International Law and Functional Integration: The East African Community Revisited

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Introduction

Looking at the existing literature on organizations one notices two trends. The first one shows that most students in examining the growth or decay and effectiveness of international organizations in particular, tend to focus exclusively on the structure. Very often questions like these are asked: is there an increase or decrease in membership? If there is an increase, how powerful economically and militarily are the new units? Has the system a strong legislative unit? How much power has the chief executive of the organization? Such analysis abounds on studies of the United Nations and its agencies. The second trend is seen in the tendency of some students to overemphasize the activities of the organizations as a measuring indicator. Take the UN for example. This group of analysts would look at cases like Korea, Congo and the Suez crises, to mention but a few, and then draw conclusions on the effectiveness of the organization. Organizational scholars like Richard Falk, Inis L. Claude, Jr., Kaplan and Katzenbach,[1] have been closely identified with the above trends but very little has been done by way of using international law as a measurement of growth, decline and member perception of the organization to which it belongs. Even those who have attempted the use of this approach like Yash Ghai and S.A. De Smith[2] on the East African subsystem have not gone far enough.

In this essay effort is made to demonstrate that international law is a perfect indicator to measure growth, decline and effectiveness of an integrational unit. The essay also attempts to show that perception of economic benefits and burdens in an integrational union determines unit attitude toward international law. The word integration has occurred several times in the above paragraphs, and I think it is important at this point to clearly define integration in the context of this study. Scholars of integration like Karl Deutsch, Levine, Mitrany and Angell have identified over five types of integration: cultural, normative, communicative, political and functional. This essay deals exclusively with functional integration. By functional integration it is meant economic integration (i.e. one organized around common needs like transportation, health, welfare, scientific and cultural activities, trade and production). In every successful integrational system or subsystem there is mutual interdependence among the components of the system. Deliberate effort to examine how reciprocal is the contribution by individual partners will be made in this essay. Examination on how conflictual a move toward individual autonomy (i.e. unilateral decisions in the building of industries) infringes on international law will also be done.

East African Community has been chosen as a unit of analysis far from arbitrary. Like Cantori and Spiegel it is believed that a more indepth study could be done by looking at a subsystem. This is because in such a study there are fewer components to deal with (three in this particular case).

Throughout this essay, an effort to test the following hypothesis will be made:

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In an economic union perception of benefits and cost by partner states will either lead to respect or disrespect of international law.

Extensive use of treaties between the East African partner states as a source of international law (which in this essay will be defined as a body of rules and regulations regulating behaviour between the partner–states: Kenya, Tanzania and Uganda). Together with this approach, use of individual legal system of the partner states with the intention of finding out how lack of homogeneity in laws has brought about breaches within the community will be done.

This project has been divided into three main parts: an overview which deals with the historical background and purpose of the community going as far back as the 1920s; the structure which will deal mainly with the anatomy of the organization, and finally the sub–unit perception of benefits (economic, social and political) as a result of the union. This third part will examine agreements like licensing of industry and proposals made by the Raisman and Philip Commissions to see if these treaty agreements were adhered to.

The East African Community

Overview

Attempts to form an East African Federation with a strong centralized body date as far back as the 1920s. This move was greatly encouraged by the white settler group (in Kenya in particular which formed over 60% of the total white population in the region[3]) which wanted to take advantage of economies of scale. This argument was put forth very strongly by most economic analysts examining the East African Common Market between 1918–1939. They argued that the establishment of such a union would only serve to provide additional outlets for Kenya's agriculture and industry[4] especially as Uganda and Tanganyika (now Tanzania) has no industrial base. This argument appears very partinent if one examines the following statistical data on inter-territorial trade for the year 1938:

TABLE I[5] (Figure in £ million)

Kenya to		Uganda to		Tanganyika to	
Uganda	Tanzania	Kenya	Tanganyika	Kenya	Uganda
0.28	0.26	0.16	0.12	–	0.08

Though federation failed as a result of resistance from the less developed partners (Uganda and Tanzania), economic linkages in the form of a Common Market and Common Services formed prior to the end of World War II were maintained. In 1948 the East African High Commission was created to administer the Common Market and Services. This administrative unit existed until December 9, 1961 (date of Tanganyika independence) and was succeeded by EACSO (East African Common Services Organization) with headquarters in Nairobi. By the end of 1950 the High Commission administered over 30 inter-territorial services and departments such as Customs and Excise, the Literature Bureau, Railways and Harbours, the East Africa Office in London, the Directorate of Civil Aviation, the Lake Victoria Fisheries

Board, Posts and Telecommunications, Income Tax and a host of research bodies, to mention but a few.

