

## Governance and Democracy as Critical Pillars for Successful East African Regional Integration

*Benson Bana & Benon C. Basheka\**

### **Introduction**

Governance has been Africa's perennial challenge (Rotberg and Gisselquist, 2009) and it continues to be so to date. Examining the trends of most East African partner states confirms that problems of governance are only worsening. All countries of the region have some notable serious deficits not only in governance but on the democratic agenda as well. These sentiments are voiced by academia, media, civil society organizations, the church, political parties, development partners and professional groups in society. Coupled with governance challenges, issues of democracy continue to pose unique challenges to almost African countries. There are many persistent challenges – including corruption – that continue to plague the continent, and countries like Zimbabwe and Somalia have become internally and internationally dysfunctional (although, for different reasons) (Gatune and Najam, 2011:103). The prevailing situations in most African countries and more so the East African partnering states cannot be divorced from the governance and democratic debates. Democracy and governance are concepts that have contextually been changing with the ever changing role of the state. Conception of democracy and governance in a capitalist, socialist, social welfare and an economic welfare state always differ. Each of these ideologies nurtures an appropriate framework that dictates the role of government in society. While governance is a relatively recent innovation that largely owes its origins to the World Bank in the 1990s, democracy has ancient origins traceable among earliest political philosophers.

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\* Department of Political Science and Public Administration, University of Dar es Salaam.

Governance issues are topical in every discipline. In this regard, the concept has been applied in various contexts-economic governance, political governance, environmental governance, administrative governance, judicial governance, social governance, technological governance, global governance, corporate governance and local governance among others. In our paper, the use of political governance may provide an appropriate broader template for discussion of governance and democracy in a regional context. Politics, in our view, and rightly support so, shapes the functioning of any government and the politics in the state determines the economics as well as providing an appropriate administrative framework for the delivery of services. . Problems in the politics of a country create problems in the whole functioning of society. Problems in politics negative correlates with promotion of good governance and respect for democratic principles.

Democracy has persistently remained an intimate topic of discussion in political science and public administration discourses. The influence of the once regarded 'loftier' discipline of Political Science before its separation with public administration provided an appropriate template for democratic theories and practices. Our position is not intended to portray a negative picture that other disciplines cannot discuss matters of democracy. Our aim is only to provide a context of the discussion particularly to a no-political science and public administration audience. It is a truism that democracy and governance affect every part of life and thus become topics worth for discussion by every individual irrespective of the disciplinary backgrounds. All citizens of all countries desire to be governed well through arrangements that cherish democratic principles. Governments must therefore strive to meet this not so much demanding task.

Democracy includes two principles: "citizens being equal before the law and having equal access to power" and the "freedom of the citizens secured by legitimised rights and liberties generally protected by the National Constitution" (Kigongo-Bukenya and Kaddu, 2011). Characteristic features of democracy include: separation of powers (legislature, executive and judiciary); core freedoms (political expression, freedom of speech and

freedom of the press). Others include: political pluralism, fair elections, majority rule, human rights, parliamentary supremacy, etc. Democratic institutions provide a check on governmental power and thereby limit the potential of public officials to amass personal wealth and to carry out unpopular policies. A close analysis of the benchmarks of democracy suggests a close resemblance to the features of good governance. It thus creates a symbiotic relationship between democracy and good governance. It has been suggested that since at least some policies that stimulate growth will also be politically popular, more political rights tend to be growth enhancing on this count (Barro, 1996: 2). The prerequisites for nurturing democracy and good governance have been summarized (Kigongo-Bukenya and Kaddu, 2011:364):

- The appreciation of own human rights and those of others by the citizens of a nation; and the determination to enforce them, through sensitisation programmes using several strategies including rallies, seminars, mass media, etc.
- Politically mature corps of citizens capable and willing to manage democracy and Good Governance (GG). These should include politicians, managers and administrators, and judicial experts, among others.
- Strong infrastructure for democracy and Gg including political parties, the Parliament, the Executive and the Judiciary.
- Regular evaluation and accountability of democracy and Gg, mainly through regular fair elections.

From a democratic point of argument, citizens own countries and they have a legitimate concern to demand for better services from the governments of the day. Governments in this regard are simply agents of the citizens. Elected representatives and technical employees of government hold their positions in trust by citizens. However, as one would expect, in this principal-agent relationship, the agents (governments) do not give the principals (citizens) what they expect. Most East African countries have failed to play a 'stewardship' role to their citizens. Most countries perform poorly on minimum performance indicators of democracy and remain far the list of

what one would call good governance checklist. In a modern world, governments are responsible for the delivery of essential political, economic and social goods to their citizens. This has been the central legitimate justification for their existence since the seventeenth century. The essential political, economic and social goods are categorized under the pillars of governance to include (1) Safety and Security; (2) Rule of Law, Transparency, and reduced Corruption; (3) Participation and promotion of Human Rights; (4) Sustainable Economic Opportunity; and (5) Human Development. Together, these five categories of political goods epitomize the performance of any government, at any level. Democracies will usually perform better in fulfilment of these goods. Paradoxically, democracies can also seriously undermine the provision these same goods.

In non democratic societies, the lack of opportunities for political participation induces political grievances and dissatisfaction among dissenters, thereby motivating terrorism (Crenshaw 1981, 383). In contrast, within democratic societies, free and fair elections ensure that rulers can be removed and that desirable social changes can be brought about by voters, reducing the need to resort to violence (Schmid, 1992). Democracies permit dissenters to express their policy preferences and seek redress (Ross 1993). Different social groups are able to participate in the political process to further their interest through peaceful means, such as voting and forming political parties (Eubank and Weinberg, 1994). In an early synthesis on 'democracy and governance' , Richard Jeffries (1993) asserted that indiscriminate promotion of multiparty democracy threatened to undermine some of Africa's most promising experiments in effective governance, citing the non-democratic governments of Jerry Rawlings in Ghana (before the 1992 presidential election) and Yoweri Museveni of Uganda as illustrative examples. It needs to be appreciated that never before has the functioning of political institutions and good governance become the leading items on the African development agenda than it is today. Indeed, most observers recognize that any adequate account of the region's poor performance must extend well beyond narrowly economic factors to include governance and democracy. The current economic crises have created a higher need for good governance and democracy in a number of African countries.

### **The Context**

The belief that lack of 'good governance' might be the main hindrance to economic growth in Africa was firmly set in the minds of the international community following a World Bank report published in 1989 which categorically declared that 'Underlying the litany of Africa's development problems was a crisis of governance'. By 'governance' it was meant the exercise of power to manage a nation's affairs. Since then, the phrase governance has attained the status of a mantra in the development business. It is presented as the 'discovery of new truths' that must be hammered into the benighted minds of African policy makers. The Africans themselves often consider it as one more item on the list of aid conditionality (Mkandawire, 2007:679). The now inspiration word came from African scholars although the current use of the concept diverges significantly from their own original understanding. In the preparation of the 1989 report, the World Bank did the then unusual thing of consulting African scholars and commissioning them to prepare background papers, apparently at the insistence of Africans within the Bank and it is from this effort that governance became regarded as an important element of any government machinery.

