THE ROLE OF THE EAST AFRICA COURT OF JUSTICE IN REGIONAL INTEGRATION; EMERGING JURISPRUDENCE AND THE WAY FORWARD

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ABSTRACT

This research takes cognizance of the fact that Regional Economic Integration which entails the establishment of some structural conformity is an important variable in the process of development. In following a growing trend, the East African Community was re-created in order to achieve rigorous developmental objectives it has set for itself. To this extent, Regional Economic integration is a complex and much debated issue among analysts and policy makers in almost every corner of the world.

In East Africa the previously defunct East Africa Customs Union has been resurrected to improve trade between Kenya, Tanzania and Uganda. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18th June 2007 and became full Members of the Community with effect from 1st July 2007. In any renewed effort towards integration, the emphasis ought to be laid on the integrity of the various institutions set up to ensure the smooth operation of the organization. This paper seeks to assess this objective, with particular reference to the East Africa Court of Justice relative to the principle of separation of powers and respect to the rule of law.

The courts play a very important role in the interpretation of the treaty as well as settling any disputes that may arise within the EAC. To effectively carry out their work it is important that the rule of law and the doctrine of separation of powers are adhered to.

This is in recognition of the fact that it is necessary and desirable to surrender a certain degree of sovereignty of states in a regional integration. The relationship between municipal and treaty law presents the theoretical issue as a clash between dualism (or pluralism) and monism. Both these schools of thought assume that there is a common field in which the international and municipal legal orders can operate simultaneously in regard to the same subject matter, and the problem then is, which is to be master? This paper tries to answer this question and propose ways of having a sound judicial system that will propel the East Africa Community towards successful integration.