**UNIVERSITY OF NAIROBI**

**DEPARTMENT OF SOCIOLOGY AND SOCIAL WORK**

**ESTABLISHING THE IMPACT OF KENYA CITIZENSHIP AND IMMIGRATION ACT, 2011 ON REDUCTION OF IMMIGRATION OFFENDERS IN KENYA: A CASE OF DEPARTMENT OF IMMIGRATION, GOVERNMENT OF KENYA.**

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**NOVEMBER, 2016**

## DECLARATION

I declare that this research project is my original work and has never been submitted for examination in any other institution.

Signature........................................        Date.......................................

**SAMUEL KUNGU MBUTHIA**

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

**Signature.............................................        Date.........................................**

**PROF.E.K.MBURUGU**

## DEDICATION

This study is dedicated to my family who were a strong pillar of encouragement during the course of this study.  This has enabled me to concentrate in my studies.

## ACKNOWLEDGEMENTS

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# ACRONYMS/ABBREVIATIONS

IOM    -    International Organization on Migration

EU     -    European Union

US     -    United States

USA    -    United States of America

UN     -    United Nations

UK     -    United Kingdom

NHS    -    National Hospital Services

KCIA   -    Kenya Citizenship and Immigration Act, 2011

Ksh    -    Kenya Shillings

PI     -    Prohibited Immigrant

ICT    -    Information Technology Communication

MICNG  -    Ministry of Interior and Coordination of National Government

DIS    -    Director of Immigration Services

IOC    -    Officer In Charge

ID     -    Identity Card

# ABSTRACT

The problem of immigration offenders is of great concern to the whole world Kenya included. Countries all over the world are struggling with the problems of illegal immigration, undocumented people, asylum seekers, huge number of refugees and forgery of travel documents. Despite their efforts to find a lasting solution to this problem there is no single solution in the foreseeable future. The objective of this study is to assess the impact of Kenya Citizenship and Immigration Act, 2011 on immigration offenders. Despite the previous Act having elaborate methods to control immigration offenders like deportations, repatriations, prosecutions, removals, increased visa and permit fees and watch listing the offenders ( Immigration Act, Cap 172) the problem of immigration offenders has continued to be a thorn in flesh to security policy makers. The Kenya Citizenship and Immigration Act, 2011 had the objective of introducing punitive penalties and higher fees for immigration services that would help deter immigration offenders. The Act also aimed to introduce new emerging offences that were not covered by the previous Act. The study adopted case study as the research design and will used descriptive survey as a method of collecting information by interviewing or administering a questionnaire to the sample population. The researcher also used an interview guide which was administered to key informants in the Department. Secondary data was also used which was derived from immigration prosecution records. The target population was those officers in the Department of Immigration whose duties are investigation and prosecution and officers in charges of the Regions as key informants. The sample size was a census of all officers involved in investigation and prosecution duties and a census of all heads of Regions. Data was analysed using inferential statistical feature in Statistical Package for Social Sciences (SPSS) to generate percentages, tables, frequencies figures, correlation and cross tabulation. From the finding it was realized that immigration offenders are not aware of Kenya Citizenships and Immigration Act 2011 neither are they aware of its provisions. It was also found that high fines, penalties and levies have minimal impact in reduction of immigration offenders. From the findings it was also realized that the use of punitive punishments cannot be the best policy to be used to control crime in any society. As a consequence the study recommended that the immigration Department should explore other method of controlling immigration offenders as heavy fines, penalties and levies only encourage recidivism

# CHAPTER ONE

# INTRODUCTION

## 1.1 Overview

This chapter presents the reader with an outline of the study. It covers background information, statement of the problem, objectives of the study, justification of the study, research questions, assumptions, and significance of the study, limitation of the study, the scope and definition of operation terms.

## 1.2 Background to the Study

There are more immigrants in the world today than ever before. People are crossing the borders in unprecedented numbers with more than 200 million living outside their home countries (Gonzalez and Nowicki 2014). Some move through the legal means while others do not follow the legal means provided. Those who do not follow the legal means create the problem of immigration offenders. Illegal immigrants comprise 3.1% of the world population.

The problem of immigration offenders is of great concern to the whole world, Kenya included. Countries all over the world are struggling with the problem of illegal immigrants, people without documents, asylum seekers, huge number of refugees and forgery of travel documents. Immigration offenders bring with themselves political, social, economic and environmental problems to the host countries. The urge to migrate is largely motivated by search for better economic prospects, better shelter, asylum seeking, political persecutions, jobs, education, medical facilities, tourism, trafficking, smuggling, economic recession among others (Gonzalez and Nowicki 2014). Most of the punitive punishments applied in modern societies include among others capital punishment, corporal punishment, fines, incarceration etc.

