, safeguarding the region against any insecurity threats is not an option but a matter of urgency.

5.0.   Findings and Discussion
5.1.   Security Challenges in the EAC Region
Based on what has been stated above, the EAC Partner states have been striving to foster and maintain an atmosphere that is conducive to peace and security through cooperation and consultations among themselves.[22] Such cooperation and consultations on issues about peace and security within the region touch on aspects of prevention, better management, and resolution of disputes and conflicts among themselves. All these attempts are done to protect the region and its interests from imminent threats. Hence, the security issue cannot in

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[20] See Art.124 of the Treaty for the Establishment of the East African Community.
[21] Svicevic, M (Ed.) (2021). *Compendium of Documents Relating to Regional and Sub-regional Peace and Security in Africa,* 2nd Ed., Pretoria University Law Press, Pretoria, p.497.
[22] *Ibid*.

any way be underestimated. However, much as the Partner states have been striving to ensure that the region continues to be secure, there are some challenges, which threaten its existence and survival. Those challenges as revealed by various sources of information fall into the following categories:

5.1.1. Resource – based Conflicts

It is well known that resources are everything in attaining sustainable development in a society. Whether natural or otherwise, resources play an important role in people's livelihoods, poverty reduction, and economic growth. When resources are well managed and used sustainably, they make a direct contribution to poverty alleviation and improve human livelihood. That being the case, they play a critical role in food security, economic security, and sovereignty.

One of the reasons for the pressure attached to resources, especially in African countries is rapid human population growth, which calls for an increase in demand for food, grazing land, land for crop production, medicinal plants, timber, firewood, water, mining, and the like. As a result, everyone in scrambles for resources, which become scarcer, to make a living. As such, the main challenge is balancing the interests of all the people.

Given what has been stated above, what is needed is that all resources available be properly managed and fairly distributed to all citizens. Unfair distribution of resources has been a source of some internal conflicts within the states, which culminate into imminent security threats. The conflicts are due to scarcity and contestation over shared resources in terms of land use, including land tenure and property rights; regional and transboundary water conflicts, including issues of pastoral and ethnic conflicts; etc. Many conflicts in the EAC region can be linked to contests for the control of resources such as agriculture and grazing lands and water resources. As for pastoralists, it is argued that these people also clash over the use of natural resources such as water and grazing land for their cattle because of

cultural practices of heroism, cross-border and local livestock raiding, and a need for socio-cultural fairness.[23]

Depletion of pastoral grazing areas causes one of the bordering countries' pastoral communities to migrate to other areas, which leads to conflict between the newly arriving group and the main settlers. Also, due to the encroachment of pasture land by agriculturalists, there are repeated incidences of conflicts between farmers and herders.[24] Moreover, matters get complicated when cattle rustling is committed among the region's nomadic communities thereby posing a serious security challenge.

This kind of crime is no longer a traditional practice, but a form of organised crime committed by international criminal networks, which pose a significant economic threat and cause many deaths among rural communities and security forces in the region.[25] The proliferation of small arms and light weapons and the available ready market for cattle are among the facilitating factors to the commission of the crime.

Walsh (2015), who conducted a field study in the EAC region on human security, sums up hardships faced by members of the communities due to resource – based conflicts by stating that:

> "Inequitable distribution of resources, including water, has fuelled numerous group-to-group and group-to-state conflicts as communities and potential citizens fight for access to national wealth. The cattle rustling that has been rife in Karamoja and elsewhere sees a traditional mode of life struggling for recognition amidst the neglect of pastoralists and uneven distribution of grazing land by the central

[23] Mengistu, M.M. (2015). "The Root Causes of Conflicts in the Horn of Africa," *American Journal of Applied Psychology*, 2015, 4(2), 28-34, 32. Published online April 9, 2015 (http://www.sciencepublishinggroup.com/j/ajap). Accessed 13 November, 2021.

[24] *Ibid*.

[25] Gunda, D.E.O. (2020), "Cattle Rustling: From Cultural Practice to Deadly Organised Crime," *ISS Today*, 28 February. Source: https://issafrica.org/iss-today/cattle-rustling-from-cultural-practice-to-deadly-organised-crime. Accessed on 31st January, 2022.

government. Conflict and porous borders have helped produce a huge number of refugees in each country.[26]"

5.1.2. Climate Change

According to *the EAC Climate Change Policy, 2010*, climate change is a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over long periods.[27] It is a long-term shift in weather conditions identified by changes in temperature, precipitation, winds, and other indicators.[28]

Arguably, climate change is one of the most pressing global issues that have long-term implications for all countries' sustainable development.[29] From increasing shifting weather patterns that threaten food security to rising sea levels and extreme rainfalls that cause catastrophic flooding, climate change impacts are wide – ranging and unprecedented in scale.[30] Climate change has become an emerging challenging issue for many economies the world over. It has been insisted that:

> It is widely agreed by the global community that the world's climate is changing and will continue to change at unprecedented rates. Climate change is increasingly becoming a global concern as it poses a challenge to sustainable livelihoods, economic development, and

[26]Walsh, B., *op cit*., p.80.

[27] EAC Secretariat (2010). *EAC Climate Change Policy,* p. v and Vice President's Office [Tanzania], *National Climate Change Strategy,2012*, p. xxi. This definition was adopted from the United Nations Framework Convention on Climate Change [UNFCCC]. The Convention was adopted on 9 May 1992 and opened for signature on 4 June 1992 at Rio de Janeiro. 154 nations signed the UNFCCC, which upon ratification committed signatories' governments to reduce atmospheric concentrations of greenhouse gases with the goal of preventing dangerous anthropogenic interference with Earth's climate system.