In 1961 EACSO inherited the activities of the High Commission with a few changes. The new body comprised an Authority, four Ministerial Committees and a Central Legislative Assembly. The Authority was composed of Leaders of Kenya, Tanzania and Uganda (Kenyatta, Nyerere and Obote respectively). The Ministerial Committees consisted to twelve ministers, three from each state. The Central Legislative Assembly was made up of 41 members.

Like the High Commission, EACSO was responsible for 21 organizations plus various services. These services fell into two main financial categories: the self-contained service of Railways and Habours (EAR & H), Post and Telecommunications (EAP & T), and East African Airways (EAA); and the services directly administered by EACSO and financed from its general fund.

In fact, the Community which emerged in June 1967 in Kampala with the signing of the Philip[6] Commission draft treaty by the Presidents of Kenya, Uganda and Tanzania was the culmination of a 40 years effort to create a Community in East Africa. This new unit inherited two very important elements formed in earlier attempts to build a union. These units are: A Common Market; and Common Services.

It would be misleading to think that the (EAC) East African Community was just a replica of EACSO.There were a few significant modifications in the set up. To appreciate these changes one ought to start by looking at its aims as spelled out in Article II of the treaty. The purpose of the Community was "to strengthen and regulate the industrial, commercial and other relations of the partner states to the end that there shall be accelerated expansion of economic development and sustained expansion of economic activities the benefits were of shall be equally shared".[7] With this goal in mind the Community had four crucial problems to deal with:

(1) International trade imbalances which has hitherto been infavour of Kenya;
(2) The concentration of new industrial activities in the same country;
(3) The preponderant role of Nairobi as the Administrative Center for Common Services; and
(4) The size of Kenya's indirect financial assistance to Uganda and Tanzania through a proposed East African Development Bank.

Solution to the above problems were sought not without difficulties. Though the Community was in principle a free trade zone, it was suggested by the Philip Commission and agreed by the three Presidents that a partner state in deficit could impose duties on a partner state enjoying trade surplus with it, provided it does not go beyond the deficit amount.[8]

The problem of industrial concentration is dealt with extensively in Article 23 of the treaty under industrial licensing laws. These laws hold that new industries would only be set up within the Community after consultation with the partner states. The idea was to encourage the implantation of manufacturing industries in Uganda and Tanzania and discourage their concentration in Kenya which by 1960 provided for 70% of the manufacturing output of East Africa.

The third problem, that of mitigating the role of Nairobi, was solved by locating the Capital of the Community in Arusha in Tanzania and the self-sustained corporations formerly concentrated in Nairobi also became decentralized moving the EAP & T to Uganda and EAH & R to Tanzania.

Finally, it was agreed to create an East African Development Bank with the intention of equalizing economic development within the partner states. The mechanism to achieve this goal was to get the three partner states to contribute equal amounts of money into the bank, but Uganda and Tanzania had 38.75% drawing rights each, wereas Kenya only had a 22.5% drawing rights.

In a nut shell, the above treaty agreements formed the basis of international law within the Community in 1967. In part three of this essay we will examine how the breach or respect of these agreements (considered law in this essay) could be used as a measurement of the growth, decline and effectiveness of the Community's activities.

We do not intend to reproduce the entire East African Economic Community treaty in this section. Only those elements relevant to this essay will be considered. The structure of the East African Economic Community is not as rigid hierarchically as that of the Organization of African Unity (OAU) and that of the Equatorial African Economic Community (see chart). This treaty only provides for one executive institution, the East African Authority, which consists of the three heads of state and three assisting East African Ministers (one from each state). The powers of this executive body are further curtailed because it gives a veto power to each one of the heads of state which makes it very difficult to carry out projects in a situation where one of the participants is in disagreement. A further hindrance of this veto power is seen in the fact that discussion of some very important issues are avoided for fear that one of the parties will veto the action. The other institutions of the Community apparently have equal status, and are pre−dominantly consultative.