In relation to democracy, skeptics have questioned whether democracy is likely to alter the neopatrimonial governance widely blamed for African states' failures as agents of development. 'Neopatrimonial' describes states that, despite possessing the formal structures of modern bureaucracies, operate on patrimonial principles - characterized by personalised political authority, weak checks on the private appropriation of public resources, and pervasive clientelism (Callaghy, 1987; Medard 1982). Enhancing such states' developmental performance requires the insulation of policymaking and implementation from arbitrary political interference. From this perspective, subjecting politicians to greater societal pressures through democratisation may seem at best to miss the point (Callaghy, 1993). Indeed, some influential analysts have concluded that democratisation in Africa has mainly served to erect a facade of institutional respectability, behind which deeply rooted patterns of neopatrimonial 'big man' governance syndrome continue to dominate (Chabal 2002; van de Walle 2000). That is possibly why, according to most development indicators, Africa remains the continent with the most poverty, least human development, and most dismal development statistics.

Yet, since the beginning of the new millennium, a number of key trends have been reported to be moving in the 'right' direction (Okonjo-Iwaela, 2010).

Africa, is struggling to get over the lost decades since independence (Mbeki, 2009). Recently, it has been suggested that only market capitalism can manage the large variety of goods and services, through an infinite number of large and small companies, which make up a highly developed economy. But it also requires a public governance system which equitably and accountably re-distributes benefits and costs (Schepers, 2011). Adverse world market conditions and internal structural rigidities on their own do not adequately explain Africa's stagnation and decline (Alence, 2004:163). Undisputed consensus has since the 1980s almost emerged that dysfunctional political institutions and governance bear much of the blame for the region's disappointing economic performance, hindering the successful pursuit of any development strategy - whether oriented towards capitalism or socialism, self-reliance or global integration. But the challenge remains on how to systematically tackle these governance issues.

Addressing the problems of the African continent has oscillated between divergent views. While answering the question on what will drive African futures, Mbadlanyana, Sibalukhulu and Cilliers (2011: 65), suggest that in part it will be global and external forces including worldwide energy supply and demand, trade patterns, and rates of foreign and domestic investment. In even larger part, of course, it will be domestic and regional forces including patterns of migration, fertility, ICT adoption, HIV/AIDS, the quality of governance, government spending on education, trends in peace and security, regional and sub-regional integration shape the future of the continent. The prospect of African development depends not only on the presence of responsible and responsive government, effective administration, appropriate skills and investment, but also on well-informed policy projections, priorities and responses which think tanks are in the business of providing (Johnson et al., 2009). In this paper, we argue that the problem can be addressed through governance and democracy.

Historically, it is documented from some circles that Africa had no opportunity of teaching 'politics' until the 1950s because it was viewed as irrelevant to the skills which were needed at the time. Even when it emerged, its arrival came with all the baggage of America liberal commitment, with its diverse mix of idealism, universalism and its blinkered ethnocentrism (Omoruyi, 1983). That is why, as Barongo (1983) suggested, educational planners of the colonial project looked at the teaching of politics with deep suspicion if not open hostility. However, as concerns of state building came as the most pressing challenge at the time, the study of politics particularly within the field of political parties became a central concern of political science. With this new development, issues of democracy received attention. What position should the teaching of political science and its sister discipline of public administration play in our modern economies amidst a serious deficit on democracy and governance? Debate on Africa's democratization processes and prospects has centred on four interrelated issues<sup>1</sup>the relative roles of (1) internal and external factors; (2) historical and contemporary dynamics; (3) structural and contingent factors; and (4) economic and political dimensions. Those who stress the primacy of internal factors behind the democratic transitions tend to underscore the strength of domestic political protests and prodemocracy movements engendered or energized by the failures of development, the economic crises of the 1980s and 1990s, and the disintegration of the postcolonial state's legitimacy and capacity. Those who emphasize external forces point to the decisive impact of the end of the Cold War, the demonstration effects of the collapse of communism in Eastern Europe, and the imposition of structural adjustment programs and political conditionalities by Western bilateral and multilateral financial institutions. But some have questioned the West's commitment to the promotion of democracy in Africa, arguing that it is more rhetorical than real and is motivated by donor interests rather than recipient needs.

Proponents of the two approaches tend to place Africa's transitions to democracy in different historical contexts, either in terms of global waves of

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<sup>1</sup> <a href="http://science.jrank.org/pages/8962/Democracy-Africa-Explanations-Africa-s-Democratization.html">Africa Democracy - Explanations Of Africa's Democratization</a>

democracy or in African histories of struggles for freedom. Advocates of the first approach tend to see Africa's democratization as part of what Samuel Huntington calls the third wave of democracy, which apparently began in the 1970s in southern and Eastern Europe. While each democracy wave is propelled by a different constellation of factors, it is said to be a process driven by the victorious democratic hegemonic powers. Others argue that, while Africa's democratization was influenced by developments elsewhere in the world, it was primarily rooted in the continent's long history of struggle against slavery, colonialism, and postcolonial misrule. 'Good governance,' a term that came into vogue in the 1990s with the World Bank leading the charge, has assumed the status of a mantra for donor agencies as well as donor countries for conditioning aid upon the performance of the recipient government (Nanda, 2006:269). Graham Harrison (2005: 240) suggest that although the World Bank showed primary concern with economic efficiency, economic growth, and administrative reforms, its governance agenda was subject to political and ideological influence and how governance reform was to have a variety of effects on power relations.

The ADB Development data platform (2010) describes the good governance concept. Good governance connotes how public institutions conduct public affairs and manage public resources in order to guarantee human rights. It is also viewed as the process of implementing (or not implementing) decisions and it applies to corporate, international, national and local governance among others. Good governance emphasizes interaction among people, structures, processes and traditions that support the exercise of legitimate authority, structure, processes and traditions in provision of sound leadership, direction, oversight and control of an entity in order to ensure that its purpose is achieved. It aims at ensuring that there is proper accounting for the conduct of affairs, the use of resources and the results of the activities. For most African countries, good governance is regarded as the corner stone of transparency, integrity, honesty, loyalty, commitment to genuine profit of humanity and it entails "ethical behaviour" in public and private life. Regional integration entails the coming together of two or more states, normally through reciprocal preferential agreements, based on one of



more of the following successively more integrating cooperation arrangements.

African integration includes, as one of its objectives, the promotion of intra-regional trade, including preparing members for greater global competition and bargaining power. Regional Integration has been part of Africa's strategy for economic transformation since the 1960s and concrete agreements have subsequently been adopted, including the Lagos Plan of Action (1980) and the Abuja Treaty (1991). The Abuja Treaty recommended the rationalization of RECs to address the problem of multiple memberships. The EAC integration process is guided by the Treaty establishing the Community, which entered into force on 7 July 2000. The vision of EAC is to have a prosperous, competitive, secure and politically united Eastern Africa. The objective according to Article 5 (1) of the Treaty, is to develop policies and programmes 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 mutual benefit.

#### **Theoretical and Conceptual Framework**

To better understand governance, new and sophisticated tools have been developed and are being used to measure the performance of governments. The results from such measurements are now taken seriously by African leaders, policy makers and academics across different fields. One such tool—the Africa Governance Index as reported by Rotberg and Gisselquist, (2009) has been widely accepted and leaders, such as in Rwanda, have shown great interest in understanding what they can do to improve their ranking in a given category. However, some leader's dispute specific rankings, but this still implies the measurement system makes them aware of how their governance is perceived domestically and internationally. Some leaders have shown willingness to make changes in their own actions in order to change these perceptions. The Index offers a report card on the accomplishments of each government for the years being investigated. The idea of the Ibrahim Index is to measure this statistically, and be able to compare increases or declines in governance.

