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**Institute of Diplomacy and International Studies**

**Immigration Management Flaws and National Security in Africa:  
The Kenya-South Sudan Setting**

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**DECLARATION**

This project is my original work and has not been presented for a degree in any other university

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This project has been submitted for examination with my approval as University Supervisor

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## **Dedication**

It is a special dedication and tribute to my country, parents, wife, children, family, friends, relatives, associates and colleagues.

## **Acknowledgement**

The long coming success of this work is entirely out of the guidance, support and cooperation of my supervisor Dr. Mumo Nzau. It is a pleasure to also acknowledge all academic personnel at the University for their Contribution.

## TABLE OF CONTENTS

DECLARATION .....	i
Dedication .....	ii
Acknowledgement .....	iii
Abstract .....	vii
Acronyms and Abbreviations .....	viii
<b>Chapter One .....</b>	<b>1</b>
<b>Introduction.....</b>	<b>1</b>
1.1 Background of the Study .....	1
1.2 Statement of the Research Problem .....	5
1.3 Research Questions .....	6
1.4 Objectives of the Study .....	6
1.4.1 General Objective.....	6
1.5 Justification of the Research .....	7
1.5.1 Policy Justification .....	7
1.5.2 Academic Justification .....	7
1.6 Operation Definition of Terms.....	7
1.6.1 International Migration .....	7
1.6.2 Immigration.....	8
1.6.3 National Security.....	8
1.6.4 Refugees .....	8
1.6.5 Internally Displaced Persons .....	8
1.6.6 Immigration Management .....	8
1.7 Literature Review.....	9
1.8 Theoretical Framework .....	13
1.8.1 Securitization Theory .....	13
1.10 Research Methodology .....	14
1.10.1 Study Site .....	14
1.10.2 Sample Frame.....	14
1.10.3 Data Collection.....	14

1.10.4	Validity.....	15
1.10.5	Reliability.....	15
1.10.6	Data Analysis and Presentation.....	15
1.10.7	Limitations of the Study.....	15
1.10.8	Ethical Considerations.....	16
1.10.9	Scope and Limitations of the Study.....	16
1.11	Study Layout.....	16
	<b>Chapter Two.....</b>	<b>17</b>
	<b>The Immigration Management-National Security Nexus around the World .....</b>	<b>17</b>
2.1	The Concept of Immigration.....	17
2.2	Securitization of the Immigration Phenomena .....	19
2.3	Background of Immigration in Kenya-Sudan.....	23
2.4	Immigration Management in Kenya-Sudan.....	27
2.5	Chapter Summary .....	31
	<b>Chapter Three .....</b>	<b>33</b>
	<b>Impact of Immigration Management Flaws on National Security in Africa .....</b>	<b>33</b>
3.1	Emerging Immigration Trends and Patterns in Africa.....	33
3.2	The Dynamics of Immigration Management Flaws .....	37
3.3	Key Actors in the Immigration Management Flaws.....	41
3.4	Impact of Migration Management .....	42
3.5	Chapter Summary .....	47
	<b>Chapter Four.....</b>	<b>48</b>
	<b>The Implication of Immigration Management Flaws in Kenya .....</b>	<b>48</b>
4.1	Research Findings, Interpretation and Presentations.....	48
4.1.1	Operationalization of Variables and Data.....	49
4.1.2	Respondents profile and return rate .....	50
4.1.3	Age of Respondents .....	50
4.1.4	Gender of Respondents .....	51
4.1.5	Respondents by Occupation.....	51
4.1.6	Respondents by Education .....	52
4.1.7	Conceptualization of Immigration .....	53

4.1.8	Conceptualization of Security .....	54
4.1.9	Conceptualization of National Security .....	55
4.1.10	Conceptualization of Immigration Management Flows .....	56
4.1.11	Immigration Management Flows-National Security nexus.....	57
4.2	Immigration Management-National Security Nexus around the World.....	60
4.3	Impact of Immigration Management Flows on National Security in Africa .....	63
4.4	Implications of Immigration Management Flows in Kenya .....	66
4.5	Chapter Summary .....	67
	<b>Chapter Five .....</b>	<b>69</b>
	<b>Discussions, Conclusions and Recommendations .....</b>	<b>69</b>
5.1	Discussion .....	69
5.2	Conclusion .....	70
5.2.1	International economic disparities .....	70
5.2.2	Stakeholders cooperation .....	70
5.2.3	Complementary migration polices .....	70
5.2.4	African policy practitioners.....	71
5.3	Recommendations.....	71
5.3.1	Embrace public opinion on migration matters .....	71
5.3.2	Recognition of positive impact of remittances.....	72
5.3.3	Social cohesion.....	72
5.4	Areas of further study .....	72
	<b>Bibliography .....</b>	<b>73</b>
	<b>Appendices.....</b>	<b>78</b>
	Appendix I: Data Collection Authority Letter - National Council of Science and Technology .....	<b>78</b>
	Appendix II: Structured Questionnaire.....	<b>81</b>

## Abstract

It is a fact that many states in world are struggling with migration issues. For example, migration is an important if not a contentious part of European Union foreign policy. It also bears lots of implications not only for the internal but external foreign policy of its individual nations. But the guiding objective for this study is to find out how immigration management flaws affect national security of African countries with specific reference to Kenya and the South Sudan. The study hopes to educate policy makers on the trends of curbing negative effects of migration. This study employed Securitization theory to address the impact of immigration management flaws on national security in Africa. This study was undertaken in Nairobi County, the target population involved multiagency and multi-stakeholders involved in matters related to migration management and security. This research utilized secondary data sources and primary data sources mainly through structured questionnaires. The data was then analysed by document plus thematic analysis, and the final results presented through narrative format, histograms and the use of frequency tables. This research uncovered that many of the ways of curbing the negative effects from migration are not known at the local level and are not comprehensively considered by many neighbouring states mainly due to the different perspectives held of geopolitical interests and cultural beliefs and practices. A good instance to set an example is when there is wilful migration. This usually happens when the migrant wilfully chooses to leave his domicile. This is usually accompanied with the blessing of his or her family. Therefore, from the migrant's family, migration is viewed as a good thing since this is the one activity that greatly supplements their income. But in better off or well to do countries migration is usually not looked on too favourably. The research also came to the conclusion that migration and its various patterns are influenced by political, economic and cultural interrelations. From these three factors we will be able to observe the disparities, poverty, environmental degradation and human rights violations and how they affect these patterns of migration and how for governments to achieve long term solutions to these problems they will need to come up with effective comprehensive policies in this sector. This study therefore recommends that policy makers through the various concern agencies explore policies that facilitate positive outcomes from migration and migrants in such a way that they create new opportunities and benefits for the host states and for themselves, through for example the transfer of beneficial knowledge and rich diversity, that will help to grow the economy and lead to development.



## Acronyms and Abbreviations

ALS	Al-Shabaab
AMISOM	African Union Mission in Somalia
AU	African Union
DFID	Department of International Development
DRC	Democratic Republic of Congo
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
EU	European Union
FDI	Foreign Direct Investments
GLR	Great Lakes Region
IDPs	Internally Displaced Persons
IOM	International Organization for Migration
KDF	Kenya Defence Forces
KHRC	Kenya Human Rights Commission
KIPPRA	Kenya Institute for Public Policy Research and Analysis
LON	League of Nations
MIDA	Migration for Development of Africa
NGOs	Non Governmental Organizations
NRPRP	Natural Resource Policy Program
OAU	Organization of African Unity
OECD	Organization for Economic Co-operation and Development
OSCE	Organizations for Security and Co-operation of Europe
RQAN	Return of Qualified African Nationals
RSD	Refugee Status Determination

SDGs	Sustainable Development Goals
SPLA	Sudanese People's Liberation Army
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commission of Refugees
US	United States

# Chapter One

## Introduction

This is a chapter that gives a reader a background of the topic under research, canvassing the reasons why migration has become such a huge phenomenon over the recent few decades, even to the point of affecting security.

### 1.1 Background of the Study

In common parlance it is often said that immigration or movement of persons from their place of domicile to settle in new lands is as old as mankind. Within the last few decades migration has become such a huge and contentious phenomenon with global implication which naturally affects international relations.<sup>1</sup>

Mohieldin and Dilip state that migration can be a phenomenon for good if backed up by sound policy.<sup>2</sup> This could help to curb the challenge of illegal immigration as it is dangerous for everyone.<sup>3</sup> International immigration is defined as permanent moving of persons from one spot to another.<sup>4</sup> This phenomenon has both captured and worried the imagination of many security agencies around the globe. Most affected regions in terms of migration are Europe, Americas and West Africa.<sup>5</sup> Thus it is acknowledged that migration flows across borders has increased, creating local, national, regional and even international challenges, especially those that directly touch on matters of relation to security, economy, environment, politics, food production, disease, health

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<sup>1</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

<sup>2</sup> Mohieldin, Mahmoud and Dilip, Ratha. *Migration Myths versus Economic Pacts*. Project Syndicate, (2019), pp. 6-9.

<sup>3</sup> Ibid, (2019), p. 11.

<sup>4</sup> Datta, Kavita and Vicol, Dora. *Leverhulme Research Project: Disciplining the Remittance Marketplace*, Center for Migration, Queen Mary University of London, (2019), pp. 34-37.

<sup>5</sup> Dilip, Ratha. *A Proposed Systematic Framework for the Global Compact on Migration*. World Bank, (2018), p. 4.

care systems, infrastructure and resources mobilization that is required for the optimum day to day living conditions within a given state.

Kaag contends that the modern security agencies state that uncontrolled migration would be a clear and present danger to national security by threatening the status quo of the economy or even the political system and so, it is the opinion of this study that migration will continue to have significant effects in international relations.<sup>6</sup>

According to Dilip emigration involves leaving the country of one's origin and going to settle in order to settle in another.<sup>7</sup> Conversely immigration is considered to be some form of movement from place of persons considered to be foreigners into a foreign state which is not of their birth or where they are not citizens, in order to settle there.<sup>8</sup> States need to address migration challenges and improve policy framework toward migration.<sup>9</sup>

Abebe argues that discussions about migration have become alarmist in the last three decades and thus aims to churn out facts of new trends, patterns and information which can elicit fresh approaches to comprehensively dealing with migration management opportunities and security.<sup>10</sup> This comes in the wake of the fact that illicit migration has been on an upward trends in the East Africa especially in the case of Kenya.<sup>11</sup> The general view in the Kenya context is that migration in and out of the

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<sup>6</sup> Abebe, Tsion Tadesse. *Migration Policy Framework in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), pp. 13-15.

<sup>7</sup> Dilip, Ratha. *A Proposed Systematic Framework for the Global Compact on Migration*. World Bank, (2018), p. 8.

<sup>8</sup> Langevang, Thilde and Goug, Kate. *Surviving through Movement: The mobility of urban youth in Ghana*, Soc, Cult. Geogr, (2009), p. 217.

<sup>9</sup> Abebe, Tsion Tadesse. *Migration Policy Frameworks in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), pp. 9-11.

<sup>10</sup> Ibid, (2017), p. 13.

<sup>11</sup> Okoth, Kevin. *What role for Diaspora in development? Migration information*, (2007), pp. 16-18.

country has resulted in significant brain drain, brain waste, and talent loss and security vulnerability for the state.

The subject of migration has been found to have an impact on security and thus it should be understood that at the moment no state acts as just a host, transit or destination country, but rather two or three at the same time. For instance the Horn of Africa as a region covers Ethiopia, Eritrea, Djibouti, Somalia, Yemen, Kenya, Sudan and South Sudan. This migration consists of illegal migrants, asylum seekers and refugees and who may have been compelled to migrate because of conflict, political persecution, poverty, famine, environmental factors or household strategies, among others.<sup>12</sup>

Drotbohm and Hasselberg argue that while migration has economic advantages and disadvantages and that security now is considered a primal and crucial factor in economics, migration has come under a lot of scrutiny especially by the security apparatus of nation states.<sup>13</sup> This section illustrates that immigrants are considered a serious threat especially in issues involving healthcare, safety, economy, security and the environment of a given state.

Macharia is of the predisposition that threats projected by migrants toward a given state are usually viewed objectively while their remedies are viewed subjectively by individual nations.<sup>14</sup> Tirman expands on this by giving instances where in some countries they do not encourage much of multiculturalism, for example, Eastern Europe.<sup>15</sup> In some countries multiculturalism is viewed with pride, for example, in the

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<sup>12</sup> Drotbohm, Heike and Hasselberg, Ines. *Deportation, Anxiety, Justice: New Ethnographic Perspective*, Journal of Ethic and Migration Studies, Crossmark, (2015), p. 12.

<sup>13</sup> Ibid, (2015), p. 15.

<sup>14</sup> Macharia, Kamau. *Migration in Kenya and its impact on the labour market*. Conference on Migration in South Africa, (2003), p. 7.

<sup>15</sup> Tirman, John. *The Maze of Fear: Security and Migration*. New York, New Press, (2004), pp. 18-21.

United States.<sup>16</sup> Kigai argues that migration has had an impact on Kenya in many ways, for instance migration has led to the increase of women and children trafficking in and out of Kenya.<sup>17</sup>

In the context of East Africa there is a common assumption that migration as an economic phenomenon involving individuals moving in response to the challenges of poverty and opportunities of getting employment. This type of migration was thought to provide economic advantage in terms of movement of labour and positive technology transfer, which in turn increased the Gross Domestic Product.

Kimonye further argues that much of the literature out there tends to focus on how migration affects countries in positive ways.<sup>18</sup> South Sudan is not only a country of emigrants but immigrants and it is also a transit route for much of the illegal immigration that is going on in the continent. South Sudan has 2.19 million asylum seekers and these are figures gathered from the pre 2013 days up to date. Uganda holds the largest number of them, about 898,136.<sup>19</sup> The Kenyan Constitution (2010) does not classify the migration department as a security department. It has always been just a processing agency for those who want to enter or leave the country.<sup>20</sup> But yet it is foreigners who compromise the security of any country, time and time again.

Kenya is seen as the center of origin, transit station and even destination for vulnerable migrants.<sup>21</sup> The country is thought of as a source of migration and migrants leave in search of improved economic opportunities. In addition the state is located on

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<sup>16</sup> Ibid, (2004), p. 23.

<sup>17</sup> Kigai, Eudias. *Kenya-United Republic of Tanzania: Trafficking handicap children and the economy of misery*. The African Report, (2013), p. 9.

<sup>18</sup> Kimonye, Mary. *Country Branding: Key lessons and challenges*. Capital FM News, (2013), p. 81.

<sup>19</sup> Mohieldin, Mahmoud and Dilip, Ratha. *Migration Myths versus Economic Pacts*. Project Syndicate, (2019), pp. 6-9.

<sup>20</sup> Ibid, (2019), p. 11.

<sup>21</sup> Datta, Kavita and Vicol, Dora. *Leverhulme Research Project: Disciplining the Remittance Marketplace*, Center for Migration, Queen Mary University of London, (2019), pp. 34-37.

a fertile route for irregular migrants and human smuggling rings that are considered a security threat.<sup>22</sup> Kenya is taken as a destination country for both regular and irregular migrants and host a large population of asylum seekers and refugees.

## **1.2 Statement of the Research Problem**

Ryu contends that migration has become a contentious issue between poor countries that are usually sending out migrants and richer countries that have to host them, in the sense that these two entities cannot agree a way forward on how to handle this issue of illegal migration.<sup>23</sup> This challenge is not only complex but in some way very unpredictable. The issues noted already are brain drain, multiculturalism, labor shortages, integration and security.<sup>24</sup>

Migration always has to be looked at from a security angle. Scholars, rightly or not, have always argued that migration always brings about negative consequences such as labor competition, increase in crime, challenge religious homogeneity. All the above consequence conflates to become a security issue.<sup>25</sup>

Immigration in Kenya is considered double-edged as it brings both good and bad effects. The positive can be in terms of knowledge and skills transfer, labor and much needed forex, while the setback can be criminality, extremism, ethnic tensions and sectarian violence. This study therefore aims to review the effects of both legal and illegal immigration and examine the scant framework policy on this matter in both Kenya and the South Sudan.