The Legislative Assembly consists of nine members appointed from each country; and the East African Ministers and the Secretary General sit in as ex−officio members. The most interesting element in the Community's structure is the Common Market Tribunal which is responsible for settling disputes within the Community. The tribunal reaches a decision by majority vote.

CHART

STRUCTURE OF THE COMMUNITY

EAST AFRICAN AUTHORITY

EAST AFRICAN MINISTERS

COMMON MARKET COUNCIL

COMMON MARKET TRIBUNAL

EAST AFRICAN LEGISLATIVE ASSEMBLY

COMMUNICATIONS COUNCIL

FINANCE COUNCIL

ECONOMIC CONSULTATIVE AND PLANNING COUNCIL

RESEARCH AND SOCIAL COUNCIL

As readers might have already noticed from the above list of institutions the founding fathers of the Community did not foresee the creation of a law enforcing body to enforce the decisions of the court. This in a sense reduced the effectiveness of the courts. The neglect of such as important factor, in effect, shows that the partner states did not attach much importance the legal aspect of the Community. Another possible scenario that could be developed from this neglect, if neglect it was, was the fact that these founding fathers were probably afraid to create a body stronger than their individual units. One can probably sympathize with this factor considering that they had just recently acquired independence and were just begining to enjoy the fruits of their struggle. This explains why such a body was not created.

Sub–Unit Perception of Union Costs and Benefits

Gouldner[9] seems to be right in his argument that the contribution of any two or more parts to each other in integrational process is often far from equal and that one part may be exploiting the other(s) if one examines critically the case of the East African Economic Union.

To fully understand the arguments advanced by those critics of the economic Community who see it as detrimental to the sub–units (Uganda and Tanzania in particular), one ought to start by looking at those elements shared by the Community. With the amalgamation of the customs administrations of Kenya, Tanzania and Uganda, the creation of a Common Market was completed. This meant an effective common tariff against the outside world and no tariffs between the three countries. The idea behind a common tariff was to protect the Community's industry against fierce foreign competition. But most of the Community's industry was concentrated in Kenya which provided for over 70% of the Community's manufactured goods. So we might ask ourselves as analysts how beneficial such arrangements were to the three partner states. A look at inter–territorial trade from 1959–1962 within the Community will throw more light on this issue.

TABLE II[10]

Inter–territorial Trade (in (£mn)	1962	% change 1959–62
Kenya to Tanganyika	10.0	+54
Kenya to Uganda	7.2	+41
Uganda to Kenya	5.4	+47
Tanganyika to Kenya	2.0	+5
Uganda to Tanganyika	1.7	+5
Tanganyika to Uganda	0.4	–40

The above statistical data clearly show that Tanganyika was the net loser while Kenya was the beneficiary. The second factor which does not show from the above statistics was the point that Tanganyika and Uganda paid more for manufactured goods from Kenya than they would have paid for the same goods from an external market and the common external barrier not existed. How Tanganyika and Uganda

reacted to this factor will be discussed later in this section. But it must be borne in mind that industrial duplication within the Community was prohibited by the industrial licensing law and any unilateral development of a particular industry by a partner state without consulting with the other partner states was equally prohibited by the same law. By drawing attention to this issue we intend to show how the sub-units were very limited by law.

Another common factor shared by the Community is the Common Services which were divided into two major categories: the General Fund Services, and the Self-Sustained Services.

Until 1967 EACSO capital was in Nairobi which had the effect of a Kenyan orientation on the organization. This Kenyan orientation increased exponentially with the predominance of Kenyans within the staff of the organizations. To appreciate this fact we should look at the Community's expenditure on the general fund services (i.e. services that were sponsored from the Distributable Pool proposed by the Raisman Commission in 1961). Over one-half of these services were concentrated in Kenya and this meant that most of the Community's money was spent in Kenya. But the Kenyans complained that they contributed most to the General Fund and yet their gains, if gain at all, was not commensurate to this contribution.

Let us take a look at the balance of benefits and contribution to the General Fund Service in order to appreciate how the components of the Community perceived its cost.