The index results allow citizens of individual countries, and civil society institutions, to accurately monitor how well their government is performing. The Index is updated annually and even the sources of information are continuously updated both through the efforts of measuring institutions and those efforts of other related projects. For example before 2009, the Ibrahim Index of African Governance index was limited to Sub-Saharan Africa, omitting Morocco, Algeria, Tunisia, Libya and Egypt. The index was designed to reflect accurately the nature of governance in Africa and missing such countries could not give a complete picture of the continent. Subsequent measurement indicators had to be updated to cover these missing countries. The table below summarizes the key indicators and sub-indicators which are measured in the assessments.

**Table 1: Basic Structure of the Index of African Governance**

Category	Sub category	Sub-sub category (Indicators)
Safety and security	National Security	<ul style="list-style-type: none"> <li>• Security Government Involvement in Armed Conflicts</li> <li>• Number of Battle Deaths</li> <li>• Number of Civilian Deaths Due to One-Sided Violence</li> <li>• Refugees and Asylum Seekers Originating From the Country</li> <li>• Internally-Displaced People</li> <li>• Ease of Access to Small Arms and Light Weapons</li> </ul>
	Public Safety	<ul style="list-style-type: none"> <li>• Level of Violent Crime (Homicide Rate)</li> </ul>
Rule of law, transparency and corruption	Ratification of Critical Legal Norms	<ul style="list-style-type: none"> <li>• Ratification of Core International Human Rights Conventions</li> <li>• International Sanctions</li> <li>• Property Rights</li> </ul>
	Judicial Independence and Efficiency	<ul style="list-style-type: none"> <li>• Judicial Independence</li> <li>• Efficiency of the Courts, based on the Pre-Trial Detainees</li> <li>• Number of Days to Settle a Contract Dispute</li> </ul>

	Corruption	<ul style="list-style-type: none"> <li>• Public Sector Corruption.</li> </ul>
<b>Participation and human rights</b>	Participation in Elections	<ul style="list-style-type: none"> <li>• Free and Fair Executive Elections</li> <li>• Opposition Participation in Executive Elections</li> <li>• Free and Fair Legislative Elections</li> <li>• Opposition Participation in Legislative Elections</li> </ul>
	Respect for Civil and Political Rights	<ul style="list-style-type: none"> <li>• Respect for Physical Integrity</li> <li>• Rights Respect for Civil Rights</li> <li>• Press Freedom</li> <li>• Women's Rights <ul style="list-style-type: none"> <li>○ Women's Economic Rights</li> <li>○ Women's Political Rights</li> <li>○ Women's Social Rights</li> </ul> </li> </ul>
<b>Sustainable economic opportunity</b>	Wealth Creation	<ul style="list-style-type: none"> <li>• GDP per Capita (PPP)</li> <li>• GDP per Capita Growth</li> </ul>
	Macroeconomic Stability and Financial Integrity	<ul style="list-style-type: none"> <li>• Inflation Government Deficits/Surplus as a Percentage of GDP</li> <li>• Reliability of Financial Institutions (Contract Intensive Money)</li> <li>• Business Environment (Number of Days to Start a Business)</li> </ul>
	The Arteries of Commerce	<ul style="list-style-type: none"> <li>• Density of Paved Road Network</li> <li>• Electricity Installed Capacity per Capita</li> <li>• Phone Subscribers per 100 Inhabitants</li> <li>• Internet Usage per 100 Inhabitants</li> </ul>
<b>Human development</b>	Poverty	<ul style="list-style-type: none"> <li>• Poverty Rate at the National Poverty Line</li> <li>• Poverty Rate at the International Poverty Line (\$1.25 per person per day, PPP)</li> <li>• Inequality (GINI Index)</li> </ul>
	Health and Sanitation	<ul style="list-style-type: none"> <li>• Life Expectancy at Birth</li> <li>• Child Mortality</li> <li>• Maternal Mortality</li> <li>• Undernourishment Immunization</li> </ul>

		<ul style="list-style-type: none"> <li>• Rate for Measles Immunization</li> <li>• Rate for Diphtheria, Pertussis, and Tetanus (DPT)</li> <li>• HIV Prevalence</li> <li>• Incidence of Tuberculosis</li> <li>• Physicians per 1,000 People</li> <li>• Nursing and Midwifery Personnel per 1,000 People</li> <li>• Access to Improved Sanitation Facilities</li> <li>• Access to Drinking Water<sup>3</sup></li> </ul>
	Education	<ul style="list-style-type: none"> <li>• Adult Literacy Rate</li> <li>• Adult Literacy Rate, Female</li> <li>• Primary School Completion Rate</li> <li>• Primary School Completion Rate, Female</li> <li>• Progression to Secondary School</li> <li>• Ratio of Girls to Boys in Primary and Secondary Education</li> <li>• Pupil-Teacher Ratio</li> </ul>

Source: [http://www.worldpeacefoundation.org/The%20Meaning%20of%20Governance\\_Ranking\\_Africa.pdf](http://www.worldpeacefoundation.org/The%20Meaning%20of%20Governance_Ranking_Africa.pdf)

The Ibrahim Index of African Governance is funded and led by the Mo Ibrahim Foundation, and assesses national governance against 57 criteria as indicated above. It compiles an overall ranking of countries, which is designed to be used as a tool for civil society in African countries to hold their governments to account. The criteria capture the quality of services provided to citizens by African governments and its emphasis is on the results that the people of a country experience, rather than stated policies and intentions. Each criterion is weighted and scaled to provide standardization and proportional influence on the overall results of the Index. The criteria are divided into four over-arching categories which the Index defines as the cornerstone of a government's obligations to its citizens:

- Safety and Rule of Law

- Participation and Human Rights
- Sustainable Economic Opportunity
- Human Development

In its methodology, data is collected from all over the continent, and a particular year's index reflects data from 2 years previously, to ensure the greatest possible accuracy. This time-lag is more up to date than many other indices. The first iteration was produced in 2007, and the second in 2008. The third edition was published in Cape Town on October 5, 2009. The fourth edition was published on 4 October 2010 and launch events were held in Cairo, Accra, Nairobi, Dakar and Johannesburg. The fifth was recently released in October 2011. The Index was initially produced in association with Harvard University; but subsequent academic and technical assistance has been provided by a range of African academics and research bodies. The Index has been used by civil society and government bodies across the continent to monitor governance of their countries. One example is in South Africa, where the party in opposition, the Democratic Alliance, used the Ibrahim Index to challenge the government's record on safety and security.

### **Governance Performance -Selected Examples**

World economies have been driven by market economy with the collapse of socialist ideas in a number of countries. Without smart regulation, which requires a well-organized system of public governance, the market economy often brings too many costs for the environment, public health, social welfare or the economy as a whole and it hinders the uptake of innovative opportunities. As a result, the benefits go to the few; but the costs go to the many, creating inevitable social tension and instability. That is why; it has been previously argued that there is no consensus about the market model (Dore et al., 1999). Citizens suffer most in circumstances where the few benefit and the costs are borne by the majority since it is the citizens who finance the activities of government through payment of taxes. Weak institutional checks on the private appropriation of public resources contributes to patronage net-works permeate the state's administrative structures, compromising public-service effectiveness and fuelling corruption (Bayart 1993; Chabal & Daloz 1999). This pattern so profoundly affects opportunities for social advancement that class formation comes to be determined by relationships more to political power than to economic resources (Diamond, 1987).