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<sup>22</sup> Kimonye, Mary. *Country Branding: Key lessons and challenges*. Capital FM News, (2013), p. 81.

<sup>23</sup> Swedish International Development Agency-SIDA. *Urban Poverty*, (2005), p. 89.

<sup>24</sup> Ibid, (2005), pp. 91-95.

<sup>25</sup> Reports of the Secretary General. *The report summary of Migration*, United Nations, which was held in New York on 3 and 4 October (2013), p. 7.

### **1.3 Research Questions**

This research was guided by the following research questions;

- i.** What is the immigration management-national security nexus around the World?
- ii.** What is the impact of immigration management flaws on national security in Africa?
- iii.** What are the implications of immigration management flaws in Kenya?

### **1.4 Objectives of the Study**

#### **1.4.1 General Objective**

The general objective guiding this study is to analyze the impact of immigration management flaws on national security in Africa with reference to Kenya and Republic of South Sudan.

Specific Objectives

- i.** To assess the immigration management-national security nexus around the World.
- ii.** To examine impact of immigration management flaws on national security in Africa.
- iii.** To critically analyze the implication of immigration management flaws in Kenya.



## **1.5 Justification of the Research**

### **1.5.1 Policy Justification**

In assessing illegal immigration as a security threat in the African continent, using Kenya as a case study aims to contribute to new knowledge and deeper appreciation of the security as part of immigration. The study aims to inform policy makers on emerging trends for countering the threats and challenges associated with migration.

### **1.5.2 Academic Justification**

This study will analyze migration issues with the aim to add on to the existing material. The findings generated in this study are expected to academicians on new strategies for countering the threats and challenges associated with immigration.

## **1.6 Operation Definition of Terms**

### **1.6.1 International Migration**

This is the phenomenon of people moving constantly from one place to another and settling down permanently where they have moved to. This has been made readily possible by the availability of global mobility. Trains, planes, cars, ships, highways, rail, bridges and tunnels, all have made travel much faster and easier than it was centuries ago. This phenomenon has exposed complex migratory patterns unlike in times past when people would migrate out of necessity, for food or water or trade. Nowadays modern living has made migration a complex affair as it is very hard to predict the exact reason why one person is moving from one region to the next. The world has experienced change of culture and convenience of travel has made man be

able to travel, sometimes, almost on a whim. Of course, these travels come with real time consequences to societies, economies and political demographic of countries.<sup>26</sup>

### **1.6.2 Immigration**

This is the moving of people into a region or a country to permanently settle there.<sup>27</sup>

### **1.6.3 National Security**

This is the level of safety and readiness a country has to respond to any outside aggression and or coercion that threaten that safety.<sup>28</sup>

### **1.6.4 Refugees**

It refers to persons that are for one reason or another forced out of their homes. This could be possibly due to persecution, war or violence.<sup>29</sup> A refugee usually faces these troubles due to his race, religious beliefs, and political affiliation.<sup>30</sup>

### **1.6.5 Internally Displaced Persons**

This are thought of as persons forced to flee their homes due to possible prosecutions, conflicts, war or instability, but they are still within their own country.<sup>31</sup> This may be due to the faith they practice, their political ideology, ethnic background, or affiliation to a social group.

### **1.6.6 Immigration Management**

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<sup>26</sup> Allison, William. *Population in an Interaction World*, Cambridge, Harvard University Press, (2007), p. 99.

<sup>27</sup> Boswell, Christina. *Migration Control and Narratives of Steering*. *The British Journal of Politics and International Relations*, Volume 13. No. 1. (2011), p. 25.

<sup>28</sup> *Ibid*, (2011), p. 31.

<sup>29</sup> Scholten, Peter. *Constructing Dutch Immigrant Policy*. *Research Policy Relations Netherlands*, (2017), p. 89.

<sup>30</sup> *Ibid*, (2017), p. 9.

<sup>31</sup> Carling, Jogen. *Protecting Europe and Protecting Migrants*. *British Journal of Political Science*, (2012), p. 11.

This are efforts to coordinate the immigration and border departments with law enforcement to effectively patrol the border and keep criminals and terrorists out.<sup>32</sup>

## 1.7 Literature Review

It is acknowledged that migration is both the cause and effect of issues that keep evolving around the world.<sup>33</sup> Ryu is of the belief that migration is as a result of inequalities found between different states around the world and that it keeps growing in direct proportion to the growth of those inequalities in economic terms.<sup>34</sup>

In a political arena, it is becoming the main issue in so many western countries and the debate is usually one between space and time. Space referring to where an immigrant comes from and time referring to the time he arrived at a particular destination.<sup>35</sup> Time could also mean the duration of stay an immigrant has to live in his host country when those timelines are defined.<sup>36</sup> William cites the events of September 11, 2001 and reminds us all that the biggest terror attack on US soil.<sup>37</sup>

Boswell states that September 11 terror attacks made US treat the immigration department as a security agency and other western countries are following suit.<sup>38</sup> It also has been thought by many western politicians that migration will help weaken their states by putting pressure on resources and dilute national or ethnic identity.<sup>39</sup>

The same is also true for time when the duration of the stay has to be defined in at

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<sup>32</sup> Ibid, (2012), p. 13.

<sup>33</sup> Ryu, Alisha. *Kenyan traffic grows as drivers' patience shrinks*, Voice of America, Nairobi, Kenya, (2005), pp. 3-9.

<sup>34</sup> Ibid, (2005), p. 13.

<sup>35</sup> Bimal, Ghosh. *The global Economic crises and Migration. Where do we go from here?* International Organization for Migration. (2010), pp. 9-12.

<sup>36</sup> Carling, Jogen. *Protecting Europe and Protecting Migrants*. British Journal of Political Science, (2012), p. 11.

<sup>37</sup> Okoth, Kevin. *What role for Diaspora in development? Migration information*, (2007), pp. 16-18.

<sup>38</sup> Boswell, Christina. *Migration Control and Narratives of Steering*. The British Journal of Politics and International Relations, Vol 13. No. 1. (2011), p. 25,

<sup>39</sup> Okoth, Kevin. *What role for Diaspora in development? Migration information*, (2007), pp. 16-18..

least one of these places. Generally, considering all people's movements, the research can define those relating to migration as one or multiple movements resulting in the change of place of residence of an individual.<sup>40</sup>

William cites events of 11 September 2001 where it was found out that the attackers were all temporary or illegal immigrants as a case that reaffirms the role migration, including refugees' inflow, can play in national security.<sup>41</sup> It is interesting to note that even up to late 2006, Kenya had not thought of enacting any refugee legislation yet Kenya had been hosting refugees since independence. By early 2007 Kenya had a refugee legislation that defined where refugees can reside legally. They were transit centers and refugee camps. It is on March 2011 that the Kenyan government decided to start registering refugees outside refugee camps. These services were offered in areas like Mombasa, Malindi, Nakuru, Eldoret and Isiolo.<sup>42</sup>

Wagacha and Guiney, state that information about many refugees is scant or nonexistent. Urban migrants are scattered far and wide and many of them are apprehensive of being registered for fear of being detained or deported.<sup>43</sup> If detained, they would probably be sent to camps. The most envied regions for movement of migrants are Sudan, Kenya and Ethiopia.<sup>44</sup> But here they depend on rations and opportunities for self-improvement are rare. Policy requires all refugees should be in Kakuma camp.<sup>45</sup> According to William the effects of large scale refugee inflow to a

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<sup>40</sup> Lucas, Robert. *International Migration and Development: Lessons from Low-Income Countries*. Edward Elgar: Cheltenham, (2005), p. 17.

<sup>41</sup> Williams, Paul. *Security Studies: An Introduction*, (Milton Park Abingdon, Oxon: Routledge 2 Park Square, (2013), p. 167.

<sup>42</sup> Ibid, (2013), p. 169.

<sup>43</sup> Lucas, Robert. *International Migration and Development: Lessons from Low-Income Countries*. Edward Elgar: Cheltenham, (2005), p. 17.

<sup>44</sup> Heisel, Daniel. *Theories of international migration*. In *International Migration in the Arab World*. Proceedings of an ECWA Population Conference in Nicosia. Beirut: UNECWA, (1982), pp. 67-70.

<sup>45</sup> Williams, Paul. *Security Studies: An Introduction*, (Milton Park Abingdon, Oxon: Routledge 2 Park Square, (2013), p. 200.

state, may force the hosting state to enact policies in order to curb any potential security threats.<sup>46</sup>

Ibrahim and Yazgan argues that immigrant incursion into the Horn of Africa is because of volatile political situations.<sup>47</sup> The dynamism and metamorphosis being experienced in the security challenges in the Horn of Africa specifically Kenya has brought new thinking of how security threats should be viewed.<sup>48</sup> The shift from the traditional security threats where territorial integrity was valued to be key to national security to the current security threats emanating from asymmetric threats such as terrorism and intra state conflicts due to competition on resources has led to a shift in analyzing the security of the region and Kenya in particular. It is worth noting that minimal refugees are susceptible to random arrests and detention if they are located living in developed areas lacking permission, but they are usually set free after intervention through protection staff or legal counsel. The recent Citizenship and Immigration Act (2011) could assist refugees to settle locally.<sup>49</sup>

Insecurity caused by immigration has challenged Kenya and put the state in a predicament, owing to the restrictions placed on their freedoms and the lack of adequate formal documentation to engage in formally recognised jobs or other types of self-reliance because work permits are not issued to refugees (migrants).<sup>50</sup> Formal employment opportunities are not many given the state of Kenya's economy.

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<sup>46</sup> Ibid, (2013), p. 525.

<sup>47</sup> Ibrahim, Sirkeci and Yazgan, Pinar. *Conflict, Insecurity and Mobility*. London: Transnational Press, (2016), pp. 2-11.

<sup>48</sup> Ibid, (2016), p. 12.

<sup>49</sup> Abebe, Tsion Tadesse. *Migration Policy Frameworks in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), pp. 9-11.

<sup>50</sup> Ryu, Alisha. *Kenyan traffic grows as drivers' patience shrinks*, Voice of America, Nairobi, Kenya, (2005), pp. 3-9.

According Wagacha and Guiney, despite these high rates of refugees flocking in, urban migrants are spread over urban areas, usually on the move and afraid to report.<sup>51</sup> Refugees are contained in restricted facilities where their freedom of movement is curbed. Prior to the conflict, as 2013 estimates show, South Sudan's estimated emigration stock was 751,900, demonstrating the impressive escalating features of the conflict. Emigration at 2013, thus before the civil war, had different destinations than forced displacement trends have. The top destinations are Ethiopia, Sudan and Kenya demonstrates.<sup>52</sup>

Immigrants depend on food rations and opportunities for advancement are rare.<sup>53</sup> Therefore the migration to and from Kenya is considered quite significant especially since Kenya is taken as a regional hub for the East African Community (EAC). Apart from those refugees being accommodated in the camps, there are also scattered refugees roaming about in the streets of major towns in Kenya. For example, Eastleigh area of Nairobi has been nicknamed "little Mogadishu". Other refugee camps in Kenya are in Liboi, Ifo, Waida, Thika and Utange in Mombasa.<sup>54</sup> In addition Kenya host many stateless persons within its borders.

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<sup>51</sup> Wagacha, Jacob and Guiney, Jane. *The Plight of Urban Refugees in Nairobi, Kenya, in Refugee Rights: Ethics, Advocacy, and Africa* edited by David Hollenbach, SJ, Georgetown University Press, (2008), p. 89.

<sup>52</sup> Ibrahim, Sirkeci and Yazgan, Pinar. *Conflict, Insecurity and Mobility*. London: Transnational Press, (2016), pp. 22-26.

<sup>53</sup> Abebe, Tsion Tadesse. *Migration Policy Frameworks in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), pp. 9-11.

<sup>54</sup> *Ibid*, (2016), p. 20.

## 1.8 Theoretical Framework

### 1.8.1 Securitization Theory

The securitization concepts from the Copenhagen school of security studies were promulgated by Ole Jørgen Tjønnestad and Barry Buzan.<sup>55</sup> Ole Jørgen Tjønnestad also had new ideas and stated that threats to a country's national security can be judged objectively but solution choices to those threats can be viewed in a very subjective manner.<sup>56</sup>

In recent times the increase in migration has sparked anxiety globally. Especially, in the United States the government is cracking down on illegal immigrants and illegal immigration.<sup>57</sup> The theory of Securitization as formulated by Ole Jørgen Tjønnestad which has become common among the constructivist studies of International Relations refers to the social construction by employing the *speech act* as seen by Balzacq or rather announcing of an issue as one which is henceforth a threat and which in the opinion of the elites is a national security problem.<sup>58</sup>

Immigration which forms the bulk of Kenya's migratory pattern is driven by a combination of factors such as, Kenya's strategic location as a strategic transit hub in East Africa. The country economic advancements, compared to other states within the same region, combined with the availability of free education, and the fact that Kenya has a host of camps inside its borders that have over the years been catering to many refugees. The increased migration into Kenya is starting to be considered to pose a threat to the national security of the state.

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<sup>55</sup> Balzacq, Thierry. *Constructivism and Securitization Studies. In The Routledge Handbook of Security Studies*. Edited by Myriam Dunn Cavelty and Victor Mauer, 56–72. Abingdon, UK, and New York: Routledge, (2010), pp. 17-19.

<sup>56</sup> Buzan, Barry, Ole Jørgen Tjønnestad, and Jaap de Wilde. *Security: A New Framework for Analysis*. Boulder, CO: Lynne Rienner, (1998), p. 4.

<sup>57</sup> Ryu, Alisha. *Kenyan traffic grows as drivers' patience shrinks*, Voice of America, Nairobi, Kenya, (2005), pp. 3-9.

<sup>58</sup> Ibid, (2005), p. 27.

## **1.9 Hypotheses of the Study**

**1.9.1** The emerging immigration security flaws are on the increase in Africa.

**1.9.2** Immigration issues seem to be highly dominated by one actor instead of a multi agency approach.

**1.9.3** There is no clear intersection between migration and relevant strategies in Kenya.

## **1.10 Research Methodology**

### **1.10.1 Study Site**

This study was undertaken within Nairobi County as a representation of the study site. Nairobi County is one of the 47 counties of Kenya.

### **1.10.2 Sample Frame**

It is acknowledged that purposive sampling of industry experts were consulted in the capturing the target population for the study. An interview using a structured questionnaire was conducted with key actors namely the UNHCR, Ministry of Foreign Affairs, Kenya Police Services, Judiciary, Department of immigration, International Organization for Migration, Department of Refugee Affairs and Kituo cha Sheria.

### **1.10.3 Data Collection**

This study was able to employ primacy data sources and secondary data sources. The primary data was sourced from interview guides and focus group discussions. The secondary methods of collecting data were used, and these sources were harvested



from books, articles, periodicals and journals. The researcher believes they offered a comprehensive assessment of the situation to establish the impact of immigration management flaws on national security in Africa with specific reference to Kenya and Republic of South Sudan.

#### **1.10.4 Validity**

In order to ensure validity of the research a detailed dry run (pilot) test was conducted on the research instruments. Direct questions and questionnaires were used to get responses from respondents and they were used for gauging the appropriateness of the questions or if respondents would easily understand the questions.

#### **1.10.5 Reliability**

The researcher made sure to first undertake a pilot study and this was used to calibrate research instruments. This had the effect of making the judgment whether research questions correspond to the objectives of the study. Also, they served well to show if the questions phrased the way they were could be understood by most people.

#### **1.10.6 Data Analysis and Presentation**

Document analysis and thematic analysis were used to sort all the data out into workable models. The document analysis is a qualitative form of analysis and it was used to shape opinion in the research. The results were presented as a narrative.

#### **1.10.7 Limitations of the Study**

Field data was initially limited as a result of shortage constrained time and field resources to study immigration flaws and respective actors in refugee management.

The research therefore was conducted on the premised assumption that secondary data collected from various literature reviews are reliable and representative.

#### **1.10.8 Ethical Considerations**

Consent was continuously sought from respondents before including them in the field research. They were assured and equally advised that they had the absolute right to decline the study. Confidentiality was maintained as the questionnaires did not seek the identity of the respondent but the respondents were advised on the limitations that the confidentiality might have.