[28] National Bureau of Statistics (2019). *National Climate Change Statistics Report,* Dodoma, Tanzania Mainland, p. i.

[29] Apollo, A. and Mbah, M.F. (2021). "Challenges and Opportunities for Climate Change Education (CCE) in East Africa: A Critical Review." *Climate*, 9, 93, pp. 1-16, p.1. https://doi.org/10.3390/cli9060093.

[30] *Ibid*.

global security. This concern is based on scientific findings and observational evidence provided in existing United Nations reports, IPCC reports, and other related documents on the impacts of climate change. The Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) shows an increase in global average air and ocean temperatures leading to widespread melting of snow and ice, as well as rising global average sea levels.[31]

EAC region is vulnerable to the adverse impacts of climate change, especially floods, droughts, epidemics, and agricultural pests and diseases. These impacts pose serious challenges to the region's food security, infrastructure, economy, and ecosystems, to mention but a few.

According to *the East African Community Climate Change Master Plan, 2011-2031*, the main regional areas which have been identified and prioritized by the EAC Partner states, as being vulnerable to climate change are: (a) Agriculture (crops, livestock, and fisheries) and Food Security; (b) Water Security; (c) Energy Security; (d) Ecosystems Services and Biodiversity; (e) Tourism; (f) Infrastructure (buildings, roads, railways, waterways, and airways); (g) Human Health, Sanitation, and Settlements; (h) Trade and Industry; and (i) Education, Science, and Technology.[32]

The region has over time observed climate change adverse impacts through sea level rise, which has already led to infrastructure destruction along the coast, submergence of some small islands in the Indian Ocean, such as *Maziwe* and *Fungu la Nyani*, intrusion of seawater into freshwater wells along the coast in Tanzania, beach erosion in Mombasa, Kenya, as well as rampant floods and droughts across the region.[33]

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[31] Vice President's Office [Tanzania] (2012). *National Climate Change Strategy,* p.1.
[32] EAC Secretariat (2011). *East African Community Climate Change Master Plan 2011-2031*, September, p. 3.
[33] EAC Secretariat (2010). *EAC Climate Change Policy*, Arusha, May, p.1.

Given what has been stated above, one can note that adverse impacts of climate change relate not only to sustainable development but also to security. Because economic growth of the region depends much on such sectors as agriculture, livestock, forestry, water, tourism, transport, energy, and health, the adverse effects of climate change shall in those sectors shall lead to resource conflicts among members of the community. A good example is pastoral communities within the region.

The region's long history of altering droughts/flood cycles as well as the region's geography means it hosts an innumerable number of pastoral groups who have in centuries been moving and adapting to climate variability. With increasing population density coupled with development models that often pose a problem for security, pastoral communities are often under the threat of losing their livelihood and conflict with their settled neighbors. Okoti *et al* (2014) reveal in their findings of the study on the impact of climate change in the pastoralist communities of northern Kenya and their adaptation strategies when arguing that:

> There are…significant negative consequences including loss of livestock through heat stress or colder seasons; increase in animal pests and diseases; loss of land to agricultural encroachment as the rise in rainfall raises the productive potential of the dryland areas; an increase in the frequency of flooding, and the spread of human and livestock diseases that thrive during the wet season; declined animal performance such as growth, milk production, and reproduction… The results have been food insecurity in most parts of Arid and Semi-Arid Lands.[34]

In addition, large percentages of the region's population are subsistence farmers who rely on rain – fed agriculture as their primary source of income. With climate patterns becoming more

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[34] Okoti, M. *et al.* (2014). "Impact of Climate Variability on Pastoral Households and Adaptation Strategies in Garissa County, Northern Kenya," *Journal of Human Ecology (Delhi, India)*, March, 45 (3) : 243-249, 243-244.

erratic across the region, drought and flood cycles severely affect both crop production and the movement of pastoralists.[35]

Based on the above discussion, it is obvious that climate change is increasingly becoming an EAC regional concern, which poses a challenge to sustainable livelihoods, economic development, and security. It fuels ongoing conflicts over access to natural resources within the region and beyond thereby causing imminent security threats. The main issue is the extent to which the region is prepared to let its people respond to climate change's adverse impacts.

5.1.3. Transnational Organised Crime

Transnational organised crime by definition concerns more than one country. According to *the United Nations Convention Against Transnational Organised Crime 2000*, an offense is transnational if, firstly, it is committed in more than one state, secondly, it is committed in one state but a substantial part of its preparation, planning, direction, or control takes place in another state, thirdly, it is committed in one state but involves an organised criminal group that engages in criminal activities in more than one state, and finally, it is committed in one state but has substantial effects in another state.[36] Recently, internationally agreed upon definitions of transnational organised crime have continued to emphasise, as its distinguishing characteristic, the notion that it involves cross – border criminal activity, violating the laws of more than one country.[37] This convention re – emphasises that a transnational crime is one where some elements of the crime will occur in or affect, more than one state.

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[35] EAC Secretariat (2010). *EAC Climate Change Policy*, *op cit*., p.9. See also COMESA *et al.* (2011). *Programme on Climate Change Adaptation and Mitigation in the Eastern and Southern Africa (COMESA-EAC-SADC) Region*, November, p.10.

[36] Art. 3(2)(a)-(d) of the United Nations Convention Against Transnational Organised Crime 2000.