Within the context of the changing role of the state, the formalistic role of institutions has been enlarged, both conceptually and procedurally. It has been accomplished by means of partnering with vertical and horizontal stakeholder representatives who have been not part of the traditional governance mechanisms. The argument is to achieve new forms of consensual decision making and which is representative to the interests of society. While technology makes this possible, it is the social-cultural concepts of the dominant middle classes, and the basis for these economic developments, which shape this thinking (Schepers, 2011). African countries need to be evaluated on how well they have nurtured mechanisms for involving the different stakeholders in the management of political, social and economic goods which forms the centre piece good governance. Through involvement, there is ownership of decisions which inform systems of delivery of efficient and effective services. It will also promote accountability and the citizen voice. In this regard, issues of accountability and public voice, protection of civil liberties, rule of law and establishing

institutions aimed at addressing corruption and promoting transparency have become key concerns in measuring governance of a country.

In the table below, suggests that between 2006 and 2010, the performance of East African countries on each of these indicators has not been so excellent. For example, performance by countries that traditionally constituted the East African community before the entrance of Rwanda and Burundi is summarized in the table below for the period 2006- 2010.

**Table 2: Performance of traditional East African countries on selected indicators**

Country	Uganda		Tanzania		Kenya	
	2006	2010	2006	2010	2006	2010
Accountability and Public voice	3.95	3.50	3.74	4.09	5.09	4.45
Civil Liberties	3.68	3.77	3.75	4.13	4.49	4.29
Rule of Law	3.66	3.40	3.05	3.68	3.97	3.40
Anti-corruption and Transparency	3.75	3.58	2.88	3.29	3.29	3.06

Source: <http://www.freedomhouse.org/uploads/ccr/country-7940-9.pdf>

The countries at the crossroads report of 2010 offers useful insights on the performance of traditional East African countries on key governance parameters. While they report on Burundi and Rwanda, our paper concentrates on the original partner three states although examples from Rwanda and Burundi are given in the process of discussion. Thomas R. Lansner compiled information from Kenya, Bruce Heilman of the University of Dar es Salaam in Tanzania compiled information for Tanzania and Nelson Kasfir; a Professor of Government Emeritus at Dartmouth College compiled information for Uganda which was used to analyze the country performances. The score performance is based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance. The closer the values are to zero, the weaker the performance and the close the values are to seven, the better the performance of a particular country. As seen from above table, in 2006, Uganda's scores ranged from 3.66 on rule of law to 3.95 on accountability and public voice. In the year 2010, the country's score still

remained below a score of 4 on almost all the indicators. While the performance of the country was generally speaking on average, Kenya and Tanzania performed significantly better than Uganda in almost all indicators for the two years under review. The countries report observed that despite much political and economic progress over the last two decades, the increasingly personal and patronage-based rule of President Yoweri Museveni had remained the most significant obstacle to the expansion of democracy and rule of law in Uganda. Rather not surprisingly, it was noted that Uganda's significant ethnic, regional, and religious divisions have complicated efforts to protect basic freedoms and prevent corruption. Uganda is currently a much more divided society as a result of many administrative units-districts created based on tribal groupings. While this strategy may achieve short term political capital, its divisive nature in the long term affects the governance of the country and service delivery.

Kenya is always ranked ahead of its counterparts -Uganda and Tanzania on almost all indicators. Uganda always performs least on almost all parameters. For example, the overall score on accountability and voice for Uganda was lowest at 3.50 compared to Tanzania at 4.09 and Kenya at 4.45. Uganda still performed lowest on free and fair electoral laws and elections. The management and administration of the February 2006 elections in Uganda is reported to have raised doubts about the extent to which government authority rested on the will of the people. Elections were characterized by last-minute changes to the electoral laws that allowed the first multiparty elections since 1980, but they also delayed organization of the electoral process. This gave enormous advantages to the president and his NRM party and significantly affected the opposition parties. A year earlier, there was a referendum held in July 2005 and this also left little time for parties to organize and allowing the president to continue to use all "no-party" political structures until the February 2006 balloting.

Review of existing literature suggests that African countries generally have similar problems in maintaining rule of law. This is true to all the East African countries . This is possibly not out of accident. The formal governing systems in these countries are historically based on either British common



law or European civil law. Such countries also share long-standing traditions in the use of informal customary and religious dispute resolution practices. Sub-Saharan Africa includes 48 countries. Data are available for all 48 for The World Bank's ROL indicator, one of its five governance indices. Of the 48 Six (Uganda, Rwanda, Burundi, Congo, Sierra Leone, and Liberia) showed stronger improvement, though for the last five it was from a very weak base (Africa regional rule of law status review<sup>2</sup>, 2009: 1). It is noticeable that a number of East African countries have gone through a constitutional review process. Uganda and Kenya have had their constitutions re-written while Tanzania is in its initial stages of constitutional amendments.

In 2007 a public dialogue on democracy, good governance and the rule of law in Uganda was held. In his key note address titled 'Rule of Law: Where is Uganda Heading', Amanywa Mushega (2007: 1) reported that Rule of law could only be brought about and sustained by an enlightened population. Such a population, he argued ensures that there is enlightened leadership which is critical in promoting all broader elements of good governance including rule of law. In a similar observation, a presentation by Grassroots people to the CG<sup>3</sup> Meeting May 14 -16, 2003 in Kampala clearly stated that 'the law making process in Uganda has been a preserve of a few citizens, mainly the elite. Such a few individuals in such an analysis would take the blame for the poor state of rule of law. In a representative democracy, elected leaders work on behalf of the citizens. Extant literature suggests that the majority of Ugandans however from the grassroots level are neither aware nor involved in the law making processes. The elected leaders hardly consult the masses in critical decision making processes of rule of law. To a large extent the laws of Uganda do not reflect the aspirations of the citizens of this country. It is true that the government has tried to democratize the law making processes but in actual fact there has so far been little or no civic education to mobilize the citizens to engage in this process. As a result, some of our laws are irrelevant, retrogressive and very difficult to implement'.

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<sup>2</sup> [http://pdf.usaid.gov/pdf\\_docs/PNADO804.pdf](http://pdf.usaid.gov/pdf_docs/PNADO804.pdf)

<sup>3</sup> Good governance: the citizen's perspective , A presentation by grassroots people from 10 districts of Uganda to the CG meeting, Kampala May 14 - 16 2003 [online at : <http://www.udn.or.ug/CG-Statement.pdf>]

In Mushega's view, rule of law in Uganda was enshrined in the constitution and was to be promoted through independence of parliament, the independence of the judiciary and the provision for the Human Rights Commission and the office of the Inspector General of Government respectively. He further observed that for the rule of law to prosper, you need economic prosperity, gainful employment and a good standard of living. To achieve this, the state policies and resources available should be open to all for competition for the allocation on well known criteria. This calls for efficiency and effectiveness among other democratic principles of public finance management. Effective financial management is a critical function and feature of any public administrative system. Its objectives include proper planning and budgeting for public expenditure, effective and efficient administration of government revenues, proper use of budget resources, effective control of public expenditure, accounting and reporting on public finance and full accountability for all public spending (Kiragu, 1999: 68).

To what extent is the country fulfilling conditions for the rule of law? Had Uganda kept the presidential term limits and for the first time had a peaceful hand over, Amanywa Mushega argues, there would not have been creation of numerous districts at a go, there would not be black mambas and club wielding chaps, there would be no hand over of national assets arbitrarily, there would be no atmosphere of expectation and today's topic probably wouldn't have been relevant. Term limits, he argued are crucial in the advancement of Democracy, rule of law and the stability of a nation. CG (2003: 3) reported that due to the high rate of corruption in the country, the implementation or enforcement of the rule of law is difficult and definitely not in the interest of the citizens. The very organs meant to implement, enforce and promote the rule of law such as the judiciary, the police, the IGG and many others have been cited among the corrupt. The police and the judiciary have consistently emerged among the top ranked corrupt institutions and in such a situation promotion of rule of law becomes a problem.