#### **1.10.9 Scope and Limitations of the Study**

In seeking to understand the possible restrictions of the research, it is crucial to note that the research may lack of enough data, as an emerging concept; there is scant information on the subject matter from the Kenyan perspective. In addition, primary data from the target population required verification during questionnaires as a matter of principle.

#### **1.11 Study Layout**

This research began with chapter one which acted as an introduction by a brief background to this study. The subsequent chapter two discussed in detail the immigration management-national security nexus around the World. It was followed by chapter three that reviewed the impact of immigration management flaws on national security in Africa. In addition, chapter four critically analyzed the implication of immigration management flaws in Kenya and finally. In addition, the study ended with chapter five which finally provides the findings, the final conclusions and recommendations guided by the objectives.

## Chapter Two

### The Immigration Management-National Security Nexus around the World

This chapter covers the background on the immigration management-national security nexus around the World. It must be appreciated right from the beginning that irregular migration flows, including human trafficking, and other vices are due to poverty and lack of livelihood options. The key drivers of migration inflows and out flows much as are subject, may include seeking improved economic, education, social, political and environmental opportunities.

#### 2.1 The Concept of Immigration

Migrants and asylum seekers are as old as civilization.<sup>59</sup> But in recent time, from the last decade of the century till now, governments have taken the keenest interest in problems facing refugees and asylum seekers and Internally Displace Persons.<sup>60</sup> Crisp contends that migration challenges are not an entirely new phenomenon and neither is the attention it is getting.<sup>61</sup> Media coverage on the issue has soared and this has helped shape opinion and given various political agendas some traction.<sup>62</sup>

It is important to appreciate that amazingly, in the last century there were no universal standards set up to protect migrants. Efforts that existed were limited to a local level and those solutions were arrived at the spur of the moment without much formal planning or approval.<sup>63</sup> Only after World War one and the League of Nations came

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<sup>59</sup> Pina, Jorge. *Europe: Albanians Bring Their Catastrophe Home to Europeans*. Inter Press Service, (1997), pp. 23-29.

<sup>60</sup> Ibid, (1997), p. 32.

<sup>61</sup> Oduor, Maurice. *The current status of International Law in the Kenyan Constitution*, (2013), pp. 6-19,

<sup>62</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), pp. 8-9.

<sup>63</sup> Ibid, (2016), p. 12.

into existence did the issue of migrants come to the fore of politics. This was because at the time a lot of populations had been displaced by being taken as prisoners of war or taken to work camps or internment stations. Efforts to solve these problems were slow and far in between. The League of Nations deployed envoys to deal with particular migrants' populations but none of them came up with a comprehensive solution for all the migrant problems.<sup>64</sup>

In 1950 the UNHCR was founded and so was the UN convention concerning the status of migrants under international law. It is curious that the 1951 convention only applied to Europeans even though a refugee had been defined as a person outside their.<sup>65</sup> The UN convention of 1951 affirms the right of migrants and it aims to actually help them and not just use them as political or diplomatic tools. This convention stresses the rights of migrants not to be returned where they came from if there is a well-founded fear that their lives may be in jeopardized. This principle is called non-refoulement.<sup>66</sup> The convention states that the primary care of migrants lies with the individual states that take them in.<sup>67</sup>

Kenya is host to over 380,000 refugees and the government has given a significant attention to their plight especially in overcrowded camps of Kakuma in Turkana and Dadaab refugee camp.<sup>68</sup> However, there has been less attention on the increasing number of refugees estimated at over 100,000 living in and dispersed in major cities

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<sup>64</sup> Rice, Xena. *Somali refugee settlement in Kenya swells as row grows over empty refugee camp*. In *The Guardian*, (2011), p. 78.

<sup>65</sup> Trueman, Thomas. *Ethiopia exports more than coffee: Oromo refugees in Kenya*, Oromo Relief Association United Kingdom, Oromia Support Group, (2010), p. 71-81.

<sup>66</sup> *Ibid*, (2010), p. 85.

<sup>67</sup> Collins, Allan. *Contemporary Security Studies: Third Edition*, UK, Ashford Colour Press, (2013), p. 19.

<sup>68</sup> Buscher, Dale. *Case Identification: Challenges Posed by Urban Refugees. Annual Tripartite Consultations on Resettlement*. NGO Note for the Agenda, (2003), p. 1.

and towns in Kenya.<sup>69</sup> This group of refugees is invisible and their cry seems to go unnoticed because most of them are reluctant to consult relevant authorities, despite their significant need for safety and protection and other assistance.<sup>70</sup> The largest groups of migrants in Kenya are Somali and Sudanese. Their population is estimated at 20,000 as per UNHCR 2009 register; however, there are over 60,000 unregistered refugees. It is important to appreciate that other members of the group have been linked to criminal networks including terror cells, money laundering and proliferation of arms.<sup>71</sup> In addition the group has established a strong network of trade in Nairobi Eastleigh district.

## **2.2 Securitization of the Immigration Phenomena**

William is of the view that migration has inherent security threats to nation states.<sup>72</sup> He believes migration can weaken nations through infiltration by terrorists, diminishing of resources and or diluting cultural identities.<sup>73</sup> It is important to appreciate that even though since 1951 refugees have been given legal status all over the world, of late many countries view migrants negatively. They view them as threats.<sup>74</sup> This has made some states not adhere to treaty obligations.<sup>75</sup> This occurs through forceful repatriation. Also, some violations have been witnessed like in the United States, they are separating migrant children from their parents and deporting the parents.

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<sup>69</sup> Ibid, (2003), pp. 2-6.

<sup>70</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), pp. 8-9.

<sup>71</sup> Abebe, Tsion Tadesse. *Migration Policy Frameworks in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), pp. 9-11.

<sup>72</sup> Williams, Paul. *Security Studies: An Introduction*, Milton Park Abingdon, Oxon, Routledge 2 Park Square, (2013), p. 81.

<sup>73</sup> Collins, Allan. *Contemporary Security Studies: Third Edition*, UK, Ashford Colour Press, (2013), p. 19.

<sup>74</sup> Mogire, Edward. *Victims as Insecurity Threats; Refugee Impact on Host State, Security in Africa*, England, Ashgate Publishing Company, (2011), p. 17-21.

<sup>75</sup> Abebe, Tsion Tadesse. *Migration Policy Frameworks in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), p. 14.

Susan contends that many people of Middle Eastern descent are being deported or being refused access into the United States. These violations usually are done to migrants from poor countries by rich host nations. After the cold war most migrants are now being treated like illegal aliens.<sup>76</sup> Trump foreign policy considerations and governments no longer give much thought to ideology and therefore hosting refugees has taken a back burner in most western nations' foreign policy issues.<sup>77</sup> Many refugees from poor nations are now being considered as economic migrants.

One must appreciate that after the end of the first gulf war, two million Iraqi Kurds and Shiites sought refuge in Saudi Arabia, Iran, northern Iraq and turkey. The Saudis, Kuwait and Turkey would not grant them sanctuary and therefore hundreds of thousands were left stranded in the mountains.<sup>78</sup> This created a humanitarian disaster which forced the US and the UN to send some personnel to that region to provide them with protection. The UN established some safe areas in Iraq and some people could return.<sup>79</sup>

Humanitarian assistance is given to soothe the cause of flight and the consequences that go along with it. The UN staff and peacekeepers are mandated with providing protection to refugees. But this is challenged when local authorities deny access to UN staff. This happened in places like Croatia and Bosnia and in many such cases the UN is rendered powerless in providing protection or sustenance and medical aid for migrants.<sup>80</sup> Some countries are abusing the containment strategy. The United State being the biggest culprit, from 1981 to 1992 immigration and naturalization service's

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<sup>76</sup> Susan, Forbes. *Refugee Women*, London, Zed Books Ltd, 7 Cynthia Street, (1992), pp. 13-19.

<sup>77</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

<sup>78</sup> Susan, Forbes. *Refugee Women*, London, Zed Books Ltd, 7 Cynthia Street, (1992), p. 20.

<sup>79</sup> Ibid, (1992), p. 23.

<sup>80</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research*. A Review of Emerging Evidence in East Africa, (2016), pp. 8-9.

collectively screened many Haitians and over 50000 of them were deported.<sup>81</sup> In 1992 George Bush, president of the United States ordered the deportation of Haitians without them having to undergo any screening process.<sup>82</sup> Such policies violate rights especially the non-refoulement principle.

In Western Europe as they try to harmonize Europe Union policy, more stringent measures have been put to bar asylum seekers who are non-European. This is because integration in Europe has caused resentment among the local population because they believe they are losing out to outsiders.<sup>83</sup> These measures can be unilateral, like in Austria where they have a far right government which has enacted a string of anti-migrant legislation or multilateral measures like in the reduction of quotas of refugees per capita within the EU; this can be done by repatriating of individuals to transit “safe” countries, accelerating of legal procedures, stringent visa requirements, fines on airlines that carry passengers without proper documentation, detention schemes and restrictions on work permits.<sup>84</sup>

According to Nassim and Oucho trends in migration are due to xenophobic attitudes within individual countries brought about by the fear of the unknown. By 1990 laws on refugee protection began to change as the refugee numbers grew considerably. This was mainly due to internal turmoil in African countries due to the cold war coming to an end. The situation was made worse by proxy wars between major world powers that wanted to acquire Africa’s wealth and expand their markets in the trading of illicit arms which inevitably led to socio economic disasters of African countries

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<sup>81</sup> Susan, Forbes. *Refugee Women*, London, Zed Books Ltd, 7 Cynthia Street, (1992), pp. 13-19.

<sup>82</sup> Helton, Arthur. *The United States Government Program of Intercepting and Forcibly Returning Haitian Boat People to Haiti: Policy Implications and Prospects*, New York Law School Journal of Human Rights, 10 (1993) pp. 330-31.

<sup>83</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), pp. 8-9.

<sup>84</sup> Abebe, Tsion Tadesse. *Migration Policy Frameworks in Africa*, The Africa Report, no 2, Institute for Security Studies, South Africa, (2017), p. 17.

while western countries became rich and their population complacent to what was going on in the rest of the world.<sup>85</sup> There were no attempts to find solutions.<sup>86</sup> This resulted in the development of massive refugee camps that the UNHCR had to oversee.

In the East African perspective, it is important to appreciate that migrants are more and more seeking sanctuary in Kenyan cities and towns. From analysis, most of them cite the reason of lack of security in the camps, challenges of learning opportunities, shortage of health facilities, congestion and severe climate. Security wise, Congolese especially female refugees in Nairobi, were worried about the extent of sexual abuse and murders in the camps, especially in Kakuma. The allegations were verified by sightings of Al Shabaab (AS) a Somali Islamic militant group conducting recruitment in the camps.<sup>87</sup> In Kakuma cases of targeted assassinations against Burundians and Rwandese have also been registered.

Just like their Somali counterparts, the Congolese in Kayole, have moved in, in search of better meaningful social and economic opportunities.<sup>88</sup> Many of them have engaged in business, despite the fact that the law prohibits this. Majority of them have ventured into gospel music industry and preaching as a way of livelihood. Considering that some of them lived in urban areas in DRC may have encouraged them to move straight to Nairobi.<sup>89</sup> While some Somali refugees have successful

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<sup>85</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

<sup>86</sup> Castles, Stephen. *Confronting the Realities of Forced Migration*, Migration Policy Institute: Migration Information Source, (2004), pp. 8-12.

<sup>87</sup> Oduor, Maurice. *The current status of International Law in the Kenyan Constitution*, (2013), pp. 6-19.

<sup>88</sup> Kibreab, Gilbert. *Refugee hood, Loss and Social Change: Eritrean Refugees and Returnees, in Refugees and*

*Transformations of Societies: Agency, Policies, Ethics and Politics*, Oxford: Berghahn Books, p. 31.

<sup>89</sup> Wagacha, John and Guiney, John. *The Plight of Urban Refugees in Nairobi, Kenya, in Refugee Rights: Ethics, Advocacy, and Africa* edited by David Hollenbach, SJ, Georgetown University Press,



established themselves in Nairobi, the Congolese have had a nascent life in the city. They have become a target of harassment and arrests by security officers. The police regard them as criminals and engaging in illegal activities such dealing in drugs, arms and facilitating terrorism networks.<sup>90</sup>

### **2.3 Background of Immigration in Kenya-Sudan**

Kenya, Uganda and Tanzania have hosted millions of refugees over the years. Kenya alone hosts over a quarter of a million refugees from, DRC, Burundi, Ethiopia , Eritrea, , Rwanda, Somalia, Sudan and Uganda.<sup>91</sup> Since independence the country has had to deal with migrants.<sup>92</sup> It has been exacerbated by long periods of violence and instability especially in the great lakes region. Even though Kenya signed the 1951 convention on the rights of refugees, part of the 1967 protocol for refugees as well as the 1969 OAU refugee convention, there wasn't any legislation dealing with refugees in Kenya up until 2007. This is when the refugee act was passed.<sup>93</sup> In Kenya only two official refugee camps exist. They are the Kakuma and Dadaab camps. Dadaab is close to the Somali border which hosts about 150000 refugees and Kakuma is near the Sudan border which hosts about 83000 refugees.<sup>94</sup>

In the 1970s the majority of refugees in Kenya were Ugandan who had fled the tyranny of Idi Amin. Many of them were professional people and they could at least speak the local language. This made it easy for them to settle and integrate. At the end

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(2004), p. 78.

<sup>90</sup> Oduor, Maurice. *The current status of International Law in the Kenyan Constitution*, (2013), pp. 6-19.

<sup>91</sup> Report. *Inter-Agency Retreat on Urban Refugees*, organized by UNHCR and RCK at Norfolk Hotel, (2005).

<sup>92</sup> Oduor, Maurice. *The current status of International Law in the Kenyan Constitution*, (2013), pp. 6-19.

<sup>93</sup> Ibid, (2013), p. 89.

<sup>94</sup> Odhiambo, Abuya. *United Nations High Commissioner for Refugees and status determination in taxing Kenya: an empirical survey*, in *Journal of African Law*, (2004), pp. 186-206.

of the 80s the country began acquiring refugees from the horn of Africa. The only official contact that the refugees could sometimes encounter was the Thika reception center. It was 40 kilometers outside Nairobi. It provided accommodation and determined their status.<sup>95</sup>

It is appreciated that because of the massive influx of refugees into the country during the early 90s mainly from Somalia, Eritrea, and Ethiopia, the Kenyan authorities decided to establish camps at the border.<sup>96</sup> Many Somalis made the entry into Kenya from the coastal area but were rerouted by the government to the northern Kenya to the Dadaab camp. Sudan and Ethiopia refugees were usually taken to Kakuma camp.<sup>97</sup> Up until the 1990s Kenya had an approximated refugee population of 15000, many of them were Ugandans and most of them were teachers who contributed a great deal in educating young Kenyans. The semi-skilled Ugandans gave the country cheap labor.<sup>98</sup>

Makumi contends that before the 1990s the Kenyan government was directly in charge of refugee status determination which basically consisted of a series of interviews. But afterwards the government transferred this duty to the UNHCR while the Somali and Sudanese civil wars were raging. The numbers of refugees entering the country was overwhelming. In 1992 alone the refugee population rose from

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<sup>95</sup> Kibreab, Gilbert. *Refugee hood, Loss and Social Change: Eritrean Refugees and Returnees, in Refugees and*

*Transformations of Societies: Agency, Policies, Ethics and Politics*, Oxford: Berghahn Books, pp19–30.

<sup>96</sup> Oduor, Maurice. *The current status of International Law in the Kenyan Constitution*, (2013), pp. 6-19.

<sup>97</sup> *Ibid*, (2013), p. 25.

<sup>98</sup> Makumi, Mwangi. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa Peace Forum, (2008), p. 89.

