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**ANALYSIS OF THE IMPACT OF IMMIGRATION ON REGIONAL
INTEGRATION OF EAC. CASE STUDY OF KENYA**

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REG. NO: R50/80857/2015

**RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILLMENT OF
REQUIREMENTS FOR THE DEGREE OF MASTERS IN INTERNATIONAL
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DECLARATION

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

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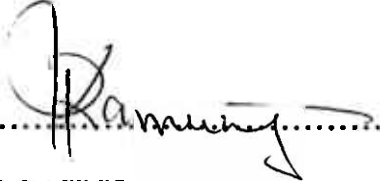
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This project has been submitted for examination with our approval as the University Supervisor.

Signature..........

Date.....08/12/2017.....

DR. PRISCAH KAMUNGI

DEDICATION

I dedicate this work to my family who believed in me and has always supported me in their own special way. Thank you and God bless you!

ACKNOWLEDGEMENT

I highly appreciate the contribution and support received from various individuals towards completion of this study. I express my gratitude towards my supervisor Dr. Priscah Kamungi for her academic guidance and adding value to my study. I acknowledge the encouragement and inspiration of my family and friends who supported me in their own special way.

ABSTRACT

This study sought to establish the nexus between Kenya's immigration policies and the process of integration in East African community (EAC). The centrality of immigration in integration process is vital in actualizing the objectives of the binding treaty that created the regional integrated community. Issues of immigration have shaped the ever-growing debate on free movement across the member states borders. Whereas, regional integration envisions a community where people can move and establish residence in their partner state territory, policy challenges inherent in immigration continue to hamper the realization of meaningful integration. Essentially, this study sought to establish whether immigration policies adopted by member states are tailored to suit integration ideals of unrestricted movement, and rights of residence and establishment as enshrined in the Community's Treaty. To achieve that the study utilized a case study of Kenyan immigration policies under the general objective; to establish the nexus between Kenya's immigration policies and integration process in the East African Community. Specific objectives were; to assess the policy framework governing immigration in Kenya; to review the process of integration in EAC and to establish potential impact of implementation of Kenya's immigration policies on EAC integration process. This study was conceptualized under migration theory postulated by Ravenstein. The study was conducted in Nairobi where most of immigrants are resettled and majority of government institutions concerned with immigration are located. The study used a non-probability sampling method of purposive or judgmental sampling and a sample size of 50 respondents who responded to questionnaires sampled by use of stratified random sampling techniques. To measure reliability and validity of data collection instruments the study performed a pilot study on 10 per cent of the respondents from the immigration department. The researcher utilized questionnaires to gather primary data which was analyzed using Statistical Package for Social Sciences (SPSS version 11.5). Here quantitative data such as percentages and frequencies were run, which were then formulated and tabulated in tables and graphs as directed by the research objectives. The findings established by the study were presented in a summary and tailor made recommendations were proposed to revamp the government policy in line with the broader objective of effective regional integration.

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LIST OF ACRONYMS AND ABBREVIATIONS

CMP	-	Common Market Protocol (of the EAC)
DRC	-	Democratic Republic of Congo
EAC	-	East African Community
GDP	-	Gross Domestic Product
GOR	-	Government of Rwanda
ICCPR	-	International Covenant on Civil and Political Rights
IDP	-	Internally Displaced Persons
IMWC	-	International Migrant Workers Convention
IOM	-	International Organization for Migration
IPI	-	International Peace Institute
KIIs	-	Key Informant Interviews
KNHCR	-	Kenya National Commission on Human Rights
MTP	-	Medium Term Plan
NACOSTI	-	National Commission for Science and Technology
NGO's	-	Non-Governmental Organizations
OAU	-	Organization of African Union
PEACCM	-	East African Community Common market
REC's	-	African Regional Economic Communities
UNHCR	-	United Nations High Commissioner for Refugee

CHAPTER ONE

1.1 Introduction

The concept of immigration has been constantly used to refer to movement of people into a particular state. Immigration entails groups of people including forced immigrants fleeing their country of origin or exiled persons who may enter a particular country to look for protection and security, displaced persons who may enter another country as a result of natural disasters such as floods, prolonged droughts, and earthquakes among other calamities. This research focuses on the impact of immigration into Kenya on the process of integration of the East African Community. It will focus specifically on the movement of persons from other countries into Kenya as well as Kenya's reaction towards immigrants.

Specific emphasis will be directed towards the movement of persons in the region *visa vis* legal framework initiated by the government of Kenya, to regulate immigration and the effect of such regulation to the integration process. To achieve that, this research will first review the concept of the movement of persons into Kenya as well as the legal framework enacted by the government of Kenya.

1.2 Background to the Study

The freedom of movement of EAC citizens has been provided for and is only applicable to citizens of a member state who wish to move to another member state to seek, visit, seek education or other legally permitted activities limited to work and self-

employment.¹As per the IOM (2000) reasons for cross fringe relocation run from contrasts in work openings, expectations for everyday comforts between nations; expanded instruction more extensive access to data abroad, evolving socioeconomics, poor financial living conditions, government frameworks that are unbending, drops in genuine pay, cash depreciation, war and debasement. Transients have been dreaded to cause different issues; the ascent in wrongdoing, spread of ailments, taking endlessly occupations from local people or driving down the wages of nearby specialists.

According to Mau and Guyo, approximately 30 million Africans stay in states not their home countries. Such high figures point to the importance of managing state borders and migration.² According to Anasi, about 800 illegal migrants cross into Kenya every monthly. These complicates matters given the rise of terrorism globally and hence necessitates governments to come up with tougher immigration and border security frameworks.³A big number of immigrants originate from within the continent with a bigger portion coming from East African states.

Some few immigrants from outside the EAC also reside in Kenya. Although globally there was a rise in immigrant number between 1990 and 2013, the figures still account for just 2% of the global population.⁴Immigrants come to Kenya to majorly seeks for employment and pursue education opportunities. These reasons often referred to as pull

¹ Ogalo, V. (2012). *Achievements and Challenges of Implementation of the EAC Common Market Protocol in Kenya: Case of Free Movement of Labor*. Nairobi: CMP Press

² Mau, M & Guyo, W. (2014). Effective electronic strategies on cross border migration control adopted by immigration authority in Kenya. Nairobi. *Prime Journal of Social Science*. Vol.3(2)

³ International Organization for Migration (2000). *Labor Migration Policy and Research*, Switzerland.

⁴ IOM. (2015). *Migration in Kenya. A country Profile 2015*. Nairobi: IDF

factors, and major on Kenya being located strategically in the East African region. This enables and facilitates international workers working in the UN, as well as civil societies to easily coordinate their activities and even businesses between Kenya and the rest of the countries in the region.

As well, Kenya's developed economy is a major attraction for short-term and long-term immigrants to the country. Due to these pull factors, Kenya today hosts a big number of foreign and immigrant born population in the country which refugees coming to seek education, employment as well as those running away from civil wars and persecution. The latter form a vast number of asylum-seekers and refugees from countries around Kenya. According to the 2009, Population and Housing Census, Kenya has a total of 357, 468 immigrants, of which the vast majority (84%) were from East Africa.⁵

Immigration in Kenya dates back to pre-colonial period. Then, it occurred in a borderless state and involved robust inter-community interactions, with which came non-restricted movement of people and goods. This immigration was strengthened by robust links in cultural aspects between ethnic communities. Such strong linkages led to development of strong bondages which ensured barter trade flourished between communities. The free movement of people throughout East Africa founded the basis upon which the East African Community was premised.

⁵Kenya National Bureau of Statistics (KNBS) N.D *Monograph on Emigrants from 2009 Kenya Population Housing Census*. Unpublished.

Upon the formation of the first EAC in 1967 through assent of a treaty between Uganda, Tanzania and Kenya, the process of free movement of persons was signified to have kicked off in the EAC and formed one of the pillars of the first EAC treaty.⁶The first EAC however, broke down owing to political differences and levels of development amongst members. Nonetheless, having learnt from their past mistakes, the three founding members of the first EAC, sought to resurrect the EAC after about two decades of pitch death. The new EAC was to restore the lost glory of the region as well as mend their broken ties.⁷ The new EAC would address the shortcomings of the first EAC and rekindle the East African spirit as well as help foster the horizontal development of the region among all member states. Through these shared vision, the EAC was reborn through the new EAC Treaty in 1999 and came into effect in the year 2000. The treaty was signed by the three original members-Uganda, Kenya and Tanzania which expanded to include Burundi and Rwanda in 2007 to expand the regional membership of the EAC to five states bloc.

Article 104 of East African Community Treaty calls for unrestricted movement of people and labor within the bloc, as well as the right of citizens of member countries to reside and establish in any state within the bloc.⁸ The article notes that member states have agreed in harmony to take gradual steps to ensure unrestricted movement of people and labor as well as their rights to establishment and residence are enacted, practiced and protected.

⁶ Kanyangoga, J, B. (2010). *Integrating Migration with Development in East Africa. Policy Challenges*. Nairobi: BIEAC

⁷ Ibid

⁸ Treaty for the Establishment of EAC. (2007). Article 104. Free Movement of Persons. Arusha: EAC Publication

1.3 Statement of the Problem

In Kenya currently, the Ministry of Interior and Coordination of National Government functions is responsible for immigration in the country and offers immigration related services for the government of Kenya. For instance, in its strategic plan (2009), the Ministry (formally Ministry of Immigration) outlines strategies aimed towards hitching human resource to foster for optimum development. This is to be achieved through, establishing comprehensive data management systems of populations which should be fully automated and provide integrated information on sections of or the whole population.

This process enables the state to realize and successfully implement citizen identification, and control movement across national borders prudently. The free movement of people across the East African region has been challenged on different accounts by the stringent regulatory frameworks enacted by member states. Meaningful integration has not been realized even after the member countries adopted common market status since unrestricted movement of citizens across the member states continue to be hampered by both governmental and institutional bottlenecks. This research proposal realizes a gap in knowledge concerning these governmental and institutional policies which inherently challenge balancing immigration issues and achieving practical regional integration. This research is focused in establishing whether immigration policies adopted by member states are tailored to suit integration ideals of unrestricted movement of people, rights of residence and establishment as enshrined in the Communities Treaty?

1.4 Objectives of the Study

1.4.1 General Research Objective

- i. To establish the nexus between Kenya's immigration policies and integration process.

1.4.2 Specific Objectives

- i. To assess the policy framework governing immigration in Kenya.
- ii. To review the East African regional integration process.
- iii. To establish the potential impact of the implementation of Kenya's immigration policies on EAC regional integration process.

1.5 Research Questions

- i. What policy framework regulates immigration in Kenya?
- ii. How has the regional integration been achieved in East African Community?
- iii. What is the potential impact of Kenya's immigration policy on the implementation of EAC's regional integration?

1.6 Justification of the Study

This study is a foundational framework aimed at enhancing the capacity building efforts among various policymakers, think-tanks, Non-Governmental entities and Kenyan in general as well as in East Africa to improve knowledge on immigration, through developing evidence-based solutions. Due to the significance of regional integration and the opportunities it presents in EAC this research provides both Academic and industry

knowledge, suitable for developing appropriate policies for advancing regional integration. Given that the treaty outlines the aim of the EAC common market as widening and deepening cooperation between member states so as to achieve progress in the social and economic angles so as to mutually benefit all members, this cooperation cannot be realized without adoption of appropriate immigration policy framework which promotes integration ideals. This research therefore, enhances the available knowledge on immigration and develops suitable approach of achieving regional integration which is pro-people.

1.7 Literature Review

Literature review adopted for use in this academic research obtains data from government reports, Research publications, journals, Academic dissertations, and institutional reports as well as other relevant secondary sources. It is organized into five subsections each dealing with contextual framework related to the study. This literature review will be divided under the following sub-sections: Immigration in Kenya, Emigration from Kenya, migration and its associated economic progress, immigration policy in the community and unrestricted movement of people in regional integration.

Migration in its multi-faceted dimensions of either emigration (moving out of one's home country to stay in another) or immigration (people moving into one country from another) can be traced many years ago. Historically, migration entailed borderless movement where people interacted freely while goods and services were exchanged in extensively. This was facilitated by the strong tribal and cultural linkages which existed among

people. These bondages were fortified into barter trade. This is the basis upon which the EAC was established in 1967 after agreement amongst Tanzania, Kenya and Uganda. Unrestricted movement of people was recognized as an integral part of that cooperation. This movement entailed both immigration and emigration of nationals from the countries which made up the community.

The regional integrated bloc disintegrated in 1977 following political differences among the three presidents of EAC member states. After close to two decades of disintegration the three East African Countries renewed their efforts to re-establish the regional body again. In 1999 the East African community was reborn. With the assent of the EAC Treaty. The 3 founding states were later expanded to include memberships of Rwanda and Burundi in 2007 enlarging the EAC to a five member bloc and by South Sudan recently to push it to six.

The EAC Treaty clearly spells out in Article 104 that unrestricted citizen movement in the region stipulated that labor services and right of establishment were integral parts of the integrated regional body. The treaty demonstrated the willingness by the member states to adopt measures aimed at achieving free movement of people in EAC.⁹ The treaty was therefore a landmark cornerstone upon which migration of people in the regional integrated economic and political establish was premised. It is upon this article that immigration into Kenya is premised, as well, the basis upon which this research is founded.

⁹ Ibid.

Kenya has been considered the economic powerhouse of the East African community and an allure for most of her East African neighbors, notably Tanzania, Uganda and South Sudanese. To achieve economic development and social growth. A recent trend has however, seen interest in the EAC bloc shift from Kenya to Tanzania where developed countries are directing their foreign aid and investment.¹⁰ As much as Tanzania has attracted huge FDIs which have created massive employment opportunities, many Tanzanian's lack required skills hence Kenyans and Ugandans are flocking to Tanzania to fill these vacancies.

In the five East African countries each particular country has developed its own immigration policy which is different from the rest and typically which suits respective national interests. Immigration policies in Kenya are developed by Department of Immigration. This department exists under guidance of various legal tools including the Aliens Restriction Act Cap 170, Kenya Citizenship Act Cap 173, and the Immigration Act Cap 172. These are backed by the Constitution of Kenya 2010.¹¹ The broader issues governing the national immigration policy entails maintaining and enhancing security, encouraging investment and transfer of skills as well as poverty reduction.

1.8 Immigration in Kenya

Kenya is an important and preferred destination for immigrants from other countries specifically from central and Eastern Africa and other countries. Data from the Kenya population and Housing Census in 2009 reveals that many migrants (or 79% of the total),

¹⁰EDPRS Document, *"Economic Development and Poverty Reduction Strategy*, September 2007, Rwandan Ministry of Finance and Economic Planning.

¹¹ Ibid

originate from sub-Saharan Africa countries.¹² Just 2 countries i.e. Burundi and Rwanda are EAC member countries.'

Immigrants originating from 4 EAC member states made up 31.9% of total immigrants in Africa accredited to the 2009 EAC revival and which has accelerated inter-marriage and cross-border movement in East Africa. Additionally, Chinese immigration to Kenya has been of significant importance considered in the immigration issues of the country. Apart from the conventional immigrants who come into the country for economic considerations, there are about 35,271 asylum-seekers.¹³

1.9 Emigration from Kenya

Kenya sends a substantial number of its population to other countries which is referred to as emigration. The Development Research Centre on Migration revealed in its 2015 research report revealed that intraregional mobility of 13.5 % Kenyans shifted towards Tanzania while neighboring Uganda accommodated 3.67%.¹⁴ In 2010, Uganda and Kenya had one of the largest migration corridors. Kenya's immigration to Uganda and to Tanzania implies the central importance of the two countries in the process of regional integration of the EAC.

Some of the factors which have contributed to emigration in Kenya include the aspects of changing political environment and economic instability. In the recent times particularly

¹²Republic of Kenya. (2012). *Kenya 2009 Population and Housing Census: Analytical Report on Migration*. Kenya National Bureau of Statistics (KNBS), Nairobi: Government Printer

¹³UNHCR. (2011). *Global Trends*, Geneva. Available at www.unhcr.org. Accessed on 7/3/2017

¹⁴Development Research Centre on Migration, Globalization and Poverty -Migration DRC (2015). *Global Migrant Origin Database*, , Brighton: University of Sussex

in the period 1980-1990, high cases of political persecution and economic decline resulted in massive migration of the academia and working class to other countries.¹⁵ The main drivers of emigration from Kenya in recent times are, low rains leading to drought, population explosion, and political persecutions.¹⁶ Additionally, it's recognized that there are several Kenyans abroad, although finding figures to support these numbers as well as establish a trend in Kenyans abroad. The main reasons behind migration are education and employment. The top ranking destinations for migration are in Africa and commonly Uganda and Tanzania.

However, Kenyans have migrated to all parts of the world and include Middle East, Caribbean, Asia, the Oceania and Latin America. Many Kenyans have also been flocking to the Middle East to seek employment and many of them flock to Saudi Arabia. In Kenyan custom records, the number of migrants departing Kenya are more to those arriving making Kenya a migration destination. The net emigration rate was -0.22 for every 1,000 persons in 2014.¹⁷ Among this however, only 35% are skilled and this has increased worry about brain drain and loss of workforce. Kenya's health is worst hit with over 51% skilled health professionals in Kenya migrating abroad. Kenya migration is net emigration because the number of departing Kenyans is higher than arriving foreigners. Between 2010 and 2015, the estimated 5 year average net migration rate was -0.2 migrants per 1,000 populations.¹⁸

¹⁵IOM & Migration Policy Institute. (2003). *World Migration Report 2003: Managing Migration - Challenges and Responses for People on the Move*. Geneva: IOM.

¹⁶ Okoth, K. (2003). *Kenya: What Role for Diaspora in Development?*

¹⁷IOM. (2015). *Migration in Kenya. A country Profile*. Nairobi. IOM Publication

¹⁸ Ibid

1.10 Migration and Economic Development

Migration be it immigration or emigration contribute immensely on economic growth any country. In Kenya, Central Bank reports often on the remittances from Kenyans in Diaspora while contribution of immigrants is enormous and greatly contributes to economic growth, to a greater extent grounded on figures given by money transfer entities. For instance, in 2014, more than \$ 1.4 billion was remitted by Kenyans abroad.¹⁹ These figures may not be accurate as they do not take into account other informal avenues of submitting money to the country. Majority of these transmittals came from North America (55%) as well as Europe (27%).²⁰

Migration is also associated with socio economic development. Migration has a critical effect in specific areas, for instance in the health department where a sizeable bit of doctors emigrate. Concerning living situations and neediness, provincial Kenyans who relocate to casual settlements and turn out to be a piece of the urban poor face critical impediments as for grimness, mortality, access to wellbeing administrations, and unsafe sexual practices. With respect to training, Kenya created instructors for the global work advertise, yet faces educator deficiencies in the nation.