The crossroad report of 2010 pointed out that, Museveni's overriding personal role in policy making had remained unchallenged. Members of civil society and Parliament continued to fight for alternatives, but their effectiveness had declined. The media regularly exposed instances of corruption, and prosecutors pursued some cases, convicting a former army commander and several mid-level officials. However, they secured no convictions of top politicians. The parliament of Uganda in October 2011 passed eleven resolutions which hinged on corruption in the oil sector where the country's Prime Minister, the ministry of Foreign affairs and one of internal affairs were accused of having received hefty bribes in the award of oil contracts. Parliament has instituted its probe committee but the process leading to this has been marred by attempts from the presidency to use the ruling party numbers to undermine the efforts of the legislature. Nonetheless, when the president's political interests are not at stake, he typically works within formal institutions and adheres to the text of existing rules, although often not to their spirit.

Governance problems are evident in other countries within the East African countries. For example, the Government of Kenya in 2007 held local, parliamentary, and presidential elections. Observers judged the parliamentary and local elections to be generally free and fair. In the presidential election, the incumbent, President Mwai Kibaki, was proclaimed the winner by a narrow margin under controversial circumstances. Serious irregularities undermined the integrity of the presidential election results as Raila Odinga, the main opposition candidate, disputed the results, and violence erupted in sections of Nairobi and opposition strongholds in Nyanza, Rift Valley, and Coast provinces. Approximately 1,133 persons were killed and more than 350,000 displaced between December 2007 and February 2008. The violence ended in February 2008 when, as the result of an international mediation process, the two sides agreed to form a coalition government. Under the terms of the agreement, incumbent Kibaki retained his office, and Odinga was appointed to a newly created prime ministerial

position. The parties also agreed to undertake a series of constitutional, electoral, and land reforms to address underlying causes of the crisis<sup>4</sup>.

Kenya's December 2007 presidential election reached the top world news headlines because of the acrimony and human rights violations that were experienced. The election was a profound blow to the consolidation of electoral democracy in that country that had gradually emerged over polls in 1992, 1997, and 2002 during the country's transition from three decades of post-independence one-party rule. Polling indicates that most Kenyans strongly support electoral democracy as the best form of governance. President Kibaki's 2002 election as head of the National Rainbow Coalition (NARC), with support across ethnic groups and in balloting generally viewed as reasonably free and fair, helped promote this conviction. However, the fragile coalition split over various matters, especially a draft constitution that was subject to a November 2005 referendum. The core dividing issue was executive power, as President Kibaki's backers, mostly from his Kikuyu ethnic group, strongly supported the proposed retention of a dominant presidency that they expected would preserve their privileged access to state patronage. Kenyans from other ethnic groups just as adamantly rejected this notion, supporting "majimboism" – a more federal power structure – and the draft constitution was soundly defeated.

On August 4 2010, citizens approved a new constitution in a national referendum, widely considered to be free and fair. Some of its elements entered into force immediately, but full implementation was expected to take several years. It was expected that if fully implemented, it would result in significant changes to the government's structure, including greater checks on executive power, the elimination of a prime minister, greater devolution of power to the counties, and creation of a second legislative chamber. There were instances in which elements of the security forces acted independently of civilian control. Examples of human rights violations which are key governance indicators continue to affect almost all East African countries. As

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<sup>4</sup> U.S state Department 2011 Human Rights report available online at: <http://www.state.gov/documents/organization/160127.pdf>

an Example, the following table summarizes the nature of human rights situations in Kenya and Burundi.

**Table 3. Examples of Human rights abuses in Kenya and Burundi**

Country	Human Rights abuses
Kenya	<ul style="list-style-type: none"> <li>i. abridgement of citizens' right to change their government in the last national election</li> <li>ii. unlawful killings, torture, rape, and use of excessive force by security forces;</li> <li>iii. mob violence; police corruption and impunity</li> <li>iv. harsh and life-threatening prison conditions</li> <li>v. arbitrary arrest and detention; arbitrary interference with the home and infringement on citizens' privacy</li> <li>vi. prolonged pretrial detention; executive influence on the judiciary and judicial corruption</li> <li>vii. restrictions on freedom of speech, press, and assembly</li> <li>viii. forced return and abuse of refugees, including killing and rape</li> <li>ix. official corruption</li> <li>x. violence and discrimination against women; violence against children, including female genital mutilation (FGM)</li> <li>xi. child prostitution; trafficking in persons;</li> <li>xii. interethnic violence; discrimination based on ethnicity, sexual orientation, and HIV/AIDS status</li> <li>xiii. interethnic violence; discrimination based on ethnicity, sexual orientation, and HIV/AIDS status</li> <li>xiv. Forced and bonded labor; and child labor, including forced child labor.</li> </ul>

Burundi	<ul style="list-style-type: none"> <li>i. security force killings, torture, and mistreatment of civilians and detainees</li> <li>ii. official impunity</li> <li>iii. societal killings and vigilante justice</li> <li>iv. harsh, life-threatening prison and detention center conditions</li> <li>v. prolonged pretrial detention and arbitrary arrest and detention</li> <li>vi. detention and imprisonment of political prisoners and political detainees</li> <li>vii. lack of judicial independence and efficiency</li> <li>viii. official corruption</li> <li>ix. restrictions on privacy and freedom of speech, assembly, and association</li> <li>x. sexual violence and discrimination against women and children</li> <li>xi. discrimination against gays and lesbians and persons with albinism</li> <li>xii. Restrictions on labor rights.</li> </ul>
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Mihyo (2008:1) suggests that Research, training and advocacy on human rights, governance, conflict and security in East Africa and the Great Lakes Region involve a good number of actors and organizations. In the upper stream are development partners, international organizations such as the UN, UNICEF, UNHCR, WHO, FAO, OPCW on the one hand and regional bodies (AU, EU, IGAD, CEMAC, EAC, and COMESA) and national authorities on the other. In the mid-stream are regional networks engaged in research and training activities such as Amani Forum (Great Lakes Parliamentary Forum on Peace), the East African Human Right Institute, the East African Law Society, Kituo Cha Katiba (Eastern Africa Legal resources Centre), Action for Development (ACFODE), Forum for Women and Development (FOWODE), African Women Economic Policy Network (AWEAPON) and Women Direct, only to mention a few. In addition, though not operating at regional level but dealing with issues of governance and poverty, which impact on conflict, human rights, peace and stability, are national research organizations such as Research on Poverty Alleviation REPOA in Tanzania, the Network of Uganda Researchers and Research Users (NURRU) in Uganda, both funded by the Directorate General for International Development Cooperation (DGIS) in the Netherlands.