130000 to 400000.<sup>99</sup> This made the government aware just how porous the borders were and how this situation could lead to a security challenge.<sup>100</sup>

Kenya is now more of an advisor to the UNHCR. Implementers of policy are the UNHCR and a multitude of NGOs.<sup>101</sup> From time to time the UNHCR is obliged to implement Kenyan policy. For instance, refugees must be contained in the camp at all times. The role of the UNHCR is to pressure governments to change policies that might be causing movement of refugees or pressuring governments to offer protection to refugees. The 1951 convention agreement is still a powerful tool to safeguard the fundamental rights of refugees.<sup>102</sup> The great lakes region (GLR) has seen some of the most intense incidences of violence in Africa. This has resulted in their inhabitants seeking entry into other countries. Perennial violence is experienced in Burundi, Rwanda, Uganda and DRC and yet Kenya, Tanzania and Malawi and Zambia have remained relatively peaceful.<sup>103</sup>

In the case of Kenya, the negative perception and publicity portrayed make them feel rejected yet they find Nairobi a safe place than in the refugee camps. The acquisition of identification papers is key to their protection, because this forms their life line defense against arbitrary arrest and repatriation including accessing social services. The UNHCR has often given copies of their official refugee documents to police stations in Nairobi Central Business Districts (CBD), but the police officers seem to

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<sup>99</sup> Emmanuel, Opoku. *Refugee Movements in Africa and the OAU Convention on Refugees*, Journal of African Law 39, no. 1, (1995), p. 81-84.

<sup>100</sup> Makumi, Mwangi. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa Peace Forum, (2008), p. 89.

<sup>101</sup> Odhiambo-Abuya, Erick. *United Nations High Commissioner for Refugees and status determination in taxing Kenya: an empirical survey*, in Journal of African Law, 48 (2004), pp. 186-206.

<sup>102</sup> Makumi, Mwangi. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa Peace Forum, (2008), p. 89.

<sup>103</sup> Beardsley, Kelvin. *Peacekeeping and the Contagion of Armed Conflict*. The Journal of Politics, 73(2011), pp. 1051-1064.

lack knowledge on how to interpret these documentations.<sup>104</sup> Further, the lack of knowledge on their rights and the traumatic past has made them highly vulnerable. This element was noted to be of concern in the recent Congolese group discussions held in Kayole Social Hall in Nairobi City, which exposed their extent of frustration.<sup>105</sup> Clearly, these points out to the lack of a policy framework on the government stand on refugee status, and on the type of refugees to be allowed to live in urban areas. On the other hand, UNHCR may not have done much to provide required education on their rights in Nairobi, a matter they argue may likely induce them to abandon camps.<sup>106</sup>

It is believed that the Congolese refugees on the surface appear to be cohesive group, probably because of their conflict background. They have shared informal social protection and solidarity with their neighborhood communities.<sup>107</sup> However, while most of them are known to be reluctant to disclose and discuss their internal tension, there are reports of intimidations by their hosts.<sup>108</sup> Some have complained of exploitation as rich families have employed their women as domestic workers only to keep them in modern day slavery conditions. While some acknowledge to be treated well, they work for long hours.

In the Kenyan context, a sizable number have ventured into *Jua Kali* business of selling Congolese *Kanga* cloth materials, hair dressing, gospel music, cyber café,

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<sup>104</sup> Pavanello, Sara., Elhawary, Samir. and Pantuliano, Sara. *Hidden and exposed: urban refugees in Nairobi, Kenya*, Humanitarian Policy Group, Overseas Development Institute, (2010), p. 9.

<sup>105</sup> Kibreab, Gilbert. *Refugee hood, Loss and Social Change: Eritrean Refugees and Returnees, in Refugees and Transformations of Societies: Agency, Policies, Ethics and Politics*, Oxford: Berghahn Books, pp19–30.

<sup>106</sup> Oduor, Maurice. *The current status of International Law in the Kenyan Constitution*, (2013), pp. 6–19.

<sup>107</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

<sup>108</sup> Okoth, Kevin. *What role for Diaspora in development? Migration information*, (2007), pp. 16–18.

retail traders, vegetable vendors and others but they still experience challenges, a factor that is inhibiting their economic performance.<sup>109</sup> In cases where they seem to be doing well, the aspect of xenophobia and discrimination begin to manifest. The failure by the government to enact laws that protect refugees in such circumstance, compounds the problem. The intraregional migration of cross border workers, unskilled and temporary contract workers, undocumented migrants, highly skilled professionals' migrants and refugees characterize the migration landscape in East Africa and are reflected in distinctive and changing configuration in the different sub-regions.

#### **2.4 Immigration Management in Kenya-Sudan**

It is acknowledged that from 2006 the UNHCR has undergone a program of resettling refugees from the Dadaab and Kakuma camps. Refugee status is determined by interviews starting with those who have lived in the camps for the longest time.<sup>110</sup> In Kakuma the long-lived problem of refugee resettlement is coming to an end. It is to be replaced by the protection-resettlement program. This involves a lot of personnel who mainly do a needs based assessment of refugees so that those in need of resettlement are identified for referral to the resettlement unit.<sup>111</sup> The rate of resettlement used to be high but in the recent past, due to security threats, a lot of countries have withdrawn their staff from the camp and this has led to a decrease in resettlement interviews being carried out. This has meant that less than a fifth of the refugee resettlements occurring every year are from the Dadaab camp.<sup>112</sup>

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<sup>109</sup> Beardsley, Kelvin. *Peacekeeping and the Contagion of Armed Conflict*. The Journal of Politics, 73(2011), pp. 1051-1064.

<sup>110</sup> Okoth, Kevin. *What role for Diaspora in development? Migration information*, (2007), pp. 16-18.

<sup>111</sup> Emmanuel, Opoku. *Refugee Movements in Africa and the OAU Convention on Refugees*, Journal of African Law 39, no. 1, (1995), p. 81-84.

<sup>112</sup> Makumi, Mwagiru. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa

Kirui and Mwaruvia posits that as time goes by individual countries are picking from smaller and smaller pool of refugees in order to fulfil their quota. This is due to the stringent rules that governments of those countries have imposed.<sup>113</sup> In 2011 only a third of the refugees who submitted their request for settlement were granted their wishes. 2083 resettled in the US, 541 in Canada, 329 in Sweden, 208 in UK, 182 in Australia, 81 to the Netherlands, 10 in New Zealand, 10 in Norway and 89 to other countries.<sup>114</sup>

While the above countries are resettling these refugees, Kenya has only an encampment policy which severely restricts movement.<sup>115</sup> The refugees who live within the county are in a grey area when it comes to their status and this could easily expose them to police harassment and arrest.<sup>116</sup> Kenya is yet to domesticate international conventions on refugees. A draft of a refugee bill took so long to implement and this has led to the management of refugees to be dealt with in an *ad hoc* manner.<sup>117</sup>

The security situation in these camps is a major issue.<sup>118</sup> Refugees complain that soldiers from countries from which they have escaped usually come to the camps to look for their enemies due to the proximity of the camps.<sup>119</sup> This made violence begin to trickle into Kenya and this made the government begin to implement more

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Peace Forum, (2008), p. 89.

<sup>113</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), pp. 161-171.

<sup>114</sup> Emmanuel, Opoku. *Refugee Movements in Africa and the OAU Convention on Refugees*, Journal of African Law 39, no. 1, (1995), p. 81-84.

<sup>115</sup> Beardsley, Kelvin. *Peacekeeping and the Contagion of Armed Conflict*. The Journal of Politics, 73(2011), pp. 1051-1064.

<sup>116</sup> Makumi, Mwangi. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa Peace Forum, (2008), p. 89.

<sup>117</sup> Ibid, (2008), p. 91.

<sup>118</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

<sup>119</sup> Alison, Parker. *Hidden in Plain View: Refugees Living without Protection in Nairobi and Kampala*, (New York: Human Rights Watch, (2002), p. 119,

stringent measures to ensure security of the homeland.<sup>120</sup> Thus many of these refugees it should be both victims and perpetrators; many of them have very little knowledge of what justice is as they have only known the rule of the gun.<sup>121</sup>

This state of things forced the government to deploy security agencies to the camps. They support Non-Governmental Organizations (NGO) staff and coordinate many other relationships between local governments, refugees and security forces.<sup>122</sup> Deployment of police officers to these camps has been inadequate and this has made the police there inefficient and it is usually viewed by policemen that deployment to these camps is a form of punishment. These factors have diminished morale among the police located in the camps.<sup>123</sup>

Kakuma is a desert region, affected by drought and famine. Population as at 2008 stood at 50000.<sup>124</sup> It was established mainly to handle Sudanese migrants but now it has over nine nationalities which sometimes have hostile relations. There's also tension developing between the refugees and the local Turkana people as the poverty and harsh climate has made some locals mount raids on the camp.<sup>125</sup> Political conflicts also arise in the camps. There are instances where the SPLA recruit refugees within the camp and these recruits are tasked with taxing other refugees and this can incite resentments which lead to conflict.<sup>126</sup>

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<sup>120</sup> Makumi, Mwagiru. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa Peace Forum, (2008), p. 89.

<sup>121</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

<sup>122</sup> Ibid, (2008), p. 92.

<sup>123</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in *International Journal of Business and Social Science*, 3 (2012), p. 175.

<sup>124</sup> Williams, Paul. *Security Studies: An Introduction*, Milton Park Abingdon, Oxon, Routledge 2 Park Square, (2013), p. 81.

<sup>125</sup> Makumi, Mwagiru. *Human Security: Setting the Agenda for the Horn of Africa*, Nairobi, Africa Peace Forum, (2008), p. 93.

<sup>126</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in *International Journal of Business and Social Science*, 3 (2012), pp. 161-171.

Alison found that it is reasonable why the UNHCR and host countries would not relay the reasons for rejecting a refugee's request for resettlement (since it may lead to the exposition of their resettlement criteria and this may lead to some disingenuous applications) it may still traumatize a refugee if he is not aware why his or her request has been rejected and also not knowing how long they have to stay in the camp can be a source of mental and psychological anguish.<sup>127</sup> UNHCR needs to employ competent personnel to identify genuine refugees and migrants from masqueraders.<sup>128</sup> Support for transportation costs for RSD hearing would go a long way in easing a refugee's burden.<sup>129</sup>

European countries have helped reshape Kenya's landscape. This is through resettling refugees from nationalities which European countries may not consider taking. But still more can be done by Europe to settle refugees.<sup>130</sup> In Kenya the UNHCR offers refugees mandate documents that allow refugees some assistance in the camp and protect them from repatriation. But still they are not allowed into the labour market and their movements are restricted due to the encampment policy. Even though it was supposed to be a stop gap measure it has become a permanent feature of how Kenya handles refugees.<sup>131</sup>

The UNHCR figures show more than 230000 refugees live in camps and receive assistance.<sup>132</sup> There are urban refugees, who live in town. In 2001 UNHCR estimated

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<sup>127</sup> Alison, Parker. *Hidden in Plain View: Refugees Living without Protection in Nairobi and Kampala*, (New York: Human Rights Watch, (2002), p. 119.

<sup>128</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in *International Journal of Business and Social Science*, 3 (2012), pp. 161-171.

<sup>129</sup> Beardsley, Kelvin. *Peacekeeping and the Contagion of Armed Conflict*. *The Journal of Politics*, 73(2011), pp. 1051-1064.

<sup>130</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research*. A Review of Emerging Evidence in East Africa, (2016), p. 25.

<sup>131</sup> Beardsley, Kelvin. *Peacekeeping and the Contagion of Armed Conflict*. *The Journal of Politics*, 73(2011), pp. 1051-1064. .

<sup>132</sup> *Ibid*, (2011), p. 1081.



that there are 20761<sup>133</sup> refugees in Nairobi but latest estimates put them anywhere between 60000 and 100000.<sup>134</sup> Many of them have described the camps to be dangerous and lacking of any economy to speak of.<sup>135</sup>

Refugees have tried time and time again to petition the government for them to be allowed to live in the country and be allowed to work instead of just wasting away in camps. UNHCR recognises the need for these refugees to escape which only exacerbates the problem of “illegals” living in the country.<sup>136</sup> From RSK’s interaction with refugees who leave the camp usually do so because they want to further their education, find work or escape the insecurity within the camps. Majority of them are in Nairobi, living with no assistance from the UNHCR. They are teachers, traders and even artists. They mostly live in low- or middle-income neighborhoods.

## 2.5 Chapter Summary

The study argues that the huge influx of refugees into the country could easily compromise national security. It could also bring about economic hardships for locals through competition for resources and jobs and could change the power dynamics by changing a region’s demographic. Security threats could be compounded by refugee camps becoming militarized.

This study argues that the notion that migrants are contaminating Nairobi has become a rallying call for many compatriots. The idea that migrants are the cause of economic regression, robbing work from jobless indigenous people, and rising crime is a

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<sup>133</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), pp. 161-171.

<sup>134</sup> Alison, Parker. *Hidden in Plain View: Refugees Living without Protection in Nairobi and Kampala*, (New York: Human Rights Watch, (2002), p. 119.

<sup>135</sup> Ibid, (2002), p. 90.

<sup>136</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), p. 178.

mundane assumption and perception that's hardly queried. Such unfounded reasons nonetheless form the justification for the country choosing to encamp refugees. This section found that Congolese, Somalia, Sudanese and Rwandan immigrants, like other urban migrants, have become enterprising, defying the stereotype that they are an economic challenge to the city.

## Chapter Three

### Impact of Immigration Management Flaws on National Security in Africa

This chapter discusses the impact of immigration management flaws on national security in Africa. In addition, this section in order to comprehensively address the objectives under study, it illustrated the key factors that make some regions attractive to migration while others are not, such as the strategic location of a given hub.

#### 3.1 Emerging Immigration Trends and Patterns in Africa

According to William, Africa has a long history of populations moving inside the continent but also without. The population of people living outside Africa and are of African descent has now reached one hundred and forty million people, many of them residing in the western hemisphere.<sup>137</sup> This means that many of them if not most of them have lost formal ties with where they originate from.

William also notes that migrants who have travelled from their homeland recently are maintaining formal communications with their loved ones and even maintain relationships. This has been because of the fast pace of globalization taking place and cheaper and faster forms of communication coming into existence. It is also thought by William that it is these very reasons mentioned above that migration has become such a huge phenomenon.<sup>138</sup>

Kirui and Mwaruvia recognize that countries which experience protracted turmoil enabled to perennial destabilization in the net movement of migrants in Africa.<sup>139</sup> In

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<sup>137</sup> Williams, Paul. *Security Studies: An Introduction*, Milton Park Abingdon, Oxon: Routledge 2 Park Square, (2013), p. 67.

<sup>138</sup> Ibid, (2013), p. 71.

<sup>139</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in *International Journal of Business and Social Science*, 3 (2012), pp. 161-171.

the last two and a half years the rate of net migration has gone down.<sup>140</sup> But it also needs stressing that the data available in sub Saharan Africa on migration is not in the least accurate and is probably so much more understated and this may be due to inaccurate, inconsistent and infrequent record keeping by government officials.

One of the defining things about migration in Africa is that 50% of it takes place within the continent and the other 50 percent is transcontinental. The distinctive patterns of migration that defy the global average are from Latin American countries whose migrants almost to a man cross over to North America. Some of the intra continental statistics on migration are; Africa is at 52 percent, Europe is 59 percent and Asia is 54.7 percent.<sup>141</sup> Specifically, for sub Saharan Africa the rate is 65 percent.

According to research carried out by the World Bank, out of 29 million migrants from the continent in the year 2010, 23 percent are from Arab Africa and the rest are from sub Saharan Africa.<sup>142</sup> About 90 percent of the migrants coming from the north of the continent are transcontinental migrants. Generally, intra African migration is due to the inconsideration of the colonial powers who drew borders on the continent without taking into account a region's ethnic make-up and economic activities. These borders cut right through communities that were dependent on one another and in some cases clustered communities that have had long standing conflicts into one political administered unit and this naturally led to multiple conflicts over the preceding years. Observers note that a majority of the migrants from the African continent are within

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<sup>140</sup> Abbassian, Kelvin. *Interview with Handicap International Operations Manager in Dadaab*, (2013), p. 67.