1.11 Immigration Policy in the Country

Kenya gets immigrants from around the globe coming as temporary residents (for example; work permit holders, visitors, researchers and students), long-term immigrants (for example a wife of a Kenyan or investor) and asylum seekers. Immigration into the

¹⁹ Central Bank of Kenya –CBK (2014). Diaspora Remittances. Available from www.centralbank.go.ke. Accessed on 10/3/2017

²⁰ Ibid

country for employment opportunities has been cited as the most significant pull factor attracting immigrants into the country. INGOs working in Kenya and the region recruit workers from around the globe to work on their projects in Kenya and the region. There is shortage of figures on the exact number of foreigners working in Kenya. The Department of Immigration possesses such information but never releases it to the public stating it's highly confidential. The Department of Immigration is in charge of issuing visas and required permits to brief occupants in Kenya and may have information on students from outside studying in Kenya, as might the Ministry of Education and the instructive establishments with a worldwide understudy populace. Be that as it may, at the season of this investigation, this information was not made accessible as it was esteemed touchy, private and not for open utilization. A few colleges in Kenya could give information constrained on the quantity of foreign students in Kenya as well as their home countries and their subject of study.

1.12 How Free Movement of People Influences Regional Integration

Unrestricted Movement of people offers significant opportunities as well as insurmountable challenges to both the migrant and resident workers. Where there is free movement of people, privileges are accompanied by freedom to travel to and from the receiving countries at will, migrating workers can move freely to take advantage of employment opportunities that come up from time to time or to react to changes in the economic landscape of both their home country and destination countries. Such movements are important in minimizing pressures in the labor market of the receiving country in the case of an economic downturn. This was evident during the recent global

economic recession whereby the United Kingdom witnessed a 50 percent drop in the influx of A8 migrant workers seeking entrance into its labor market between 2007 and 2009.²¹

The free movement of people enables the movement of workers within industries or regions to look for better jobs within the bloc. Where such privileges are implemented, migrant workers can move to those areas least hit by unemployment but which are least attractive to resident workers. By doing so, migrant workers can avoid competing with the resident workers and at the same time fill an economic need, both of the employers and their own.

Lion's share of individuals moving from different nations looking for business openings have a tendency to be invested in segments or enterprises in which there is lack of aptitudes. In this way, as opposed to uproot the inhabitant specialists which is generally the most regularly referred to support against advancing work portability, transient laborers help in advancing the development of the segments being referred to. Free development of work likewise has real ramifications for the general population's fund of the host nation.

Increased rates of employment accompanied by higher consumption of locally made and originating goods and services would lead to realization of high government revenues of host nations in form of income and VAT rates. But on the other hand, the migrating

²¹Ogalo, V. (2012). *Achievements and Challenges of Implementation of the EAC Common Market Protocol in Kenya: Case of Free Movement of Labor*. Nairobi: CMP Publication

workers would also increase pressure on limited public goods and services that the government provides in sectors like social security, education, security, public health, housing etc. The government of the receiving country would therefore experience both an increase in its revenue as well as expenditure as a result of the growth in the population of its people.

1.13 Theoretical Framework

This research utilized the migration theory to explain the nexus between immigration and regional integration. Migration Theory was advanced by geographer Ravenstein in 1885 where he cited economic considerations as the major reasons as to why people migrate from one country to another. In this perspective people migrate from areas with low incomes to areas with high income as others move from areas with high population to lowly-populated areas. Migration Theory explains why migration patterns lean towards a given spatial-economic equilibrium.

This theory helps to contextualize the significance of integrating immigration policies in regional political and economic integration debates. While integration process is essentially driven by the economic considerations, migration issues are drawing greater attention to this multi-state process. Accounting for the high migration across national borders as well as within borders is unemployment within youth populations in rural areas, and unequal distribution of resources.

No doubt exists therefore, that immigration has an impact on the developmental of a country's GDP as well as influencing country's external relations with others in the international system. This study needs to focus on a cost-effective policy guideline to be formed by member states to address migration barriers, to liberalize the movement of persons, create a social system that takes care of migrants, to involve the diaspora in backing the development of their home states, and harmonize (if possible) the policy of development dealing with migration.

1.14 Research Methodology

This chapter covers the following; research design, data collection instruments, data collection procedure, target population of the study, study site, sampling procedure, reliability and validity of the research instruments, methods of data analysis, limitations of the study and ethical considerations. The study took various approaches in data collection. The said approaches are those deemed consistent with this kind of study and stands to be subjected to test of criticism among immigration stakeholders. The study explored the impact of immigration on regional integration in East Africa by utilizing Kenyan case study, to understand how immigration has impacted on EAC regional integration.

1.14.1 Research Design

This study employed an explorative and descriptive survey research design to analyze the impact of immigration on regional integration of EAC by employing a case study of Kenya. Mugenda and Mugenda (2003), notes that descriptive research is most applicable

where the study seeks to give a report of how things are. Therefore, this research design has the ability to produce information about aspects of immigration and regional integration that interests policy makers and researchers. Descriptive research method is that included inquiring from respondents how they see it and from their experience. Gill and Johnson (2002), connote that descriptive survey is used to bring out a specific trait of a population under study during a given juncture or junctures for purposes of comparison. Cooper and Schindler (2000) added that descriptive research design pronounces characteristics linked to the target population.²²

Descriptive design was utilized in light of the fact that it ensured broadness of data and exact expressive investigation of attributes of a specimen which was utilized to make derivations about populace. This design is valuable when a scientist needs to gather information on marvels that can't be watched straightforwardly. Its leeway is that, it permits the gathering of a lot of information from a sizeable populace in a very compelling, effortlessly and in an efficient way, regularly utilizing polls. The design additionally guarantee minimization of predisposition and amplification of unwavering quality in view of its inflexibility and it concentrates on the targets of the examination. Quantitative and subjective information accumulation strategies was utilized to enhance the substance of information gathered for this study.

²² Cooper, D and Schindler, P. (2000). *Business Research Methods*. New York: McGraw-Hill Education

1.14.2 Data Collection Instruments

The research used qualitative and quantitative methods to collect data. Primary data collection used interviews from immigration officials, IOM officials, local immigrants and NGO officials, where the researcher got first-hand information. Self-administered questionnaires were developed, with questions for response. Secondary data was acquired from analyzing websites, publications, websites, journals, government reports and published/unpublished materials, as well as newspapers and newsletters.

1.14.3 Target Population

This study targeted a body of professional who were well versed with immigration and regional integration in Kenya, but have expert knowledge on EAC partner states of Rwanda, Tanzania, Kenya, Uganda, and Burundi. With an approximated population of 151 million people collecting data from all these people is impractical and equally cumbersome. Therefore, a sample was chosen to represent the relevant attributes of the whole set of units termed as population. The sample size of this study was arrived through sample size computation at 95% confidence level and 5% margin error (research advisor 2006).²³

1.14.4 Sampling and Sample Size

The researcher used non-probability sampling method of purposive or judgmental sampling because the sample selection was based on nature of research objectives. Non-probability sampling implies that the sample is chosen due to its relevance to the study topic rather than their 'representativeness', which determines the way in which people to

²³ <http://research-advisors.com>

be studied are selected.²⁴ The research problem required investigation to be done using various specific groups of people in Kenya who are mandated with responsibility to govern immigration and regional integration as well as those affected by policies emanating from their policies. The sample size for this research was 50 respondents.

Table 1.1: Target Population and Sample Size

Target Sample	Size of Sample
Immigration officials	10
EAC Civil servants	10
Businesspersons	10
Civil Society Organizations	10
Immigrants (Foreigners)	10
Total	50

The study was carried out in Kenya, targeting immigration officials from the state department of immigration as well as civil servant drawn from the line ministries for instance the Ministry of East African Affairs, foreign Affairs and international Trade and NGOs mandated with management of migration of persons as well as regional integration, Academicians, business entrepreneurs and immigrants.

²⁴ Neuman W.L., (2006). *Social Research Methods: Qualitative and Quantitative Approaches*. Allyn and Bacon, Boston, Massachusetts, USA. p. 560.

1.14.5 Sampling Technique

Purposive sampling approach was used to ensure that reasonable representative sample is picked for the groups. The researcher then followed the principles from the Neuman's book for a small populace (under 100); a large sampling ratio (about 30%) is required for a high degree of accuracy.²⁵ Purposive sampling takes into mind the mutual characteristics of the population, endeavors to know where individuals are and tries to study them and obtain data from them.²⁶ The researcher considered the fact that majority of immigrants residing in Kenya had a firsthand experience with the country's immigration policies and therefore highly informative to this research.

1.14.6 Data Collection Procedure

Once the proposal was successfully defended and recommended corrections done, the researcher obtained a field work recommendation letter from University of Nairobi to permitting her to seek for a research permit from The National Commission for Science, Technology and Innovation (NACOSTI). Upon obtainment, the researcher requested NACOSTI to give her introductory letter/s to departments of several government institutions e.g. Ministries of; Interior, Foreign Affairs and International Trade, East African Affairs and department of immigration in order to be allowed to collect data which informed her study. Each day, the researcher made telephone calls to various departments so as to accelerate data collection.

²⁵ Neuman W., (2006). *Social Research Methods: Qualitative and Quantitative Approaches*. Allyn and Bacon, Boston, Massachusetts, USA. p. 560.

²⁶ Ibid

1.14.7 Sampling Procedure

Stratified random sampling design was used in the study. According to Kombo and Tromps, it includes division of the population to small homogenous clusters and collecting a sample from each of the clusters. The stratified random sampling method was most suitable in this study as the target population had various categories and it also minimizes biasness.²⁷

1.14.8 Study Site

This study was carried out in Nairobi where most of immigrants are resettled and majority of government institutions such as the ministries of Interior, Foreign Affairs, East African Affairs and department of immigration are located. All of them were involved in giving relevant data for the success of the study.

1.14.9 Instrument Validity

Validity is measured by how much confirmation and hypothesis bolster the elucidation of test scores involved by utilization of tests. The validity of a study instrument is the extent to which it measures what it's meant to quantify. Mugenda and Mugenda (1999) note, legitimacy is the exactness and importance of derivations, which depend on the examination comes about.²⁸ It is what percentage of the findings, really speak to the factors of the examination. The collection instrument was approved as far as substance legitimacy. Data collection instruments was pre-tested for validity via pilot study of a

²⁷Kombo, K and Tromps, L. (2015). *Social Research Methods: A Complete Guide*. Nairobi: Eureka Publishers

²⁸Mugenda, O. M., & Mugenda, A. G. (2003). *Research methods. Quantitative and qualitative approaches*. Nairobi: Acts Press.

small sample size of 15 people from immigration officials that has similar demographics as the study area. The content related technique measures the extent to which the questions items shown in specified areas covered.

1.14.10 Instrument Reliability

Reliability is the ability of an exploration tool to consistently quantify aspects of enthusiasm after some time. It about the quantity an instrument yields predictable outcomes or information. On the off chance that a specialist manages a test to the same phenomenon two times and gets the same score/outcome from principal test, at that point there is dependability of the instrument).²⁹Reliability is worried about consistency, reliability or dependability of a test. The study measured the reliability of the poll to decide its consistency in testing what they are proposed to quantify. The test re-test system was utilized to assess the dependability of the instruments. This included directing a similar test twice to a similar group of respondents who have been selected for this reason.

1.14.11 Data Analysis Procedure

In accordance to the study under investigation, both quantitative and qualitative data was utilized. Quantitative information collected by questionnaires was coded and entered into the PC for calculation of enlightening insights. The Statistical Package for Social Sciences (SPSS variant 11.5) was utilized to acquire descriptive statistics for example, recurrence and rates, to exhibit the quantitative information in type of tables and charts in light of the real research questions. The subjective information to be created from open

²⁹ Ibid

finished inquiries were sorted in topics as per examine targets and revealed in story frame alongside quantitative introduction. The qualitative data was utilized in supporting and expanding on the quantitative data.

1.14.12 Limitations of the Study

The limitations of a study are the shortcomings, states or influences that cannot be controlled by the researcher that place borders on the methodology and conclusions. To this regard, the following are the limitations which may have challenged the data collection. Some target respondents may have been hesitant to giving information that they may consider confidential. To mitigate this, there was a call to respondents to give accurate data bearing in mind that they would also benefit from the study. Some of the information details needed or requested for the research may have not been brought out due to fear they may expose or victimize some of the participants in the research, thus making it difficult for the study.

To overcome this challenge, the researcher created assurance to the respondents that the study was only to be used for academic purpose only. Some respondents may have been uncooperative and some of them may have provided irrelevant information and even happen to leave some of the research questions unanswered thinking that the study is of no help to them. To overcome this challenge, the researcher took some time to create good relationship with the respondents who later gave the information needed. Due to failure to understand the benefit of the study, some respondents may have just despised the researcher without a valid reason and claimed to be busy. To mitigate this, the

researcher educated the respondents on the need and the benefits for the study which made the work easier for the researcher to collect the required data.

There was also the limitation of time and financial constraints, the researcher created working schedule to easier data collection. However, the researcher left the questionnaires with the respondents and collected them later after they are filled. Also, the researcher left them with contacts in order to make phone calls once , so as to enable them have ample time in their offices and even make them feel that the researcher is not pressurizing them.

1.14.13 Ethical Considerations

Discretion was entirely applied throughout this study. The character and security of the respondents was ensured by the study. The respondents were guaranteed that the data gave was utilized exclusively for the purpose of this study. Neither inducement nor pressure of any sort was connected to urge the respondents to end up as respondents in this study. Respondents were permitted to pull back from the study in the event that they so wished. The study followed all the set down procedures for information collection by the University as well as other statutory organs.

1.15 Chapter Outline

The study is arranged in 5 chapters. Chapter one has the introduction and it discusses the background to the study, statement of the problem, objectives of the study, research questions, Justification of the study, Theoretical framework, literature review and the

methodology of the study. Chapter two focuses on assessing the gaps and challenges of existing policy framework governing immigration in Kenya and other East African Countries. Chapter three tried to determine the extent through which Kenya's Immigration policy has facilitated East African regional integration. Chapter four sought to establish the potential impact of Kenya's immigration policy on implementation of EAC's Common Market Protocols. Lastly, chapter five draws conclusion of the study based on the findings. Recommendation and policies were provided and this form part of stakeholder solutions in addressing the problems of immigration and regionalism.

CHAPTER TWO

POLICY FRAMEWORK GOVERNING IMMIGRATION IN KENYA

2.1 Introduction

The chapter divulges into details of the policy framework adopted by Kenya to govern immigration into the country taking into consideration key issues and policy gaps. To achieve that, this chapter will review existing literature to derive the policy issues which regulate immigration while at the same establishing policy gaps therein. Fundamentally, this chapter will lay emphasis on four thematic issues on immigration which include; who constitutes the immigrant population in Kenya, immigration governance in Kenya, socio-politico-economics of immigration and both domestic and international conventions/laws which have largely influenced immigration policy formulation in the country.

2.2 Immigration Population in Kenya

Kenya host immigrants drawn from world over, who reside temporarily such as; students, short time visitors, various researchers, and people holding Kenyan work permit, long-term immigrants for instance; people married to Kenyan partners as well as business investors, refugees from war stricken countries and asylum-seekers. Immigration into Kenya has been explained from different schools of thought. There are explanations that immigration into Kenya is driven primarily by security considerations particularly for the immigrants who originate from the conflict-riddled countries neighboring Kenya. However, not all immigration into Kenya is driven by security concerns.

As per the IOM (2000) causes of crossing national boundaries go from dissimilarities in business openings, prospects for average securities between nations; expanded instruction more extensive access to data abroad, evolving socioeconomics, poor financial living conditions, government frameworks that are unbending, drops in genuine wage, cash cheapening, war and Kleptocracy.³⁰

Given these causes of population immigration and the pre-determining factors, it is therefore possible to establish the immigration population in Kenya. Mau and Guyo have documented that the number of people staying out of their home state has more than doubled in the last four decades rising from an estimated 75 million in 1960s to 215 million currently translating to 3% of World population.³¹ Among these populations, an estimated 30 Million people from Africa stay out of their countries of origin of which Kenya is hosting more than 350,000 refugees with more than 800 immigrants illegally entering Kenya each month.³² Coupled with a refugee problem, the UNHCR and the KNHRC estimated the number of IDPs residing in Kenya to be 412,000.³³ It is therefore evident that victims and survivors of war and conflict constitute the majority of immigrants into Kenya.

³⁰International Organization for Migration. (2015). *Labor Migration Policy and Research*, Switzerland. IOM Publication

³¹ Mau, M.W & Guyo, W. (2014). *Effective electronic strategies on cross border migration control adopted by immigration authority in Kenya*. Prime Journal of Social Science (PJSS). Vol. 3 No. (2)

³² Ibid

³³ UNHCR & KHRC. (2016). *Out of the Shadows towards Ensuring the Rights of Stateless Persons and Persons at Risk of Statelessness in Kenya*. Nairobi. KHRC and UNHCR

By and large, around 72% of the immigrants staying in Kenya originate from Somalia, while South Sudan accounts for 16%, and Ethiopia 5% with DRC accounting for 3%.³⁴ Starting from 31 March 2015, the assessed populace of Dadaab and Kakuma camps is 351,446 and 181,821 in that order.³⁵ The number of inhabitants in the Dadaab camps has diminished as of late, from a pinnacle of 463,427 out of 2011.³⁶ The principal contributors of immigrants residing in Dadaab camp are Somalia and Ethiopia. In under four years, the number of inhabitants in Kakuma has developed more than twofold, from 85,862 refugees in 2011 to 181,821 by 2015.³⁷ By far majority of Kakuma camp inhabitants originate from South Sudan. There is likewise an urban refugee populace which stays in Nairobi comprising of roughly 52,957 by 2015.³⁸ The lion's share of them originate from Somalia, then Ethiopia and the DRC.