[37] Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, A Dissertation Submitted to the National Defence College-Tanzania, in Partial Fulfilment of Requirements for the Master's Degree in Security and Strategic Studies in Addition to the Award of the Prestigious Symbol '*ndc*', Dar es Salaam, July, p.31.

Transnational organised crime is a global security threat, whose effects are felt worldwide. It wrecks the world economies, harms state – building and threatens human security and economic development.[38] As such, the EAC region is not spared. In the case of East Africa, this may involve locals colluding with others from outside the region – for example, Asian groups and other foreign nationals – or it may involve citizens of the region based in their home countries maintaining relations with expatriates living abroad[39].

Criminal groups are organised and structured to commit transnational organised crimes for profit. They have taken advantage of opening up economies to commit transnational criminal activities in the region. With the liberalisation of the economy and its attendant globalisation, several crimes of cross – border nature have begun to emerge.[40] This has been the case since the region has now been connected directly to the world economy. The increasing trade and cross – border activities in the Partner states have stimulated transnational crime.

On the same note, new communication systems and digital technology have made dramatic changes in our ways of life. Eventually, the improved communications technology has as well shaped the way transnational organised criminals use network structures to run their operations effectively and efficiently across the globe.[41]

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[38] Gobena, M.A. (2020). *Transnational Organised Crime and Peacebuilding in East Africa*, Wilson Center-Africa Program, Reasearch Paper No.27, 27, July, p.1.

[39] UNODC (2009). *Organised Crime and Trafficking in Eastern Africa*, A Discussion Paper For Discussion at the Regional Ministerial Meeting on Promoting the Rule of Law and Human Security in Eastern Africa Nairobi, Kenya, 23-24 November, p.13.

[40] Kaniki, A.O.J. (2015). "Forfeiture of Criminally Acquired Property in Tanzania: Some Reflections on Historical and Socio-economic Factors," *Eastern Africa Law Review*, Issue No. 2, Vol.42, December, pp. 112-142, p. 127.

[41] Kaniki, A.O.J. (2014). "Proliferation of Counterfeit Products in Tanzania: A Threat to Human Security," *The Tanzania Lawyer: Journal of the Tanganyika Law Society*, Vol. 1 No.2, pp. 42-73, p.55.

Organised criminal groups in the region and beyond increasingly exploit information and communications technology to support operational activities. Such operations include sophisticated intelligence operations for gathering information on soft targets, reducing the groups' vulnerability, and identifying individuals they can corrupt for their objectives. In the course of such operations, the groups also make use of information and communication technology to conceal their identities to sneak through national boundaries.[42]

The crimes they commit include illegal drug trafficking and abuse; illegal immigration; human trafficking; money laundering; illegal trafficking in small arms and light weapons (SALWs); proliferation of counterfeit products; cybercrimes; terrorism, etc. Several factors make transnational organised crimes possible in the region. It should be noted that these factors do not cause organised crime but facilitate crime, or in some instances, they are criminal opportunities in themselves.[43] They include globalisation of the economy, increased numbers of immigrants, improved communication technology, corruption, porous borders and proliferation of small arms and light weapons, and allocation of refugee camps along the borders.[44] A detailed discussion of each of these factors is given below.

a. The globalisation of the Economy

The opening up of the economy in the region in the 1990s saw several crimes of cross – border nature emerging since the region has now been connected directly to the world economy. Globalisation has impacted every aspect of life. It has eventually caused the world economy to undergo a profound transformation in terms of intensified trade and investment, increase in number and ease of financial transactions, growth in use of information technology, increase in capital and commodity mobility, and widened security cooperation.

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[42] *Ibid.*

[43] Finckenauer, J.O. (2000). "Meeting the Challenge of Transnational Crime," *National Institute of Justice Journal*, July, p.3.

[44] Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, *opcit.*, p.51.

All these have turned the world into a global village. Many countries have opted for open or liberalised economies to boost trade and become more competitive in the global marketplace. However, criminals have taken advantage of the opening up of the economies to commit transnational criminal activities.[45]

b. increased Numbers of Immigrants

Immigration has been taking place since time immemorial. Balzer (1996) argues that the number of immigrants has been increasing the world over due to the following factors:

i. Transportation systems have improved and expanded dramatically, particularly airline and automobile travel. International tourism and business travel are at record levels;

ii. Communication systems have improved and expanded, most notably satellite and fibre optic telephone and television transmission, fax transmission, and computer information storage, processing, and transmission;

iii. Many trade and travel restrictions between different parts of the world have been reduced or eliminated;

iv. The expansion of world trade which brings stronger participation by the economies of various regions of the world makes the world economic interdependence now a basic fact of life; and

v. The population has increased, resulting in more crowding, more areas of poverty, disease, and hunger, and large movements of people across national borders.[46]

The cumulative effect of these conditions is more people, more opportunities, more effective movement of people and information across national borders[47], and more opportunities and possible

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[45] *Ibid.*
[46] Balzer, A.J. (1996). "International Police Cooperation: Opportunities and Obstacles," *Policing and Eastern Europe: Comparing Firsthand Knowledge with Experience from the West, College of Police and Security Studies*, Slovania. Source*: https://www.ncjrs.gov/policing/int63.htm.*
[47] *Ibid.*

reasons for committing a crime. Among the people migrating, whether legally or illegally entering the countries, are criminals.

c. *Improved Communications Technology*

Admittedly, nobody on earth can deny the cross – cutting truth that new communication systems and digital technology have made dramatic changes in ways of life. Eventually, the improved communications technology has as well shaped the way transnational organised criminals use network structures to run their operations effectively and efficiently across the globe. One thing to be underscored at the outset is that improved communications technology acts as a bridge to connect different regions globally for facilitating activities that are geared towards committing transnational crimes.