<sup>141</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

<sup>142</sup> *Ibid*, (2016), p. 27.

the continent even though 90 percent of migrants from West Africa are transcontinental migrants.<sup>143</sup>

Betts states that another region that sees much activity in immigration is south Africa. This is because the region attracts workers especially in the mining industry. Other job seekers also migrate here. 27 percent of migrants in South Africa come from east Africa. Interestingly 39 percent of intra continental migrants are headed for west and east Africa.<sup>144</sup> The region that experiences most intercontinental migration is North Africa. A trend has emerged where specific nationalities tend to migrate to specific countries. For instance, emigrants from western part of Africa usually head for Nigeria. Emigrants from Mozambique, Swaziland, Lesotho and Botswana head for South Africa.<sup>145</sup> Sudan is a popular destination for immigrants from Chad, Ethiopia and Eritrea. Ironically, Kenya hosts mostly migrants from Uganda and Tanzania and yet Tanzania is the destination most preferred by immigrants.<sup>146</sup>

Campbell and Kiragu identify features and situation that may determine where a migrant will head to. For instance, common language or culture is a good reason for migrants to move to a particular destination.<sup>147</sup> The commonalities are shared through borders and can even cut through several countries.

Cone posits that linguistic and historical roots are important facilitators of migration. For instance, migrants from the horn of Africa are found in the same region due to

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<sup>143</sup> Amnesty International. *From Life without Peace, to Peace without Life*, (2010), p. 78.

<sup>144</sup> Betts, Allan. *Conceptualizing Interconnections in Global Governance: the Case of Refugee Protection*. Refugee Studies Centre, Oxford University, (2016), p. 9.

<sup>145</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), pp. 161-171.

<sup>146</sup> Williams, Paul. *Security Studies: An Introduction*, Milton Park Abingdon, Oxon: Routledge 2 Park Square, (2013), p. 9.

<sup>147</sup> Campbell, Elton. *Navigating Nairobi: A review of the implementation of UNHCR's urban refugee policy in Kenya's capital city*. Policy Development and Evaluation Service, UNHCR, (2011), p. 29.

strong ethnic, linguistic and religious connections along the vast frontiers.<sup>148</sup> It is seen that similarly Rwanda and Burundi emigrants' gel well in Ugandan and Tanzanian populations. These trends are influenced by historical and linguistic roots.<sup>149</sup>

The historic trend of migration goes all the way back since independence. This is because the region has always had political turmoil in many different countries like, Somalia, Ethiopia, Eritrea, Uganda, Rwanda and Burundi.<sup>150</sup> In the 1980s in Kenya, migrants could settle wherever they chose<sup>151</sup> all they needed was to undergo a refugee status determination hearing (RSD).<sup>152</sup> By 1992, the Kenyan government changed policy and instituted the policy of mass encampment of refugees since they were coming in large unprecedented numbers and the government feared that resources for citizens would be stretched thin and also it feared the compromise of national security.<sup>153</sup> Migrants have provided cheap labor to Kenya as they are desperate to make a living and many of them have no formal papers. Some of them have contributed to professional and academic fields in the country. It is well known that in the 1980s Ugandan teachers flooded the Kenyan market and bestowed a lot of young people an education.<sup>154</sup>

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<sup>148</sup> Cone, Denis. Shifting community views: Reducing stigma in Dadaab. *Forced Migration Review*, (2010), p. 35.

<sup>149</sup> Hatton, Terry. *Emigration in the long run: evidence from two global centuries*, Asian Pacific Economic Literature, article in press, (2009), p. 78.

<sup>150</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

<sup>151</sup> Odhiambo, Abuya. 'United Nations High Commissioner for Refugees and status determination in taxing Kenya: an empirical survey,' in *Journal of African Law*, 48 (2004), pp. 186-206.

<sup>152</sup> Ibid, (2004), p. 209.

<sup>153</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in *International Journal of Business and Social Science*, 3 (2012), p. 184.

<sup>154</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research. A Review of Emerging Evidence in East Africa*, (2016), p. 25.

### 3.2 The Dynamics of Immigration Management Flaws

According to Ruud the terror attacks of 9/11 2001 drastically changed attitudes toward refugees and migrants globally. The change in attitude has seen the curtailing of the refugee program, increased security at the borders and putting forward unfounded correlations that link terrorism to migration. The reason for this is that many nation states feel that international laws set up to deal with refugees are inadequate in handling irregular migration, human trafficking and mass arrival of economic migrants.<sup>155</sup> Therefore, many countries have gone on to enact laws that put the interest of the state first before the refugees.

Ruud explains that origins of refugee law came from 1921 when the LON appointed a high commissioner for refugees but limited protection of migrants started in 1933 with the declaration of the convention dealing with the status of refugees by the LON. This was followed by the convention concerning status of migrants coming from Germany in 1938.<sup>156</sup>

This convention required that signatories not expel the refugees or refuse them admittance. The UNHCR was started in 1950 to give legal aid with entry and adjustments into the host nations. They began offering these services to about a million people who had been displaced during World War 2. This translated into the creating of a legal foundation for the UNHCR's work, later drafting of the 1951 convention relating to the status of the refugees followed.<sup>157</sup>

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<sup>155</sup> Lubbers, Ruud, *Asylum for All: Refugee Protection in the 21st Century*, (International Law, Harvard International Review, 2002), pp. 103-104.

<sup>156</sup> United Nations High Commissioner for Refugees. *UNHCR policy on refugee protection and solutions in urban areas*. Geneva: United Nations High Commissioner for Refugees, (2009).

<sup>157</sup> *Ibid*, (2009), p. 78.

The countries to be represented by these conventions were usually western libertine countries which meant that geographical and temporal restrictions were placed on those who could be considered migrants even though the convention's description of a refugee had universal overtones to it; that all human beings facing persecution and violence and who had fled their homeland for this very reason were to be considered refugees.<sup>158</sup> The convention further had other universal principles like the non-refoulement policy and non-discrimination and cooperation of member states of the UNHCR. Only under one condition stipulated in the convention could the forceful expulsion of a refugee take place.

In the event a refugee or a group of refugees is or are a direct threat to national security and public order.<sup>159</sup> Again, interestingly challenges with refugees began to be viewed negatively after African countries started gaining their independence and maybe this is because at the time, the world community was not sure if Africans could fall in the category to be considered refugees. It is not until the formation of the UN that the 1951 convention was extended to cover all peoples of the world.<sup>160</sup>

The UN also saw the 1967 declaration for refugee protocol as part of international law and therefore it is viewed as binding to all UN member states and it must be executed in good faith. These means that all UN member countries are obligated to protect refugees that is within their borders.<sup>161</sup> In 1987 the South American countries adopted the Cartagena declaration which added more wide spread provisions that would be better suited to cater to refugees. Voluntary repatriation was one of them which

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<sup>158</sup> Nassim, Majidi and Oucho, Linda. *Migrant Smuggling Data and Research*. A Review of Emerging Evidence in East Africa, (2016), p. 25.

<sup>159</sup> Hatton, Terry. *Emigration in the long run: evidence from two global centuries*, Asian Pacific Economic Literature, article in press, (2009), p. 78.

<sup>160</sup> Ibid, (2009), p. 78.

<sup>161</sup> UNHCR, *Refugee protection: A guide to International Refugee Law*, (United Nations ,2001)



helped Angolan, Mozambique and guinea Bissau refugees to go back home back in the 1970s.<sup>162</sup> In the Kenyan perspective in the year 2013, terror groups infiltrated the country as economic migrants and carried out a devastating attack on Kenya at the Westgate mall as they haphazardly gunned people down.<sup>163</sup> This resulted in Kenya amending its security laws which further curtailed the rights of refugees.<sup>164</sup>

This section argues that the South Sudanese migrant usually uses regular channels to emigrate since many of them happen to be just women and children. The men usually are reported to have stayed behind to continue with the fighting or to safeguard property. With one of the most stringent requirements for refugee resettlement being in Europe, where it requires one be able to be actively engaged in productive labor, a poor African woman with multiple young children stands very little chance of being resettled in Europe which makes, as a destination for South Sudan migrants, Kenya, to be a natural choice and regular channels become the best way for these migrants to acquire sustenance and shelter.

Lubbers argue that at its independence, South Sudan had become the destination to head for economic migrants. Many of them were irregular migrants. In South Sudan there was a lot of potential for growth, virtually in every sector of the economy due to the oil boom and this attracted both skilled and semi-skilled labor to the country. Laborers came from as far as, china, Kenya, Uganda, Tanzania, Eritrea, Somalia, DRC and Sudan. The two-year period after independence, before the outbreak of the

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<sup>162</sup> Lubbers, Ruud. *Asylum for All: Refugee Protection in the 21st Century*, International Law, Harvard International Review, (2002), pp. 103-104.

<sup>163</sup> Hatton, Terry. *Emigration in the long run: evidence from two global centuries*, Asian Pacific Economic Literature, article in press, (2009), p. 78.

<sup>164</sup> Kenya Security Laws, Amendment Bill 2014.

civil war, it is estimated that between 500,000 to 1.2 million migrants found their way into South Sudan.<sup>165</sup>

In the Kenyan scenario, migrants have managed to sustain work, regardless of constant police harassment and operating in an overwhelming hostile environment.<sup>166</sup> And this they have managed with no official documentation and generally with virtually no the help from the Government or UNHCR. A lot of them have engaged in self-employment, providing alternative source of services not offered locally.<sup>167</sup> They have equally contributed to the local economy through leasing of property and consumption of goods and services. As noted, the urban refugees are often associated with being gainfully employed in order to maintain themselves otherwise those without jobs and shelter remain interred. Studies have pointed out that the refugee community in urban are an asset as opposed to being a curse.<sup>168</sup> In most cases they have helped regulate the job market by proving cheap labour in sectors such as shop keepers, maids and other service providers without language barrier.

In matters concerning migration flaws, Kenya is considered a source of outward migration to the Middle East, other African nations, Europe and the US.<sup>169</sup> In recent years stories of domestic worker women returning to Kenya with harrowing tales of torture, physical abuse and sexual abuses in the hands of ruthless employers in the Middle East has been highlighted by the media. In addition, the media reported women returning home in coffins due to torture especially in Saudi Arabia.<sup>170</sup>

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<sup>165</sup> Hatton, Terry. *Emigration in the long run: evidence from two global centuries*, Asian Pacific Economic Literature, article in press, (2009), p. 78.

<sup>166</sup> Kenya Security Laws, Amendment Bill 2014.

<sup>167</sup> Hatton, Terry. *Emigration in the long run: evidence from two global centuries*, Asian Pacific Economic Literature, article in press, (2009), p. 78.

<sup>168</sup> Kenya Security Laws, Amendment Bill 2014.

<sup>169</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

<sup>170</sup> Ibid, (2012), p. 189.

Kenyans are still flocking to the Middle East in search of jobs and business, confident that the government will protect them.

### **3.3 Key Actors in the Immigration Management Flaws**

Odhiambo found that throughout history most major displacements of peoples has been as a result of either racial or religious conflict. This has been evidenced in Europe since the 15<sup>th</sup> century when the Jews were expelled from Spain, the Huguenots (French Protestants) were persecuted and a quarter of a million of them had to flee France, many of them resettling in Brandenburg, Germany. In 1708 the British parliament passed an act which would grant naturalized status to protestant refugees but the first records proving asylum were dated 1725.<sup>171</sup>

As discussed earlier in the document it took till 2006 for Kenya to come up with a formal statute on the issues of refugees (refugees' act 19). This act stipulated that the government would be in charge of refuge matters through the creation of an institutional framework including the administrative process.<sup>172</sup> The act defines a refugee in two broad categories: prima facie or a statutory refugee. A statutory refugee is a refugee category adopted from the 1951 convention for the status of refugees' definition, with the addition of sex as grounds for persecution. On the other hand, a prima facie refugee is a category that follows the expanded definition of a refugee under article 1 (2) of OAU 1969 convention<sup>173</sup> The act defines a refugee in two broad categories: prima facie or a statutory refugee.<sup>174</sup> A statutory refugee is a

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<sup>171</sup> Odhiambo, Abuya. 'United Nations High Commissioner for Refugees and status determination in taxing Kenya: an empirical survey,' in *Journal of African Law*, 48 (2004), pp. 186-206.

<sup>172</sup> Williams, Paul. *Security Studies: An Introduction*, Milton Park Abingdon, Oxon, Routledge 2 Park Square, (2013), p. 81.

<sup>173</sup> Williams, Paul. *Security Studies: An Introduction*, Milton Park Abingdon, Oxon, Routledge 2 Park Square, (2013), p. 81.

<sup>174</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

refugee category adopted from the 1951 convention for the status of refugees' definition, with the inclusion of sex as grounds for persecution. Conversely, a prima facie refugee is a category that follows the expanded definition of a refugee under article one of Organization of African Unity (OAU) 1969 convention.<sup>175</sup> It states that the minister in charge of immigration may declare prima facie status to any group of persons.

In seeking to have a better understanding of migration and security, Park reveals that those not included in the refugee status are defined in the 1951 convention. The 2006 law founded the Department for Refugee Affairs (DRA) inside the ministry of state for immigration and registration of persons. The person heading the DRA is the commissioner for refugees who is charged with the responsibility to manage, administer and coordinate refugee affairs. The refugee regulation of 2009 within the act comprehensively defines the asylum application procedure as well as rights and duties of refugees.<sup>176</sup>

### **3.4 Impact of Migration Management**

Foreign direct investment (FDI) has played a crucial and important role in the economic advancement of Kenya. The amount of FDI to Kenya has been on the steady increase for the past three decades but yet Kenya is still not competitive in attracting investment.<sup>177</sup> Surveys by world economic forum and international finance corporation narrowed down the reasons why doing business in Kenya has become

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<sup>175</sup> Odhiambo, Abuya. 'United Nations High Commissioner for Refugees and status determination in taxing Kenya: an empirical survey,' in *Journal of African Law*, 48 (2004), pp. 186-206.

<sup>176</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

<sup>177</sup> Long, Kilo. *Kenya, Jubaland and Somalia's refugees: no quick fixes*, LSE blog, (2010), p. 2.

quite a growing challenge. These reasons are employing workers, theft, protecting investors, trading across borders, enforcing contracts and fraud and crime.

The Kenya Institute for Public Policy Research and Analysis (KIPPRA) (2013) survey showed that there was an increase in FDI. As for 2008 the investment was 98 million dollars, in 2009 it was 115 million dollars, in 2010 it was dollars 178 million and in 2011 it was 335 million dollars. In 2012 the Foreign Direct Investment (FDI) went down by 76 million dollars.<sup>178</sup> The study also contended that fluctuations in FDI could be because of terrorism among other unsavory aspects of doing business here in Kenya.

Lindley proposes that there are many factors that usual affect the tourism industry adversely and they are: poor infrastructure, standard regulations, tour withdrawals and lack of tourism promotion by the necessary authorities. The Ebola pandemic in 2014 in West Africa has hit the industry especially hard. Bookings in east African hotel (506 of them) fell from anywhere between 20 to 70 percent.<sup>179</sup> Research in Western Kenya has revealed a bizarre pattern of migration where male children who expect to inherit from their parents migrate to look for work and remit money back to their parents with the understanding that the parents will reciprocate by willing them their earthly possessions.<sup>180</sup>

The United Nations shows that figures from the Kenyan United States (US) embassy show that there are about 47000 Kenyan nationals in the US, 26000 in Canada and 15000 in the United Kingdom (UK). It seems that in the 80s and 90s these migrants

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<sup>178</sup> Lindley, Alison. *The Early Morning Phonecall: Somali Refugees' Remittances*. New York: Berghan, (2010), p. 6.

<sup>179</sup> Ibid, (2010), p. 9.

<sup>180</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in *International Journal of Business and Social Science*, 3 (2012), pp. 161-171.

were moving permanently compelled by the volatile situation in their country of origin, unlike today where there's more of a circular form of migration where migrants willfully return after a relatively short period of time. Many workers also travelled to Gulf States, Rwanda, Burundi and even the Democratic Republic of Congo (DRC) for low skilled level work. There was also a demand for Kenyan teachers in the Seychelles.<sup>181</sup>

It is crucial to acknowledge that long term and short-term migration strategies have been used in Kenya to supplement household incomes in Kenya, especially those from rural areas whose source of daily bread is subsistence farming. Such kind of activities is well documented. And this usually involves rural to urban migration.<sup>182</sup> Verdirame and Harrell found that studies carried out by the Department of International Development (DFID) and Natural Resource Policy Program (NRPRP) reveal that over half the household in the area have supplemented income from a migrant family member. This income is seen to be stable and more sufficient than wage labour accessible to the area, and also, supplementary income has contributed immensely to investment in farming.<sup>183</sup> But there is a flip side to this narrative as Oucho reveals.