TABLE III[11] (in £ mn)

	Kenya	Tanzania	Uganda
Benefits	3.3	2.1	1.9
Contributions	3.5	2.0	1.8
Net gain/Loss	−0.2	+0.1	+0.1

From the above statistical data Kenya felt cheated in the Union by comparing her net contributions and benefits. But Tanzania and Uganda felt the gain made was not significant and argued that most of the money contributed was spent on Kenyans who made up most of the Secretarial staff. They argued that they would have come off better as individual entities. In fact, this is a very interesting case of how the sub-units viewed the organization.

Another area where discontent was very apparent was in the activities of the self-sustained corporations within the Community's units. It is essential to note that these services were in principle set up to serve the entire East African Community. But most individuals in Kenya and Uganda viewed the performance of these self-sustained services in Tanzania as unprofitable. A look at the following empirical evidence is a strong indicator of the territorial burdens in the Community.

TABLE IV[12] (in £ mn)

	Kenya/Uganda	Tanzania	East Africa
EAR & H	+1.6	−2.0	−0.4
EAA	+0.6	−0.2	+0.4
EAP & T	+0.3	−0.2	+0.1
	+2.5	−2.4	+0.1

As it is clearly shown in the above statistics the activities of the self-sustained services in Tanzania were always in the red and their continuation depended on financial subsidy from Kenya and Uganda. Kenya and Uganda especially in the EAA felt that there were too many internal local flights in Tanzania which due to their unprofitability increased the burden on the subsidiaries in the other two partner states.

The above material showing the sub-units perception of Community cost and benefits have been mainly concerned with pure economics. Another areas where individual territorial feelings come out even more strongly is the political factor. Joseph Nye who has looked at this issue from political aspects concludes that political effects on a functional integrational unit could be very restraining to the smooth running of the organization. Any integration short of political integration poses problems of sovereignty, and the economic integration of East Africa is no exception. A simple definition of sovereignty might throw more light on this point. Sovereignty means the responsibility of a government for the defence and welfare of a group of people within a given territorial boundaries. As mentioned earlier a functional association short of political integration means that the different governments would have to insure against total reliance on partner states. A good example of this trend is seen in the actions of a landlocked country like Uganda which has continuously triend to reduce her total reliance on rail links to the sea though Kenya by turning to the Congo and the Sudan for alternative outlets. This also explains why Kenya would tend to ignore World Bank recommendations against the construction of an independent hydro-electric plant on river Tana to curtail her excessive reliance on Tanzania for energy. In fact, the intense hatred of the Community's restraints are seen by the following statement made by Dr. Kiano, Kenya's Minister of Commerce and Industry:

> Every time we wanted to take a decision, a firm decision in the field of economics, we had to get the approval directly or indirectly from our neighbours, and if they did not believe the way we did, well that just had to be put on the shelf.[13]

No country wants its sovereignty limited in this way by a foreign authority. The reaction to such limitation comes out very clearly in Kenya's attitude toward international law in the Community to be demonstrated below.

Nationalism is also one of the political factors that weakens the effectiveness of a functional system. In most of East Africa the statement "Nairobi Mentality" was very common according to Joseph Nye, and it connoted a superior/inferior role played by Kenya, and Tanzania and Uganda respectively. In forming a Community Tanzania and Uganda had hoped for a $(1 + 1 + 1) = (⅓ + ⅓ + ⅓) = 1$ relationship and not 1½ relationship with Kenya enjoying 100% of the Community prestige leaving 50% to be shared by Tanzania and Uganda. Throughout the existence of the Community's life there has been a continuous effort on the part of Uganda and Tanzania to equalize the unbalanced relationship inherited from the colonial era when Kenya had a clear advantage over the rest of the Community partly as a result of the white settler population within its boundaries.

We have tried in the above paragraphs to show those areas which had the greatest influence on the sub-units in their perception of the Community. The next step would be to show what attempts were made by the Community to mitigate the Community's cost on the individual units. We will draw quite extensively from the recommendations of the Raisman and Philip Commissions to the Community. After stating these

recommendations we want to examine how the different territorial units reacted to them. Did they abide by the treaty laws which came as a result of these recommendations? If not could we look at this breach of law as an indicator showing their dissatisfaction with the benefits that would accrue to them as a result of such reommendation?

The Raisman and Phillip Commissions

The Raisman Commission in 1961 did admit that there has been some inequalities within the East African Economic Community, but it also added that despite such weaknesses the individual territorial units had on the whole benefited from the Community more than they would have been left to their own devices.