Transnational organised criminal groups increasingly exploit information and communications technology to support operational activities. Such operations include sophisticated intelligence operations for gathering information on soft targets, reducing the group's vulnerability, and identifying individuals they can corrupt for their objectives. In the course of such operations, the groups also make use of information technology to commit identity fraud and sneak through national frontiers.[48]

d. *Corruption*

Corruption is another tool that facilitates the commission of transnational crime. Through corruption, transnational criminal groups co – opt government officials to mitigate the ability of law enforcement, regulatory, or other agencies that are directly responsible for interdicting or eradicating such criminal groups. It is argued that:

> In some countries, even if the state paid adequate wages, the state law
> enforcement sector may not be a legitimate alternative to the criminal
> sector. The institutionalized corruption of much of law enforcement

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[48] Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, *op cit*., p.53.

and its close links with the criminal sector in some regions of the world means that the criminals can pay for specialists within and outside the government.[49]

Corrupt practices among law enforcement officers have largely caused transnational crime to thrive in the region. Security personnel fail to perform their duties after being bribed by criminals, who cross the borders with impunity.

A similar position was arrived at in the research previously conducted by Horwood (2009) under the auspices of the International Organisation for Migration [IOM] on *Assessment of the Irregular Movement of Men from East Africa and the Horn to South Africa,* where there is large scale movement of men from East Africa and the Horn towards South Africa through smuggling. Corruption and complicity of national officials appear to be one of the forces driving this regional international smuggling business, without which it would not be able to function as it does today.[50] It is thus no wonder to note that Al Shaabab terrorists in one instance bribed Kenyan police officers who helped them to smuggle explosives into Kenya in 2014.[51] The Kenyan government noticed this malpractice and thus

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[49] Shelley, L.I. (2003). "Organized Crime, Terrorism and Cybercrime," in Bryden, A. and Fluri, P. (Eds.), *Security Sector Reform: Institutions, Society and Good Governance,* Nomos Verlagsgesellschaft, Baden-Baden, pp. 303-312, at p. 305.

[50]Horwood, C. (2009). *In Pursuit of the Southern Dream: Victims of Necessity, Assessment of the Irregular Movement of Men From East Africa and The Horn to South Africa,* International Organisation for Migration (IOM), Geneva, p.9.

[51] See Daily News [Tanzania], March 4, 2015, p.8, where this ugly scenario was revealed by Head of Public Service Joseph Kinyua during the launch of an exercise that was aimed at reviewing systems, policies and procedures at ports of entry into the Kenyan country. Mr. Kinyua noted that after being bribed, the police at Kenya-Somalia border handcuffed the terrorists and escorted them all the way to Mombasa. This helped the terrorists, who were now suspects by the virtue of under police guard, to evade further scrutiny at various roadblocks. And after they arrived in Mombasa, the terrorists were unchained and let free to go ahead with their mission. The terrorists were later on arrested. The police who intercepted the vehicle bearing the explosives in March 2014 found six grenades, an AK-47 assault rifle, 270 bullets, six cylindrical bombs weighing 10kg each, five magazines, six detonators, a Nokia electronic cables. The in-built improvised explosive devices were welded to the floor and back seat of the vehicle. The explosives caused a

vowed to seal the gap through several initiatives that aimed at tightening immigration processes.[52]

e. Porous Borders

Vast and highly porous borders are among the factors that make transnational crime possible in the region. This observation is supported by the following factors:

i.   Security weakness within the borders makes it easy for criminals to cross borders at will.

ii.   An inadequate number of law enforcement personnel with insufficient resources.

iii. Few official entries and exit points along the borders with neighbouring countries but several unofficial exits and entries [panya[53] routes].

iv.   Long extended borders enable transnational criminals to enter and exit.

v.   Integration of the East African Community, which makes it easier for criminals to move from one partner state to another.

vi.   Inadequate marine patrol vessels in the Indian Ocean and the lakes.

vii. Long, porous and uncontrolled borders, for instance, between Tanzania and the DRC and Burundi which covers 280 nautical miles in Lake Tanganyika and 262 kilometers on the mainland.[54]

It is disheartening to note from the findings of the research conducted by Horwood (2009) when assessing the irregular movement of men from East Africa and The Horn to South Africa along the borders that:

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crater when they were detonated. It was later on established who the police officers were and punished.

[52] Atta-Asamoah, A. (2015). *Responses to Insecurity in Kenya: Too Much, Too Little, Too Late?,* East Africa Report, Institute for Security Studies, Issue 3, April, p.6.

[53] *Panya* means 'rat' in Kiswahili language

[54] Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, *op cit*, p.55.