Oucho states that the consequences of rural-urban migration have to be measured in terms of balancing between the costs and returns. He defines the costs as loss of labour, cost of moving and settling in a new town. He defines the returns as

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<sup>181</sup> United Nations High Commissioner for Refugees. UNHCR policy on refugee protection and solutions in urban areas. Geneva: United Nations High Commissioner for Refugees, (2009).

<sup>182</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), pp. 161-171.

<sup>183</sup> Verdirame, Gilson and Harrell, Bond. *Rights in Exile: Janus Faced Humanitarianism*. Oxford and New York: Berghahn Books, (2005), p. 1.

remittance and the eventual return of the migrant.<sup>184</sup> He emphasizes the point, that remittances create a dependency problem. In the aftermath of the 2008-2008 post election violence, the government put much of its focus on relocation of (IDPs) and their right to return to their homes as the mainstream lasting solution. What the government didn't take into account were the matters of integration and justice for the aggrieved. Without the two things handled properly settling IDPs would pose a tremendous challenge. In 2009 the Kenya Human Rights Commission (KHRC) came out with the report that the government had closed many of the camps even though many people still lived in them. The government had embarked on a cash assistance program for the Internally Displaced Persons giving each household ten thousand in cash and 25000 for every family that had lost their livelihood.<sup>185</sup>

Commercial banks play a crucial role when it comes to facilitation of remittances from abroad. They use tools such as telegraphic transfer, bank drafts and electronic funds to transmit these remittances. They easily enable the transfer of massive funds are relatively inexpensive.<sup>186</sup> However, when it comes to transmitting smaller funds informal methods are used like the post office, especially when it is a domestic transfer. But now also mobile money is playing an important role in the transmission of remittances. M-pesa has now gone international and its services are now available in the US and Australia and in a majority of the east African nations.

Okoth saw that there are efforts to try and repatriate back skilled labour from abroad in order to contribute to nation building. Organisations such as IOM through the

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<sup>184</sup> Himbert, Salmon. *Kenya child protection assessment: Report and analysis*. Kambi oos camp and Hagadera outskirts, Terre des Hommes Kenya, (2011), pp. 5-8.

<sup>185</sup> United Nations High Commissioner for Refugees. UNHCR policy on refugee protection and solutions in urban areas. Geneva: United Nations High Commissioner for Refugees, (2009), pp. 6-9.

<sup>186</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), pp. 161-171.

RQAN scheme have returned over 300 professionals to Kenya by the end of 2002. However according to Okoth, he suggests it's better to leave these professionals in their host countries because from there they can do so much more to help their home nation and humanity in general. He gives an example of the Africa online company which was started by a Kenyan Ayisi Makatiani in the United States. Okoth notes as a result of underemployment which is a common feature in developing economies, that it would hinder these professionals from realizing their greatest potential.<sup>187</sup> IOM has introduced a new plan called MIDA with the same aim.<sup>188</sup>

Himbert posits that since 2013 internal conflict in South Sudan has made many of its inhabitants to migrate to other places in the continent. The living situation has been deemed untenable by the many who have had relatives slaughtered, property destroyed, been sexually abused or had loved ones and dependants abducted. When conflict renewed again in 2016 a lot of south Sudanese immigrated to Uganda. This meant many fleeing migrants from the region were women and children who meant this group of migrants were especially vulnerable to all sorts of abuse.<sup>189</sup> It has been universally acknowledged that a majority of south Sudanese who migrate to Juba do so because they are seeking employment, education or seeking out relations.<sup>190</sup> The constant migration to Juba can be attributed to the disparity of wealth and opportunity that exists between Juba dwellers and the rural folk.<sup>191</sup>

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<sup>187</sup> United Nations Department of Economic and Social Affairs, (2015), pp. 6-11.

<sup>188</sup> Himbert, Salmon. *Kenya child protection assessment: Report and analysis*. Kambi oos camp and Hagadera outskirts, Terre des Hommes Kenya, (2011), pp. 5-8.

<sup>189</sup> United Nations Department of Economic and Social Affairs, (2015), pp. 6-11.

<sup>190</sup> Himbert, Salmon. *Kenya child protection assessment: Report and analysis*. Kambi oos camp and Hagadera outskirts, Terre des Hommes Kenya, (2011), pp. 5-8.

<sup>191</sup> Kirui, Paul and Mwaruvia, Jane. *The dilemma of hosting refugees: a focus on the insecurity in north eastern Kenya*, in International Journal of Business and Social Science, 3 (2012), pp. 161-171.



### **3.5 Chapter Summary**

This section found that it is safe to assume that migration is a necessary and powerful way to affect changes in society. This is truer in marginalized societies where globalization threatens to leave their societies behind and render most of their way of life obsolete. Migration affects a household, a community and even an entire economy. The influence is usually positive but not always.

This chapter further found that migration mainly alleviates poverty through remittances back to the home country. This boosts consumption which naturally boosts commerce and finances businesses. It also alleviates poverty when the migrant comes back home with skills they learned in Diaspora which could be used for economic advantage. But not all impacts are positive. Unscrupulous recruiters are sending many young men and women to endure modern day slavery. Separation from loved ones is also stressful. Large scale migration also can affect host nations negatively by putting pressure on their precious resources or compromising national security.

## **Chapter Four**

### **The Implication of Immigration Management Flaws in Kenya**

This chapter critically analyzes the implication of immigration management flaws in Kenya and finally. The section was divided into several parts that were pertinent to the topic under study, generally the chapter aimed to analyze the impact of immigration management flaws on national security in the African continent with a focus on the Kenya and the South Sudan perspective.

#### **4.1 Research Findings, Interpretation and Presentations**

In this section the finding was reviewed, followed with interpretations and finally presentations of field data in relations to the general and specific objectives under study. The collection of data was done through research interview guide, sorted and analysed by using the stratified random approach.<sup>192</sup>

The data analysis involves the ordering and restructuring of data to produce knowledge. This study was keen to answer the emerging research issues related to immigration management-national security nexus around the World. In addition it aimed to answer the emerging impacts of migration management flaws with regards to national security in Africa and finally to know what are the implications of immigration management flaws in Kenya?

This section utilized qualitative and quantitative study approaches, in addition, the findings were form tables, histograms and narrative formats. This study employed content data analysis as the technique to establish immigration management flaws on national security in Africa within the sets of text from the interview conducted.

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<sup>192</sup> Mugenda, Olive and Mugenda, Abel. *Research Methods*; Acts Press, Kenya, (2013), p. 37

#### 4.1.1 Operationalization of Variables and Data

The field data obtained from the respondents was cleaned, coded, entered into a computer and analyzed. The then feedback (outcome) extracted from the research questionnaire was utilized that was needed. Data was further analyzed by the application of ANOVA popularly known as Analysis of Variance. This was intended to determine any significant differences and similarities between the study variables.

In addition to the above, inferential statistics used to establish the predictive control of the research, through the formulae;

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \varepsilon$$

Therefore

Y = Immigration management flow

X<sub>1</sub> = National-security nexus

X<sub>2</sub> = National-security effects

X<sub>3</sub> = National-security implications

ε = Erroneous variables

β<sub>0</sub> = Mathematical intercept

The completion rate or return response rate in the context of research denotes total respondents that successfully responded to the research tool by answering research data collection tool, verses the total within the sample size. The section found that a total of 15 respondents successfully completed the interview guide, out of 25 initially

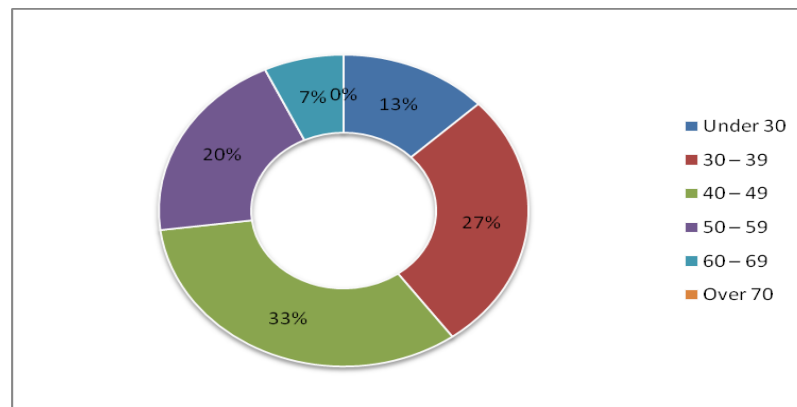
administered for the study and thus this represented 60 percent return rate which this research considered adequate for the analysis.

#### 4.1.2 Respondents profile and return rate

This study captures the profile of the chosen informants and coded then alphabetically, thus each representing a particular respondent from A – O respectively.

#### 4.1.3 Age of Respondents

The research respondents were rated based of their age distribution.



**Source:** Author (2019)

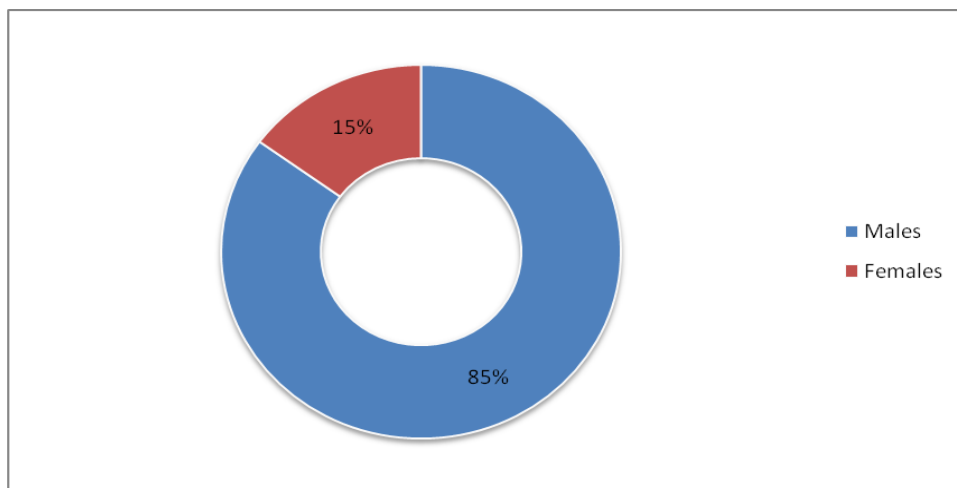
**Figure 1:** Respondents by age

The outcome showed in Figure 1 indicates that the age distribution found was higher among the respondents in age group 40 - 39 years at (33%), an indicating that most were mature, reliable informants and had a good grasp of the subject matter under research.

Sample mean age	-	37
Sample mode age	-	30
Sample median age	-	29
Range	-	9
Sample standard deviation	-	27

#### 4.1.4 Gender of Respondents

The respondents were rated based on their age distribution.



Source: Author (2019)

**Figure 2:** Respondents by gender

The outcome showed in Figure 2 indicates that the gender distribution found was highest in males (85%) than females (15%), indicating that males more accessible at the time of study.

#### 4.1.5 Respondents by Occupation

The respondents were rated based on their age their occupation distribution.

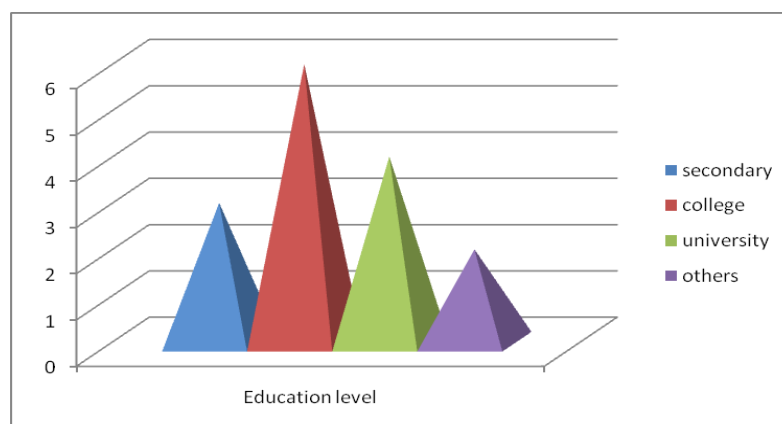
**Table 1:** Occupation of Respondents

Occupation	Frequency	Percentage (%)
Academia	3	20
Advocacy	4	27
Defence	3	20
Intelligence	1	6
Others	4	27
Total	15	100

This study found a wide variety of respondents from diverse backgrounds to present their views on the place of immigration management flaws on national security in Africa with reference to Kenya and Republic of South Sudan as shown Table 1.

#### 4.1.6 Respondents by Education

The respondents were rated based on their level of education, as demonstrated in figure 3.



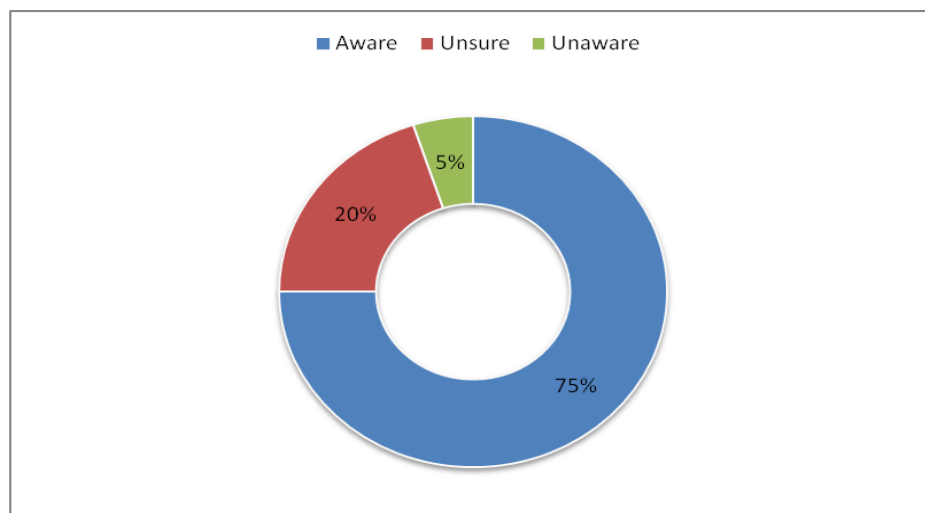
Source: Author (2019)

**Figure 3:** Participant education level

This study demonstrated education level of respondents Figure 3 shows that majority of the participants education was college (6), university (4), secondary (3) and others (2) respectively, indicating that they were all fairly exposed to some degree to the topic of study.

#### 4.1.7 Conceptualization of Immigration

This research considered some study concepts such as, immigration, international migration, immigration management flaws, and national security.



**Source:** Author (2019)

**Figure 4:** Respondents by international migration

The respondents were probed on the concept of international migration and the results showed those aware comprised (75%), unsure (20%) and unaware (5%) as illustrated in Figure 4.

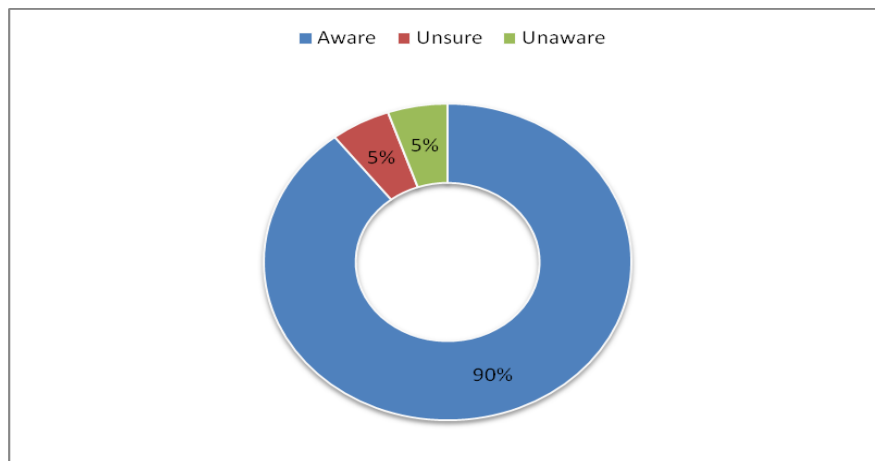
This is a clear indication that that the concept of international migration is still not universally assimilated and it usually depends on background of the informant and the topic. These findings agree with Berger who stated that national cohesion has no true

definition; depends on the level of tolerance, and respect for, the diversity both institutionally and individually.