Despite the efforts to find a lasting solution to the problem, there is no solution in the foreseeable future.

This study is an evaluative project necessitated by the need to examine the impact of particular sanctions in reduction of crime in society. The study explores the worth of punitive punishments and increased tariffs for services in reduction of rates of crime in society.

In the year 2010 the department of immigration Kenya was faced with a high number of immigration offenders which the policy makers felt was due to weak punitive sanctions and very low fees for its services.

Most illegal immigrants did not care being taken to court as the fines charged were as low as Kshs.2000 resulting in high rates of recidivism (repeating the same offence severally). Public transport operators (Carriers) on the other hand used to bring a lot of people without documented people (undocumented people) without due regard to the law as there was no fines (surcharge) for such activities.

A lot of illegal immigrants before this Act used to get away with their crimes at the borders because immigration officers did not want to go through the tedious legal justice system and there was no provision for instant fines for those offenders. This created a conducive environment for corruption.

Human trafficking was rampant before this new Act as this activity was not criminalized in the old immigration Act. As a consequence, human traffickers used to have a free day across borders as it was only the victims who were charged.

The policy makers felt the fines were not punitive enough to deter people from committing immigration offences. It was then resolved that the Immigration Act Cap 172 should be amended in order to offer stiffer penalties and high fees for services in order to curb these offences. The Kenya Citizenship and Immigration Act 2011, was enacted and the Immigration Act Cap 172 repealed.

As a consequence, fines stipulated in the Act were increased from Ksh.20, 000 to Ksh.500, 000 for general immigration offences and from Ksh.100, 000 to Ksh.5, 000,000 for offences against immigration documents.

For services, permit fees were increased from Kshs. 50000 for investors to Kshs.200, 000 and from Kshs. 100,000 to Kshs. 400,000 for employees. This was meant to ensure only serious investors were allowed in the country and only essential skills are imported.
To curb on those immigrants who overstay their visas an instant fine of Kshs.50, 000 was introduces for those who have overstayed for duration of between one to ten days.

Human trafficking was criminalized in the new Act and traffickers if convicted can be charged a maximum fine of ksh. 5,000,000 or be imprisoned for a maximum period of five years.

Public transport operators (Carriers) were not spared in the new Act. For bringing undocumented persons or illegal (undesired) immigrants public transport operators are fined Kshs. 500,000.

It is within this background that this study aims to evaluate whether increase in fines or penalties, increased tariffs and criminalizing of certain activities really results in reduction in the rates of crime in society. The study aims to evaluate what impact the Kenya Citizenship and Immigration Act 2011, has had in reducing immigration offenders since it was enacted in August 2011. The study aims to assess whether this Act has been able to achieve the desired objectives.

**1.3 Statement of the Problem**
Different countries all over the world are grappling with the problem of immigration offender. In Europe there were 350,000 illegal immigrants between January and August 2015(IOM 2015). In Africa more than 240,000 illegal immigrants move to different countries in the world every year (Emerson 2010). Kenya is also faced with the problem of immigration offenders. Kenya repatriates 1200 illegal immigrants every year (IOM

2014) and host one of the largest refugee populations in Africa. Kakuma refugee camp hosted 181,821 and Dadaab host 463427 in 2011(IOM 2014).

Different countries all over the world advocate for harsh penalties in order to combat immigration offenders. Most researches to date advocate that increases in the certainty of punishments, as opposed to the severity of punishments are more likely to produce deterrent benefits (Valerie 2010). She argues that since most crimes do not result in an arrest and conviction, the overall deterrent effect of the certainty of punishments is substantially reduced. To her, enhancing the severity of punishments will have little impact on people who do not believe they will be apprehended for their actions.

Another research suggests that increasing the likelihood of arrests or incarceration for both minor and serious offences would reduce crime but not severity of punishments (David 1994).

When prisoners serve longer sentences or pay heavy fines they are more likely to become institutionalized, loose pro-social contacts in the community, and become removed from legitimate opportunities, all of which promote recidivism (Orsag 1988).

To researchers there is no existing evidence to support the benefits of the practice of increasing severity of sentences, longer prison terms or heavy fines (Valerie 2010). To her, crime can be greatly reduced if policy makers reconsider their overreliance on severity based policies like longer prison sentences.