Kenya is a mid-income country which for a considerable period has experienced peace and tranquility in the disturbed waters of persistent conflict in the Greater Horn of Africa region.³⁹ Apart from the ethnic conflict in 1991-93 and in 1997, peaking in the post-2007 presidential election, the country has remained relatively peaceful a reason why regional immigrants have seen it a safe haven and conducive environment to reside in. Nairobi, Mombasa and the Rift Valley, as well as commercially fertile areas in central and upper Eastern, are net areas of immigration in Kenya.

³⁴ Ibid

³⁵ IOM. (2015). *Migration in Kenya. A country Profile*. Nairobi. International Organization for Migration

³⁶ Ibid

³⁷ Ibid

³⁸ Op cit. p. 27

³⁹ Oucho, J. O. (2015). *Changing Perspectives of Internal Migration in Eastern Africa*. Nairobi. African Migration and Development Policy Centre (AMADPOC) Nairobi, Kenya

Whereas Kenya is a destination for immigrants, it is also termed as transit route or country for human trafficking for resettlement of developing states including US and Gulf states.⁴⁰ For someone to be allowed to immigrate into Kenya and reside in the country, he or she should abide by the stipulations of the Kenya Citizenship and Immigration Act, No 12 of 2011.⁴¹

As of March 2016, the immigrant numbers staying in Kenya were 597,683 with about 70% of them originating from the republic of Somalia.⁴² Kenya is an attraction to heterogeneous migration movements due to; improved security, geographic location, good infrastructure, established rail and air connections, and a high number of migrant populations. There are also well-connected smuggling rings and routes.⁴³ These has made Kenya a destination as well as a transit state for migrants. Kenya's 700km porous border with her neighbor Somalia has facilitated several migrants into Kenyan territory. Many of the migrants on transit come from Somalia and Ethiopia and are fleeing wars and political unrest in their countries. These use Kenya as a transit point on their way to South Africa to look for jobs.

Migrant movement through Kenya is organized by smuggling cartels both in and outside of the state boundaries. The International Peace Institute (IPI) named migrant smuggling for the most part of them ladies and youngsters trafficking systems primarily of Somali

⁴⁰ Okoth, K. (2003). *Kenya: What Role for Diaspora in Development*. Washington DC, Migration Policy Institute, Available at: <http://www.migrationinformation.org> Accessed on 4/8/2017

⁴¹ KLR. (2011). *Kenya Citizenship and Immigration Act, 2011*. Nairobi. Published by National Council for Law Reporting with the Authority of the Attorney-General

⁴² DRC. (2016). *Kenya Country Profile. Regional Mixed Migration*. Nairobi. Danish Refugee Council

⁴³ RMMS. (2013). *Mixed Migration in Kenya: The scale of movement and associated protection risks*. RMMS

and Kenyan cause as one of the three most unmistakable criminal rings in East Africa. A portion of the smuggling rings are accounted for to work out of exile camps and in Nairobi.⁴⁴ Refugees can go outside camps minus the official development passes given by the government. A few smugglers are also paid by refugees to transport them to Nairobi, either by means of clandestine courses or in arrangement with degenerate police or government authorities.

Kenya is additionally a local center point for sneaking with an expected 20,000 Somali and Ethiopian male transients being snuck to South Africa, for the most part by means of Kenya, consistently. Most of these immigrants enter the country as asylum seekers or refugees where they are prepared for their next destination. Most of them end up as sex slaves or in forced labor. According to the National Council for Population and Development Report 2015, Kenya falls under various categories as a source, transit point as well as a final destination for people being sold into sex rings and forced labor.⁴⁵ IOM's Kenya Migration Profile 2015 has also named Kenya as a main hub involved in trafficking of humans.⁴⁶ Kenya's immigration laws give a maximum of 30 days for asylum seekers to get registered as refugees.

⁴⁴ IPI. (2013). *Migrants Smuggling in the Horn of Africa and Yemen: The political economy and protection risks*.

⁴⁵ National Council for Population and Development –NCPD. (2015). *Kenya Population Situation Analysis*. Ministry of Devolution and Planning, GoK

⁴⁶ Ibid. 1

2.2.1 Challenges Facing Immigrant Population in Kenya

2.2.1.1 Registration Bottlenecks

Kenya's asylum regimes gives immigrants 30 days after entering Kenya to be registered as refugees. The points of registration are mostly located at the refugee camps where documentation is undertaken by authorities before permission of residence is granted. For most displaced people originating from Somalia, this enlistment point will be the Dadaab refugee centre in north-eastern Kenya, however some advance straightforwardly to urban areas including the capital, Nairobi.⁴⁷ Since those looking for security typically cross the fringe without documentation, it is difficult for the police to know to what extent they have been in the nation.

Many authorities have little training on how to handle refugees and are not well versed with refugee acts. They are frequently not ready to direct legitimate meetings (which is exacerbated by dialect hindrances) with asylum seekers to survey whether they entered the nation as monetary vagrants or shelter searchers. This can prompt haven asylum seekers searchers being classified as economic migrants. The confusion in who qualifies to be a refugee and who qualifies to be an economic migrant presents a security and economic challenge to Kenya. Whereas, Kenyan Laws dictate that Refugees should reside in refugee camps, there are special considerations which have endeared most if immigrants to urban centers. Those who end up in the urban centers fail to be registered accordingly. The mix-up with registration is also challenged by lack of interpreters among the police and government officials.

⁴⁷ Ibid.12

Many authorities have little training on how to handle refugees and are not well versed with refugee acts. They are frequently not ready to direct legitimate meetings (which is exacerbated by dialect hindrances) with asylum seekers to survey whether they entered the nation as monetary vagrants or shelter searchers. This can prompt haven asylum seekers searchers undergoing classification as commercial migrants. Immigrants who face arrest and forwarded to the courts also find there are no properly trained interpreters in the courts. This results in many of those accused not understanding what their charges even are. This makes many just accept them without what they are confessing to. Once found guilty of irregularly immigrating into the country the law provides a fine with an option of a custodial sentence up to three years in Jail. Most of the immigrants have found themselves in the wrong side of the law due to improper and insufficient registration and majority from Ethiopia have been convicted.

2.2.1.2 Detention of Immigrants

The Kenya's Citizenship and Immigration Act 2011, provides that a migrants in Kenya illegally carries out a criminal offense. On the off chance that sentenced, the punishment may include a fine of USD 5,500 or detainment of 3 years, or both.⁴⁸ Vitally, this run does not have any significant bearing to recently arrived refugees. As indicated by the Act, sporadic transients might be confined in police care, jail or movement holding offices pending their extradition. Operation Usalama Watch (Peace Watch) in April 2014

⁴⁸UNHCR. (2016). Kenya Factsheet March 2016. Available at <http://www.unhcr.org/> Accessed on 14/8/2017

was propelled following projectile and firearm assaults in Mombasa and Nairobi by obscure culprits in March 2014⁴⁹.

Around 4,000 people were captured and vetted to set up their standing in what driving human rights associations asserted was moderate and un-straightforward process. UNHCR revealed that it had been blocked to see to people kept by Kenyan experts. In the wake of screening, prisoners were accused of unlawful nearness, ousted, discharged, or requested to move to exile camps. 2 weeks after the operation started, Kenyan specialists declared that 500 people had been kept and ousted to their nations of birth.

Human rights associations assert that a significant number of those intersection into Kenya from Somalia encounter badgering close to the fringe by Kenyan police, which for the most part involve blackmail, confinement and extradition⁵⁰. One of the difficulties real test confronting foreigner populace in Kenya is disappointment by law authorization officers to recognize hoodlums, sporadic vagrants and haven searchers. A portion of the purposes behind the capture and confinement of migrants by Kenyan police originates from obliviousness of the right strategies and inadequate utilization of movement laws. A 2014 report by an International organization ensuring exiles portrayed the expanded levels of mishandle, blackmail, and badgering of workers by the Kenyan police⁵¹.

⁴⁹ Human Rights Watch. (2015). *welcome to Kenya: Police abuse of Somali refugees*. Nairobi. HRW publication

⁵⁰ Ibid.

⁵¹ Refugees International. (2014). *Between a Rock and a Hard Place: Somalia Refugees in Kenya*. Switzerland. RTI Press

There are almost a monthly reports involving Ethiopian immigrants who are confined and detained in the country, this showing a rising trend of many Ethiopians using Kenya as a transit point to South Africa. A number of government officers and police also are accused of facilitating illegal migrant movements in the country.

2.2.1.3 Human Trafficking

Kenya is an origin, travel, and goal nation for human trafficking. While there is right now constrained information on human smuggling in the country, two primary trafficking courses have been distinguished: they incorporate, north-eastern course which travels Garissa on the Kenya-Somalia outskirts; and the western course amongst Kenya and Uganda at the Busia-Malaba fringe point.⁵² There is an emerging trend of trafficking humans from East Africa to the Middle East, where Kenyan immigrants and Kenyan citizens are in danger of misuse in residential subjugation, knead parlors or massage parlors, or of being constrained into difficult work. Youngsters and young ladies are especially powerless against trafficking to sex sector. Human smuggling in Kenya is said to have an estimation of USD 40 million on bootleg market.⁵³

Trafficking of immigrants via Kenya is organized and conducted by smuggling rings in and out of Kenya. The US department of state labelled immigrant smuggling of mainly women and kids trafficking systems for the most part of Somali and Kenyan cause as one

⁵² IOM. (2015). *Migration in Kenya. A country profile*. Nairobi. IOMDF

⁵³ Odhiambo, E.O.S. et al. (2012). Kenya's Constitution and Child Trafficking as a Security Threat'. *Journal of Defense Resource Management*, Vol.3 (2): 75-88. Available at http://journal.dresmara.ro/issues/Volume 3_issue 2 Accessed on 15/8/2017

of the 3 ruthless criminal systems in East Africa⁵⁴. A portion of the smuggling rings are accounted for to work out of displaced person camps and in the capital city. Refugees at times go out of the camps minus the official development passes. A few refugees pay bootleggers to move them to Nairobi, either by means of incognito courses and in arrangement with corrupt police and degenerate government authorities. Others revealed they paid authorities or police to facilitate their travel along these courses. The US State Department's 2015 Trafficking in Persons report noticed youngsters in Kenya's displaced person camps fall in danger of being enrolled into equipped gathering al-Shabaab, or powerless against sex smuggling, as some bear constrained work outside the camps⁵⁵. Ladies and young ladies from Somalia are smuggled into Kenya through freight trucks coming back from Somalia and in this manner set in massage parlors in Nairobi.

Table 2.1: Trafficking Routes and Destinations of Immigrants from Kenya

Origin	Transit points in Kenya	Destination
Mogadishu	Liboi, Garissa, Nairobi	South Africa, Canada, USA
Southern Somalia	Liboi, Fafi	Malta, Italy
Garissa	Wajir, Modogashe	Kismayu
Dadaab	Ijara, Garsen	Mombasa
Moyale	Marsabit, Isiolo, Nanyuki	Nairobi, Botswana
Liboi	Ijara, Garsen, Mombasa	United States, Canada, Italy
Juba	Nairobi, Dar, Maputo	South Africa
Dollo Ado	Nairobi, Sudan, Libya	Saudi Arabia, Qatar
Kismayu	Mwingi, Bangali, Madogo	Denmark, Italy, Canada

Source: IOM 2015

⁵⁴ US Department of State (2015). Trafficking in Persons Report: 2015. Washington DC. US Department of state

⁵⁵ Ibid

2.3 Immigration Governance in Kenya

The Directorate of Immigration and Registration of Persons found in Interior Ministry is tasked with the coordination, administration and management of immigration in Kenya. Kenya has assented to various international regimes relating to immigration and protecting all human rights as well as migrants and seekers. Among them include; 1951 Convention and its 1967 Protocol relating to the Status of Refugees, 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa etc.

Having ratified the above international regimes and mechanisms dealing with status of immigrants, Kenya has also drafted national policies which govern immigration and regulate movement of persons in her territory. There exist 4 policy documents addressing migration in Kenya. They include: Kenya Vision 2030, the National Migration Policy, the National Labor Migration Policy, and the National Diaspora Policy.⁵⁶ Kenya Vision 2030 is a government blueprint and national planning policy, which is subdivided into 5 year Medium Term Plans.⁵⁷ Overall, Vision 2030 aims at transformation of the country a newly industrialized, middle income state that will give high quality life to all Kenyans by 2030.

The National Migration Policy is still a draft, as well as the National Labor Migration Policy. A National Diaspora Policy was established in 2015 and is directed at mainstreaming the people in diaspora into Kenya's national plans; get job opportunities for Kenyan abroad so that they can contribute to national growth, ensure the safety of

⁵⁶ Ibid.

⁵⁷ Kenya Vision 2030: The Popular Version. Government of Kenya. Available from <http://vision2030.go.ke> Accessed on 15th/8/2017

Kenyans abroad, and set up appropriate networks to administer the affairs of Kenyans abroad.⁵⁸ The Department of Immigration gives out visas to people wanting to stay in Kenya temporarily and possess data on the numbers of international students studying in Kenya which is also available with the education ministry and the institutions educating these students.

2.3.1 Kenya Vision 2030

This is Kenya's national planning policy that will direct the country's economic and social growth which will be executed through 5 year medium term involving flagship projects that fall into three pillars of social, economic and political transformation. In Kenya's vision 2030, Migration issues will be more dealt with in the second medium term plan running from 2013-2017 by the ministry of devolution.⁵⁹ Under the MTP II, the government plans to cultivate orientation as well as re-entry policies before carrying out civic education on the nature of jobs locally and abroad as well as their rights and who to see in case of violation of rights at work. It also provides pre-flight arrangements for work searchers; create and implement rules on work of nonnatives and on accreditation of private business organizations; and go into two-sided concurrences with key work goal nations. Different projects and activities featured incorporate the mainstreaming and coordination of diaspora included in national improvement motivation by finish of the diaspora arrangement and foundation of diaspora consultative body.

⁵⁸Okoth, K. (2003). *Kenya: What Role for Diaspora in Development*. Migration Information Source. Washington D.C. Migration Policy Institute

⁵⁹Ministry of Devolution and Planning 2013 Second Medium Term Plan, 2013 – 2017: *Transforming Kenya: pathway to devolution, socio-economic development, equity and national unity*. Ministry of Devolution and Planning. Nairobi. Available at: www.devolutionplanning.go.ke Accessed on 15/8/2017

2.3.2 Kenya Draft National Labor Migration Policy

Ministry of Immigration with assistance from IOM, came up with a National Migration Policy in 2009. The aim of the policy is to administer labor movements to the advantage of women and men labor workers and family members and give updated Labor Market data concerning human resource development strategies and policies.⁶⁰ The main objectives of the draft include providing a structure to manage the remunerable population outside the country. It also aims at providing a framework for realization of security for immigrant population and their families. Among other objectives, the draft policy endeavors to provide mechanism that will ensure adequate treatment and safety of Kenyan emigrant population working in the Diaspora.⁶¹

The policy acknowledges that labor migration is a cross-cutting issue bringing together different governmental sectors and ministries. It recommends for the setting up of an inter-ministerial Labor Migration Unit to coordinate migration and labor issues. This unit would be headquartered at the National Employment Bureau in Ministry of Labor. The policy also recommends setting up a planning and research division to review and formulate policy as well as for monitoring and evaluation.

2.3.3 Policy Issues and Gaps

The Kenya Draft national labor migration policy identifies fundamental issues relating to management of migrant population's labor. Among them is looking out after the rights of immigrants as well as their families and combating human trafficking. This include

⁶⁰ Government of Kenya. (2010). *Kenya Labor Migration Policy Draft*. Government of Kenya: Nairobi.

⁶¹ Op cit. Ibid 1.p 113

protecting the rights of refugees, asylum seekers, IDPs and immigrant labor. This study has learnt that the country currently hosts 350,000 refugees as part of the immigrant population which stood at 597,683 with over 800 immigrants entering Kenya illegally every month as of March 2016.⁶² Recently the government of Kenya announced intended closure of Dadaab Refugee camp which host immigrant's majority from Somalia displaced by war and natural causes. The government of Kenya has been calling for the relocation of Somalis back to their country.

Recently, these calls were frequently made in connection to the psychological militant dangers confronting Kenya. Popular assessment since 2014 has moved after a spate of psychological oppressor assaults on regular folks. In 2015, following an assault by Al-Shabaab in Garissa University where 150 people died, the government repeated requires the conclusion of Dadaab evacuee camp and deportation of displaced people to Somalia, affirming that the camp is an enrollment base for fear based oppressors.⁶³ On 2015, Deputy President gave a final offer to UNHCR to lock down the camp close to the fringe with Somalia less 3 months that was not affected.⁶⁴ The administration likewise declared that it was to start development of a divider along its outskirts with Somalia in expectation to restrain unpredictable migrants as well as Al-Shabaab criminal elements from Somalia. The decision by the government to close the camps and return Somali immigrants contravenes the binding principle of non-refoulement which deters states which have ratified the 1951 and 1967 Protocol relating to the Status of Refugees from returning such

⁶²Op cit.

⁶³Daily Nation (2015). *Refugees are victims of violence too, so they need our protection, not rejection.* Available at www.nation.co.ke/oped/Opinion/Dadaab-Refugees-Repatriation-Terrorism accessed on 15th /8/2017

⁶⁴Ibid

people to countries where their security is threatened and where they prefer not to be. Kenyan government has demonstrated violation of the policy where Kenyan administrations pronounced the confinement and subsequent expatriation of close to 500 people to their home countries. Human Rights Watch reported many issues of poor detention, abuse, bad and insufficient food as well as extortion of detainees while others were deported back to their country. This is a total contravention of the Kenya national migration policy objective of providing a framework that will cater for the social and security rights of migrants as well as their families while within Kenya's border.

