









Haki Talk Series: Legal and Human Rights Awareness in East Africa



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Compiled by: Jarc Tusiime and Leonida Odongo

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Abbreviations

ACRWC: African Charter on Rights and Welfare of the Child

CSOs: Civil Society Organisation

EAC: East Africa Community

EACRN: East Africa Child Rights Network

EAYN: East Africa Youth Network

EALA: East Africa Legislative Assembly

GBV: Gender Based Violence

I4C: Innovation for Change

PWDs: Persons With Disability

SIC: Social Innovation for Change

"Within a system which denies the existence of basic human rights, fear tends to be the order of the day. Fear of imprisonment, fear of torture, fear of death, fear of losing friends, family, property or means of livelihood, fear of poverty, fear of isolation, fear of failure. A most insidious form of fear is that which masquerades as common sense or even wisdom, condemning as foolish, reckless, insignificant, or futile the small, daily acts of courage which help to preserve man's self-respect and inherent human dignity. It is not easy for a people conditioned by fear under the iron rule of the principle that might is right to free themselves from the enervating miasma of fear. Yet even under the most crushing state machinery courage rises again and again, for fear is not the natural state of civilized man."

Aung San Suu Kyi

Burmese politician, diplomat, author, and a 1991 Nobel Peace Prize laureate who served as State Counsellor of Myanmar and Minister of Foreign Affairs 2016 - 2021.

Background

The Treaty establishing the East African Community (EAC)¹ recognises the respect for human rights and the rule of law as fundamental principles along with adherence to universally acceptable principles of democracy, good governance and social justice.²

Article 6(d) of the Treaty stipulates that "The fundamental principles that shall govern the achievement of the community by the partner states include good governance including adherence to the principles of democracy, rule of law, accountability, transparency, social justice, equal opportunities, and gender equality as well as recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and Peoples Rights.

The national constitutions of all EAC Partner States recognise the protection of human rights and fundamental freedoms, the preservation of the dignity of individuals and communities, promotion of social justice and the realisation of the potential of all human beings. The fundamental laws provide for right for citizens to seek redress through the instituted justice mechanisms when their rights or a fundamental freedom have been violated, denied,

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¹ Treaty for the Establishment of the East African Community, signed on 30 November 1999, came into force on 7 July 2000. Amended on 14 December 2006 and 20 August 2007 [herein EAC Treaty].

² Article 6(d) The Treaty for the Establishment of EAC of 2000

infringed or is threatened.³

In an ideal situation, every person should be equal before the law and have the right to equal protection and equal benefit of the law. However, within the East Africa Community, various challenges inhibit ease of access to justice through the courts. Access to justice remains a mirage for many people in East Africa. Challenges faced by communities in their bid to access justice include lack of information on legal procedures, the high cost of accessing lawyers and filing fees, delays, lost files, technicality of the law as well as distance, especially for communities living in rural areas as well as the advocate: population ratio.

The civic space is shrinking for many citizens especially young people in East Africa. Recent trends reveal that there is a simmering mistrust between the civil society and the governments across East Africa. Critical voices and action by the media, academia, religious institutions, NGOs, trade unions, political parties and independent constitutional commissions against repressive or exploitative state policy or unethical state behaviour are met with immediate and extreme measures by state to suppress, stifle and punish actors. There have been several reported cases of shrinking civic space and abuse of human rights in the region particularly meted on human rights defenders, political actors and even university students.4

In the 674-page World Report 2019, its 29th edition, Human Rights Watch reviews human rights around the globe and reveals clear patterns of government repression against peaceful protesters, activists, human rights defenders and journalists emerged across the East African Community. The report shows that governments in the region have not done enough to protect freedoms of expression and association and provide justice for crimes by security forces and law enforcement agencies.

The report shows that in Kenya, security forces cracked down violently on protesters during elections in late 2017 and early 2018. The crackdown, largely in opposition strongholds, killed more than 100 people; and dozens of women and girls reported sexual assault. Kenyan authorities also targeted journalists during election periods for reporting on sensitive subjects such as corruption and security and silenced rights workers in Nairobi and western Kenya with arbitrary arrests, threats, and raids on their offices and homes.