> "…current trend of rising levels of irregular migration is set to continue, and movement will become easier as transportation and other technologies evolve. At the same time, most borders will remain porous and unmanageable due to size, geography and resources and……due to the failure of structures and controls to manage borders effectively."[55]

It is noted that porous borders create vulnerability to security threats to sovereign states all over the world. Those borders act as a free passageway for international criminals who crisscross porous borders with impunity. This, in turn, has created a security challenge to sovereign states and caused debates on how to strengthen border security globally.

f.   Weapons and Allocation of Refugee Camps along the Borders
The proliferation of small and light weapons from some conflict/war-torn partner states and neighboring countries, such as the DRC is contributing to violent cross-border crimes such as armed robbery. This goes hand in hand with the allocation of refugee camps along the borders with neighboring countries. As a result of long time unrest in those countries, weapons, such as guns have been easily available in refugee camps and other parts of the Partner states thereby posing human insecurity.[56] It has been noted with concern that:

> "The problem of availability, misuse, and illicit circulation of small arms and light weapons has for some time now been a major concern of the international, regional, and national communities. This is because such kind of proliferation is geared towards threatening public security, community development, and sabotaging economic growth. The Great Lakes Region has not been spared from this menace."[57]

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[55] Horwood, *op cit.*, p.17.
[56] Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, *op cit*, p.58.
[57] Ndiho, B. (2016). Proliferation of Small Arms and Light Weapons in the Great Lakes Region: Source of Insecurity," *The Security Limelight, A Newsletter of the National Defence College-Tanzania,* NDC Course 4-2015/16, Third Edition, July, pp.51-53, p.51.

In the case of Tanzania, the most affected areas include Kigoma, Kagera, Katavi, and Rukwa regions.[58] The country suffers from the proliferation of small and light weapons not because of political instability but because of its vast and porous borders which are in contact with post – war/conflict – torn countries. More so, a study on the menace of illegal migration in Tanzania which was conducted by Mkumbo (2015) found that the presence of refugees in western Tanzania negatively affected environmental resources and water sources.[59]

It was revealed that many refugee camps were located relatively close to protected forest reserves, where refugees' cutting of trees for firewood and charcoal burning threatened vital natural resources.[60] Let it be noted at the outset that much as environmental degradation was a problem long before the refugees were allocated along those areas, the rate of deforestation accelerated greatly during their presence. Summing up the discussion on this category which contributes to bringing security challenges in the EAC Region, it can be argued that the rapid internationalisation of crime is a challenge for law enforcement not only in the EAC region but the world over.

Transnational organised criminal syndicates are becoming more and more powerful and universal, and their mobility is growing. They are nowadays adaptable, sophisticated, extremely opportunistic, and immersed in a full range of illegal and legal activities around the globe. It has been possible for them to do so because they learn and adapt and take advantage of changes that occur in the societies, be it in improved information and communications technologies or the

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[58]Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, *op cit*, p.58.
[59]Mkumbo, C.O. (2015). *The Menace of Illegal Migration in Tanzania*, A Dissertation Submitted to the National Defence College-Tanzania in Partial Fulfilment of Requirement for the Master Degree in Security and Strategic Studies in Addition to the Award of the Prestigious Symbol 'ndc', Dar es Salaam, July, p.32.
[60] *Ibid*.

opening up of financial markets. Admittedly, transnational organised crime ring activities weaken economies and financial systems.

They undermine the workings of the free market economy. Due to their illegal activities, transnational crime groups have access to huge amounts of money, which needs to be "washed." This large scale money laundering has an impact on the operations of legitimate financial institutions that, in the long run, can go beyond the business sector with negative effects on the investment climate, tax revenues, and consumer confidence. In undertaking their illegal activities, transnational organised criminal activities pose a threat to partner states' socioeconomic and political wellbeing. They, therefore, upset the peace and security of nations worldwide.[61]

5.1.4. Maritime Security

Maritime security may be referred to as the protection of the maritime domain against unlawful acts or illegal activities such as piracy, illegal fishing, armed robbery, maritime terrorism, illegal trafficking by the sea, that is, drugs trafficking, small arms and light weapons trafficking, and human trafficking, cargo theft, and the like.[62] It refers to all the measures taken by a country or region to prevent unlawful acts in the maritime domain. Arguably, the maritime domain in the EAC region plays an important role in the economic development of all partner states. It is estimated that over 95% of EAC international trade by volume passes through Kenya and Tanzania seaports.[63] The EAC coasts are also sources of employment and means of living for a considerable part of the EAC population.[64] Moreover, the large oil

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[61] Kaniki, A.O.J. (2015), *Transnational Crime and National Security: Issues and Options for Tanzania*, *op cit*, p.88.

[62] See Gesami, B. (2021). "Maritime Security Threats In Africa." *Academia Letters,* September 2021, Article 3564. https://doi.org/10.20935/AL3564, pp.1-7, p.1. See also Hamad, B. H. (2016). "Maritime Security Concerns of the East African Community (EAC)," *Western Indian Ocean Journal of Marine Science,* Volume 15,Issue 2, July-December, 75-92, p.75.

[63] Hamad, H.B. (2016). *The East African Community's Maritime Domain: An Innovative Institutional Framework,* PhD Thesis, *op cit*., p.10.

[64]*Ibid*., p.9.

and gas discoveries in the EAC maritime domain offer potential energy security assurance to the community and beyond.[65]

Given the above, it is apparent that the EAC maritime domain provides economic opportunities to the local population and foreign investors. However, just like all the world's maritime domains, the EAC maritime domain is vulnerable to maritime security threats.
It is mostly affected by piracy, armed robbery against ships, smuggling of illicit drugs, small and light weapons, human trafficking, maritime terrorism, illegal fishing, environmental destruction, and Kenya – Somali maritime border dispute, thereby posing security challenging threats in the region.[66] Much needs to be done to secure the EAC maritime domain, as the following findings by one researcher reveal that the maritime domain of the East African Community (EAC) is affected by several maritime security threats, including piracy, armed robbery against ships, and an on – going maritime border dispute between Kenya and Somalia.