2.3.4 Kenya Draft National Policy on Internal Displacement

The draft policy framework targets 412,000 IDPs present in the country who by and large constitute part of immigrant population.⁶⁵ Although the IDPs are confined in the territorial boundaries, the circumstances which result to their migration deserve national consideration and adoption of national approach. This draft arrangement recognizes that inner removal has for quite some time not gone well in Kenya, from pilgrim times to now, and there is insufficient data on reasons for relocation or on the profile of those uprooted. The aim of the draft approach is among other things to guarantee that inward dislodging and its different causes are perceived by the Government of Kenya. The draft national policy, recognizes insufficient information on and reaction to dislodging issues and calls for acknowledgment and consciousness of relocation issues and IDP rights. It additionally approaches the Government of Kenya to assume essential liability for avoiding further removal and tending to main drivers of relocation; means to set up a national structure to take care of internal displacement as well as to secure and help IDPs.

⁶⁵Op Cit.

2.4 National and International Legislations Relating to Immigration

2.4.1 National legislations-Kenyan Constitution 2010

Among the key national legislations governing migration in Kenya include the supreme law of the land; Kenya's constitution 2010. In the section on citizenship, the Constitution outlines the requirements for obtaining and maintenance of citizenship, the privileges of natives to visas and different reports, and the laws which citizenship can be rejected. The Bill of Rights accommodates flexibility of development, where each individual has privilege to opportunity of development and the privilege to move out of Kenya, and each national has the privilege to enter, stay in and dwell anyplace in Kenya. Bill of Rights additionally accommodates financial and social rights for each individual, incorporating immigrants in the nation.

2.4.2 Refugees Act 2006

The Act's meaning of an immigrant in accordance with 1951 Convention identifying with the Status of Refugees and additionally the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Propelled by last Convention, the Refugees Act determines that a man should be allowed by all appearances shelter if such individual attributable to animosity, employment, far control or sometimes genuinely aggravating open appeal in any piece of entire of his nation of birthplace or citizenship is limited to move out of his routine habitation with a specific end goal to look for asylum in somewhere else outside his nation of birth or nationality.

2.4.3 Policy Gaps and Issues

On December 2015, the Commissioner in-charge of Refugee Affairs gave public statement expressing that the Government was ceasing accepting and lock all enlistment centres in towns, and that all shelter searchers and displaced people were to answer to Kakuma and Dadaab camps. The UNHCR as well as other specialist organizations were asked to quit giving direct administrations to shelter searchers and displaced people in urban zones and to exchange those administrations to camps. This mandate prompted broad worries over the effect of the arrangement on the security, human rights, and philanthropic perspectives. The order was unlawful and in rupture of displaced people's flexibility of development and dignity.

2.4.4 The 1990 Convention on the Protection Rights of All Migrant Workers and Members of Their Families

The Convention gives meanings of migrants and their relatives; it determines that it ought to be connected by State Parties minus refinement of any sort (non-separation); and points of interest the privileges of every single transient worker and their families, and the extra privileges of recorded refugees. It likewise approaches State Parties to advance sound, fair and altruistic conditions regarding universal movement of specialists and individuals from their families through due respect for work needs and assets and also the social, financial, social and different needs of refugees and their kin. The Convention is the latest of 7 center global human rights covenants, which in addition frame the UN human rights regime.

2.5 Chapter Findings

This Chapter has established that Kenya's migration regimes have expanded as of late demonstrating the Government's eagerness to formalize a strategy structure to oversee relocation. However, key holes still exist, prominently in mainstreaming movement into improvement designs and arrangements, defending the privileges of residents (IDPs) and non-nationals (asylum seekers), and guaranteeing the successful dispatch and usage of regulations as well as draft strategies. Restricted synchronization, limit and data sharing have disadvantaged enactment.

This chapter has also established that Kenya's policies aimed at immigrants may be contradictory and counterproductive. As a step to control migration patterns in Kenya, the state has enacted new strategies to additionally dig in the migrant populace: urban refugees are required to relocate to refugee camps. However, urban refugee enlistment has halted, ostensibly making the refugee populace harder to monitor and screen. It is likewise conceivable that where genuine numbers are deficient with regards to arrangement, execution will be blocked. The migrant regimes being executed have so far acted to restrict than to facilitate hence affected immigrants negatively instead of facilitating them to achieve their potential

CHAPTER THREE

REVIEW OF EAST AFRICAN REGIONAL INTEGRATION

3.1 Introduction

This chapter reviews the East African community integration, in the context of migration policies adopted by various states. This entails review of the major integration milestones to establish policy development and challenges inherent. This chapter endeavors to fast-track the integration process of the five member states with the aim of placing immigration issues in their exact context. This is pursuant to the general research objective of analyzing the impact of immigration on regional integration of EAC, assuming that migration has been very pivotal in the integration process. In order to get empirical evidence related to integration and migration this chapter will employ both a functionalist approach and a political dictum to describe the integration process while making inferences to primary sources.

Through these two contrasting approaches, regional integration is described as a piecemeal gradual step by step approach of completing a web of functional inter-state relations in infrastructure, culture, trade, and investment, which centrally incorporate migration in a mutually-enabled cooperation. In this building-block the political web, encompassing the political federation, will be the apex of integration in the bloc. The EAC is currently at the Common Market stage of integration process.

3.2 Fast-tracking the East African Integration Process

The East African Community has a history dotted with ups and downs. The EAC Treaty was assented to on 30 Nov. 1999 and became operational in July 2000 following assent by its initial 3 founding States namely; Uganda, Kenya and Tanzania hence establishing the East African integration bloc. Since its inception the community has expanded and developed into a regional IGO comprising Kenya, Rwanda, Burundi, Tanzania, Uganda and lately, South Sudan. The EAC is headquartered in Arusha, Tanzania.⁶⁶

Formal East African relations run back to close of the nineteenth century when development initiated on the Uganda Railway starting at the beach front Mombasa till its fruition in 1901 with arrival in Kisumu. During that time circles of collaboration were extended to incorporate traditions courses of action, finishing in the development of the East African High Commission (1948) which kept going until autonomy of Tanzania (1961) By then the High Commission saw succession by East African Common Services Organization as well as East African Community (EAC).

A decade after the community broke up. Its collapse in 1977 has been blamed on three major reasons; the inequitable allocation of benefits amongst member states, ideological differences as a result of the Cold war, and conflicts between EAC presidents caused by lack of mutual respect and desire for territorial conquest. This latest claim came after President Amin staged a coup in Uganda in 1971.⁶⁷

⁶⁶Kibia, T.Z and Tostensen, A. (2005). *Fast-Tracking the East African Integration*. Bergen-Norway. Chr. Michelson Institution

⁶⁷ Mugisa, E et al. (2009). *An Evaluation of the Implementation and Impact of the East African Community Customs Union. Report for the EAC Secretariat*. Available at www.eac.int/customs Accessed on 30/8/2017

The 3 founding members developed ideological differences at the close of 1960s. Tanzania embraced the *Arusha Declaration* in 1967, making the country a socialist state which called for self-reliance and shunning of foreign investment. Following this events, neighboring Uganda under President Obote, embraced the *Common Man's Charter* that set up an ideological axis between itself and Tanzania. Kenya, on its part, through *Sessional Paper No. 10 of 1965* outlined its ideological beliefs on *African Socialism and Its Application to Planning in Kenya*, which, although containing 'socialism' in its wording, embraced an open market economy that cherished foreign investment. The skeptical stand chosen by Tanzania and Uganda on matters foreign investment, made potential investors to focus their resources on Kenya.⁶⁸ This was boosted by Kenya's already developed industries and infrastructure which was set up by the British masters supporting investment. Thus, a combination of ideological differences and old disparities worked together to undermine equality.

The Philip Commission which set phase for establishment of EAC in 1967 was insightful about equality of member states. Incredible care was given in apportioning the Community's regular administrations foundations in order to change existing inequalities. In this way, Kenya facilitated the home office of the railway and aviation organization with Tanzania getting the harbor and headquarter of the bloc. Uganda got the banking sector as well as telecommunication agency.⁶⁹ Moreover, the 1967 Treaty accommodated

⁶⁸Korwa G. A and Mutahi N. (1992). *The Politics of Integration in East Africa Since Independence*, in Walter O. Oyugi (ed.), *Politics and Administration in East Africa*, Nairobi: Konrad Adenauer Foundation.

⁶⁹Oucho, J. O. (2009). *Regional Integration Efforts in Eastern and Southern Africa: Perspectives on Free Movement of Persons and the Surge of Xenophobia*. Nairobi. A study commissioned by UNESCO Regional Office for Eastern and Southern Africa

an exchange charge framework intended to ensure enterprises in Tanzania and Uganda against their Kenyan rivals.

Coupled with issues of suspicion, ideological differences among the three East African Community dealt a major blow and the last nail to the coffin of its collapse. An acrimony had developed among the three original leaders particularly when Idi Amin overthrew Obote in a military coup in 1971. Consequently, President Julius Nyerere of Tanzania denounced Amin and opposed his dictatorial rule often refusing to sit in the same table with Amin. The ideological axis was broken and a political hiatus ensued with a never meeting again approach adopted by the three East African authorities. The integration ended in 1977.

After a seven year acrimony between the heads of the founder states, efforts started to emerge to revive the erstwhile cooperative undertaking. The efforts led to the first Nairobi Communiqué in 1991.⁷⁰ Two years later, an accord was entered into for the setting up EAC Secretariat in 1996. This was the beginning of resurrecting the East African co-operation in a new form underlined by new goals and aims. In November 1999 the EAC Treaty was formally signed launching the East African Community.

As stated under Article 5 (2) of the Treaty, all member states promised to set up a custom union that will be followed by a common market that will lead to a monetary union resulting in a political federation. This steps and efforts are geared towards strengthening and regulation of the infrastructure, industry, commerce, social, political, and cultural

⁷⁰Ibid

relations amongst member states which is aimed at creating a harmonized and accelerated development that will in turn expand the economy of the bloc. Benefits from the region will also be shared equally.⁷¹

The EAC runs on extending and developing co-operation of member states in both, political, monetary and social arenas for their shared advantage. For this reason, the EAC built up Customs Union 2005 and set up Common Market in July 2010, thusly Monetary Union was imagined by 2012 and finally Political Federation of the member states.

Establishment of a five member economic bloc of Tanzania, Burundi, Uganda, Rwanda as well as Kenya covering a populace of 145.5 million persons, a land mass of 1.82 million sq. Kms and a total GDP of \$ 127.1 Million, presents amazing strategic and geopolitical opportunities to re-invent and drive forward the EAC.⁷² The Table below shows the partner countries population distribution and Total Expenditure to GDP of the five partner states comprising the EAC.

Table 3.1: 2014 Mid-Year Population (Million Persons), Total Expenditure to GDP (Million Dollars)

Partner State/Years	Total Population	EXP/GDP
Burundi	9.7	22.7
Rwanda	10.9	30.7
Tanzania	47.2	17.8
Kenya	43.0	35.3
Uganda	34.7	20.6
East Africa	145.5	127.1

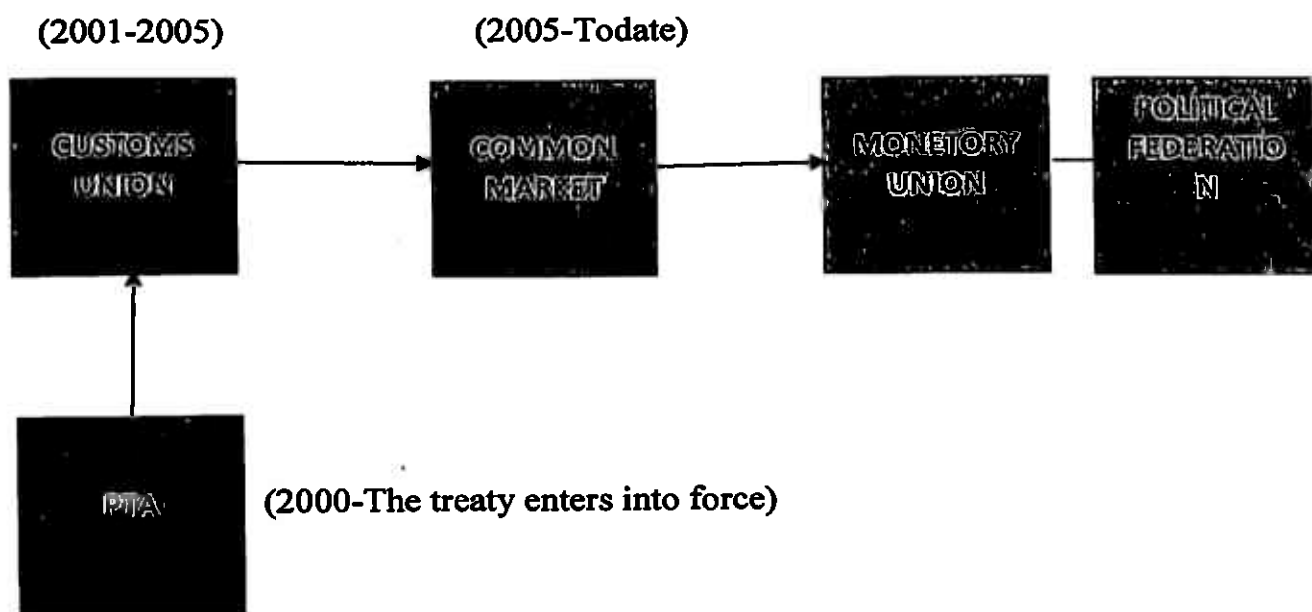
Source: East African Facts and Figures, 2015

⁷¹Article.5 (2).*The Treaty for the Establishment of the East African Community*. Arusha. EAC Secretariat

⁷²EAC. (2015). *East African Community Facts and Figures 2015*. Arusha. EAC Secretariat

The Treaty has created a region of 145.5 million citizens with a gross GDP of over US\$ 127.1 billion.⁷³ Although the bloc is comparatively a medium field of free trade, East Africa bears enormous prospectives for advancement. The assenting of the EAC Treaty pointed to new commitment from political leaders to integrate the region. Five years since it was re-started, the integration process is on course. This has been witnessed by the conclusion of a long draw negotiations on the custom union that lasted four years that came into force in 2005.⁷⁴ The integration process occurred as shown in the Figure below.

Figure 3.1: The integration process



Source; CMI, 2015

⁷³Op cit.

⁷⁴CMI. (2015). *Assessing the feasibility of Political Federation by 2010*. Postterminaleh-Norway. Available at www.cmi.no/publications. Accessed on 31/8/2017

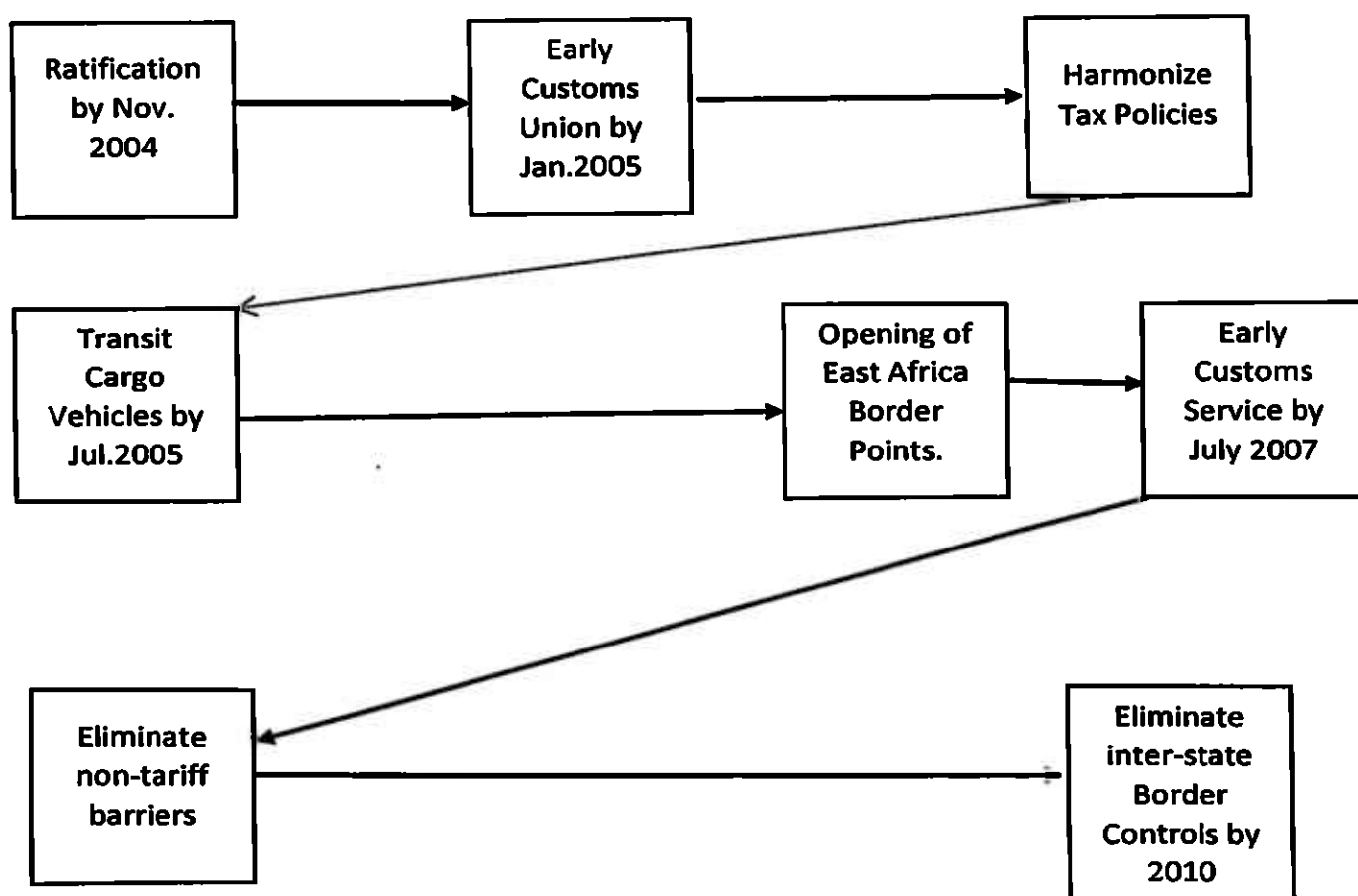
During the Nairobi Summit in August 2004, the presidents of 3 states-Kenya, Uganda and Tanzania-raised concern of the slow progress of the community. They thus formed a team to look at ways of pushing forward integration process so as to move fast to the attainment of a political federation.⁷⁵ The fast-track mechanism proposed a compression approach which included; a Customs Union to be followed with Common Market leading to Monetary Union and finally ushering political federation. The mechanism also proposed immediate establishment of an East African Federation with intersecting and parallel integration processes. Drawing lessons from previous integration process the fast track mechanism evaluated risk and opportunities, pros and cons and proposed for a solid economic foundation for the regional bloc before the attainment of a political federation.