In Uganda, security forces also violently dispersed protests; beating, arbitrarily detaining, and at times torturing, protesters, journalists, and opposition politicians. Thirty-four

⁵ See the full report:

³Philomena Apiko (2017), Understanding the East African Court of Justice: The hard road to independent institutions and human rights jurisdiction accessed from https://ecdpm.org/wp-content/uploads/EACJ-Background-Paper-PEDRO-Political-Economy-Dynamics-Regional-Organisations-Africa-ECDPM-2017.pdf

https://www.nation.co.ke/news/Police-on-the-spot-over-brutality-Jkuat-students/1056-5345916m37679z/index.html

https://www.hrw.org/sites/default/files/world_report_download/hrw_world_report_2019.pdf

people, including six parliament members, arrested during by-election campaigns in Arua, north-western Uganda and charged with treason, alleged torture by security forces. Despite government commitments to hold security forces accountable, Human Rights Watch found that many investigations into military and police abuse of civilians failed to progress, including an inquiry into the November 2016 killing of more than 100 civilians in Kasese.

The report further highlights that **in Tanzania**, there was a marked decline in respect for free expression, association, and assembly since the election of President John Magufuli in 2015, along with other human rights abuses. Girls faced discrimination in education following a 2017 ban on pregnant girls and young mothers in schools (which has since been reversed).

In South Sudan, fighting between government and rebel forces continued despite a revitalized peace agreement signed in September. Government forces carried out abusive counter-insurgency operations in areas west of Wau; killing, looting and destroying villages, while sexual violence surged in the former Unity State. The country's leaders have made no progress after its agreement to create an African Union-South Sudanese hybrid court to try the most serious crimes committed since the start of the war five years ago.

The situation in Rwanda and Burundi is just the same as the other EAC Partner States with crackdown on opposition politicians and other voices of dissent rampant in the two countries.

Additionally, the onset of Covid 19 and the 2020 political environment in Burundi, Tanzania and Uganda brought with it a lot of social⁶ and legal challenges across East Africa region, from brutality to arbitrary arrests meted on citizens sometimes leading to extreme cases death. New legislations have been enacted in a bid to contain the pandemic but majority of rural communities are unaware of these. Most of those unable to access justice or who have their rights violated are young people. A visit to local police stations, prisons, remands confirm that indeed it is East Africa's youth who populate these justice system structures

Introduction

Haki Nawiri Afrika is a 2020/2021 Winner of the Social Innovation for Change (SIC)Award and is currently implementing a project on Addressing Shrinking Civic Space in Communities in Kenya. The project is supported by Innovation for Change (I4C) -Africa Hub. The Student-Police Dialogue is one of the activities implemented under the above mentioned project.

It is against the backdrop of shrinking civic spaces and impunity in human rights violations that Haki Nawiri Afrika and partners namely African Youth Federation, Justice Hive ,East Africa Youth Network (EAYN) in collaboration with the East Africa Community (EAC) -Gender

 $^{^6 \} https://www.health.go.ke/wp-content/uploads/2020/06/Updated-Case-Management-Guidelines-26_03_20-1.pdf$

Department, came together to co-organise a dialogue series that speaks to the issues affecting young people in the East African region with the aim of raising consciousness among young people both in school and out of school, about human rights and social justice at the same time explore solutions from a multi-faceted perspective which brings together different actors including lawyers, paralegals, students, youth , social justice centres , government representatives.

Furthermore, the partner organisations all work with young people on matters of human rights and social justice as well as policy formulation and advocacy with a focus on youth engagement and participation. The dialogue is also informed by EAC Youth Dialogue Series whose objective is to foster cooperation and exchange of ideas among youth in the region. The dialogue was held from 02:00PM - 4:00PM *East African Time* on Thursday 20th January 2022 via Zoom and had 53 participants (32 males:21 females).

Themes and Topics

The themes and Topics for the Haki Talk Series were:

- Justice Mechanisms in the EAC: How accessible are they for young people?
- **Policy, Advocacy and Human Rights:** How relevant is the EAC? What are the entry points for young people?
- Human Rights and Persons with Disability: Are 'we' among 'the left behind'?
- Movement building and Shrinking Civic Space: The Role of Youth NGOs
- Women and Human Rights: Same Story, No Outcomes

Speakers and Audience

Speakers and participants at the Haki Talk Series will be drawn from universities, civil society organisations including those providing legal aid, social justice centres, ordinary citizens both rural and urban including men and women.