In Burundi, Human rights abuses during the year included security force killings, torture, and mistreatment of civilians and detainees; official

impunity; societal killings and vigilante justice; harsh, life-threatening prison and detention center conditions; prolonged pretrial detention and arbitrary arrest and detention; detention and imprisonment of political prisoners and political detainees; lack of judicial independence and efficiency; official corruption; restrictions on privacy and freedom of speech, assembly, and association; sexual violence and discrimination against women and children; discrimination against gays and lesbians and persons with albinism; and restrictions on labor rights. Other countries are not immune from human rights abuses. For example, when President Paul Kagame of Rwanda won reelection in August 2010, the central task of his second seven-year term, which by law must be his last, is to add broader democracy to this security and prosperity. Since his inauguration, however, he has given no sign that he is eager to face this challenge. On the contrary, he has continued to scorn his critics and the Rwandan courts have issued harsh sentences against four of his former comrades who denounced his rule and urged a change in course for their homeland. All the four of those sentenced are safely outside Rwanda, but the severity of the sentences, which range from 20 to 24 years, was startling. The defendants were Kagame's former chief of staff and ambassador to Washington, Theogene Rudasingwa; Gerald Gahima, Rwanda's former prosecutor general and vice president of the Supreme Court; Col Patrick Karegeya, former director of Rwanda's external security services; and Gen Kayumba Nyamwasa, a former army chief of staff who has survived two assassination attempts in South Africa.

Governance measurement is also based on a country's performance of the judiciary which forms a central pillar of any government machinery. Surprisingly, in virtually all East African countries, the judiciary is one of the most neglected and the most under-funded institutions of government. Many of the judiciary activities have come to be supported by donors. Despite this funding, one can observe noticeable weaknesses in the administration of justice in all the East African countries. Many judicial systems continue to be plagued by staff shortages, case delays and backlogs, poor recordkeeping, alarmingly high numbers of pre-trial detainees, and cumbersome and inefficient processes and procedures. Access to justice by majority poor citizens has become extremely difficult, both physically and procedurally.

Hours of operation tend to be restricted and judges are not always present during operating hours. In general, judges and magistrates the world over are very conservative and can be deeply resistant to change; they are no different in Africa. Although there is an increased tendency to recognize the importance of improving the efficiency of judicial systems through training and modern techniques of court and case management, in very few instances have the courts adopted modern methods of court administration or case management beyond a few demonstration or pilot sites established with donor support. Investigations by police are usually poor and cases cannot be sustained in courts because of lack of sound evidence.

Corruption has often been reported to be in higher magnitudes within the judiciary. Such systems do not promote accountability and good governance. The performance of three east African countries on a number of indicators summarized below should therefore not be surprising. Corrupt court officials sometimes extort bribes from defendants unjustly jailed through cases based on fictitious affidavits. By July 2009, the recently established Anti-Corruption Division of the High Court had convicted four officials and sentenced them to prison. However, it had a back log of 350 cases but with only two judges. Due to budgetary problems, there are not enough judges to process civil and criminal cases. In Uganda, court has continued to nullify elections of a number of MPs on grounds of non compliance with election regulations and vote-buying; a phenomenon that has two sides for governance. On one hand, it confirms the independence of the judiciary in administering justice. On the second side, it reflects the deep rotted democratic problems of governance in the country.

It suggests that representatives who emerge through underhand means cannot debate with their country at heart. While the higher courts are generally independent and impartial, the judgments of lower-level magistrates are frequently distorted by political and economic influences. Judges face intense political pressure in cases that threaten actions the president considers essential. By twice sending soldiers to prevent court decisions from being implemented, Museveni badly undercut confidence in judicial independence, despite his assurance that he would not do it again.



Meanwhile, the UPDF not only continued to try civilians accused of capital offenses, it did so inside maximum-security prisons. A serious corruption problem, due in part to inadequate salaries for magistrates, leads to prejudicial decisions. The IGG declared in April 2008 that for the second consecutive year, the judiciary and the police were the most corrupt institutions of government.

Parliament passed a motion in October 2007 compelling Museveni to appoint an additional seven judges to the Court of Appeal and six to the Supreme Court. However, because the president failed to act, the Supreme Court was deprived of the quorum needed to handle constitutional cases. In January 2008, the Judicial Service Commission reported to a parliamentary committee that it had compiled a list of 27 candidates to fill vacant judicial posts six months earlier. At the end of July 2009, Museveni appointed three new judges to the Supreme Court, partly resolving the problem. However, with retirement of some judges, the problem of lack of adequate numbers of the bench still stands to date and a number of constitutional cases cannot be heard. The judicial service commission's term had also expired and it has been recently constituted. At the lower level, the judicial manpower shortage was exacerbated by two acts, to which the president assented, that effectively increased the caseload of magistrates by expanding their jurisdiction. The backlog of civil and criminal cases in June 2007 stood at 74,066, with no subsequent improvement.

Although government authorities usually comply with court decisions, there are cases where court decisions have been undermined. The most blatant exception was the government's use of soldiers on March 1, 2007, to prevent nine defendants in the People's Redemption Army (PRA) treason trial from being released on bail. The High Court judges went on strike to protest the move, and lawyers mounted demonstrations throughout the country. Museveni expressed regret over the incident and pledged that it would not be repeated. In 2005, he had used soldiers in a similar fashion to prevent the release of the same defendants. In September 2011, the constitutional court ruled that it was against the constitution by the government to keep one of the former commanders of the notorious Lords Resistance Army (LRA) when

he ought to have benefited from the Amnesty law. Despite the verdict, the suspect remains in custody with the government machinery now in the process of instituting 'new' fresh cases that will see this former rebel in detention. Civil and criminal cases are generally given fair and public, but not timely, hearings by the courts and the Uganda Human Rights Commission (UHRC). The 1995 constitution OF Uganda requires that suspects face a court within 48 hours of arrest (longer for terrorism suspects), but the rule has not been followed in several high-profile cases in recent years. For example, three officials from the Buganda Kingdom were arrested on July 18, 2008, and held for five days without being produced in the courts of law as required. Their release was then ordered by the courts although they were immediately detained again. The acting internal affairs minister told the Legal and Parliamentary Affairs Committee in February 2009 that the cabinet was considering extending the 48-hour rule. In Besigye's treason case, no trial date had been set as of mid-2009, more than three years after his indictment. Meanwhile, the authorities withheld his passport, preventing him from traveling freely and restricting his ability to lead the opposition. Government has recently proposed amendments in the constitution to deny bail to suspects and this law has been proposed by the president himself. Its timing suggests that it is a law that largely targets the opposition. There are attempts to change the rules of procedures in the parliament as well as the those governing the ruling National Resistance Movement; a project that has come on the fore on the heels of growing dissent from the ruling members of parliament against the government. All these are signs that cannot nurture true democratic values in a country that claims by constitution to be a democratic country.

In Tanzania, elections are held every five years, with approximately 18 registered parties contesting political office. For 2010, the National Election Commission (NEC) proposed adding 11 mainland constituencies to the existing 232 single member, winner-take-all legislative districts. The CCM's overwhelming legislative majority is amplified by 91 appointed members of parliament (MPs), of whom 75 must be women, nominated by political parties according to their proportion of seats in parliament. There is direct voting for the president, with the winner determined by simple majority.

Voting is conducted by secret ballot. Independent electoral observers and the media are free to observe the elections and report their findings. Within the Union framework, Zanzibar is a semi-autonomous entity with its own electoral authority, the Zanzibar Electoral Commission (ZEC), responsible for Zanzibar's presidential and House of Representatives elections. The NEC is responsible for the Union elections and it usually delegates the administration of Union balloting in Zanzibar to the ZEC.

While it has been suggested from some circles that Tanzania has the 'trappings of an electoral democracy', there is debate over the extent to which elections are free and fair. Both in Zanzibar and on the mainland, opposition parties complain that state officials favour the ruling party; a claim that has increased since the most recent elections. It is this perception that seems to have increased 'hostility' to the government and one of the primary reasons for the urgent desire by the opposition and other actors to amend the constitution. During elections, it has been reported that securing the necessary police permission in order to hold a public rally seems to be a simpler task for the CCM than the opposition.