Other theorists advocate imposing of maximum penalties which include massive fines, life sentences or even death penalty to curb crime (Jeffrey 2011).

Despite these measures the world continues to grapple with the problem of immigration offenders and there is no solution in the foreseeable future.

It's against this background that this study aims to evaluate the impact heavy fines and high fees have on immigration offenders.

## 1.4 Research Questions

The pertinent research questions for this study are as follows:

i)     To what extent are the immigration offenders aware of the provisions of the Kenya Citizenship and Immigration Act, 2011?

ii)    To what extent have the increased fines and levies helped to deter immigration offenders in Kenya?

iii)   In view of the measures adopted by Kenya Citizenship and Immigration Act, 2011 has the number of immigration offenders decreased or increased?

## 1.5 Objectives of the Study

### 1.5.1  Main Objective

This study has the main objective of evaluating impact of Kenya Citizenship and Immigration Act, 2011 on immigration offenders three years since it was enacted.

### 1.5.2 Specific Objectives

This study will be guided by the following specific objective:

i)     Find out level of awareness of the provisions of Kenya Citizenship and Immigration Act, 2011 to immigration offenders three years since its enactment.

ii)    Find out the impact of heavy fines and levies in deterring immigration offenders in Kenya three years since the enactment of Kenya Citizenship and Immigration Act 2011.

iii)   To find out if heavy fines and levies policies are working to control crime levels in Kenya since the enactment of Kenya Citizenship and Immigration Act 2011.

**1.6 Justification of the Study**

This study is necessitated by the need to evaluate whether increased penalties and levies can be used as effective tools in combating criminal activities in Kenya.

Currently Kenya is faced with a myriad of security problems. These ranges from terrorism, trafficking in persons, drug trafficking, money laundering, poaching and general increase in criminal activities and criminal gangs (IOM 2010). All these problems are blamed on the influx of illegal immigrants in the country.

The Kenya government has used various measures to try and address these challenges. Some of the measures used include training of security personnel, increasing allocations for security operations, increasing recruitment for security personnel, repatriation of foreigners, deportations, removals, enhanced prison sentences and amending of security laws.

Due to the increase in immigration offenders the Kenya government enacted Kenya Citizenship and Immigration Act, 2011 as one method of confronting the menace of illegal immigrants. The Act stipulated heavy fines and higher fees for immigration offenders if apprehended.

Since it was enacted no research has been done to assess whether the measures envisaged in the Act are working or not. The frequent rates of repatriations and terrorist attacks points to a serious failure in the efforts being employed to curb immigration offenders in the country.

It is then necessary to interrogate the impacts of the Kenya Citizenship and Immigration Act, 2011 policies of enhanced penalties and higher fees for services on reduction of immigration offenders. It's also necessary to carry out this study in order to inform on the government on the applicability of its policies. The study would also inform the general public on the impact of punitive punishments on crime. The findings of the study would

also add to the body of knowledge on best methods that can be used to combat crime in society.

The findings of the study will be important to the policy makers as it will inform on best practices to adopt in the fight against immigration offenders. The study will inform the Department of immigration whether the Kenya Citizenship and Immigration Act, 2011 is the best law to curb immigration offenders. The study will inform scholars on whether the call for harsh punishment whenever a crime occurs has any bearing on reduction of crime. The researchers will use the study to add value to body of knowledge in the field of penology.

## 1.7 Scope of the Study

The study will be confined to the Department of Immigration. It will cover the major sections that are involved in investigations and prosecution of immigration offenders. It will interview officers who interact with these offenders in their day to day operations. The study will endeavour to assess the impact that Kenya Citizenship and Immigration Act, 2011 has had on reduction of immigration offenders in Kenya since its inception.

The study will be limited in scope as it will not cover all the immigration staffs as most do not deal with the immigration offenders directly but forward them to the investigations and prosecution sections of the Department.

The researcher will also not be able to interview the immigration offenders as these are mostly foreigners with no fixed abode and immediately they are prosecuted and released they are immediately repatriated (returned) to their home countries. It will also be difficult to interview these offenders as immigration has no cell facilities to hold these offenders and are usually under the care of police officers or prison wardens. It is very difficult to trace those who are convicted to the prisons where they are incarcerated for interview.

The study will also have the limitation of not covering all the stations in immigration department as not all stations or sections are directly involved in investigation and prosecution duties hence only those which are directly involved will be covered. This in turn may not be a true representation of the views of all immigration officers on the impact of this new Act on immigration offenders.