The Commission recommended the creation of a Redistributable Pool to mitigate the inequalities between the Community's territorial units and also provide an independent fiscal resource for the administration of the Common Services. In justifying why the Redistributable Pool was necessary the Commission held that:

> The future political relationship between the Territories cannot be predicted or prejudged. We think, however, that the Common Market is of such importance to their economic future, and the danger to it from internal strains so great, that some inter-territorial redistribution of income, offsetting in some degree the inequalities in the benefits derived, is urgently called for in order that the Market may be preserved.[14]

The above recommendation strongly points to the fact even this Commission which in some instances manifested a Kenyan bias did admit that most of the Community benefits—tax, industry and employment, accrued to Kenya. How did the Redistributable Pool work? Six percent of all the customs and excise collections and fourty percent of the yield of income tax charged tó companies on profits arising from manufacturing was paid into the Pool. One-half of the money so collected was spent on the administration of the Common Services while the other one-half was evenly distributed among the partner states. If one compares the fiscal transfer of resources from Kenya to Tanzania and Uganda after the Raisman proposal with the pre-Raisman era, one notices a significant attempt toward equalizing the Community's profits. The following data illustrates perfectly the above argument:

TABLE V. (Figures in (£ 000)

	Kenya	Tanganyika	Uganda
Payments into the Distributable Pool under the Raisman System	1,735	775	700
Contribution to the High Commission under Pre-Raisman System	525	550	410
Additional Payments under the Raisman System	1,210	225	290

But from the above data can we conclude that the Raisman Commission had gone far enough towards equalizing the system? The figures look impressive but in reality the Commission's recommendations were not radical enough. This is because Uganda and Tanzania in particular pushed even harder after this proposal for the creation of

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more industries within their own territories, rejecting Raisman's second recommendation to discard the industrial licensing laws. We might also ask ourselves how Kenya viewed the Raisman Distributive Pool. It seems that she felt in disadvantageous position considering that there was a 220% increase in her contribution to the Community. This certainly had a negative effect on her attitude toward the Community's laws.

The Philip Commission was set up in 1965 to salvage the foundering Community. This Commission was charged with four main duties:

(1) Study and make recommendations on how best to improve the existing common services;

(2) The finances of the Common Services arrangements;

(3) The distribution of the Management of the Common Services through the area, and

(4) The new constitutional, legal and administrative arrangements needed to promote economic cooperation in East Africa.

Results of the Philip Commission on these issues were viewed as more radical than the Raisman Commission. Unlike the Raisman group which only made one significant contribution, but creation of Redistributable Pool Fund, Philip came up with four very radical recommendations which became law when the treaty went into effect in December 1967. He proposed the maintenance of a common tariff against foreign goods entering the regions, but unlike in the past, customs duties were to be paid to the consuming state instead of to the port of entry which usually was Kenya. Such taxes, would be collected by a regional fiscal agency whose creation the Commission recommended. The Commission also recommended the decentralization of the Common Services headquarters. As for the industrialization problem of the region, Philip recommended the maintenance of the industrial licensing scheme created in Kampala in 1964 with financial incentives. This scheme gave Tanganyika exclusive rights to establish three new region oriented industries, Uganda two and Kenya only one. To solve the financial problem he recommended the creation of an East African Bank with more lending rights to the less developed partners—Uganda and Tanzania. Finally, the Commission recommended that employees of the Common Services be immunized from civil processes and immigration restrictions.

Who benefited more from the above recommendations? Every one of them points towards the curtailment of the advantages that formerly accrued to Kenya. Take the decentralization of Common Services and the institution of the industrial licensing law. Kenyans before 1967 dominated the Common Services, partly because the capital was in Nairobi but with its transfer to Arusha in Tanzania it also meant loss of influence and prestige for Kenya. The emphasis on the industrial licensing laws in effect implied that industrial development in Kenya would remain at a standstill until Uganda and Tanzania caught up with her.

Uganda and Tanzania first welcomed the recommendations but saw them as only giving them a short-term advantage. This is because it provided them with the finances to build new regional industries. But the difficulty lay in the fact that duplication of regional industries was highly discouraged which meant that they had very limited choice of industry since most of the industries were already in Kenya.