Expected Output

The Haki Talk Series was expected to result into:

- A cadre (critical mass) of young Eastern Africans conscious about human rights and social justice
- Better responsiveness to cases of human rights violations within communities
- Youth capable of defending the rights of others
- Youth aware of their legal rights and can assist in providing basic legal and human rights information to their community members.
- Better understanding on how ordinary citizens can use the law to champion for realisation of human rights and access Justice

Part 1: Overview of Haki Talk Series by Leonida Odongo -Haki Nawiri Afrika

Leonida Odongo, the Executive Director-Haki Nawiri Afrika gave an overview of human rights

violation. The challenges including how Human rights is contained in the EAC Treaty including, rule of law, accountability, equal opportunities as well as .Leonida highlighted the relevance of protection of human rights fundamental freedoms in the East Africa partner states .It was noted that civic space is shrinking in the East African region evidenced by mistrust of governments towards civil society, media as well as trade unions among others .Categories of people subjected to human rights abuse mentioned included students, activists, journalists and ordinary community members .It was said that journalist , oppression through violent means of protestors including cases of torture, detention including of opposition leaders.

In Tanzania restriction of freedom of speech, association, examples were given of Southern Sudan and the suffering or ordinary citizens such as sexual violence in areas such as Wau, crack down of opposition politicians in countries such as Rwanda and Burundi, it was also mentioned that a visit to police stations, remands and other justice system institutions .it was said that the dialogue aimed to work with young people on matters of human rights and justice.

Leonida shared a brief on what Haki Nawiri Afrika has been doing on addressing shrinking civic space through legal rights awareness, paralegal training, human rights education, organising student-police dialogues as well as publishing a Student Rights Manual.

Part 2: Movement Building and Shrinking Civic Space: The Role of Youth NGOs by Jarc Tusiime-East Africa Youth Network (EAYN)

It was said that when there is a discussion about shrinking civic space, leadership and governance, young people tend to shy away. It was explained that young people cannot achieve anything in the absence of either democracy or human rights. It was remarked that it is time to start a conversation about these subjects and the need to interrogate the issue of leadership within the East Africa region. It was emphasised that the youth should get interested in the issue of leadership.

It was stated that when discussions about civic space, leadership and governance arise, some young people tend to shy away. It was explained that nothing can be achieved when there is no democracy nor human rights. It was mentioned that it is about time to start the conversation on democracy and human rights in the East Africa region. It was remarked that leadership is not a preserve of politicians and that youth should start developing an interest in leadership. It was said that the whole issue in the East Africa region is about leadership for example rule that have been put in place to suffocate people in the region. It was stated that young people are not uniting and not showing solidarity and that this is a problem in the EAC region.

It was observed that when something is happening in Rwanda, the youth in Kenya are sleeping and when something is happening in Kampala, the youth in Juba are sleeping. It was emphasised that there is need to talk about the UDHR on human rights defenders. It was mentioned that the online space can be used as a space to organise and young people

should be mobilised and to stop to working alone and collectively promote justice.

"If I don't have pads and I'm a girl, I cannot speak about human rights"-Jarc Tusiime-East Africa Youth Network

Youth Movement Building

In contributing to movement building within the EAC, it was said that empowerment, lobbying and communication are key elements.

Lobbying

On lobbying, it was said that there is need to assess various mechanisms and how best to do lobbying so that people in the EAC do not fall into traps. It was stated that it is important to involve other players and understand how to target key players. It was remarked that young people have the power because they can petition any office within the region and that it is also important to develop clear methodologies of engagement.

Empowerment

A question was asked as to whether the youth in the EAC were empowered enough and whether they understand their respective country's constitution well enough. It was mentioned that graphics and graffiti can be used to amplify youth voices and that there is a need to focus on the future.