This study notes that most definitions of concepts found seem to resonate with Williams who stated that migration is the movement of humans. The regular movement of human beings from place to place constitutes what is known as migration.

#### 4.1.8 Conceptualization of Security

The respondents were prodded to indicate understanding of the security concept.



**Source:** Author (2019)

**Figure 5:** Respondents by security

The respondents were probed on the concept of security and results revealed those who were aware comprised (90%), unsure (5%) and unaware (5%) as shown in Figure 5.

This section infers that this is an illustration that security is concerned mainly with the wellbeing of the individual. These findings were in agreement with Sheehan, who

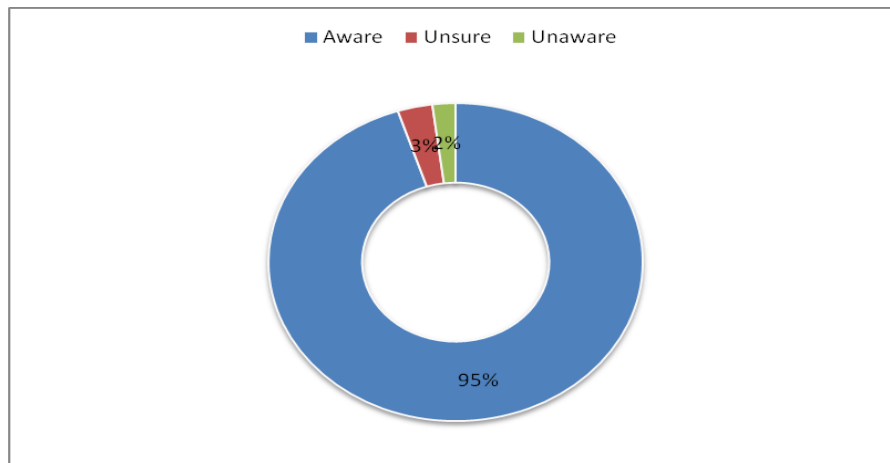


stated that the meaning of security is often treated as a common sense term that can be quickly understood by unacknowledged consensus.<sup>193</sup>

Mwagiru found that changes in the political, social, cultural and economic strictures of a given system.<sup>194</sup> The changes were marked by decline in ideological and super power conflicts, democratization process, technological changes and globalization. International security is taken as a multi-disciplinary concept that incorporates core values, challenges, options for management, defense issues, economic, culture and technological aspects.

#### 4.1.9 Conceptualization of National Security

This study was interested in reviewing the national security concept.



**Source:** Author (2019)

**Figure 6:** Respondents by national security

<sup>193</sup> United Nations High Commissioners for Refugees. UNHCR policy on refugee protection and solutions in urban areas. Geneva, UNHCR, (2011), p. 8.

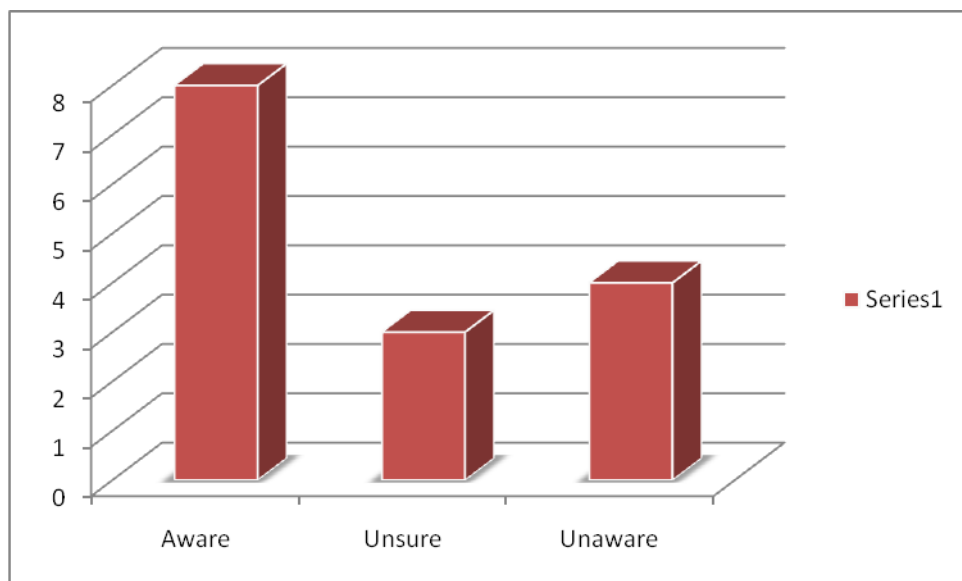
<sup>194</sup> Ibid, (2011), p, 9.

The respondents were probed on national security as a concept and the subsequent results indicated fully aware were (95%), unsure (3%) and unaware (2%) as indicated in Figure 6.

This section thus infers that security; specifically, national security is the government's ability to offer adequate protection to its citizens and its national interests, through the use of economic, military, political and diplomatic to enhance human capital of its citizenry. These findings are supported by Buzan, who states that matters pertaining to national security were crucial in order to build citizen capacity to other come various challenges such as external threats, economic hardships, cultural differences and internal security.<sup>195</sup>

#### 4.1.10 Conceptualization of Immigration Management Flaws

The respondents were asked to indicate understanding of immigration management flaws.



**Source:** Author (2019)

<sup>195</sup> Collins, Allan. *Contemporary Security Studies*, Third edition, United Kingdom, Ashford Colour Press, (2013), pp. 102-107.

**Figure 7: Respondents by immigration management flaws**

The respondents stated that on concept of immigration management flaws and the results showed those who were aware comprised (8), unsure (3) and unaware (4) shown in Figure 5.

This outcome deduces immigration management flaws remains as issues in many states, as the unregulated movement of persons from states to states, usually strains a given country, for instance displaced persons are seen as a source of trouble and are considered a form of burden to many.

In addition, the migrants are often associated with climate change, crimes, poverty, youth unemployment, violent extremism and conflicts. The research findings seem to be in connection with Barber, who revealed that illegal migrants usually exacerbate environmental degradation, leading to faster climate change; additionally, this migrants strain states resources such as healthcare, food, infrastructures and other government services. Some refugees and illegal immigrants are easily radicalised, and since they are disillusioned, they then turn into vices such as organized crime, terrorism, drug trafficking, prostitution, among others illicit activities.<sup>196</sup>

**4.1.11 Immigration Management Flaws-National Security nexus**

This section gave the correlation analysis measures between all the variables. In this analysis correlation relationships indicated the range of degree of association between variables.

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<sup>196</sup> United Nations High Commissioners for Refugees. UNHCR policy on refugee protection and solutions in urban areas. Geneva, UNHCR, (2011), p. 8.

**Table 2:** Response assessment in management flaws and threats to national security

Respondents (Response)	National security (Independent variables)	Immigration management flaws (Dependent variables)
1	1	4
2	3	2
3	5	4
4	1	2
5	1	4
6	3	3
7	2	1
8	1	1
9	2	1
10	5	2

**Source:** Author (2019)

Table 2 shows correlations between two quantitative variables of immigration management flaws and threats to national security.

The connection between threat to national security and migration patterns was under investigation. The correlation matrix was used to determine interaction of immigration management flaws (dependent variables) and its association with national security (independent variables). The data for a correlation analysis consists of two input columns of threats to security. The coefficient (r) was determined by identifying variables as shown in Table 2 scatter plot drawing to illustrate the linearity through the use of Statistical Packages for Social Science (SSPS) programme as shown in Figure 8.

This study found that from analysis the coefficient is supposed to have a range from (-1) to (+1). In this analysis correlation coefficient was normal at a value of 0.80 (r =

0.80) indicating that it had significant. This indicates relationship between the variables is very strong at  $r = 0.80$  or 80% as illustrated in Figure 8.

**Table 2:** Correlations Inferences

Study Variables		Threat to security	Immigration flaws	Immigration effects	Immigration implications
Threat to security	Pearson Correlation	1	.80**	.06	.47
	Sig. (2-tailed)		.000	.539	.719
	N	35	35	35	35
Immigration flaws	Pearson Correlation	.80**	1	.426**	.063
	Sig. (2-tailed)	.000		.003	.673
	N	35	35	35	35
Immigration effects	Pearson Correlation	.06	.426**	1	.213
	Sig. (2-tailed)	.539	.003		.146
	N	35	35	35	35
Immigration implications	Pearson Correlation	.47	.063	.213	1
	Sig. (2-tailed)	.719	.673	.146	
	N	35	35	35	35

\*\* Correlation is significant at the 0.01 level (2-tailed).

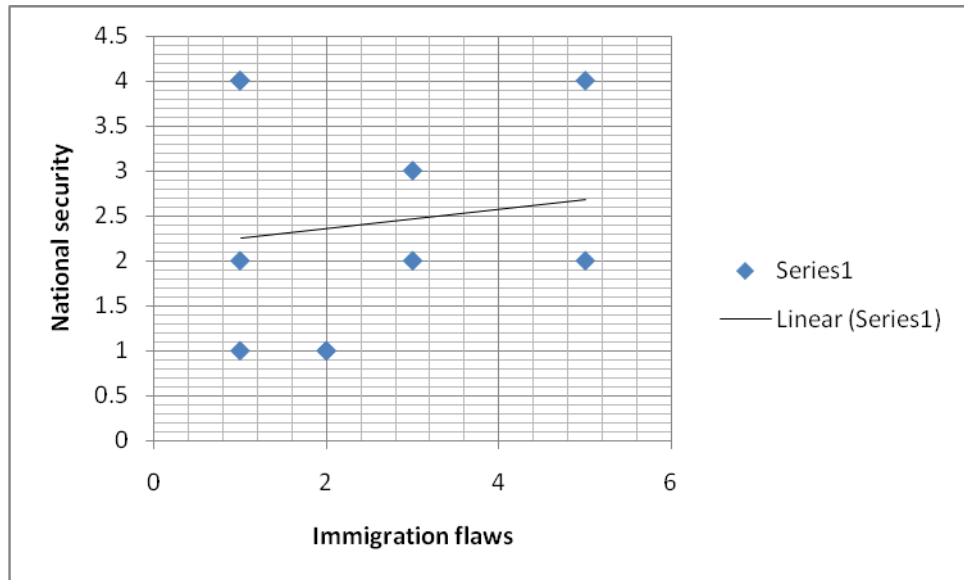
$$X_1 = .80$$

$$X_2 = .063$$

$$X_3 = 1$$

This research notes that as per the inter-correlation matrix, all the independent variables associate positively with threat to security (the dependent variable) at varying degrees. Similarly, national technology and immigration management flaws are equally highly correlated with threat to security while cyber strategies are related albeit to a low extent.

The immigration effects showed a very weak correlation with threat to security because this is a counter measure to insecurity that includes immigration awareness.



Source: Author (2019)

Figure 8: Correlation of variables

On the overall, this also means that immigration management flaws, immigration effects and immigration implications to some extent have an effect on security; cause when taken into account could increase threat to national security.

#### 4.2 Immigration Management-National Security Nexus around the World

This section indicates that the scale of response as (1) strongly agree, (2) agree, (3) neutral, (4) disagree and (5) strongly Rate of response with regards to the actors and mechanisms for mitigation of migration in Africa was strongly agree (0%), agree (10%), neutral (10%), disagree (60%) and strong disagree (20%) respectively.

The informants who disagreed (60%) with regards to mechanisms for mitigation of migration in Africa, revealed that, migration as a concern, in Africa is a natural phenomenon by conflicts, politics, economics, military and social instability. Thus, there were many actors in migration issues but few mechanisms for mitigating migration problems in Africa.

According to these informants' part of the reason for increased movement of persons was due to the fact that migration is taken as people's natural response to prevailing conditions that could be social, economic, political, cultural, security or psychological in nature. The informants further stated that there are many migrants in the world today, mainly driven by democratic imbalances, economic disparity, increased globalization, political instability, persistent conflicts, and climate changes, all forecast further episodes of large-scale migration in the African continent.

According to the same informants stated that some environmental factors such as forest degradation, climate change, droughts and other natural disasters all influence human decisions in the African context. The informant's felt that generally speaking there are two factors that influence people to migrate in the East African region. They are broadly categorised as push and pull factors. The push factors take place where someone is currently living and they experience some kind of challenge that makes their place inhabitable. The pull factors are observed when a person reaches out for better prospects, for instance, the pull for better job prospects, makes one consider moving.

The informants who strongly disagreed (20%) state that the migration effects on security includes the increase in crime, stress on housing facilities, political divisions, social tensions, increased costs of commodities, overcrowding, transmission of

potentially fatal diseases, and the marginalization of some immigrants into low skills and low paying jobs.

The same respondents insist that Africa, in particular the East African region is filled with many cases of forced migration. The region has some of the highest numbers of displaced persons, regular fights and expulsions as a result of violent conflicts greatly influence the stability, development and security of the states concerned. In the case of South Sudan, more and more people flee their homesteads resulting from circumstance that force them to seek for better living conditions. Therefore, migration impacts on Kenya's security in various ways, some of which include, threatening the sovereignty of the host country (here in Kenya), with the threat of mass migration violating border control and sovereignty territory.

The (10%) of the respondents went further to reveal that migration may pose a threat to the hosts economy, and this is where migration is considered some individuals as a coping mechanism in times of disasters. These findings align with the fact that the government of Kenya in conjunction with other stake holders, take various approaches to manage refugees in the country. These approaches include enforcing the existing International Refugees laws as well as the enactment of legal, policy and institutional frameworks all geared towards management of the complex challenges that encompass the refugee phenomena.<sup>197</sup>

This study further found that local response to mechanisms for mitigation of migration in Africa, migration is of people is usually caused by their sensitivity to their environment. It is important to appreciate that migration flows are sensitive to changes in resource availability and ecosystem services. In addition, migration and

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<sup>197</sup> Kenya Security Laws, Amendment Bill 2014.



mobility are adaptation are sometimes perceived by the population in the destination countries as a sources of fear, and this lead to a lack of security in the broadest sense of the word, that is, violence and crime, and also insecurity such as the loss of one's job and livelihood.

Ironically it is the Europeans who would wish to curtail the movement of African and Asian migrants according to Goodwin-gill who stated that the EU is using a joint migration management program that involves tedious negotiations between countries of transit, destination and origin. Its intentions as they say is to maximise the benefits and minimise the disadvantages of migration.<sup>198</sup> Management essentially concerns the reduction of irregular migration, promote rights, protection and reduce economic pressures that influence external migration and regulate labour migrants.<sup>199</sup> It must be noted that migration is not only a method for alleviating poverty, but in many communities it is seen as an opportunity for a young person to go out into the world and make something of themselves, it is a source of pride and self-respect to be viewed with admiration within their families and the broader community. It is viewed as a way to broaden one's horizons and almost a rite of passage into adulthood. Migration still continues to serve as one of the most important ways to improve rural communities.

### **4.3 Impact of Immigration Management Flows on National Security in Africa**

The response scale was 1 = strongly agree, 2 = Agree, 3 = Neutral, 4 = Disagree and 5 = Strongly disagree respectively. The rate of response with regards to the role and impact of national and foreign policy in mitigating migration problems; the

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<sup>198</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

<sup>199</sup> Kenya Security Laws, Amendment Bill 2014.

informants stated that, strongly agree (75%), Agree (15%), Neutral (0%), Disagree (5%) and Strongly disagree (0%) respectively.

This study found 75% of respondents felt that the west's policy toward migrants was one of having absolute control over the migrant. Nevertheless, with migrant issues now being dealt with by recognisable international institutions and it being a topical issue in western politics, comprehensive solutions are being sought. The EU also has been seen to soften its stance and is willing to engage in cooperative efforts in developing joint strategies for migration.