Neither the EAC nor its member States have long term and holistic maritime security policies. Maritime security is dealt with in an ad hoc, case by case manner, mainly by individual states. This study has found that the lack of regional maritime security policies, more importantly, maritime security strategy, and the absence of a maritime institutional framework at the community level, appear to be major setbacks to regional maritime security efforts.

Additionally, the EAC depends on its member states and interregional and international maritime security programs which currently offer a significant boost to EAC maritime security governance. Nonetheless, an EAC maritime security strategy would formalise and customise all of these strategies to match with regional maritime security needs.

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[65] *Ibid.*
[66] For some detailed information on the Kenya-Somali maritime border dispute and the International Court of Justice (ICJ) ruling, which was delivered on 12th October 2021, see Gesami, B. and Kasembeli, G. (2021). "The East African Maritime Domain Dispute: The Case of Kenya and Somalia," *Academia Letters*, *November,* Article 3866, https://doi.org/10.20935/AL3866, pp.1-9.

Moreover, it would provide a forum for communication and cooperation among maritime stakeholders.[67]

This being the situation, the EAC region has to come up with collective, realistic, and workable strategies that will address those challenging security threats to the maritime domain. Holistic, as opposed to peace meal approaches, should be put in place. This includes combining all efforts such as regional and worldwide public and private maritime security operations.

5. The EAC Legal Regime

The discussion now looks at the legal regime, which is referred to in addressing the above outlined security challenges in the EAC region. It needs to be appreciated that law is one of the powerful and indispensable instruments to address the security challenges in the region. The main source of the EAC law is *the Treaty for the Establishment of the East African Community, 1999*. There are also protocols, which supplement the Treaty.[68] They form an integral part of the Treaty.[69] The Protocols are concluded by the Partner states to deal with specific aspects as envisaged in the Treaty. They spell out the objectives, scope, and institutional mechanisms for cooperation and integration in agreed areas, including how to address the above discussed security challenges.[70]

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[67] Hamad, H.B. (2016). "Maritime Security Concerns of the East African Community (EAC)," *Western Indian Ocean Journal of Marine Science,* Volume 15,Issue 2, July-December, 75-92, 75.

[68] See for example, Art.43 of the Protocol on Environment and Natural Resources Management, 2006, which provides that the Protocol supplements the Treaty. It neither modifies nor amends the Treaty. In case of any inconsistency between this Protocol and the Treaty, the Treaty prevails.

[69] Art.151(4) of the Treaty for the Establishment of the East African Community.

[70] Art.151(1) of the Treaty for the Establishment of the East African Community. The Treaty provides under Article 5(3)(f) that Partner states are to promote peace, security, and stability within, and good neighbourliness among themselves. It means that peace and security are given an upper hand within the region.

Regarding resource – based conflicts as posing security threats in the region, the EAC legal framework addresses them. Managing shared resources with balancing the interests of all the people in a society is one of the prerequisites for achieving the objectives of the establishment of the EAC. If the resources are not properly managed, there are possibilities for conflicts to occur thereby posing obstacles to achieving the objective of the EAC's establishment.

It is in this understanding that the Treaty provides under articles 111 and 114 for joint management and utilisation of natural resources within the Community for the mutual benefit of the Partner states. The Partner states are, therefore, to take necessary measures to conserve their natural resources; cooperate in the management of their natural resources for the conservation of the ecosystems and the arrest of environmental degradation, and adopt common regulations for the protection of shared aquatic and terrestrial resources.[71] In connection therewith, some protocols require the partner states to cooperate in the environment and natural resources management.

In 2003 the Partner states signed the *Protocol for the Sustainable Development of Lake Victoria Basin*.[72] This was in recognition of, among other things, the fact that Lake Victoria is a major source of livelihood for the communities living on the riparian land around the Lake.[73] The communities heavily depend on it for water, fishing, agriculture, transport and tourism, energy production, and trade.[74] All these are the main economic activities in the basin area, which is shared between the states of Tanzania (44%), Kenya (22%), Uganda

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[71] Art.114(1)(a)-(c) of the Treaty for the Establishment of the East African Community, 1999 as amended on 14th December, 2006 and 20th August, 2007.

[72] According to Art.1 of the Protocol, "Lake Victoria Basin" means that geographical areas extending within the territories of the Partner states determined by the watershed limits of the system of waters, including surface and underground waters flowing into Lake Victoria.

[73] Yara, S.A.(2019), A *Review of the Efficacy of the Legal Framework for Water Hyacinth Management in Kenya's Winam Gulf*, Thesis Submitted in Partial Fulfilment for the Award of Master of Arts Degree in Environmental Law, University of Nairobi, p. iv.

[74] *Ibid*.

(16%), Burundi (7%), and Rwanda (11%) hence, making it one of Africa's largest trans – boundary water resources. The lake itself is shared between Kenya (6%), Tanzania (51%), and Uganda (43%).[75] Lake Victoria, which is Africa's largest and the world's second-largest freshwater lake with a surface area of about 68,800 km², is one of the most important shared natural resources by the partner states in the EAC region.[76]

The lake is endowed with abundant water and other natural resources. The inhabitants of the Lake Victoria Basin – one of the world's most populated rural areas – mainly engage in agriculture. Its water resources support limited irrigation activity, while fishing is a key economic activity for inhabitants along its shores. The lake is a major source of water for neighbouring towns; it has tourism sites; serves as a reservoir for hydropower, and supports water transport. Thus, the Lake is vital to its basin communities and countries.[77]

However, over the years the Lake has been experiencing high levels of pollution resulting in its degradation. Thus, partner states saw the need to take action. Under the Protocol, the partner states have agreed to cooperate in the areas as they relate to the conservation and sustainable utilisation of the resources of the Lake Victoria Basin including sustainable development, management and equitable utilisation of water and fisheries resources; promotion of sustainable agricultural and land use practices; promotion of trade, commerce and industrial development; promotion and development and management of wetlands; promotion and development of infrastructure and energy; maintenance of navigational safety and maritime security; promotion

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[75] Munisi, K. (2017). *The Ramification of Devolution of Environmental Governance in the Lake Victoria Basin: Tanzania, Kenya and Uganda in a Comparative Perspective*, Paper Presented at the 7th European Conference on African Studies in Basel, Switzerland, from 29 June to 1 July 2017, p.1.