Power

On power, it was explained that power is always the big issue and people fight for power. It was mentioned that as youth fight for rights, there is need to incorporate sophisticated activism. It was said that there is need to interrogate how to engage. It was explained that there is need to focus more on dialogues as opposed to confrontation and recognise the fact that it is difficult with some parties. It was said that there is need to find ways of utilising dialogues. It was pointed out that there is need to build networks across organisations including CSOs.It was pointed out that there is need to embrace networks because when people do not work together, they can go nowhere. It was said that solidarity is important and helps in lobbying different platforms using diverse initiatives such as the Zinduka⁷ Festival. It was said that what many people do not know is that the human rights violations and social injustices citizens of the East Africa region were going through is a produce of poor governance

Communication

⁷ Zinduka is a people to people integration festival for East Africans

It was said that CSOs and many young people have a problem when it comes to communication. It was stated that it is important to invest in communication so that messages are heard and bigger numbers can be mobilised. It was pointed out that there is need to invest in activism and at the same time ensure people are protected and kept safe. It was pointed out that in East Africa, talks on human rights can become dangerous for citizens.

"When we see young people dialoguing at the EAC level, it gives us hope-Jarc Tusiime-Coordinator, East Africa Youth Network

Reflection questions

The participants were asked to reflect on the questions below in relation to youth and movement building in the EAC region:

- How involved is the EAC Legislative assembly?
- How involved are all the stakeholders and where do we want to see ourselves\?
- How can these dialogue shape the leadership void that we have in the region?
- How are we going to put security operatives to takes on the human rights abused?
- Are we only focusing online on human rights what of economics, where is the young person on the economic pyramid for young people?
- Are we focusing on economic justice only?
- Once you are poor, you do not have voice
- Are we going to focus on economic rights are we stopping here and how will this dialogue shape the region?
- How will the Haki Talks reach young people

Part 3: Human Rights and Persons with Disability: Are "we among "the left behind? By Mercy Mbatia-Law Student, University of Nairobi

It was observed that there lacks fair treatment of persons with special needs and that they are considered asexual .It was mentioned that there are incidences of forced sterilisation of PWDs as well as forced abortions done on PWDs.It was also said that the attitude of civil servants within the EAC region is wanting in terms of provision of basic services to PWDs.it was said that civil servants are not keen on how they dispense services to persons with special needs .A question was asked as to how friendly public offices were within the EAC when PWDs seek services in these offices. It was said that contract tracing of PWDs who have been rescued is another challenge, especially for those being reintegrated back to their relatives.

Tackling issues of gender based violence

It was mentioned that PWDs and especially female PWDs are often at the at the receiving end of most Gender Based Violence (GBV). It was said that the perception is that when PWDs

report cases of GBVs, people often pull away. It was explained that policies towards protection of the rights of PWDs take too long to be approved for example the Persons with Disability Act was enacted in Kenya in 2003 but to date PWDs still face various forms of abuse. It was mentioned that barriers put in legislations to cushion PWDs have hardly been effective. On decision participation in decision making, it was said that PWDs do not participate. For example, it was said PWDs with mental challenges are derogatorily labelled as Person Of Unsound (PUM) and not allowed to vote thus depriving them on their right to elect leaders. It was said that in many countries in East Africa, PWDs are just used to tally with the requirements of the United Nations but in reality nothing substantive is ever done to improve their welfare.

"PWDs are called to meetings but their voices are not heard-Mercy Mbatia, Law student-University of Nairobi

Justice Mechanisms in the EAC: How accessible are they for young people? By Morris Tayebwa- East Africa Community

The presentation was divided into three phases. The first one was on policy, the second part was on human rights and the girds part was on opportunities that exist within the EAC. It was said that every government accepts and respects human rights especially in East Africa, otherwise it would not be accepted as a government and every state will not portray itself as a violator of human rights. It was said that every government tries as much as possible to portray that it respects human rights. It was said that even dictator regimes argue that they practice human rights. It was said that different policies, known as public policies that look at translating government intentions to serving the people and serving the rights of people in different avenues. It was said that policies are very important and policy making process is important, especially for young people and for citizens to understand policy making process before going into legal frameworks and how laws are made.

It was said that human rights has a role in public policy processes. It was stated that within EAC, human rights relate to the needs of citizens and the expectations they have of their governments. For example, PWDs have expectations they require from their various governments and leaders to feel part of society. This applies to women, men, youth, women. It was said every citizen has expectation of leaders when brought to power. It was explained that sometimes public policy is compounded by legal mechanism and that legal procedures become binding and that these are avenues that citizens can use to bring government to be accountable.

It was emphasised that after every dialogue, there is need to come up with recommendation and Asks.

What drives a human rights based policy?