3.3 Understanding the Customs Union and the Common Market

The period 2001-2005 witnessed the development of a development strategy which focused particularly on creation of customs union followed later by creation of a common market to ensure all states benefit. The biggest milestone realized by the strategy was creation of a Customs Union in 2004. This originated from a plan which fixed timelines for execution of CMP. The timeline was as shown in Figure. 3. 2 Below.

⁷⁵ Ibid

Figure 3.2: Development of Custom Union to Custom Market



Source: CMP, 2015

The EAC integration cycle is at an apex period right now as reflected by empowering advancement of East African Customs Union and signature in 2009 and confirmation in July 2010 of Common Market Protocol by member countries. The EAC Common Market Protocol went into drive on 1 July 2010, after approval by 5 members of EAC⁷⁶. The EAC Common Market tries to coordinate members' business sectors into a solitary market with growth of people (migration), work, products, administrations and capital;

⁷⁶ Ogalo. V. (2012). *Achievements and Challenges of Implementation of the EAC Common Market Protocol in Kenya: Case of Free Movement of Labor*. Nairobi. CMP Implementation

and the privilege of foundation and living arrangement⁷⁷. This requires far reaching institutional and administrative changes, harmonization as well as approximation across EAC.

The execution of EAC Common Market is led through 4 major standards, specifically: non-segregation of each other's citizens due to the country they come from; meet fairness to other's citizens; straightforwardness in issues of other member states; and sharing data for smooth execution of the Protocol⁷⁸. The smooth working of a typical market involves enhanced full scale monetary approach synchronization and co-appointment, particularly the financial administrations. Article 5(2) of EAC Treaty gives that after traditions union, the facilitating of fringe movement by subjects of accomplice states and harmonization and upkeep of uniform business and work arrangements and enactment.⁷⁹In general, the fundamental test to accomplishing the common market objective is that the three nations have different structures, monetary advancement and institutional setting. Every nation has articulated its own particular changes without due thought to their effect of alternate states. The differing levels of work efficiency and joblessness rates raises principal issues. Since contrasts in profitability won't vanish overnight, be that as it may, embracing uniform measures may prompt rising joblessness in low-efficiency nations which will conflict with the underlying goal of promoting integration.

According to the respondents (Civil Servants) who participated in this research study, reasonable majority of them revealed that formation of a custom union as well as

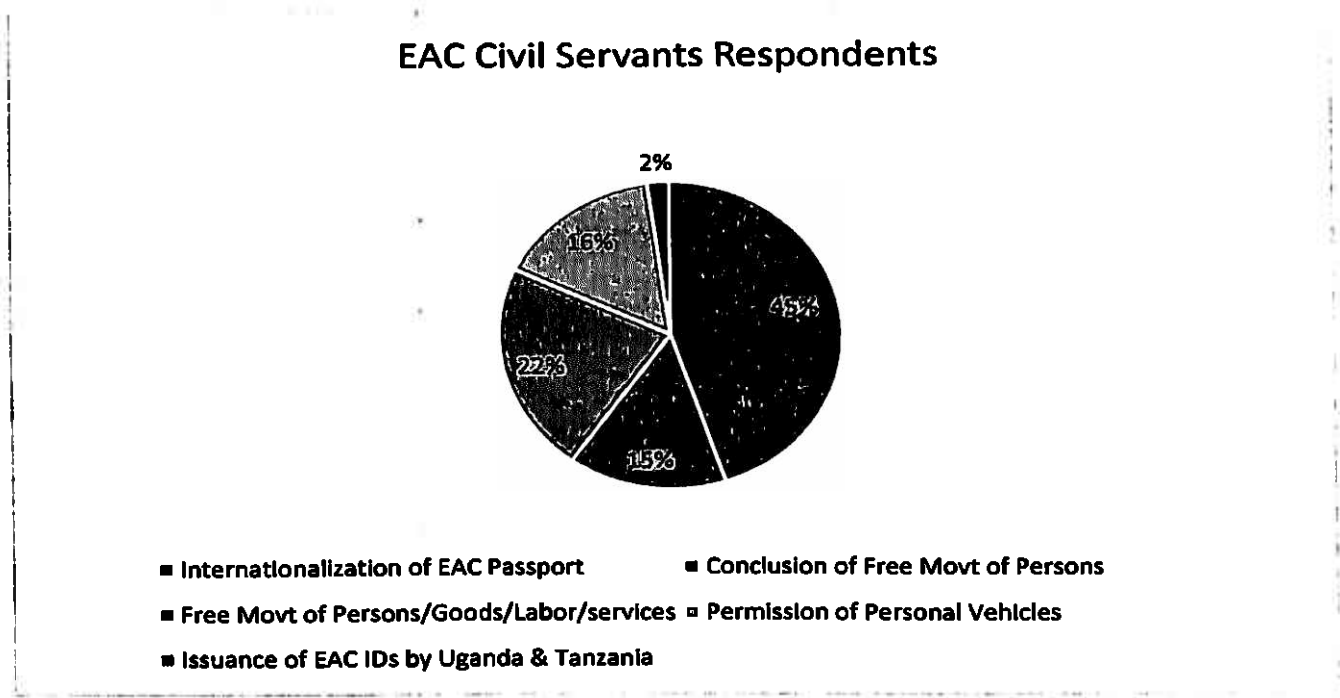
⁷⁷ EAC. (2010). *The EAC Common Market Protocol*. Arusha: East African Community Secretariat.

⁷⁸ Ibid

⁷⁹ Ibid

common market were noble aims which had been achieved by the regional bloc. Among them Civil Servants and Technocrats respondents noted that notable achievements realized by the EAC Common market entailed the internationalization of East African Passport (45%), conclusion of free movement of persons (15%), achievement on unrestricted movement of services, persons, labor, goods, and rights of residence as well as establishment (22%) while 16% of them indicated that the EAC integration has led permission of personal cars a 90-day stay amidst the bloc territory. Only 2 % of the respondents affirmed that the integration achieved giving out of East African IDs by Tanzania and Tanzania.

Figure 3.3: EAC Civil Servants Responses on regional integration



Source, Field Data 2017

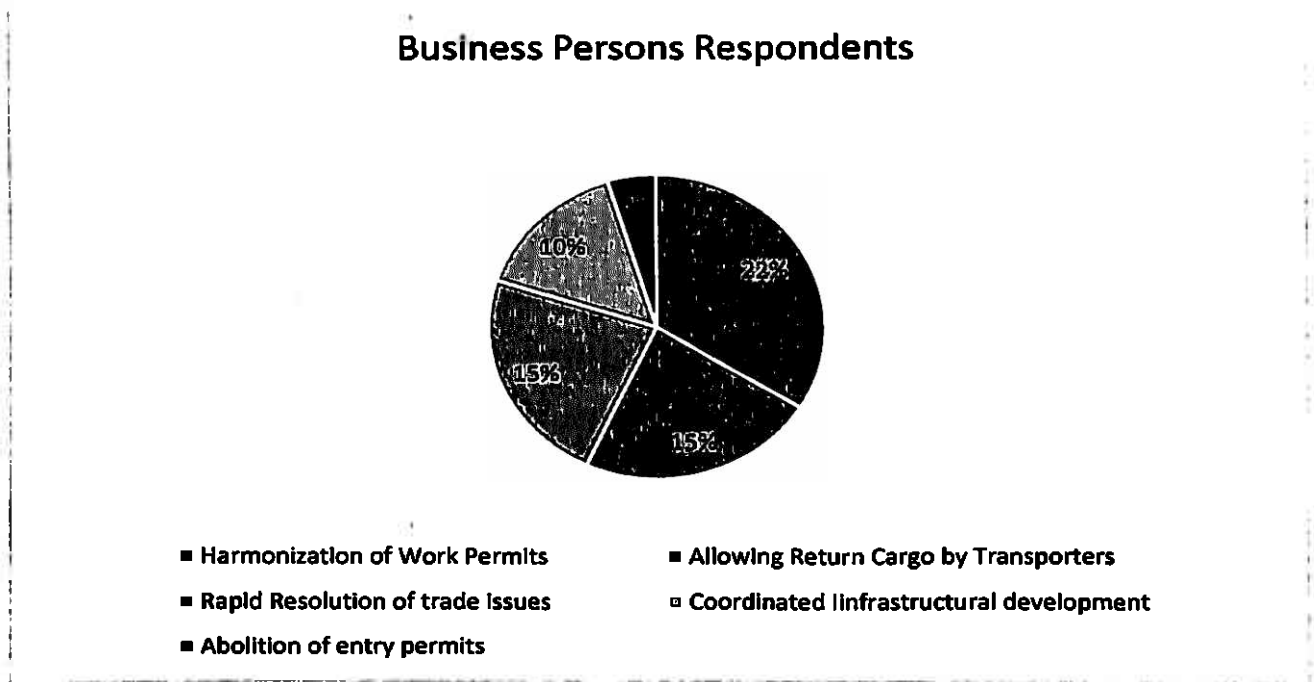
The EAC Civil Servant respondents felt that the time period isn't the most essential thing and that foundation of effective combination is cautious following of managing issues of large scale monetary integration, harmonization of income gathering, security and fixation on local ventures in the regions of framework, vitality and human asset improvement. For this gathering of respondents, it is obvious that they fear the obscure, have a the present state of affairs disorder, are moderate and preservationist, are holding tight with the recollections of the past group and experience the ill effects of bureaucratic idleness. Henceforth, they want to adopt a more careful strategy and expectation that, maybe, 10years are required before full acknowledgment of a common market.

3.3.1 Responses from Business Persons

When asked some of the tangible achievements realized by their country due to Common Market Protocol towards EAC regional integration, the majority of the Business Persons respondents (25%) who participated in this study remarked that harmonization of entry as well as work permits and amendments of common laws as the main achievements realized by the Common Market , 22% of them termed harmonization of commercial laws as the main objective realized by the East African Community integration. 15% of the respondents opined that allowing return cargo by transporters was one of the main achievement of EAC integration. Another 15% of the respondents indicated that rapid resolution of trade issues as a major milestone. A significant percentage (10%) of the Business persons indicated that coordinated infrastructural development as the realized achievement of the East African integration. Some gave examples of SGR (Standard Gauge Railway) Only 3% of the respondents termed the abolition of entry permits as the

notable achievement. The figure below shows the distribution of achievements as given by Business Persons.

Figure 3.4: Business persons responses on achievements due to Common Market Protocol towards EAC regional integration



Source; Field Data, 2017

These business persons respondents were of the view that establishing a custom union followed by a common market were great achievements and attainment of integration goals. In any case, they discover the time allocated to accomplish them unlikely on the grounds that there are numerous extraordinary issues that need exhaustive examination, exchange and arrangement. The issues spin around the transient appropriation of reconciliation advantages and accompanying expenses, too, the need to pad against execution stuns emerging from existing nation particular assessment laws and

responsibilities. Furthermore, they expect that the procedure is exceptionally politically persuaded and needs both the pre-essential specialized sources of information and individuals input.

While the civil servant Respondents seem to be pessimistic about the integration process and particularly the common Market stage, the Business persons Respondents are by and large positive and are pushing to receive here and now intrigue and rewards of the incorporation. Representatives are in favor of integration not on account of they have long haul business skylines but instead in light of the fact that they are stressed over what they are probably going to lose promptly.⁸⁰ The business group in Kenya, particularly producers, need aggregate and snappy advancement since they are privileged and focused as compared to their partners Uganda and Tanzania. Then again, business groups in the two countries don't surmise that the duration for foundation of customs union and common market are reasonable.⁸¹ They opine that Kenyans will misuse circumstance and overwhelm the market from place of quality.

3.3.2 Responses from Immigration Officials

Immigration Officials constituted a considerable sample size of the respondents who participated in this research who formed part of the interviews (60%) in Nairobi and Kampala and felt that incorporation course of events is especially plausible and that more foundation work should be embraced before a strict due date can be made. Constructing their judgment in light of the involvement of European Union nations as well as their

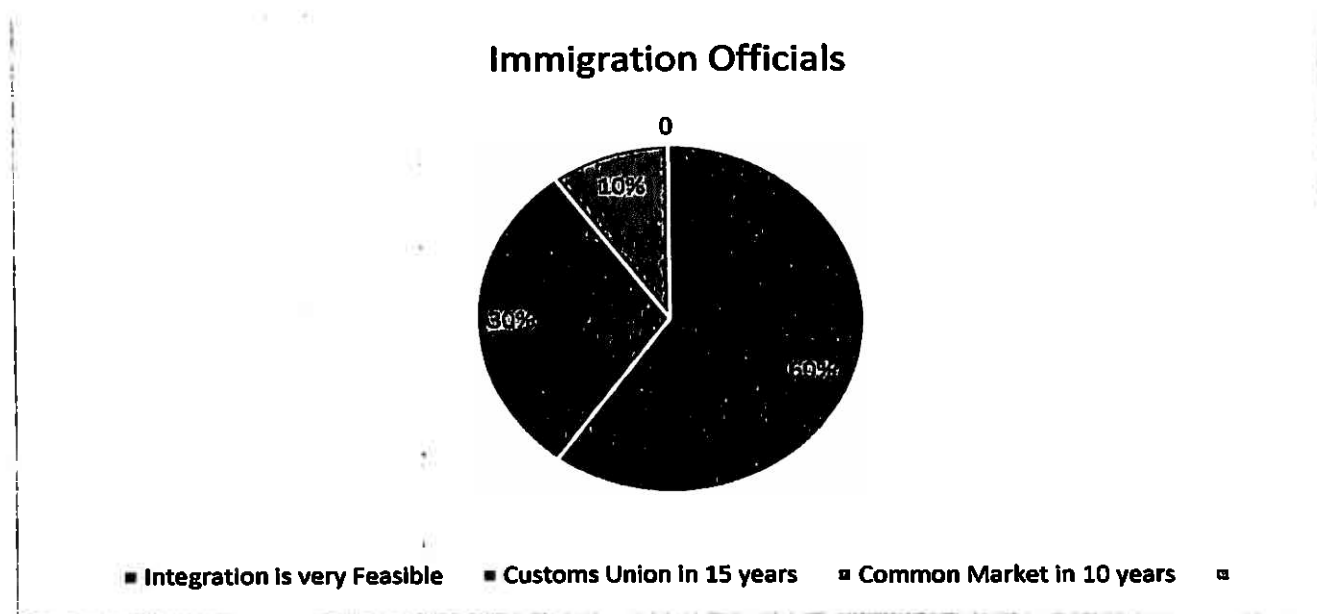
⁸⁰Field Data Remarks of the Respondents (Business Persons), 2017

⁸¹Ibid

comprehension of impressive financial as well as political contrasts which exist inside East African nations, (30%) felt that no less than 15 years would suffice to accomplish a completely practical custom union while the others (10%) felt that an additional 10 years is ideal to accomplish common market. They recommended the most ideal path onward is energize the improved cooperation of the private segment and to help local monetary and infrastructural advancement projects and foundation building activities.

The Immigration Officials respondents concurred with the opinion that regardless of their unwavering support to the integration, process, monetary Union and Political federation for the integration process were not practically achievable in the medium term and more was needed to attain an effective customs union while a further 10-15 years are needed to get a common market. The perceptions of the respondents drawn from the immigration departments in both Kenya and Uganda are captured in the figure below.

Figure 3.5: Responses of Immigration Officials Respondents

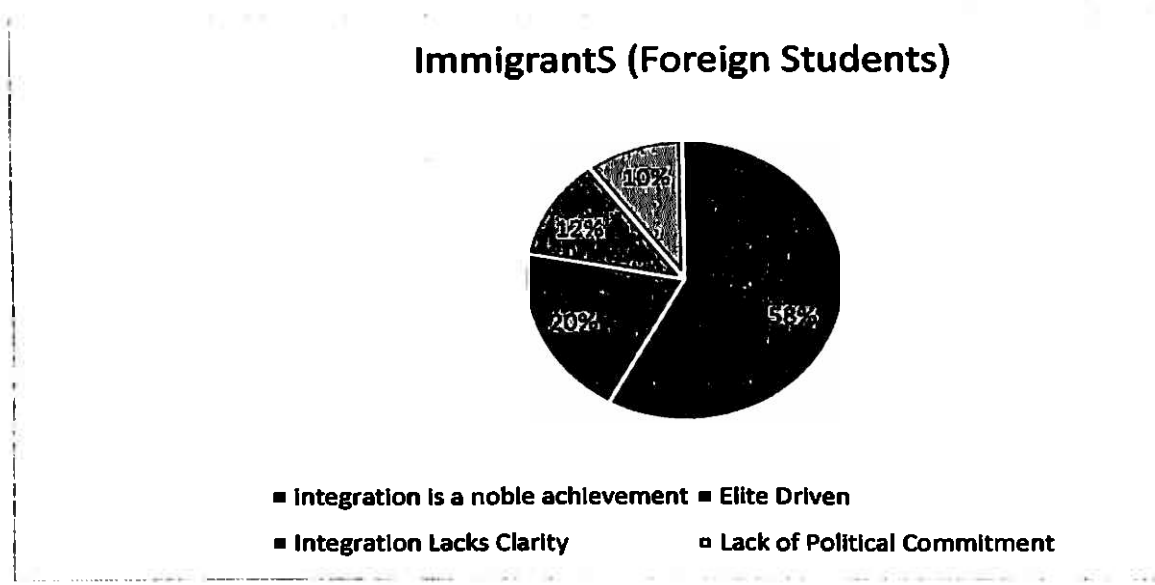


Source: Field Data, 2017

3.3.3 Responses from Immigrants (Foreign Students)

Responses obtained from immigrants whom majority included foreign students in Kenyan Universities were varied and included both criticism and appraisal. According to responses obtained by this study 58% of immigrant student's responses indicated that the integration process was noble and a great milestone in forging inter-state cooperation. They termed increased international trade in a liberalized economy as great achievement realized by the EAC integration process. Another 20% opined that integration process is an *elite process* driven by people holding *rational vested political interest* particularly the moving forward process. A significant 12% of immigrant students felt there is no enough analytical knowledge of the economic and political environment of the three EAC founding states. 10% of foreign immigrant respondents felt that political commitments made are not followed by adequate scrutiny of the economic situation and financial abilities. The responses obtained from Immigrant respondents were illustrated in the figure below.