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Reaction of Partner States to the Laws of the Community as Seen in the Treaty

Before I discuss partner state attitude toward Community law it is important to point out that the founding fathers in founding the Community did not say what would happen in a situation when there was a conflict of laws (i.e. where there was a conflict between the domestic laws of a given territory and the Community's laws). This loophole in the founding stage was greatly exploited by partner states which very often used their discretion in such a situation.

As soon as the treaty was signed, Kenya embarked on increasing her industrial infrastructure especially in the area of tea-growing and sugar. The President of Kenya, Kenyatta, also said that Kenya was expanding her tourist industry which would soon become Kenya's greatest single source of foreign exchange.[15] By undertaking such industrial projects, Kenya was going against the Community treaty which was against duplication of regional industries. Uganda had been known to provide the region with sugar and her sugar industry was large enough for this purpose. Building another sugar industry in Kenya would hurt the Ugandan industry forcing it to operate below optimum which is highly uneconomical. Again Kenya's attempt to increase her tourist industry was perceived as unfriendly to Tanzania which was given exclusive rights to develop a tourist industry for the region during the Kampala meetings of 1964. Another instance of breach of law was again seen in the cement industry. Uganda started the first factory. Kenya made all attempts to block the scheduling of the Ugandan industry and started two factories of her own. Shortly, after Tanzania pressured the Kenyan producer to start a factory near Dar es Salaam, despite existing plans to build one in Mombasa to serve the Common Market. How can we explain these breaches of Community law? There are certainly many scenarios that could be developed to explain the above action but we think that the best of them all is the perception of the benefits that would accrue to the individual territorial units. Kenya saw the industrial licensing laws as a resraining factor, curtailing the advantages she earlier enjoyed as a result of the industrial advantage she had over the other partners. The point we have been trying to make throughout this essay is that looking at sub-unit response to international law an organization student can easily detect where conflictual stresses lie and can therefore determine with a higher degree of precision whether the organization is growing or declining.

Conclusion

In the introduction we mentioned two dominant trends in the analysis of international organizations: one based on the structure and the other goal directed. We have argued in this essay that international law can also be used to measure growth, decline and effectiveness in any international organization, but we also want to make it clear that we do not in any way claim that it is the best method of analysis, though it could be very useful.

Morton A. Kaplan and Nicholas de B. Katzenbach in a joint article show that "all system of law tend to break down in crisis situations".[16] We feel their argument is not only convincing but perfectly correct. If readers accept their thought as we do, then it becomes as simple as goodmorning to follow the argument presented in this essay. If law breaks down in a crisis situation then we can predict a crisis or stable situation (in an international community in particular) by looking at the law and members' reaction to it. In this essay we have used member perception of cost and benefits (economical, social and political) as variables determining their behaviour in the East African Community system of law.

The East African Community discloses interesting patterns for our purpose. Prior to the Community treaty of 1967 most of the benefits derived from the institution of a common tariff foreign goods entering the region accrued to Kenya because of the industrial advantage she had over the other partners. Here we see that Tanzania and Uganda were the main defaulters of the law. After 1967 the Philip Commission in its attempt to equalize the Community benefits, instituted measures like the transfer tax, industrial licensing scheme, change of capital and the decentralization of the Common Services, to mention but a few. All these measures were to the disadvantage of Kenya and to the advantage of Tanzania and Uganda. This second phase shows Kenya as the main defaulter of the Community laws. She (Kenya) embarked on industrial projects such as sugar, tea and tourism without consulting with the other partners, thereby going against the industrial licensing law. The perception of economic benefits did play an important role in determining until attitude toward law. But the political factor was just as important. The statement "Nairobi Mentality" frequently used by members of the Community as Joseph Nye points out connoted a center/periphery kind of relationship between Kenya on the one hand, and Tanzania and Uganda on the other. Nationalism plays an important role in this case. Tanzania and Uganda would not accept to paly a secondary role and we see a deliberate effort on their part to upset the status-quo. This effort resulted in the Raisman and Philip Commissions whose goal was to equalize Community benefits.

In conclusion, basing our arguments on the East African Economic Community, integrational system. This is done as demonstrated above by looking at the frequency of law breaches by partner states.