This section argues that the public need to have a place to get information before leaving the country especially for work. On the other hand, the government needs to control the number of foreigners seeking to work in Kenya or to live in the country for long periods. It is crucial that Kenya's foreign policy document addresses more issues as compared to the Diaspora issues that it seems to address currently.

The researcher is of the opinion that there needs to be an agency that confirms the validity of the existence of an employer and one that tracks the movement of an employee before they leave the country and go abroad. The government also needs to regulate the number of migrants coming in to work in the country, especially at jobs that Kenyans are qualified for.

Foreign policy also has to reflect the negative side of migration such as irregular immigration, human and sex trafficking, and the squalid lives that refugees have to endure.

Migratory policy and refugee status are usually in the purview of governments and aid organisations. Private organisations and corporations' involvement have been very

limited and although the government tries to put its best foot forward there's only so much that it can do with limited resources.

This section found that most African countries are of the view that migration should be seen as a tool for development and should not only be looked at as an activity to be curtailed. So, it should be in the best interests of African governments to make their countries conducive places to do business by facilitating the banking sector with security and ensuring there's rule of law. This will spur the flow of remittances and facilitate human capital gains. Governments should encourage and make it as easy as possible for their citizens to engage with other countrymen in Diaspora and build networks.

In conclusion the research has established that both governments and international organisations see the migratory trend as having a positive impact on development as long as proper policies are in place in host, transit and origin countries. The study findings were aligning with multiple African states now agree that migration cannot be isolated from their development policies. The African migration topic has leaned toward focusing more on a migration-development nexus, instead of migration control. important topics include the enabling and institutionalisation of remittance funds; encouraging human capital gains and encouraging growth of the economy.<sup>200</sup>

Finally, this study found that nation-states and international organizations recognize migration as a trend whose positive impact in development terms can be substantial provided that appropriate policies are in place. By determining the size, mix and terms of migration, migration policies greatly influence those factors commonly studied to be of consequence for development which includes human capital

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<sup>200</sup> Park, Crystal. *Mean-making and psychological adjustment following refugee trauma*. National Psychological Institute, (2018), p. 513.

formation, remittances (size and value), trade flows, foreign direct investment and skill transfer. These factors may be more or less dynamic to the shaping of foreign policy document on migration policies. Thus several states especially in Africa nevertheless realize that, usually the policy is designed to take care of national interests.

#### **4.4 Implications of Immigration Management Flows in Kenya**

The response scale was 1 = strongly agree, 2 = Agree, 3 = Neutral, 4 = Disagree and 5 = Strongly disagree respectively. The rate of response with regards to the intersection between migration and relevant policy - the informants stated that, strongly agree (85%), Agree (10%), Neutral (5%), Disagree (0%) and Strongly disagree (0%) respectively. The majority of (85%)

Kenya's 2030 vision is heralded on the development of three strong pillars of our society; the economic, social and political. But in all the plans since 2002 that the government has put forward for the country to achieve its vision 2030 goals, none has made mention of migration as a strong tool that could spur growth and development to the level Kenya needs to attain such goals.<sup>201</sup> This is evidenced by the fact that the Kenya national migratory policy is still in draft form same as the national labour migration policy and yet a diaspora policy was launched in 2015. The policy aimed to provide an opportunity for those in the diaspora to be able to know ways in which they could contribute to the homeland's nation building and establish the necessary institutions to coordinate and administer diaspora issues<sup>202</sup>

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<sup>201</sup> Himbert, Salmon. *Kenya child protection assessment: Report and analysis*. Kambi oos camp and Hagadera outskirts, Terre des Hommes Kenya, (2011), pp. 5-8.

<sup>202</sup> Myrskylä, Mikko, Hans-Peter Kohler and Francesco C. Billari. *Advances in development reverse fertility declines*, *Nature*, vol. 460, (2009), pp.741-743.

Kenyan laws that maybe necessary for a Kenyan migrant to be aware of, Dual citizenship laws; they limit the grounds upon which citizenship can be revoked. Article 39 of the constitution: every person has the right to freedom of movement and the right to leave the country. Article 42 of the constitution; it specifies economic and social rights that everyone is entitled to. Kenya citizenship and immigration act and related regulations, Kenya citizenship and foreign national management service act, Refugee act, Security amendment and laws act and the Counter trafficking in person act.<sup>203</sup> Kenya is a signatory to a number of relevant regional agreements like the treaty on establishing the east Africa community.

Kenya is a signatory several regional agreements like the OAU (herein AU) Convention Governing the Specific Aspect of Refugee Problems in Africa and the Treaty for the Establishment of the East African Community. The Department of Immigration has the responsibility of issuing visas and permits to temporary residents in Kenya and has information on foreign students, workers, expatriates and other persons.<sup>204</sup> However, at the moment, this information was not available as it is thought to be sensitive and private.

#### **4.5 Chapter Summary**

This research has shown that a wide range of stakeholders are going to have to be consulted if the migration issue is going to be handled in a manner that is a win-win for everyone involved. Cooperation between governments and NGOs is crucial because whereas government officers may be in short supply the NGO staff could supplement their numbers.

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<sup>203</sup> United Nations High Commissioner for Refugees. *UNHCR policy on refugee protection and solutions in urban areas*. Geneva: United Nations High Commissioner for Refugees, (2009), p. 1.

<sup>204</sup> Myrskylä, Mikko, Hans-Peter Kohler and Francesco C. Billari. *Advances in development reverse fertility declines*, *Nature*, vol. 460, (2009), pp.741-743.

This is especially since NGOs are located in different parts of the world and due to their advocacy, experience in awareness creation and monitoring they are able to more reliably identify problems migrants face in relation to human rights, human trafficking, humanitarian assistance and the need for special groups. Governments could use this information from NGOs to come up with better policy for the welfare of migrants and in this way, NGOs can be seen as partners in developing policy.

## Chapter Five

### Discussions, Conclusions and Recommendations

This chapter brings about the final conclusion and recommendations of research on the impact of immigration management flows on national security in Africa with specific reference to Kenya and Republic of South Sudan. It summarizes up the major findings - based on objectives and hypotheses of the study.

#### 5.1 Discussion

It seems undeniable that the phenomenon of migration can be linked not only to local but also international factors. International factors can be viewed from a local perspective to give a clear picture why this phenomenon takes place. This study has clearly shown that Kenya has done little to mitigate its immigration problems.

Makinda informs the research that Kenya's foreign policy was designed to attract foreign capital, preserve local and foreign investment, guarantee security and consolidate regional influence.<sup>205</sup> But it is been seen that these ends in foreign policy don't necessarily coincide with migrant needs.

This research established that ninety-five percent of the informants had a good grasp of the subject matter under study. This research shows the mechanisms for mitigation of migration in Africa, remains not clear due to many points of view that are caused by the different geographical locations of nations and their experiences with the different dimensions of migration in the continent.

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<sup>205</sup> Collins, Allan. *Contemporary Security Studies*, Third edition, United Kingdom, Ashford Colour Press, (2013), p. 109.

## **5.2 Conclusion**

### **5.2.1 International economic disparities**

Historically migration has been a means for households to supplement their income due to lack of opportunity in origin states. This is mainly due to international disparities caused by environmental degradation, war and poor governance.

### **5.2.2 Stakeholders cooperation**

Today societies are living within territories that are defined by formal borders and so the movements of people across these borders have to be monitored. These borders have given people a sense of nationhood and therefore migrants tend to be looked at as the “other” in host societies. This can breed suspicion among the natives of the “outsiders” and misunderstandings can easily lead to conflict. Therefore, the study came to a conclusion that greater cooperation is needed between countries of origin, transit and destination in order for migration to run smoothly. Government and NGO cooperation is very important. This has to happen if migrants are going to be aware of their rights and receive humane treatment wherever they happen to be. Many immigration policies of developed countries are selective only to specific labour needs which have provided new challenges to countries sending or accepting migrants.

### **5.2.3 Complementary migration policies**

Against the backdrop of governmental cooperation to address migration challenges, the study concludes that there is need for formulating of effective complementary migration policies, which will enable the governments of the receiving countries to reconcile the interests of their populations and the demands of millions who are in



search of better living standards, has become the most daunting issue to address. Thus in looking at other policies, the study notes that domestic "immigrant policies" on housing, employment and education form an unavoidable part of African nations like Kenya on immigration policies.

#### **5.2.4 African policy practitioners**

The study concludes that there is an urgent need for countries to come up with complementary policies on migration which will in turn prevent humanitarian crises. This is not an easy thing to do considering all the regional bodies that are in existence in the world and each of them with a unique set of rules and policies

Domestic migration inevitably affects the local government policy especially on policies concerning housing, education and labor. Lucas has produced a catalogue showing how migrations affect government policies across the world. The study concludes that there is a bond that connects foreign policy and migration policy of countries which emanate from domestic concerns. For some reason African policy practitioners seem to make a distinction between migration and foreign policy but this study shows that such distinctions are insupportable and even other studies concur. There's a need for more immigration data especially on its relationship with the environment across Kenya and South Sudan and the implications of climate change.

### **5.3 Recommendations**

#### **5.3.1 Embrace public opinion on migration matters**

The study recommends that the government must consult the public in migration matters as migration has a direct impact to the lives of the general public. Usually immigration policy is made without any public participation whatsoever and it is only

through activists and NGOs are immigration policies considered outside the realm of government

### **5.3.2 Recognition of positive impact of remittances**

This section recommends that remittances from immigrants or persons in the Diaspora should be encouraged by governments, as they help boost the economy especially local economies in host countries. They provide forex (foreign exchange currency) to countries to boost the financial sector which in turn attracts more investment. This study concludes that remittances are a positive aspect to a country's overall economy. Therefore, countries of origin for migrants must promote the banking sector which facilitates that safe and timely transfer of funds.

### **5.3.3 Social cohesion**

The study recommends the key players in the migration scenario should promote social cohesion as this will enhance the safety and well-being of migrants.

## **5.4 Areas of further study**

- Female Migrants
- Migration in Europe
- Positive impact of migration
- Challenges of migration enforcement officers.

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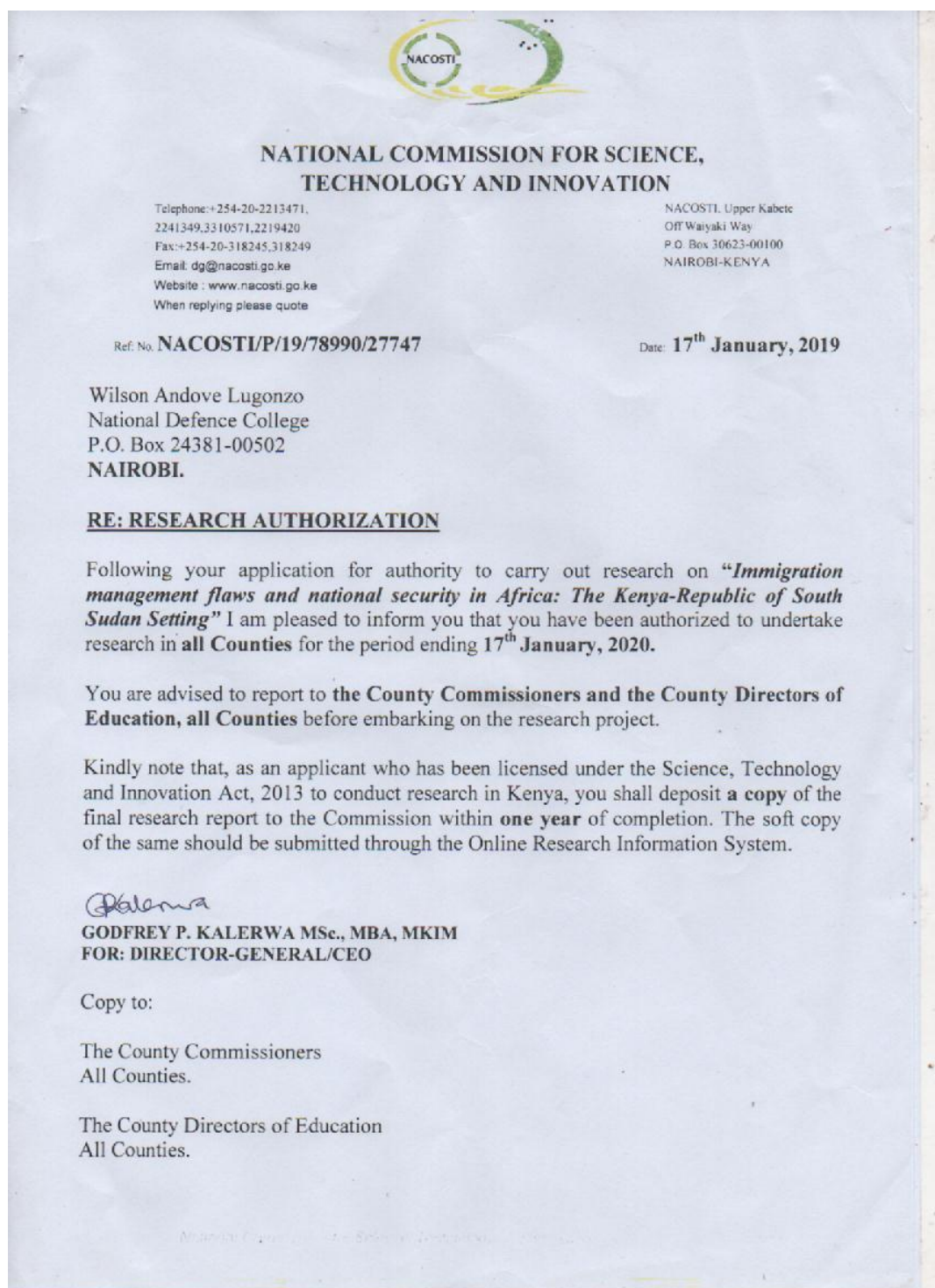
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## Appendices

### Appendix I: Data Collection Authority Letter - National Council of Science and Technology





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**SECURITY IN AFRICA: THE**  
**KENYA-REPUBLIC OF SOUTH SUDAN**  
**SETTING:**  
**for the period ending:**  
**17th January, 2020**  
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## Appendix II: Structured Questionnaire

Serial No.....

The general objective guiding this study are to analyze the impact of immigration management flaws on national security in Africa with specific reference to Kenya and Republic of South Sudan, please answer by ticking appropriately and filling in where necessary.

### Part 1: Respondent Profile

1. Your gender? .....
  
2. Age? .....
  
3. Education level? .....
  
4. Office department? .....
  
5. Work specialization? .....

6. Are you familiar with the concept of migration flaws? Yes No

.....

.....

.....

.....

7. What is the immigration management-national security nexus around the World?

.....

.....

.....

8. Immigration management flaws impacts on national security in Africa?

.....

.....

.....

9. What are the implications of immigration management flaws in Kenya?

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.....

Part 2: The impact of immigration management flows on national security in Africa with specific reference to Kenya and Republic of South Sudan. Respond to each statement accordingly, based on the response scale and give your reasons.

1 = strongly agree, 2 = agree, 3 = undecided or Neutral, 4 = disagree and 5 = strongly disagree respectively.

No.	Questions	Response Scale				
		Strongly agree	Agree	Undecided or Neutral	Disagree	Strongly disagree
		1	2	3	4	5
10.	National security policies play a crucial role in mitigating migration problems?					
11.	There many actors and mechanisms for prevention of migration issues in Africa?					
12.	That there is a relationship between migration and foreign relations in Kenya and South Sudan?					
13.	Migration is a major challenge between Kenya and South Sudan?					
14.	Migration issues n Kenya seems to be highly taken up by one actor instead of					

	a multi-sectored approach?					
<b>15.</b>	Many people in South Sudan prefer to migrate due to various factors?					
<b>16.</b>	States and organizations recognize that migration has both challenges and opportunities, depending on how one looks at it?					
<b>17.</b>	Migration management has become one of the challenges for the Kenyan and South Sudan?					
<b>19.</b>	Final remarks.					

Thank You.

**END.**