Figure 3.6: Responses from Immigrant Foreign Students



Source: Field Data, 2017

3.4 Domestication of Fundamental Freedoms and Rights

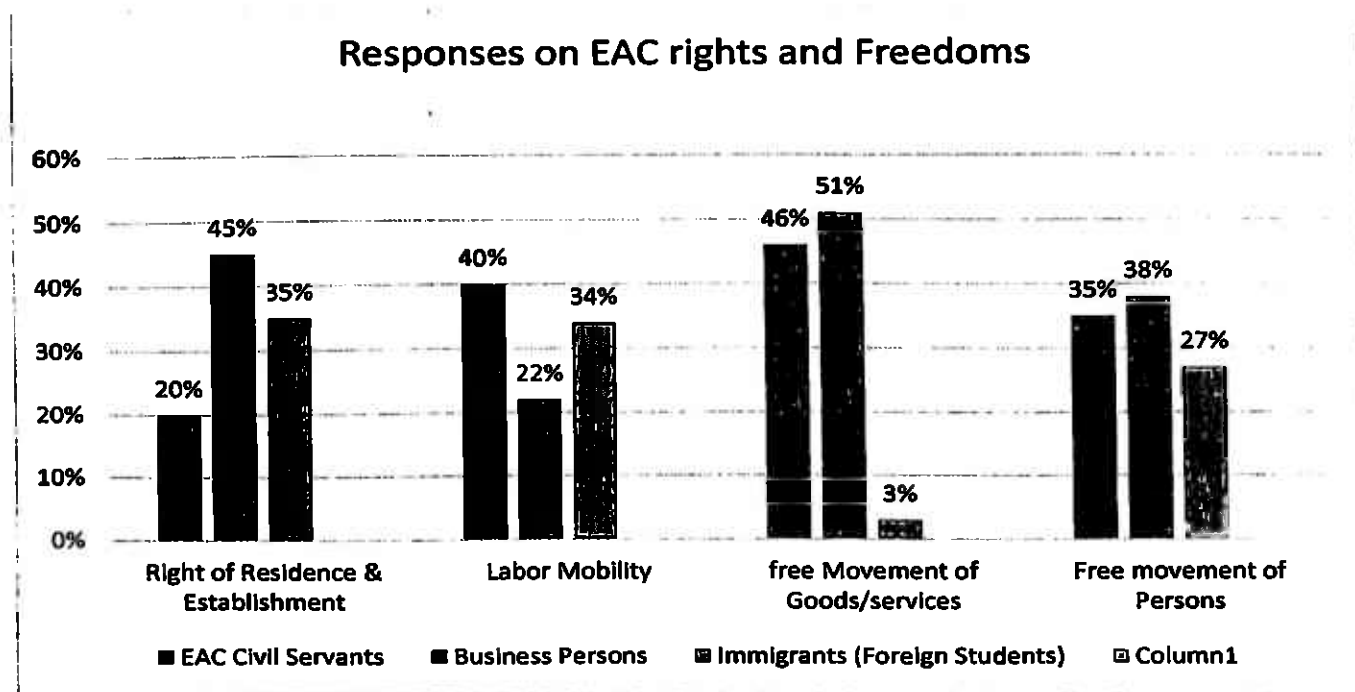
This research aimed at establishing if the partner countries have domesticated and applied the rights and freedoms enshrined in the Treaty. The EAC Common Market is based on 4 freedom pillars which include the unrestricted movement of services, goods, labor, and capital. The unrestricted of movement of citizens, job seekers, and the rights of residence and establishment and steps towards liberalizing services. This study endeavored to find out the degree to which these freedoms and rights have been achieved. When asked about their opinion on their country's domestication of the common market objective meant to protect the understanding of the right to establishment and residence of other citizens from the bloc, the respondents had varied responses. The responses are categorized according to the protocol objectives and summarized in the sub-genres below. They include; the right of residence, the right of establishment and labor mobility.

3.4.1 Right of Residence and Establishment

It is an established fact that the right of residence as part and parcel of unrestricted movement of citizens and workers. This study realizes that a citizen becomes a partner in another EAC member country, after he has been admitted as a businessman or a self-employed individual in that state. The Protocol outlines that a residence permit shall expiry as soon as a work permit does. Member states agreed to protect the realization of these two rights within their territories. This research sought to establish some of the rights and privileges enjoyed by residents of the Partner states in relation to rights of residence and establishment.

From the responses obtained from the primary sources 20% of the EAC Civil servants indicated that the regional integration had successfully while 45% of Business Persons and 35% of Immigrants population held the view that partner states had domesticated the fundamental rights and freedoms enshrined in the Common Market Protocol. On labor mobility majority (40%) of EAC Civil servants indicated that the common market had successfully implemented the free mobility of labor across the partner states. On the same, 22% of Business Persons demonstrated that labor was now mobile with the implementation of common market protocol. Still on labor mobility, 34% of foreign students (Immigrants) showed that it was fully implemented. The responses varied as illustrated in the chart in figure. 3.7 below.

Figure 3.7: Overall Assessment of achievement on fundamental Rights and Freedoms



Source: Field Data, 2017

This study sought to determine whether there was unrestricted movement of services and goods in the regional bloc as enshrined in Common Market Protocol and generally in the Treaty establishing the EAC. The study observed that 46% of EAC respondents indicated that unrestricted movement in good and services was a success while a majority 51% of Business Persons felt that unrestricted movement in goods is in the right direction. The immigrant Respondents (Foreign students) were very skeptic with on a 3% of them indicating that movement of goods and services was free.

Additionally, this study sought to establish if there was free movement of persons in the EAC regional bloc. This study learnt that free movement of persons was far from being actualized. This was proven by the responses obtained from the field research which demonstrated that only 35% of EAC Civil Servants had conviction that free movement of persons had been actualized. On the same 38% of the Business Persons respondents and 27% of immigrants held the view that it was successful. It is therefore far from being fully implemented the pillar of unrestricted movement of goods and services throughout EAC.

3.4.2 Labor Mobility in the EAC

Empowering laborers to move uninhibitedly and work anyplace inside the bloc is basic initial phase in tending to joblessness issue in the area. It is likewise valuable to the degree that talented work is an uncommon factor of creation in EAC which can move openly and Partner States can without much of a stretch get aptitudes that are locally rare from other member states. As indicated by the IOM), worthy travel records for EAC

citizens to get to other's region are: EAC passports, national identifications; brief grants and transitory development licenses; regular travel reports; and crisis travel papers⁸²

The EAC Passport permits nationals of a Member State various sections over 6 months time span. Learners from other EAC countries might be issued with an understudy or student pass gratis in view of palatable proof of citizenship, for example, a recognizable proof card and an adequate travel record⁸³. In the first place, the EAC Partner States are yet to fit transient work approaches. Kenya imparts fringes to states upholding incongruent vagrant labor regimes. For instance, it imparts fringes to Somalia (a fizzled nation as from 1991), Ethiopia as well as pre-partition of the Sudans (post detachment) which have a place with IGAD as well as COMESA. It additionally shares outskirts with EAC Member State of Tanzania that having pulled back from COMESA in 2000, is quicker on SADC, whose work movement structure it follows. By being an individual from the EAC, COMESA and IGAD Kenya winds up in a troublesome exercise in careful control when choosing which immigrant labor policy to adopt.

3.5 The Monetary Union

An report by IMF characterizes a monetary union as a connection to the accompanying qualities: a solitary or a few monetary standards completely convertible at permanently settled trade rates; a course of action whereby fiscal approach is resolved at union level, permitting no national self-sufficiency in money related strategy; at last a solitary

⁸²IOM. (2004). *Migration for development in Africa. General Strategy Paper*. IOM, Geneva. International Organization for Migration Publication

⁸³ Ibid

swapping scale arrangement with a typical pool of outside stores of the states.⁸⁴ Fundamentally, it is circumstance whereby a solitary money related arrangement wins and inside which a solitary cash or monetary forms are flawless alternatives.

Additionally, Chipeta and Mkandawire explained a monetary union as utilization of typical currency and presence of for all time settled and inflexible swapping scale connections between monetary standards with a typical financial and fiscal arrangement and a focal administration of the normal pool of remote trade saves consolidating outside obligations and conversion standard strategy where there exists a monetary entity for the bloc that gives out all the cash used in the bloc.⁸⁵ This can only be achieved with harmonization of domestic credit which can be attained through creation of a central agency to regulate money. This stage has not been achieved in the EAC integration although several bills have been drafted and a road map developed.

The road map to the attainment of monetary Union is to be anchored on some pertinent ideals which include the desire to collapse all central banks into one within the bloc and regulate cash flows for all the six members. Micro-economic policies also need to be harmonized within the bloc such as balance of payments, inflation targets, exchange rates, GDP growth rates etc. All of these should be pursued with knowledge that reliance on foreign aid is detrimental to attainment of monetary union. Additionally partner states

⁸⁴International Monetary Fund-Africa Department (2004). *Monetary Union among Members of the East Africa Community: Preconditions and Policy Directions*. Washington D.C.: IMF Publication

⁸⁵ Chipeta, C., Mkandawire, M.L (1994). *Monetary Harmonization in Southern Africa*. Nairobi: African Economic Research Consortium, Research Report No. 30

should first endeavor to achieve common market stage with full implementation of freedoms and rights before starting a monetary Union.

3.6 Chapter Findings

This chapter sought to review and fast-track the implementation of the EAC regional integration. This was meant to place migration policies in their rightful context as the region journeys towards full integration which currently is at the common market state of integration. Several notable achievements have been realized since endorsement of EAC accord by the five member states. The opinion of various respondents led to a clear and concise conclusion: customs union and common market will be of great importance to EAC and should be encouraged and called for through a size-able duration.

Much leeway has been realized, in regards to a customs union protocol and common market but even though the time frame is short. This is because there exists differences in the economic and political segments of the five partner states. There is additionally need to require some serious energy and purposely take a shot at economic regimes and in addition constructing a typical institutional system to encourage and co-ordinate the integration of market segments. Moreover, there exist impermanent components, matters and discernments related with quicker integration mechanisms which should be recognized and tended to concerning the execution of the money monetary union as well as conventions for common market which are given to civil servants who don't possess expertise to settle on genuine decision.

CHAPTER FOUR

THE ROLE OF IMMIGRATION IN THE INTEGRATION PROCESS OF EAC

4.1 Introduction

This chapter directs focus on addressing the role that immigration plays to entrench and deepen the process of integration in the states comprising the EAC. The chapter will focus the assessment of a particular policy instrument of the EAC; the Common market Protocol/framework which to a greater extent provides the rationale for inclusion of immigration aspects to particular country-specific policies of the integration process. The chapter centers on contextualizing Kenya's national immigration policy frameworks and legislations in the greater EAC's fundamental principles and freedoms as listed out in the EAC Common market protocol. The chapter will rely on existing literature and primary data obtained from the field particularly; key informant Interviews (KIIs) particularly EAC policy makers.

4.2 Kenya National Immigration Policy Framework in the Context of the EAC

The immigration affairs fall under the Department of Immigration in Kenya. The department is backed by Kenya Citizenship and Immigration Act 2011 as well as the constitution of Kenya.⁸⁶ EAC Common Market protocol outlines 5 freedoms and 2 rights. They include: unrestricted movement in goods, people, labor; unrestricted movement of capital the right to establishment and reside. It is upon these fundamental freedoms and rights that Kenyan immigration policy framework is analyzed to prove its entrenchment

⁸⁶Ghai, D. (2004). *Diasporas and development: the case of Kenya*, *Global Migration Perspectives*, No. 10, Global Commission on International Migration, Geneva

in the broader East African integration process. The immigration policy framework of Kenya in the EAC context traces its origins in the colonial history and the emergence of migrant labor system in the EAC labor migration system.⁸⁷ Upon conclusion of the Second World War, soldiers belonging to Uganda, Tanganyika and Kenya who had participated in war were free to settle in any of the three states as nationalistic feelings had not grown. In any case, all these were British colonies where unrestricted movement of people, and labor, was practiced. This became the cornerstone upon which Kenya and other EAC states could base their immigration policies.

The unchallenged cross-border immigration among the three states gave birth to the pillars of the foremost African integration unit which was initiated in 1917 with the formation of a customs union initiated by Kenya and Uganda with Tanganyika joining in 1927.⁸⁸ Shortly thereafter, the East Africa High Commission (EAHC) bringing together authorities of these states (plus Sultan of Zanzibar) was commenced in 1961; East African Common Services Organization (EACSO) was formed in 1962; while East African Community (EAC) was established in 1967 before collapsing in 1977 to be resurrected in 2000 before receiving Rwanda and Burundi into the fold in 2007.⁸⁹

According to Oucho et al. the current immigration policies and exchange of labor within the EAC members, as supported by Ministry of Labor reports of all countries, present one

⁸⁷Stichter, S. (1982). *Migrant Labor in Kenya: Capitalism and African Response, 1895-1975*. Longman, Essex, UK.

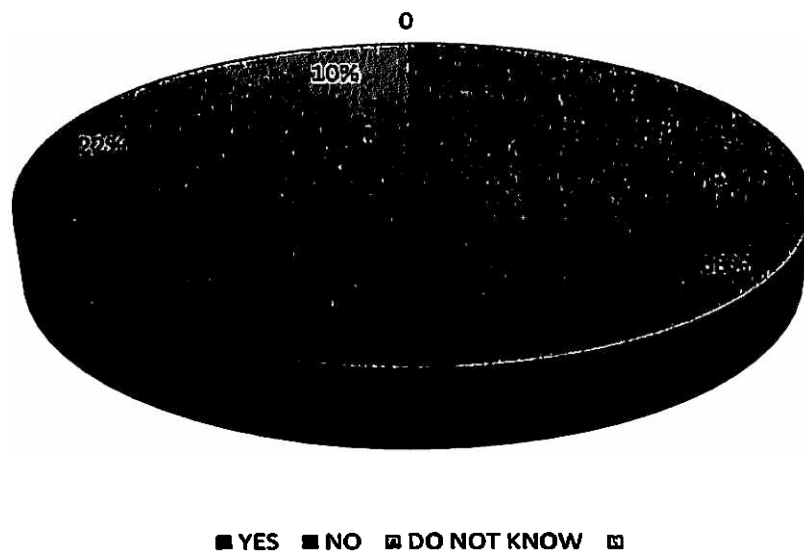
⁸⁸ Oucho, J.O. (1998). *Regional Integration and Labor Mobility in Eastern and Southern Africa*, in Reginald Appleyard (ed.), *Emigration Dynamics in Developing Countries, Vol. I: Sub-Saharan Africa* Aldershot: Ashgate

⁸⁹ Ibid

of the best frameworks of labor immigration frameworks rooted in each state's history and carried forward to the present generation.⁹⁰ This is explained by the close past ties and those neighboring Rwanda and Burundi which share a similar culture, conditions that supported the pillars of the current EAC framework and Kenyan immigration policy framework. The researcher sought to establish if Kenya had developed a national immigration policy. The findings from majority of respondents (68%) answered to the affirmative while 22% indicated that Kenya had no policy framework to guide immigration issues in the country and 10% did not know of any immigration policy in the country as illustrated in the figure below.

Figure 4.1: Respondents Perceptions on Kenya's Immigration Policy

Does your Country have an Immigration Policy?

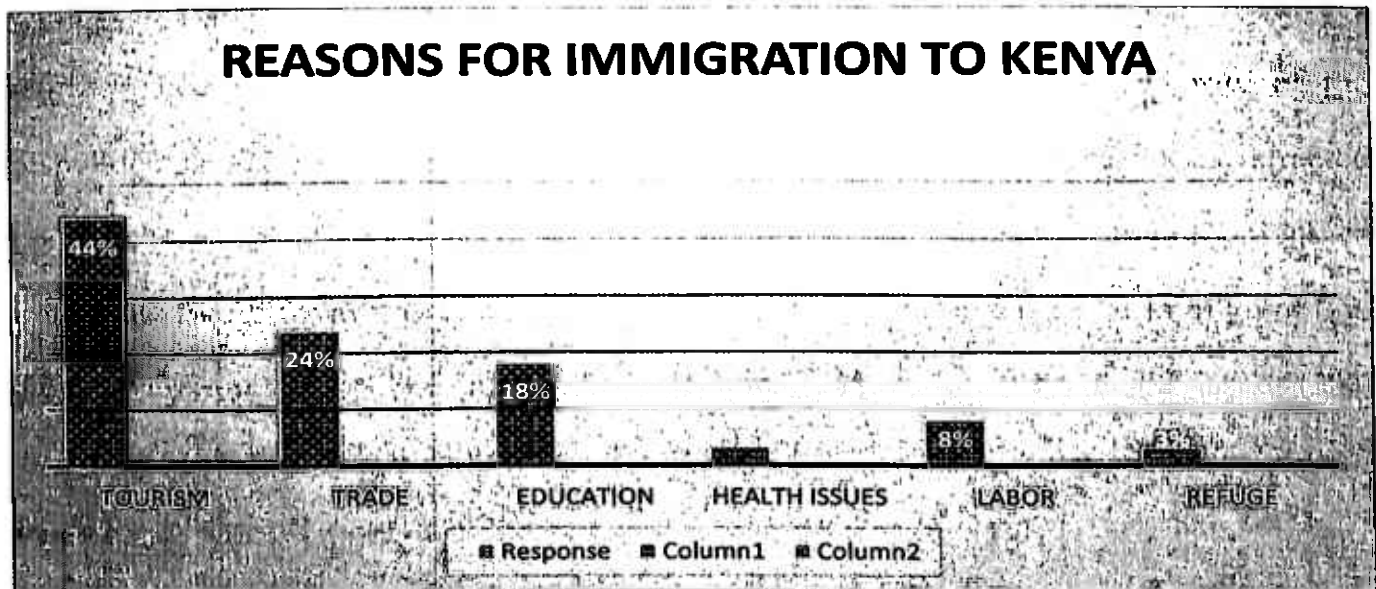


Source: Field Data, 2017

⁹⁰ Oucho, J.O. Et Al. (2013). *The Biggest Fish in the Sea? Dynamic Kenyan Labor Migration in the East African Community*. Switzerland. ACP/IOM Publication

The findings established by this research reveal that most people had knowledge of existence of an immigration department in the Kenyan government as well a policy framework from which the country governs her immigration related issues. Majority of the respondents were well versed with immigration department responsibilities naming issuance of travel Permits and Visas as the most notable undertaking of the ministry. The researcher further probed motivations of immigrants to the country and revealed a number of considerations not limited to labor, education, health, tourism and missionary work. Asked to mention people’s motivations to migrate to Kenya, majority of the respondents (44%) named Kenya’s tourism industry as the lead cause which attracted people to visit and make residence in the country. The findings of motivations to immigrate into Kenya were analyzed and revealed that; leading causes of immigration to Kenya were tourism (44%), trade (24%), education (18%) work (8%), health issues (3%) and refuge (3%) as shown on the chart below.