The Tanzania Election Monitoring Committee (TEMCO) reported that state administrative officials, such as regional and district commissioners, were actively working on behalf of the ruling party for the 2005 elections. The reintroduction of multiparty general elections in 1995 has been less problematic on the mainland than in Zanzibar, partially owing to the mainland's less competitive contests. Since 1995, the CCM has increased its percentage of the Union presidential vote and the number of its seats in parliament. In 1995, CCM's Mkapa won 62 percent of the vote, while the ruling party captured 80 percent of the elected seats in parliament. By 2005, CCM's Kikwete captured an overwhelming 80 percent of the presidential vote, while the opposition won only 7 out of 182 mainland parliamentary seats. In both 2000 and 2005, most opposition MPs came from Zanzibar constituencies. Elections on the mainland have been fairly well managed, with election observers, if not always the opposition parties, conceding that results reflect the will of the people.

In contrast to the mainland, multiparty elections in Zanzibar have been fiercely contested and often violent, with the losing party refusing to concede defeat. Following the bloody 1964 revolution through which the ASP took control, no elections were held on Zanzibar until 1984. When competitive elections returned in the 1990s, the islands were again almost evenly divided between two political parties, the CCM and the Civic United Front (CUF). The 1995 and 2000 elections featured violent conflict and credible accusations of electoral irregularities, including inaccurate vote counting in 1995 and ruling party manipulation to ensure victory in 2000. Following the disputed 1995 Zanzibar elections, the Commonwealth brokered negotiations between CCM and CUF, referred to as *Muafaka*, which centered on the CUF accepting the election results in return for electoral reforms. The CCM and CUF signed a formal agreement just prior to the 2000 contest, but the elections were again mismanaged and the results were not credible, sparking confrontations between security forces and CUF demonstrators that resulted in at least 31 deaths and hundreds of political refugees who fled to Kenya, damaging Tanzania's self-perception as a peaceful and tolerant country. In an effort to stop the violence, the CCM and CUF engaged in another round of Muafaka talks, with President Mkapa serving as the guarantor of the agreement. Although the 2005 election was better managed, the CUF remained unsatisfied, with talks shifting toward the creation of a power-sharing agreement in which the losing party would be incorporated into the government. However, Zanzibar delegates strongly opposed the agreement at the March 2008 CCM National Executive Committee meeting, scuttling the deal. In the absence of good will between the parties, voter registration in Pemba was temporarily suspended in August 2009 amid acts of sabotage, CUF claims of a governmental effort to disenfranchise its supporters, and threats by the Revolutionary Government of Zanzibar—carried on the front pages of the ruling party and government newspapers—to arrest the CUF's general secretary and the likely Zanzibar presidential candidate, Seif Shariff Hamad. In a surprise development, a November 2009 meeting between outgoing Zanzibar President Amani Karume and Hamad produced an informal agreement that reduced tensions between Zanzibar's two main political parties.

In this whole framework of the desire to be democratic and to establish good governance credentials, East African countries; like other African countries often find themselves being assessed on the extent to which they protect civil liberties, protect their citizens from terror and other human rights violations. The governance assessment also examines how such countries promote gender equity as gender mainstreaming was selected as a major strategy for promoting gender equality at the fourth world congress in Beijing in 1995. However, there are a number of variations in its applications and usage among various countries. Vasanthi (2006) reminds us that gender mainstreaming should be transformative and this dimension has important implications for the very definition and discourse of development in all countries but more so to the East African countries which are within the context of our debate. In this regard, the traditional countries within the East African regional integration platform have performed different on each of the following governance indicators as summarized in table 3 below:

**Table 4. Ranking of three East African Countries on human rights**

	UG	TZ	KE
Civil liberties	3.77	4.13	4.29
Protection from state terror, unjustified imprisonment, and torture	2.75	3.25	2.88
Gender equity	3.00	4.33	3.67
Rights of ethnic, religious, and other distinct groups	4.00	4.50	3.50
Freedom of conscience and belief	5.33	5.33	6.67
Freedom of association and assembly	3.75	3.25	4.75

In Tanzania's constitution, all Tanzanians are equal under the law and citizens are protected from human rights abuses. Nonetheless, there are allegations of abuse and the use of unwarranted violence by state organs especially the police. This is a situation that is not any different in Kenya, Uganda and other countries. In Uganda, the police brutality has systematically increased while quashing opposition political assemblies. It is generally perceived that the police in Uganda is more of military police that it expected civilian outlook. The current inspector General of Police who is an

army person by training has been accused of injecting a number of military people in the police force. There is a general perception of the existence of a higher a number of military officers in police uniform doing police work. Of recent, the Ugandan police has violence techniques more applied than peaceful approaches. Even where political groups are peacefully assembled, police always prefers to use excessive force to disperse the unarmed members of society who practically would need police protection. Rather not surprisingly, the same force is not used when the ruling government political activities are taking place. Political parties have almost been denied assembly in Kampala and there is a new bill currently before parliament that attempts to give powers to the inspector of police to give express permission for holding assemblies.

Prison overcrowding is a major problem in East African countries. According to the LHRC, in 2007 Tanzania possessed the capacity to house 22,669 prisoners but held 46,416, nearly half of whom were in remand. The government has attempted to alleviate prison overcrowding through means including a presidential pardon of 7,674 prisoners in 2008, construction of new facilities, and reductions in trial delays. Another effort involved the creation of the Probation and Community Services Division in 2008 to allow for non-incarceration sentences. Regardless of state efforts to improve conditions, the problem of long periods of pretrial detention remains, effectively serving as a punishment prior to conviction. The situation of prison overcrowding is acute in all other countries of the region. A number of prisoners spend a number of days in prison without trial and this is a clear sign of abuse of human rights. Protection from state terror and unjustified imprisonment remains a problem in Uganda. The Supreme Court ruled in January 2009 that death sentences, which had been automatic for defendants convicted of capital offenses, must be discretionary and must be carried out within three years or the sentence would be commuted to life imprisonment.<sup>14</sup> By April 2009, the courts were reviewing the sentences of 35 (out of 637) prisoners on death row who had been convicted before the ruling. On January 20, Museveni freed three prisoners from death row, including two officials who served under former dictators and had awaited execution for more than 20 years. Security forces continued to engage in

extrajudicial killings, disappearances, and torture—all prohibited by the constitution.

The country's military, the Uganda People's Defence Force (UPDF), has a long history of abusing human rights. Security officials also use torture to gain confessions and punish opponents. While the government links many of these cases to rebel activity, observers regard most of them as attempts to remove or intimidate political opponents. In Uganda, while reports of detention and torture in secret jails known as "safe houses" declined in 2006 and 2007, but rose in 2008. Many cases go unreported. The Joint Anti-Terrorism Task Force (JATT) has been charged with the extrajudicial killing of four people and many cases of torture between 2006 and 2008. There is also evidence that the JATT (later renamed Rapid Response Unit) held at least 106 detainees illegally in a safe house in Kampala during the same period. No one has been prosecuted for these abuses, and similar activities have occurred since the beginning of the NRM regime. A reflection of the inhuman activities of this police unit formed a central performance tool against which the new term of office for the inspector general of police was approved. In December 2011, almost a month after getting a new contract, the police chief has lived to his promise and disbanded this unit. A civic coalition that included the Uganda Human Rights Commission (UHRC) drafted the Prohibition and Prevention of Torture Bill of 2009, which prescribes the death penalty for torture.<sup>18</sup> As of June 2009, Parliament, had not acted on the bill. The UHRC, established by the 1995 constitution as an independent agency, awarded more than 70 million shillings (US\$41,000) in compensation for torture during the first quarter of 2008.<sup>19</sup> However; the government was slow to disburse the money. The police and sometimes prison officers have also engaged in reckless behavior. In addition to the 2006 election violence discussed above in Uganda for example, police fired into a crowd in July 2008, killing two innocent people. The perpetrators were charged only with manslaughter and subsequently released on bail, but their case had not been listed for cause by September 2008.