It was said that the first principle is that human rights has to be for the people, by the people and for the people and that this is where democracy comes in. It was said that for

the people to make the right choices on their values and beliefs that guide them, empowerment is important. It was also remarked that citizens have to be empowered and that empowerment is a crucial component of public policy. It was mentioned that public policy are human rights centric and that with empowerment, there is a discussion about power and this is where politics comes in, which is included in delegating where people choose their leaders to guide them or represent them. It was said that within politics, it is important to know what the citizens need and the obligations of governments.

It was said that with empowerment, there is need to human rights, persons with disability have requirements they expect from their leaders, same as youth, men, children and all citizens. It was noted that every person has an expectation of leaders when leaders come to power. It was said this is the relevance of public policy. It was said that sometimes public policies are compounded by legal mechanisms, known as law. It was mentioned that the legal procedures are binding and this is how citizens can hold governments accountable. It was said that beyond obligations there are ethical and moral obligations and this includes our obligations as humanity.it was said that the operation is through lens of moral and ethical obligation and responsibility to serve people as leaders.

It was said that EALA is composed of members of parliament that are from the national level and that these members come to the regional level to make laws that guide and community and individual partner states. It was explained that the EAC is a space for dialogue and parties can dialogue with the Secretary General. It was explained that it is important to know how to dialogue and how to pass on messages to the EAC. It was pointed out that the EAC mandates dialogues under organised structures for example the East African Youth Network) (EAYN), East Africa Child Network (EACRN), trade unions, employer organisations and other entities working on issue such as health and local government organisations and this is done form the grassroots to the national level.

It was said that EAC is divided into sectoral council and within these councils, youth affairs are deliberated on. It was said that the available tools within EAC include from regional level to national level. Examples of tools were cited as the EAC Youth Policy, EAC Children Policy, Persons with Disability Policy, Gender Policy and the EAC Climate Change Policy. Other policies discussed included health, environment, customs and trade policies.

It was explained that at the continental level, there exists the African Youth Charter.it was stated that states have obligations towards human rights for example to respect the human rights of their citizens equally, an obligation to protect for example countries have the responsibility to prevent private entities and even state institutions from violation the human rights of common citizens. It was mentioned that governments have an obligation to guarantee rights. Within guaranteeing human rights is about preventing violations and also punishing those who violate human rights. It was said that when it comes to justice it is

important to ensure that society is just. The obligation to fulfil mandates government to ensure there is availability of services, mechanisms and procedures to ensure rights are enjoyed by the citizenry. It was said that states have to ensure services are provided to their citizens without discrimination.

It was discussed that within the EAC, the Council of Ministers is t policy making organ and that while policies are made at regional levels, the implementation is done at partner states level. It was said that the Court of Justice brings order and makes governments accountable to fulfilling their obligations. It was explained that the East African Legislative Assembly (EALA) is composed of members of parliament that are from the national level who come to the regional level to legislate, make laws that guide the individual member's states in the region. It was stated that on matters youth, it was said that spaces have been created for dialogue with the Secretary General's office. It was emphasised that every dialogue must have impact and this enables accountability.

It was mentioned that the EAC Treat allows for dialogue under organised structures such as CSOs and other networks and that this enables raising issues form grassroots to the regional level. It was said that dialogue can be done through networks such as East Africa Youth network

It was said that participation gives citizens space to engage as interests groups, CSOs or any other organised groups. It was discussed that frameworks have been set within the EAC to ensure all obligations are fulfilled. Existing challenges mentioned within the EAC were described as stalled Protocols for example Protocol on Good Governance. It was discussed that these are actual avenues that would describe issues such as sanctions and provide direct redress on human rights violations. It was explained that within the East Africa context there are various political cases such as extension of power(terms) and abuse of power by security agencies. It was mentioned that there exist avenues within EAC where courts can be use and if the local courts are not sufficient, one can take the case forward to the East Africa Law Society (EALA) which is a regional body representing all bar associations to get better advice depending on a case. It was said within each court there

It was mentioned that lawyers will always tell citizens to use local remedies and where the remedies are not working, to utilise regional remedies including name and shame. It was said that name and shame works when leaders start speaking to each other and the pressure become too much. It was mentioned that there is need to break down human rights in general and have rights in their disaggregated formats, and that this enables better utilisation of the available mechanisms in ensuring realisation of rights.