Figure 4.2: Motivations of People’s Immigration to Kenya



Source; Field Data, 2017

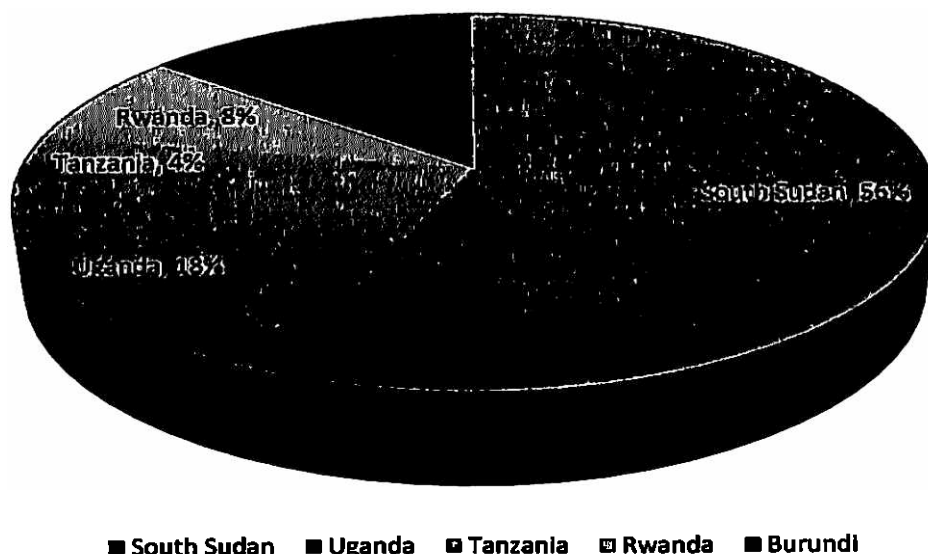
Apart from tourism and trade, labor is a significant reason why people immigrate into the Kenyan state as revealed by this research. A significant number of Key informant's interviewed (8%) indicated that labor reasons motivated people to immigrate to Kenya for employment reasons. The literature also revealed that Kenya has developed a national Employment Acts which came into force long before Common Market Protocol. Specifically, the employment Act Chapter 226 (2010), guides the employment of Kenyans and foreigners and the Kenya citizenship and immigration Act 2010, No. 12 of 2011 which takes care of for *bona fide* as well as naturalized (immigrant) Kenyan citizens, which includes dual citizens⁹¹.

The researcher was interested in knowing the programs aiming at regional movement in neighboring countries and established that all EAC countries researched contain national Employment Acts which existed long before the protocol and were reviewed for this research. This study undertook to understand contribution of the regional partner states to immigrants in Kenya by asking respondents to name the country of origin of Kenya's immigrants. The findings revealed that majority of Kenya's immigrants from EAC bloc originated from South Sudan (56%), Uganda (18%), Burundi (14%), Rwanda (8%) and Tanzania (4%) as presented in the figure below.

⁹¹ Kenya, Republic of Kenya (2010). *The Constitution of Kenya*. Government Printer, Nairobi.

Figure 4.3: Kenya's Immigrants from the EAC, Field Data, 2017

IMMIGRANTS BY COUNTRY OF ORIGIN



Source: Field Data, 2017

According to Makoffu, Migrants for EAC form 60.5% of the total number of migrants from Africa. These figures encompass migrants from Somalia, Sudan, Eritrea and Ethiopia. Immigrants from 4 member states comprise 31.9% of immigrants from Africa, which can be accounted to the resurrection of the EAC in 2009.⁹² Immigration into Kenya is anchored on the stipulations contained in the EAC Treaty, particularly Article 104 which mandates Member States agreement to take steps to realize unrestricted movement of labor, people, and services and streamline the rights of residence and establishment.⁹³ The right of establishment outlined in Article 13 of CMP facilitates

⁹²Makoffu, M. (2010). *The Global Migration Group Symposium on Overcoming Barriers: Building Partnerships for Migration and Human Development*. East African Community Secretariat, Arusha, Tanzania, May Migration Policy Institute

⁹³ East African Community (1999) EAC Treaty. Arusha, EAC Publication

citizens of member states to be self-employed and pursue business opportunities in member countries of the EAC.⁹⁴

The Kenya's immigration policy allows the right to residence for all citizens from EAC member countries who have legally been permitted to carry out business in Kenya as provided for in the articles of the CMP on unrestricted movement in people and right to residence covers spouses, dependents and children of workers also as provided for workers in the CMP entitled to residence and.⁹⁵ The researcher sought to establish if the Kenyan immigration policy had entrenched the two rights as stipulated in the protocol and asked respondents whether, Kenya's immigration policy facilitates free movement of person's across the East Africa Community. Additionally, the researcher sought to know whether the immigration policy adopted by Kenya adhered to the principles of unrestricted movement of people, services and capital. The responses obtained revealed a much optimism on the part of Ugandans than Kenyans and Tanzanians. To quote one respondent (D5) from Kenya felt there were administrative obstacles across the region that were holding back realization of movement of persons and services. The respondent felt there isn't much to show since the Protocol kicked off and blamed it on the lack of equal zeal to implement the protocol.

A survey done by *The East African* (EA) found immigration issues and movement of capital, shows that states were yet to fully operationalize the principles enshrined in the treaty and out of 20 operations provided for in the treaty, only 2 (i.e. repatriation of

⁹⁴ Ibid

⁹⁵ Kanyangonga, J.B. (2010). *Integrating Migration with the EAC development in EAC. Policy Challenges and Recommendations*. Research Paper. CUTS Geneva Resource Centre

profits and external borrowing) are being implemented in the member states.⁹⁶ This study analyzed the responses from the Key Informants Interviewed (KIIs) from notably the 3 “*original*” founding members (Uganda, Tanzania as well as Kenya) and revealed that; the provisions of free movement provided for in the treaty are being implemented by member states even though non-tariff barriers remained a challenge to realization of common market objectives. None of the member states had taken steps to set up regulatory frameworks to deal with professional services and their movement. Additionally, immigration officials’ respondents informed the researcher that, East African states seeking to ensure realization of free movement and transfer of working masses as provided for in the CMP.

Immigration and labor experts (Collectively categorized as immigration Officials in this study) from Uganda, Rwanda, Tanzania, Kenya and Burundi have proposed jointly harmonized fees, classification, forms, procedures, to enable processing of entry/work/residence permits of all EAC persons seeking to enter into other member states. This has been projected for adoption by end of 2017. However, member states have differing opinion on a harmonized work permit pertaining to people from outside the bloc who will include international workers (working for IGOs and NGOs) diplomats, refugees, as well as non-Africans in need of permanent residence.⁹⁷

⁹⁶ The East African. (2015). finally, region is officially a common Market. Saturday, June 27, 2015. Available at: www.theeastafrican.co.ke Accessed on 9/22/2017

⁹⁷ Key Informants Interview (KIIs) Namanga Border (Kenya-Uganda Immigration department), August 2017.

The EAC CMP directs members to harmonize the grouping of work permit, fees as well as procedures in relation to facilitating immigration in each particular state. The researcher sought to establish the instruments by used by EAC partner states to facilitate immigration. The researcher revealed that all EAC citizens are tasked with holding and presenting when asked, a validly issues passport by their home state. Documents accepted by EAC immigration authorities include national passports, emergency travel passes, and temporary travel pass.⁹⁸ The EAC Passport facilitates a holder to have multiple entries and exits within a 6 month window without requiring additional stamps. Students originating from other EAC member states are given student passes without any fees regarded they prove their citizenship. They must also have a valid travel document. Data provided by the Kenya's Economic Survey 2015 indicate that as of June 2014, the number of Passports issued to EAC nationals stood at 148, 940.⁹⁹ The table below shows number of passports given to EAC citizens who have been registered and issued with work permits between 2011 and 2015.

⁹⁸ IOM. (2010). *Migration for development in Africa*. General Strategy Paper. IOM, Geneva. International Organization for Migration (IOM).

⁹⁹Statistics provided by theDepartment of Immigration, 2016.

Table 4.1: Number of passports issued, EAC nationals registered, and work permits issued, 2011–2014

Category	2010	2011	2012	2013	2014
Passports Issued	167,528	168,324	171,169	148,940	180,223
EAC Nationals registered	17,944	19,034	23,490	21,920	22,326
Work Permits issued	18,826	21,823	11,360	10,411	10,540
Work Permits renewed	20,521	23,498	8,636	9,315	10,532

Source: Economic Survey 2015, KNBS

In the period under review (2011-2015), the Kenyan government took steps to hasten the issuance of passports as well as work permits and ensured stringent vetting of requests. Table 1 shows passports given out, foreign nationals who successfully got registered and those who got work permits in Kenya in the last five years. In 2014 alone 180,223 passports were given out being a rise from 148,940 processed in 2013. In terms of work permits, there was a 13.0 per cent increase from 9,315 in the year 2013 to 10,532 in the year 2014.¹⁰⁰

This study sought to establish whether the benefits and privileges enshrined in the EAC CMP were being realized in respective member states. Primarily, the researcher asked the respondents to explain some of the achievements realized by their respective countries as a result of aligning their immigration policies to EAC common market rights and freedoms. The researcher established that in the EAC regional bloc, Kenya and Rwanda

¹⁰⁰KNBS. (2015). Economic Survey 2015. Nairobi. GoK Printer

give work permits without many bureaucracies as do the others with more conditions and requirements. This presents a policy gap in achieving unrestricted movement of labor objective stipulated in the CMP. In Rwanda, the banking, accountancy and hospitality segments have received more investment from Kenyans working in the private sector. Recent research shows that Kenyan organizations organized the highest number of exhibitions in the Rwandan Trade Fair.¹⁰¹ Kenyans residing and working in the Rwandan education department have been incorporated into the Rwandese labor market which employs teachers and mentors from Kenyan. A significant number of Rwandese are pursuing education in Kenyan schools. Kenya's 2015 country profile indicates that there were 76 Rwandese students pursuing international courses at University of Nairobi in its six colleges.¹⁰²

In finance auditors and accountants from Kenya lead the banking industry, while local Kenyan banks-Equity and KCB-provide a stiff competition for local Rwandese banks (Response from a Rwandese Businessman). Kenyans are good in health services, architecture as well as graphic and hospitality sector, interior design and agriculture.

On the contrary, the government of Kigali has not come up with a database to register and document Rwandans working in Kenya many who face stiff competition due to the skills of Kenyan workers. This means migration from Rwanda to Kenya is unregulated. Rwandese migrants do not possess the much required skills in the Kenyan labor market

¹⁰¹Kanyangonga, J.B (2010). *Integrating Migration with Development in EAC. Policy challenges and recommendations*. Research Paper-2010. Geneva. CUTZ Geneva Resource Centre

¹⁰² IOM. (2015). *Migration in Kenya. A country Profile 2015*. Nairobi. International Organization for Migration

especially for the informal sector. The researcher, sought to establish the tangible benefits and achievements realized by partner states due to adoption of immigration policies anchored on EAC regional integration principles. The findings reveal that the open-door strategy, that has facilitated Kenyans moving to Rwanda, has aided Rwandese in learning best practices in teaching, business and running business ventures successfully.¹⁰³

Additionally, Kenyans have created consciousness among Rwandese youth and women sensitizing them to coming venture and allocating primacy to gender issues in all areas. Additionally, they (Kenyans in Rwanda) have evolved instruments for venturing through Kenya Commercial Bank (KCB), Equity Bank as well as other financial institutions established in Rwanda. This conforms to the EAC right of establishment and constitutes one of the major milestone achieved in the process of integration.

The CMP in Article 5 calls for cooperation and commitment by member states to facilitate movement across states lines and set up border management system to aid smooth and movement of persons, workers and traders throughout the region. The respondents were asked to indicate whether there was an integrated border management system located in the entry and exit places of the partner states to secure immigration of EAC citizens. The findings reveal that, 55.8% agreed, 24.7 % strongly agreed, 3.9% did not know, 9.1% disagreed and 6.5%strongly disagreed as below.

¹⁰³ Field Interview with Rwandese Students at the Nairobi University

Table 4.2: Perceptions of Integrated Border Management System in EAC immigration Points

Statement		Frequency	Percent
	Strongly Agree	19	24.7%
Is there an integrated Border management system to secure EAC Immigrants	Agree	43	55.8%
	Do not Know	3	3.9%
	Strongly Disagree	5	6.5%
	Disagree	7	9.1%

Source: Field Data, 2017

The findings support similar ones by Koslowski which stated that border management systems (visa verification) can notice a surplus of covert activities and added that key pillars of safe cross border controls are adequate staff, superior technology and good infrastructure.¹⁰⁴ The findings point that the immigration sectors have combined the visa and passport information to stop abuse and adopt technology growing worldwide in efforts of securing free movement of persons. This also implies that the EAC partner states are on the watch out for all illegal people in their respective countries and have endeavored to guarantee safety of all visitors which are perused and their papers confirmed with the facts in the systems.

¹⁰⁴ Rey Koslowski (2011). *The Evaluation of Border Controls as a Mechanism to Prevent Illegal Immigration*. Geneva. NACTS Publication

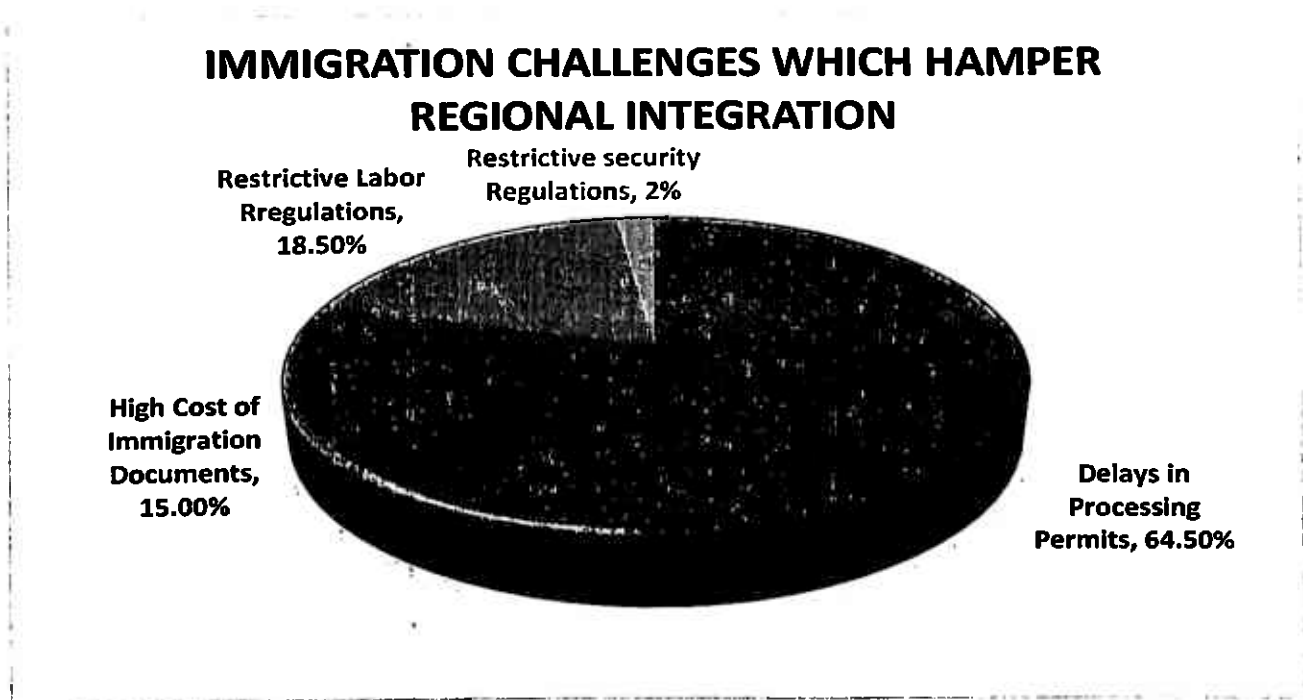
The findings also imply that the partner states Governments are working towards sealing all corruption loopholes and giving out fake documents by introducing electronic visas. While staying in a member state territory, an EAC citizen is protected by the laws of the state he is in. A citizen of a member state who commits crime while staying in another member state shall not be exempted from prosecution or extradition.¹⁰⁵ However, on public policy account, a member state can restrict the movement of members from other countries from entering its borders. Other grounds for such action involve national security and national health. However, such restrictions should be communicated to the other Partner States.¹⁰⁶ The Protocol also directs the Partner States to note common opening of border posts and securing them.