[76] *Ibid.*

[77] United Nations Economic Commission for Africa (UNECA) (2016). *Enhancing Water Resources Management through Inclusive Green Economy: The Case of Lake Victoria Basin,* Economic Commission for Africa, ECA Publishing and Distribution Unit, Addis Ababa, Ethiopia, June, p.1.

of public participation in planning and decision making; environmental protection and management of the Basin; promotion of research, capacity building and information exchange; promotion of wildlife conservation and sustainable tourism development, and the like.[78] To realise all these, the Protocol provides the legal and institutional framework which is designed for development intervention across the Basin. The Protocol on Environment and Natural Resources Management, 2006 is another EAC legal instrument signed by Partner states to, among other things, address resource based conflicts.

The partner states commit themselves to ensuring sound environment and natural resources management in the community and to cooperate among themselves in realising this obligation.[79] They are, therefore, obliged to, *inter alia*, seek to harmonise the policies, laws, and strategies in their national jurisdictions.[80] Apart from addressing the issue of resource based conflicts, the protocol also touches on climate change as a security challenge. The protocol commits the partner states to take deliberate measures aiming at managing the effects of climate change. In this endeavour, they must develop and adopt an integrated approach to address the effects of climate change in the community.[81]

The community must develop and harmonise policies and strategies for enhancing adaptive capacity, building and strengthening resilience, and reducing vulnerability to climate change; develop and harmonise their policies and strategies for reducing greenhouse gas emissions and the manner and procedures for benefiting from the Paris Agreement and other similar climate change mitigation activities and strategies; promote the development and implementation of education, training, and public awareness

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[78] Art. 3 of the Protocol for the Sustainable Development of Lake Victoria Basin, 2003. The Protocol was signed by Partner states on 29th November 2003.
[79] Art.6 of the Protocol on Environment and Natural Resources Management, 2006
[80] *Ibid*.
[81] Art.24(1), *ibid*.

programs, including strengthening of national human and institutional capacities on climate change; develop strategies to enhance climate finance by existing obligations under the United Nations Framework Convention on Climate Change and Paris Agreement; and develop strategies for the transfer, acquisition, and deployment of relevant technologies to alleviate the pressure on fragile ecosystems and natural resources and contribute to sustainable development.[82] Of particular importance is the management of water resources, which are a source of many conflicts in the region. The Protocol provides that the partner states are to develop, harmonise and adopt common national policies, laws, and programs relating to the management and sustainable use of water resources and utilise water resources, including shared water resources, equitably and rationally.[83]

In addressing criminality as one of the security challenges in the region, partner states came up with protocols to that effect. One of them is the Protocol on Combating Drug Trafficking in the East African Region.[84] The main objectives of the protocol are to reduce and eventually eliminate illicit drug trafficking, money laundering, related corruption, and the illicit use and abuse of drugs through cooperation among enforcement agencies and demand reduction through coordinated programs in the region; to eliminate the production of illicit drugs, and to protect the region from being used as a conduit for drugs destined for the international market.[85]

To achieve these objectives, partner states are obliged to promulgate and adopt domestic legislation which satisfies provisions of international conventions on combating illicit drug trafficking and abuse.[86] There is also need for states to cooperate and afford mutual assistance to provide evidence and assistance in the investigation and

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[82] Art.24(2), *ibid*.
[83] Art.13(1) and (2), *ibid*.
[84] The Protocol was signed in Arusha on 13th January 2001.
[85] Art. 2 of the Protocol on Combating Drug Trafficking in the East African Region.
[86] Art.3 and 4, *ibid*.

prosecution of illicit drug traffickers.[87] In connection therewith, partner states are to establish appropriate mechanisms for cooperation among their enforcement agencies to promote effective enforcement.[88]

In 2013 partner states also concluded *Protocol on Peace and Security* to cooperate in promoting peace, security, and stability within the Community and good neighbourliness among themselves.[89] According to the Protocol, the Partner states should undertake to protect the people and safeguard the development of the Community against instability arising from the breakdown of law and order, intra and interstate conflicts, and aggression; and co-ordinate and co-operate in matters related to peace and security in the region.[90]

Under the Protocol, areas of cooperation include conflict prevention, management, and resolution; prevention of genocide; combating terrorism; combating and suppressing piracy; peace support operations; disaster risk reduction, management, and crisis response; management of refugees; control of proliferation of illicit small arms and light weapons; combating transnational and cross border crimes; including drug and human trafficking, illegal migration, money laundering, cybercrime, and motor vehicle theft; addressing and combating cattle rustling and Prisons and Correctional Services including exchange of prisoners, detention, custody, and rehabilitation of offenders.[91]

In case of combating transnational and cross-border crimes, the protocol obliges the partner states to undertake joint operations that are aimed at controlling and preventing such crimes including the theft of motor vehicles; the smuggling of goods; illicit drug trafficking; human trafficking; illegal migration; trade in counterfeit

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[87] Art.5 and 4, *ibid.*

[88] Art.6(1), *ibid.*

[89] See Art.3 (1) of the Protocol on Peace and Security. The Protocol was signed in Dar es Salaam on 15th February 2013.