It was said that many ordinary citizens of the EAC region do not know about EAC and some are not aware of the EAC organs, functions and how citizens can utilise the EAC Treaty. It was said that there is need to reflect on what youth can do socially and economically for

realisation of benefits within the EAC region. It was said that there are various venues of empowerment on human rights for example through the Universal Declaration of Human Rights (UDHR). It was said that there are various countries have human rights centric laws for example with the Africa region there is the Maputo Protocol dealing with women rights, African Charter on the Rights and Welfare of the Child (ACRWC) of the Child dealing with children matters and so on.

It was said that it is important to seek out different spaces in advancing rights. It was observed that there is an element of fear among young people. An example was given that previously in schools, there was civic education but this was removed and this, can be one of the reasons for apathy currently being experienced, where citizens do not care anymore. It was said that during elections for example, it is just a wave and majority of leaders in power have been elected by a minority of the electorate (because of voter apathy). It was further noted that when one looks around, there are many people complaining but very few who want to engage in human rights.

Kasumba Alex: Youth and Civic Space, Makerere University

Human rights were defined as rights which we enjoy because of being human beings. It was explained that youth face discrimination which inhibits them from accessing their human rights. An example was given of shrinking civic space in Uganda as example the imprisonment of Kakweza who used poetry to speak about the President Yoweri Museveni's son and he got arrested. On the School to Work Policy, it was mentioned that youth are able to access higher education, there are scholarships to support youth towards education but the youth have not gotten access to the world of work despite being educated.

It was explained that youth are educated for example in Uganda, who can contribute to the civil service but are denied opportunities in public service. It was said that this discourages youth and dehumanises them. It was said that youth have not accessed civil society space because some youth are not informed and some civil society spaces have not been available for the youth. It was mentioned that the youth constitute 50% of the youth but legislations in the Ugandan parliament are done by the aged, thus hindering youth participating in decision making. An example was given of young people who join rebel groups as another challenge facing youth. It was mentioned that youth do not have spaces where they can run to when their rights are violated. Another example was given of youth in vulnerable spaces such as the case of migrant and refugee youth who it was said, suffer from lack of basic services including access to finance.

Recommendations put forth were youth to advocate for the right of youth, look into the member states where youth can demand for their rights when their rights are violated. It was stated that there should be solidarity among youth as well as civil society organisations to come together and add their voices to the issues affecting youth to enable demand human

rights. It was explained that there is need to look at policy which should be inclusive. It was said that youth should be included in policy processes to be able to front their agenda as young people.

Part 4: Women and Human Rights: Same Story, No Outcomes by Agaba Charity, Uganda National Students Association

It was said that girls continue to suffer from sexual violations within learning institutions from lecturers and other non-academic staff. It was said that sometimes when girls do not accept advances from the lecturers, their marks missing and they end up being frustrated and not graduating. It was stated that this is a violation of rights. It was said that many children have suffered from sexual violence especially due to COVID-19. It was also mentioned that schools in Uganda just recently opened and that many girls have been affected and there is need to raise these issues within the EAC region. It was emphasised that the girls should be on the same page when it comes to learning.

Recommendations, Wrap up and Way forward

The following will form the way forward for the Haki Talks

- Schedule the Haki Talks to be a monthly feature
- Narrow down the emerging human rights issues and carry out in-depth, focused analysis dialogue with specific recommendations for the identified gaps (for example Labour Rights, Economic Rights, Cultural, Technology, Integration, Human Trafficking, Export Labour, Trade etc. issues as they affect the youth)
- Include more stakeholders both state and non-state actors in future Haki Talk dialogues
- Develop a brief interrogating issues affecting different youth categories in East Africa and petition different EAC organs to look into the identified issues
- Formulate ideas and design projects in collaboration with willing partners both state and non-state to address emerging issues the Haki Talks to address the challenges facing East Africa's youth
- In collaboration with partners and other like-minded organisations, both state and non- non state, develop a data base where EAC youth can access information in relation to human rights and social justice
- Design a mechanism where youth get to interact with various professionals for mentorship and capacity enhancement in different fields including career guidance
- Explore solutions to missing marks within learning institutions because this is something that affects students across the EAC region

Link to the dialogue recording

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Annex 1: List of participants