FOOTNOTES

1. Richard A. Falk (ed.), *Regional Politics and World Order* (1973); Inis L. Claude, *Swords into Plowshares; the Problems and Progress of International Organizations.* 1971; Kaplan and Katzenbach, "Law in the International Community" in International Law edited by Falk and Mendlovitz (1966).
2. Yash Ghai, "Some Legal Aspects of an East African Federation" and S.A. de Smith, "Integration of Legal Systems" in *Federation in East Africa: Opportunities and Problems* edited by Colin and Robson (1965).
3. Joseph S. Nye, Jr., *Pan–Africanism and East African Integration.* Cambridge, Mass: Harvard University Press, 1967, p. 64.
4. Miquel S. Wionczek (ed.), *Economic Cooperation in Latin America, Africa and Asia,* 1969, pp. 161–163.
5. Dharam Ghai, "Territorial Distribution of Benefits and Costs of the East African Common Market" in *Federation in East Africa,* edited by Leys and Robson, 1965. This author obtained his data from the Annual Trade Reports of Kenya and Uganda up to 1948; Kenya, Uganda and Tanganyika since 1949.
6. Kjeld Philip was a United Nations expert of Danish nationality who headed the tripatite Ministerial Commission in August 1965 to draw up a draft treaty for the East African Community.
7. Miquel S. Wionczek, *Economic Cooperation in Latin America, Africa and Asia,* p. 165.

8. Ibid., pp. 178 – 184. See also Articles 19 and 20 of the East African Community.
9. Ibid., p. 170.
10. See "Integration" in the *International Encyclopedia of the Social Sciences*, Vol. 7, p. 383.
11. Arthur Hazlewood, *African Integration and Disintegration: Case Studies in Economic and Political Union*. London: Oxford University Press, 1967, p. 83.
12. *Economic and Statistical Review*, June 1963, Table D. 17.
13. Hazlewood, *African Integration and Disintegration*. p. 84.
14. J.S. Nye, Jr., *Pan–Africanism and East African Integration*. p. 168.
15. Hazlewood, *African Integration and Disintegration*. p. 84.
16. M.A. Kaplan and Nicholas de B. Katzenbach, "Law in the International Community", p. 22.

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Class Interest and Public Policy in Nigeria: An Analysis of Governments' Policies on Agriculture and Housing*

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Introduction

Presently, Nigeria is supposed to be in search of the "right" political future. This probably suggests that her political past and present has not been conducive to the attainment of the aspirations of her people. Nigeria's political past has, among other things, been chiefly characterized by frequent switches from civilian to military governments. Each of these two genres was expected to use state power in pursuing policies and programmes which in the main benefit all Nigerians. That is to say that such policies and programmes must be in the 'public interest'. The issue has often been reduced to which of these governmental forms better acquits this duty? Most experience has even led us to question the whole idea of a congruence between public policy and public interest. And it does in fact seem that the nature of the public interest in reality, needs to be explained and fathomed.

The Nature of Public Interest

Liberal democratic theory admonishes that the right use of state power is that one guided by the "public interest".[1] Thus, the right form of government is that which ensures that public policy[2] is determined by the will and feelings of "the people" (public opinion).[3] From Plato, Locks (theory of royal prerogative) and Rousseau (volunte generale) through the present, this idea of the public interest with which public policies and programmes ought to be in congruence persists.[4] However, in reality, we are quite aware that 'the public' or 'the people' as a homogenous whole, characterized by a harmony and consensus of interest, is pretty much a phantom. It has virtually become a self evident fact that government policies and programmes, even when they profess to serve the interest of the general public, persistently protect and project the interests of specific identifiable groups of social agents, who dominate society at the epoch. Some basic questions do arise. What are these groups? What is the nature of their interests? And by what dynamics do they emerge as dominant and therefore to direct public policy?

The nature of these groups and interests have been variously addressed by analysts. There is for instance, modern pluralism or group approach[5] as well as the elite approach.[6] Yet there is need for an approach and method of analysis which clearly set out a scientific basis for understanding and explaining the nature and logic of these groups and interests, clearly showing how they relate to public policy. These are provided by class analysis based on the method of dialectical materialism.[7] In class societies domination revolves around the ownership of the means of production and therefore control of the labour process. Classes are themselves delineated by

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