[90] Art.3(2), *ibid.*

[91] Art.2 (3), *ibid.*

goods; intellectual property piracy; and the like.[92] Controlling and preventing such crimes shall be effective if the Partner states develop appropriate mechanisms, policies, measures, strategies, and programs, including the establishment of regional databases on cross border crimes; the enhancement of technical capacity for criminal intelligence; the enhancement of the exchange of criminal intelligence and other security information between the partner states central criminal intelligence information centres; the strengthening of cross border security; the training of personnel and sharing information on the *modus operandi* being used by criminals; the enactment of laws on mutual legal assistance in criminal matters; and the establishment of cross border and interstate communication.[93]All these should go hand in hand with the partner states fostering cooperation with regional and international organisations whose activities have a bearing on the objectives of this protocol.[94]

Given the above discussion, it may be argued that efforts were done by the partner states to put in place the EAC legal framework *vis a vis* addressing security challenges in the region. However, the uphill task ahead is that of implementing what is provided in the framework. Much needs to be done to spearhead the implementation of the legal regime; the results of which should be reflected by the extent to which the security challenges are effectively addressed. Otherwise, national legal landscapes alone are not enough to deal with security challenges; most of which are trans boundary.

6. Conclusion

Based on what has been revealed by findings and discussion, the following conclusions are made. The EAC region is facing security challenges, which are real and imminent. It is worth emphasizing that the importance of security as one of the prerequisites for attaining a political federation in the region cannot be underestimated. As such,

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[92] Art.12(1), *ibid*.
[93] Art.12(2), *ibid*.
[94] Art.16, *ibid*.

any element of insecurity in the region affects efforts toward realising that goal. Indeed, the EAC region has so far attempted to make efforts to address the security challenges. However, given the dynamic nature of those challenges, the efforts seem to be inadequate.

7.   Recommendations

Having identified those security challenges, which are found in the EAC region, the task ahead is to suggest ways of addressing them. Partner states are required to adopt or enhance collective approaches in addressing security issues in the region. The reason behind this is that days of working in isolation have long gone. As such, combined efforts in dealing with security threats, bringing on board all stakeholders, and strengthening public private partnership should be adopted as matters of urgency. To make these suggested ways of approaching security challenges implementable, the following recommendations are made:

First, it has been noted with concern that, unlike other regional economic communities, the EAC does not have a specific (nor central) organ dedicated to peace and security.[95] Instead, several committees and working groups regulate the EAC interstate response to threats to peace and security.[96] It is recommended that the EAC region forms a specific organ dedicated to security. This study recommends that the EAC should engage in joint efforts to develop assets for fishing, aquaculture, coastal development, marine mining, oil, and gas, as well as tourism.[97] The efforts will lead to regional development; thereby reducing suspicion and potential for conflict over competition for resources.

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[95] Svicevic, M (Ed.) (2021). *Compendium of Documents Relating to Regional and Sub-regional Peace and Security in Africa, op cit.*, p. 498.

[96] *Ibid*.

[97] Birech, R.T. (2020). "Africa's Maritime Domain: The Untapped Potential," *The Defender Magazine*, Senior *Command and Staff College,* 2nd Ed., Pretoria University Law Press, Pretoria, pp.54-55, p.55.

In addition, much as transnational organised crime is now emerging as a serious threat to national and international security and stability, the EAC region should enhance and strengthen its security initiatives so that it continues to be a safer place to live in. The initiatives should be preceded by identifying all soft targets in the region and ensuring that those targets are sealed off.

Moreover, the importance of the EAC legal regime in the region cannot be overstated in the process toward an effective and meaningful regional economic bloc. Partner states should come up with mechanisms that will ensure maximum implementation of the legal regime and institutional framework in place to address security challenges in the region.

By seizing opportunities in terms of regional cooperation, partner states should forge and encourage the establishment of multijurisdictional taskforces within East Africa to combine intelligence and investigative resources from several law enforcement agencies. The task forces should also carry out periodical intelligence – led joint anticrime operations. Partner states should be at the forefront to implement regional and international security strategies. One such strategy is the *EAC Strategy for Regional Peace and Security*, which addresses several security challenges affecting the East African region. Kiraso (2006), former Deputy Secretary General (Political Federation) of the EAC, underscored the importance of the strategy:

> The advancement in technology, knowledge dispersal and globalization in all aspects continue to influence crime types and trends. To address itself to these changes, the Strategy remains a guiding framework and at the same time, it is inclined to any adjustments to accommodate new emerging security challenges.[98]

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[98] East African Community (2006). *Strategy for Regional Peace and Security in East Africa*, the Foreword, pp. 2-3, p. 3. The strategy was adopted by the 13th Council of Ministers meeting, held in November 2006 to guide EAC level interventions in the Peace and Security Sector.

Finally, the advancement in aspects of information, communications, technology, and globalisation, which makes the world a global village, inevitably calls for the partner states to collectively and proactively address all the security challenges urgently. Otherwise, the region shall be full of imminent security threats, whose impacts negatively affect the wellbeing of the people of the region.

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