During the first eight months of 2008, 556 new clients were enrolled at the African Center for the Treatment and Rehabilitation of Torture Victims

(ACTV) in Kampala. Of these, 422 were Ugandans mostly victims of the notorious LRA which now resides in the Central African Republic but under constant follow up and monitoring. This effort has of recent been tremendously improved with the support of American technology and military officers. While government was always quick to apportion blame of victims to the rebels, its soldiers were also under intense scrutiny and sometimes serious accusations of the same atrocities. However, the decreasing proportion of victims tortured by the UPDF reduced a development that was in part due to the actual decline in rebel activity within geographical boundaries of Uganda. The military leadership of the UPDF also claimed to have stepped up disciplinary measures against its officers who were abusive. A Local Defense Unit soldier was for example convicted and sentenced to death by a court-martial of killing six civilians and injuring eight others in January 2009. There was a ruling resulting from a different case altogether in February 2009, where the Constitutional Court held that soldiers convicted by Army Field Courts Martial must be given the opportunity to appeal to the Supreme Court. Parliament had established a war crimes court in 2008 to handle crimes against humanity, such as those committed by the LRA.

Arguably the strongest temptations for governments to jeopardise their own countries' developmental prospects are rooted in political insecurity. Governments facing imminent threats to their hold on power often have shorter time horizons and are more preoccupied with placating the specific groups most pivotal to their survival (Ames, 1987). They are thus likely to give high priority to the short-term interests of narrow constituencies, at the expense of longer-term social welfare. Such tendencies can lead to myopically self-interested political interventions into policymaking and public administration, with economically damaging consequences. The centralisation of political power and its seemingly arbitrary exercise are symptoms of the state's weakness in a hostile environment (Callaghy, 1987).

**Table 5. Ranking of three East African countries on corruption**

<b>Ranking Criteria</b>	<b>UG</b>	<b>TZ</b>	<b>KE</b>
Anticorruption and transparency	3.58	3.29	3.06



Environment to protect against corruption	3.25	3.25	2.75
Procedures and systems to enforce anticorruption laws	3.75	3.00	2.50
Existence of anticorruption norms, standards, And protections	3.50	3.25	3.50
Governmental transparency	3.83	3.67	3.50

Political opportunism routinely drives policymaking, at the expense of developmental objectives (van de Walle 2001). The president of Uganda and the NRM party just like other ruling governments within the East African region took illegal advantage of government resources and unequal access to state media during election campaigns. The state should provide equal funding to all political parties but this is rarely implemented. In the case of Uganda, the NRM benefited from its patronage network, as economically privileged interests made far greater contributions to the NRM than to any other party, receiving preferential subsidies and government tenders in return. A commission of inquiry into the Health Ministry's use of assistance from the Global Fund to Fight AIDS, Tuberculosis, and Malaria heard testimony that part of the funding was diverted to pay NRM campaign workers. Despite its commitment to liberalization over the past two decades, the government continues to struggle with corruption. Allies of the president have manipulated the privatization of state land and enterprises for their own enrichment. Privatization has diminished opportunities for corruption in some respects, as it reduces public servants' direct control over economic operations, but the changes have created openings for other forms of bribery.

A survey of businessmen commissioned by the World Bank found that they paid larger bribes in 2007 than in 2003 to secure contracts and run their businesses. On the other hand, the 2009 Index of Economic Freedom rated Uganda in the "moderately free" category and credited it with the fourth-best regulatory regime in Africa; the country's score fluctuated only slightly between 2005 and 2009. The index stated that obtaining a business license required fewer procedures and less time than the world averages, but noted that corruption and insecure property rights remained weak points in the

Ugandan business environment. Recent rankings by transparency international have noted that Burundi and Uganda are the worst corrupt East African country and Rwanda is the cleanest in the region.

### **Policy and Theoretical Implications**

Africa in general and East Africa in particular should aspire for substantive democracy; an enterprise that demands regimes to provide outcomes that promote equality among citizens. Every citizen must enjoy his or her position in his or her country. There should be respect for rule of law and protection of all rights of individuals. Countries within the region must aspire to promote a highly participatory system of governance in which the force and logic of the better argument prevails over the force of the gun and money that seem to have picked root in a number of countries covered within our context. Systems driven by force, intimidation and use of money undermine any well intended agenda of institutionalizing true democratic virtues in countries that have joined efforts to integrate for the common benefits. Theoretically, substantive democracy intended to meet the principles of good governance is possible through the institutionalization of rule of law, security, transparency, accountability and reduced corruption.

Democracy, seen from a continuum whereby in one extreme we have procedural democracy (minimum electoral definitions) and on the other extreme substantive democracy (which is outcomes focused), and in between there being a more complex definitions of procedural democracy as suggested by Janda, Berry & Goldman, 2008). In many cases, African leaders focus more on the minimalist understanding of democracy, which is basically the process used to make up governing institutions that requires only multi-candidate, competitive elections. And yet, the electoral process itself has its own fallacies as demonstrated by Terry Karl (1986) and our recent experiences in almost all East African countries. Karl argues that equating elections to democracy is wrong. African governance should instead promote substantive democracy where regimes do not end on minimal competitive elections, but also build and strengthen other democratic institutions. These institutions include checks and balances, separation of powers, the rule of law and protection of minorities. Africa should be aspiring for more complex forms of procedural democracy characterized by

institutions or guarantees of freedoms. Robert Dahl's definition of democracy, i.e. "Polyarchy" captures two fundamental aspects; opposition and participation. Opposition relates to – contestation through elections and participation – the equal right of all adults to vote and run for office (Dahl, 1971). The critical issue is that even this level of complex procedural democracy is not being achieved. Instead the opposition is demonized, treated as treason offenders and sometimes jailed on trumped up charges. The majority of East African countries have all this fundamental problem; a disease that we argue cannot provide a good foundation for systematic governance and democracy; two key pillars our paper regards as critical for regional integration.

If the partnering East African countries are to achieve the intended goals of regional integration, they must address critical governance and democratic questions which have variously been raised by different institutions. All countries need to strategically improve their governance and democracy performance; a task that can be accomplished when critical actors are genuinely involved. For example, the role of academia and universities should be made clear and explicitly supported by policy. Think tanks, well facilitated to do their job need to be created around critical governance and democracy dimensions and their proposals must be listened; although they should also be monitored to ensure compliance to agreed procedures. The governance and democracy challenges amidst us need a whole planned coordinated package that need re-orienting all the political and administrative leadership to the true matters of the occasion. Many of these were educated in the 'old paradigms' of public administration and tend to only look at the governance expectations from their developed counterpart's scripts without serious contextualization. The media and cultural institutions must be given space for if effectively used can provide a good mechanism for citizen participation. Finally, the position of policy oriented research and who should advance this cause at various levels of governance must be clear.

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