The researcher sought to establish policy issue(s) concerning immigration which hampers the full realization of common market objectives given its centrality in the process of integration of EAC regional bloc. The findings reveal that there are numerous legislative restrictions either entrenched in policies and acts or in practice which hamper realization of integration ideals. Respondents articulated various impediments which hamper realization of full actualization of common markets including delays in processing of work permits (64.5%); adoption of restrictive labor regulations in immigration laws (18.5%); high cost of immigration documents (Visas, Permits & Passports)-15 % and implementation of restrictive security regulations and laws 2%. The explanations given for the impediments varied from one respondent to the other and from one particular state to the other. The figure below the impediments as indicated by respondents;

¹⁰⁵Ogalo, V. (2012). *Achievements and Challenges of Implementation of the EAC Common Market Protocol in Kenya: Case of Free Movement of Labor*. Nairobi. CMP Implementation Papers

¹⁰⁶ Ibid

Figure 4.4: Immigration Policy Challenges which hamper EAC Regional integration



Source; Field Data, 2017

The researcher revealed that, although there are no reported cases of denial of work passes to an EAC worker, there have been several cases of rejection of work licenses or undue adjournments in dispensation of work permits that could have undesirable effects on the implementation of CMP objectives and entirely full integration. The unrestricted movement of workers is subject to the others limitations grounded on national considerations. The provisions are limited when it comes to hiring in civil service unless state laws so allow. Additionally, unrestricted movement of workers can be limited in a member states on grounds of public health, security or policy.

The researcher sought to establish some of the policy reforms which could be introduced to achieve the full realization of common market objectives in the integration process of

EAC. The respondents highlighted some of the policy reforms which could lead to realization of common market in East Africa. Some of them includes synchronization of economic procedures through liberal exchange and interest rate, running joint investment incentives, steps toward reconciliation of fiscal policy, and jointly developing a capital markets policy. Other reforms included eradication of yellow fever immunization which constituted a major impediment to immigrants particularly when entering Uganda and Tanzania. Others recommended the extension of period allowed to personal vehicles from the stipulated 90-days to probably 120 days; concerted efforts in civic education geared towards publicizing issuance of EAC IDs by the respective partner states; eradication of nationalistic chauvinism which to a greater extent hampers full realization of integration.

4.3 Chapter Findings

The chapter focused on establishing the role of immigration in the integration process. The role of immigration was contextualized in the CMP objectives and fast-tracked in the three original partner states with bias on Kenya's immigration policy. The chapter has established that immigration in the country is handled by the immigration department pursuant to Citizenship Act Cap 173, the Immigration Act Cap 172 and the Aliens Restriction Act Cap 170 respectively as well as the constitution of Kenya. The immigration policy framework of Kenya in the EAC context traces its origins in the colonial history and the emergence of migrant labor system in the EAC when World War veterans returned and settled searching for employment in the three East African states without regards to their nationality.

The unrestricted movement of people in the three territories formed the basis upon which initial steps to integration rested. Established by this chapter is the acknowledgement of existence of a national immigration policy and realization that majority of Kenya's immigrants are South Sudanese with exclusion of refugees. Majority of respondents in Kenya are economic and education immigrants mainly from Uganda and Rwanda respectively. The research has also established that the EAC partner states have embarked on procedures to harmonize work permits and fees levied on immigrants seeking jobs in the common market. The member states comprising the EAC have not yet to fully operationalize the principles enshrined in common market protocol. The three partner states have adopted integrated border management systems to ensure strict vetting of applicants in a bid to secure immigration. Comparatively, Kenya and Rwanda give work permits without much bottlenecks as opposed to Tanzania which has more harsh requirements due to her membership to SADC which to an extent hampers unrestricted mobility of persons in the region.

Some benefits and privileges enshrined in the EAC CMP being realized in respective member states includes transfer of skills and increased actualization of rights of establishment which Kenya seems to have taken lead with business ventures in Rwanda being flagship benefits. Access to education services in the region is a benefit associated with harmonization of fees and operationalization of right of residence. Some of the policy challenges experienced and which hamper realization of full integration include delays in processing of permits, national specific restrictions and high cost of immigration documents. Overall, difference in structure, economic development,

infrastructure, and institutions amongst the five members presents the biggest challenge to realizing the common market goals. Each state has instituted its own restructurings without fully considering their effect on the other members. This challenge indicates the conclusion arrived at by Philip Ndegwa that proceeds of the first EAC did not quite receive equitable distribution among members.

CHAPTER FIVE
SUMMARY OF FINDINGS, CONCLUSIONS AND
RECOMMENDATIONS

5.1 Introduction

Chapter five discusses summary findings established in the entire research study in line with the broader objective of analyzing the impact of immigration in the regional integration of the EAC outlined in chapter one. This chapter summarizes specifically lessons learnt and knowledge established concerning the nexus between Kenya's immigration policies and the integration process. Specifically, the summary is grounded on the study's objective which *inter alia* sought to assess the policy framework governing immigration in Kenya; reviewed the EAC process of integration and examined the role of immigration in integration process. Consequently, this chapter makes a well-informed conclusion based on the empirical evidence established by the study. Lastly, this chapter will provide policy recommendations tailored to suit specific country interest and the broader-mutual regional cooperation.

5.2 Summary of the Findings

5.2.1 The Policy Framework Governing Immigration in Kenya

Immigration in Kenya is handled by the department of immigration under Interior Ministry. The department is established under various Acts of parliament including; the constitution of Kenya, The Aliens Restriction Act Cap 170, the Immigration Act, Cap 172, and Citizenship Act 2011, Laws of Kenya. Among other responsibilities the immigration sector controls and regulates the coming in and going out of visitors and

Kenyans at all points of entry. For the purposes of this study, the immigration department considers and grants Kenya citizenship to foreigners who meet the set requirements under the Citizenship Act and Kenya Constitution. Visas are also issued to deserving visitors as set out in the Kenyan visa policies. In the same way, immigration department promotes trusts, liaison and upholds ties with major stakeholders on EAC migration issues for equal benefits and regional security. Pursuant to common market protocol requirements, the immigration policy enacted by Kenya is responsible for ensuring unrestricted movement of goods as well as services as pre-requisite condition for common market in regionalism. Information obtained from the department indicates that employment opportunities in Kenya is the most significant pull factor attracting immigrants into the country. This is in line with the migration theory advanced by Ravenstein in 1885 where he cited economic considerations as the major reasons as to why people migrate from one country to another. Kenya and Uganda are still close neighbors as far as sharing of workers is concern.

On matters concerning immigration, this study has revealed that Kenya has ratified many international migration treaties which have been domesticated, among them the East African Community Treaty, the 1951 Convention relating to the Status of Refugees, 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa etc.

5.2.2 Review of the EAC Integration Process

The study has reviewed the EAC integration process through a fast-track mechanism and established that the integration process is currently under the common market stage.

Several notable achievements have been realized after the ratification of the EAC Treaty by five partner states. The Customs Union stage has been achieved successfully in the period (2001-2005). The realization of Customs Union was achieved in 2004 while the CMP came into operational on July 2010, after being ratified by the 5 member states of EAC and has been in force to-date. Among other objectives the common market protocol has ensured integration of member states markets into one big market of 150 million people enjoying unrestricted movement of persons and goods who also enjoy the rights of establishment and residence in the regional bloc.

Following its ratification, the common market has ensured value-added harmonization of macro-economic regimes as well as co-ordination of major fiscal guidelines. The EAC treaty under Article 5(2) foresees simpler cross-border movements of EAC citizens and setting up of uniform employment policies and conditions once the custom union is operational. Whereas, a lot has been achieved there are challenges in partner states' economies, politics and social settings. Notable achievements realized by the integration process includes the internationalization of the EAC passport, issuance of EAC IDs to Ugandans and Tanzanians, conclusion of unrestricted movement of persons, achievement on the on unrestricted movement of persons and rights of residence as well as establishment.

The study reveals that integration has led to harmonization of admission and work permits as well as amendments of immigration common laws as the main achievements realized by the Common Market. Common market has also realized adoption of common

infrastructural projects in the region notably the SGR and LAPSSSET projects. It has also led to increased intra-regional trade due to liberalization of national markets among the partner states. The integration process is faulted for its reliance political whims of respective countries rather than being people-driven process. The integration process has been cited as an elite process which lack people consent and therefore bound to fail.

5.2.3 Role of Kenya's Immigration Policy on EAC Integration

Immigration in East Africa is traced during the pre-colonial era when soldiers who participated in the World War I returned and settled in the three partner states without discrimination on nationality grounds while searching for employment. Kenya's immigration policy borrowed heavily on such unchallenged cross-border migration. The strong cultural affinity among the East Africans has become the sustaining force upholding the integration process as well the cornerstone upon which immigration policies are grounded. The study has established that only Kenya, Uganda Rwanda and Tanzania have formulated immigration policies but South Sudan and Burundi are yet to draft an immigration policy. Immigration is one of the sectors well known to Kenya's population due to significance of its duties in international travel.

The researcher established that majority of Kenyans are well versed with immigration issues particularly immigration department responsibilities of issuing of travel Permits and Visas. East African constitutes the largest immigrant stock in Kenya. The pull factors responsible for immigration to Kenya include tourism, trade, health and education as the leading incentives attracting majority of Kenya's immigrants. By August 2017, the

number of East African Community nationals in Kenya constituted 60% of the entire immigrant population in Kenya a factor attributed to domestication of the EAC Treaty and operationalization of the Common Market protocol. Kenya has developed its own Employment Acts long before the CMP ever came into force. The security of immigrants and that of destination country constitutes the central component of the immigration process given the upsurge in terror related-insecurity which has mandated partner states to adopt an integrated border management systems capable of vetting the entry and exit of immigrants. Issuance of electronic Visas is a security measure adopted by partner states in a bid to eliminate corruption and illicit documents. Achievements realized by partner states are varied and specific to each state's economic and political structure. The right of residence and establishment are the central ideals that common market has availed and which have revolutionized immigration in the EAC.

5.3 Conclusion

This study analyzed the Kenya's immigration policies and frameworks that govern migration in the EAC regional bloc. Kenya's immigration policy was contextualized based on provisions of Common Market structure to assess the nature and level of integration. The study also looked at cases of each individual member state and their markets in line with the structure of the common market and realized that the EAC common market framework has not been well realized at state level in the five partner states and only in coherently includes other country-specific guidelines dealing with immigration in East Africa. The study found Kenya to be dominant in the bloc presenting trained personnel and high quality human resource that works throughout the region as

well realizes employment and tourism as the leading pull factors influencing Kenya's immigration.

The main conclusion reached by the study was that Kenya is a hegemonic powerhouse in the East African region in terms of labor and services, and this has been made possible by Kenya's highly trained workforce and the unique skills Kenya imparts especially on its informal sector workers. Kenya follows capitalist foundations and has experienced relative peace as compared to many of the countries in the region. Kenya is a good model of hegemonic presence in regional politics and integration which is seen in its high numbers of workers being absorbed throughout the region, progressive labor laws backed by a new constitution containing clauses on migration and diaspora working that is meant to change the shape of immigrant labor regimes. The 5 freedoms as well as 2 rights of CMP are directed at enhancing the socio-economic pillars of the region and ought to be incorporated in all state level policies and strategies for example Kenya's Vision 2030.

5.4 Recommendations

The following recommendations are developed to suit Kenya's immigration policy to the EAC integration process and are for short term and long term planning in the region. The policy recommendations are tailored to be role model for African integration units-RECs- and other regions of the world where immigration is to be integrated in the broader development context.

Kenya immigration department should lead the way in implementation of Protocol on East African Community Common Market which will be beneficial to her and assisting the region by operationalizing the rights and freedoms enshrined in the EAC treaty. There should be formulated policies to speed up the processing of the EAC passport with a central database of all EAC citizens for easy screening. The Kenyan government should come up with a new and progressive migration framework which will be built on the pillars of border migration policy, the national labor of migrants policy and which conforms with the tenets .

An effective administration structure for migration will be one that intends to augment the advantages of relocation while limiting its negative effects. This incorporates tangible and attainable execution techniques for finished approaches and also striking a harmony between the satisfaction of universal lawful commitments and the Government's sovereign ideal to control its borderlines. Kenya and concerned partners should coordinate to enhance the limit of applicable services, divisions, and offices to adequately actualize immigration approaches, laws, and directions. Compelling execution of laws, controls, and approaches requires a viable and capacitated workforce. Upgrades are required in the abilities and information of number civil servants, and in the regulatory processes of migration. Appropriate managerial skills are required at borderlines to validate refuge claims and handle migration issues.

In the spirit of EAC the partner states should take a shot at a plan to make transport especially air travel reasonable for the member states residents who are enthusiastic about

ventures; an advancement that could likewise work towards changes in the transportation framework inside the EAC to encourage successful execution of the common market. There exist requirement for EAC Secretariat to cultivate and restructure usage of approaches to migration, eventually bringing them together as needed with EAC member states. Rwanda, which has an enormous number of Kenyan citizens working there, should establish general database of its citizens in Kenya to determine their number as well as what jobs they take part in precisely and how Kigali can support them.

The EAC Secretariat ought to advance training on the Common Market to create awareness among citizens to it and its suggestions for the five flexibilities and two rights contained in the CMP, and which will undoubtedly direct migration and related enactment, and in addition approach guidelines in the bloc. The EAC Partner States ought to learn from Rwanda's Immigration department to develop a solid association and direct connections with different immigrant and labor welfare groups and with global associations supplementing government endeavors in aiding appropriate addition of foreigners wherever they are required.

The Government of Kenya particularly the immigration department recognizes the necessity of Kenya's balanced immigration and labor policies due to the huge number of Kenyans going abroad. For this to be possible and given the pending work on migration and labor protocols, Kenya needs to assent to the International Migrant Workers Convention (IMWC) 1990.

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APPENDICES

APPENDIX I: QUESTIONNAIRE

Introduction

Dear Respondent

I am carrying out an analysis of how immigration policies influence regional integration in the East African Community. This study will utilize a case study of Kenya's immigration policies. The findings and recommendations established by this study will contribute to knowledge aimed at improving movement of people across the East African region and generally in knowing regional integration process. In this regard, I would like to collect data that will assist in accomplishing the objectives envisioned by this study. Kindly answer the questions appropriately since your contribution will be much appreciated and the information provided will be treated with utmost confidentiality.

General Information

i. What is your gender? (Please tick in the boxes provided)

a) Male []

b) Female []

ii. Please tick the age bracket in which you fall.

21-30 years () 31-40 years () 41-50 years ()

51-60 years () above 60 years ()

iii. Kindly indicate your profession

.....
.....

Part A: Assessing Policy Framework of Immigration Policy in Kenya

Q.1 From your knowledge and understanding who is responsible for immigration in your country?

.....
.....
.....
.....

Q.2 Has your country developed a national immigration policy?

Yes []

No []

Q.3 In your opinion, what motivates people to immigrate into Kenya?

.....
.....
.....

Q.4 Does the immigration policy implemented by your country conform to immigrants needs?

.....
.....
.....

Q.5 which immigration policy objectives encourage immigration into your country?

.....
.....
.....

PART B: Determining how Kenya's immigration Policy has facilitated regional integration

Q.6 From your understanding, does Kenya's immigration policy facilitate free movement of person's across the East Africa Community?

.....
.....
.....

Q.7 Has the immigration policy adopted by your country adhered to principles of free movement of labor and services?

.....
.....
.....

Q.8 In your opinion has your country's immigration policy ensured enjoyment of the right of establishment and right of residence of other citizens from within the community?

.....
.....
.....

Q.9 What has been the greatest achievement of aligning your country's immigration policies to those of East African Community's regional integration?

.....
.....

Q.10 What national interest does your county stand to gain through aligning her immigration policies with those of East Africa Community regional bloc?

.....
.....
.....

PART C: Potential impact of Kenya’s immigration policy on the implementation of EAC Common Market Protocol

Q.11 From your knowledge and understanding does your country enjoy the benefits and privileges enshrined in the EAC common market Protocol?

.....
.....
.....

Q.12 What are some of the tangible achievements realized by your country due to her immigration policy towards EAC regional integration?

.....
.....
.....

Q.13 In your opinion which policy issue(s) concerning immigration hampers the full realization of common market Objectives in your country?

.....
.....
.....

Q.14 From the above named policy issue(s), which is the best policy reform which can be introduced to immigration to achieve the full realization of common market objectives?

.....
.....

Q.15 Based on your own opinion, what does your country stand to gain by adopting an immigration policy which promotes regional economic integration?

.....
.....
.....

THANK YOU

APPENDIX II: RESEARCH AUTHORIZATION LETTER



NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

Telephone: 020 400 7000,
0713 788787, 0733404245
Fax: +254-20-318245, 318249
Email: dg@nacosti.go.ke
Website: www.nacosti.go.ke
When replying please quote

NACOSTI, Upper Kabete
Off Waiyaki Way
P.O. Box 30623-00100
NAIROBI-KENYA

Ref. No. **NACOSTI/P/17/71592/19223**

Date: **22nd September, 2017**

Peris Wanjiru Mbuu
University of Nairobi
P.O. Box 30197-00100
NAIROBI.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on "*The analysis of the impact of immigration on regional integration of EAC case study of Kenya*" I am pleased to inform you that you have been authorized to undertake research in Nairobi County for the period ending 21st September, 2018.

You are advised to report to the County Commissioner and the County Director of Education, Nairobi County before embarking on the research project.

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit a copy of the final research report to the Commission within one year of completion. The soft copy of the same should be submitted through the Online Research Information System.


GODFREY P. KALERWA MSc., MBA, MKIM
FOR: DIRECTOR-GENERAL/CEO

Copy to:

The County Commissioner
Nairobi County.


The County Director of Education
Nairobi County.

National Commission for Science, Technology and Innovation is ISO9001:2008 Certified

APPENDIX III: RESEARCH PERMIT

THIS IS TO CERTIFY THAT:
MS. PERIS WANJIRU MBUU
of THE UNIVERSITY OF NAIROBI,
30197-100 NAIROBI, has been permitted
to conduct research in Nairobi County
on the topic: THE ANALYSIS OF THE
IMPACT OF IMMIGRATION ON REGIONAL
INTEGRATION OF EAC CASE STUDY OF
KENYA
for the period ending:
21st September, 2018

Permit No : NACOSTI/P/17/71592/19223
Date Of Issue : 22nd September, 2017
Fee Received :Ksh 1000



Applicant's Signature

Director General
National Commission for Science,
Technology & Innovation

CONDITIONS

1. The Licence is valid for the proposed research, research site specified period.
2. Both the Licence and any rights thereunder are non-transferable.
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