## 1.8 Limitations

The limitations of the study are:

i) It will not be possible to interview all immigration officers except those involved in investigation and prosecution duties..

ii) It will not be able to interview the immigration offenders as they have no fixed abode and are repatriated (returned) to their home countries once their cases are concluded.

iii) Not all stations or sections within the department of immigration are directly involved in investigation and prosecution.

## 1.9 Definition of Operational Terms

**Impact**

Effects or results of something.

**Act**

A law that has been passed by parliament.

**Offender**

A person who commit a crime

**Reduction**

Act of making something less or small.

# CHAPTER TWO

## LITERATURE REVIEW AND THEORETICAL FRAMEWORK

### 2.0 Overview

This chapter describes purposes of punishments, historical background of punishments, theoretical framework of punishments, global problem of immigration offenders, critical analysis of punishments, measures used to curb immigration crimes, background to Kenya Citizenship and Immigration Act, 2011 and rationale of harsh punishments in Kenya.

### 2.1 Literature Review

### 2.1.1 Purposes of Punishments

Throughout history man has endeavoured to maintain law and order in societies by imposing social sanctions to acts that do not conform to the norms of the societies. These sanctions are what are referred as punishment. In any society punishments serves quite a number of purposes. Punishments helps to ensure that the offender is adequately punished for the offence he has committed, help to prevent crime by deterring the offender and other persons from committing similar offences and protect the community from offenders (Chaturvedi C 1989).

Punishments also help to rehabilitate the offender, make the offender accountable for his actions; help to denounce the conduct of the offender and help console the victim and the society about the harm done by the offender (Krishna K 2007). A punishment also ensures justice is done to the victim as he feels fully compensated when the aggressor is punished.

### 2.1.2 Historical Background of Punishments

This section will examine the purposes of punishments in the period between 1450 to 1750, 1750 to 1900 and 1900 to today.

### 2.1.3 Punishments from1450-1750

This was the period that stretched in time from the Middle Ages to Anglo-Saxon era. Crime during this period was attributed to the influence of evil spirits and the major purpose of punishments was to appease the gods. Punishments used to control crimes during this era were very harsh and inhuman (Harrison. (2001). To him the concept of incarcerating a person as punishment for a crime was a novel idea. During this time trials were skewed in favour of prosecutors. People accused of felony and treason was denied legal counsel and justice was swift and brutal. There were many offences carrying death sentences where people were hanged in public with great ceremonies. Rulers of the time believed use of harsh and cruel punishments would deter them from committing further crimes.

In England the greatest and most grievous punishment was treason where the offender was hanged till he was half dead, and then taken down, and quartered alive, after that, their members and bowels were cut from their bodies, and thrown into a fire (Harrison.2001).

At the end of this period harsh punishments were not effective in taming the spiralling crime. They did not achieve their intended goal of deterrence

### 2.1.4 Punishments Between 1750 TO 1900

During this period there were serious debates about the purposes of punishments. Shaming and whipping punishments gradually reduced. Fewer people were hanged and public executions were thought to be barbaric and stopped. The most common punishment was transportation to America (Harrison.2001). To him crimes were committed by a criminal-class and removing the offenders was thought to cause crime to decline. Others were transported to very far unknown land and the fear of the unknown was thought to deter people from committing crimes. The offenders were also forced to offer free labour in British colonies abroad. The governments also started a massive prison building programmes and solitary confinements were introduced.

The essence of punishments during this period was deterrence (Harrison.2001). Governments summed prison life as "hard bed, hard board and hard labour". These measures were not able to reduce crime but only hardened criminals and increased the rates of recidivism.

## 2.1.5 Punishments from 1900 to Today

This period has witnessed great reforms in the penal systems and punishments are more humane even though harsh. Lumumba P. (2012) states that there are only two and only two purposes of punishments served to the criminal offender today: - the deserved infliction of suffering to the evildoer and the prevention of crime. Punishments today are aimed at crime prevention, sustaining the morale of the conformist and reforming the offender (Krishna 2007).

Punishments in this era are geared toward general deterrence where the general public is dissuaded from criminal behaviours and specific deterrence where the offender is deterred from committing further crimes.  They are also used to incapacitate the offender where he is restrained in prison, reformation of offenders and retribution which restores balance which the offender had disturbed.

 There is quite a number of punishments used today to punish the offenders like death, imprisonment, detention, fines, forfeiture,  and compensation, security for good behaviour, probation, settlement and extra mural penal employment ( Lumumba. 2012). All these punishments have not been able to reduce the rate of crimes in societies and consequently states are continuously enacting new laws to help reduce crime. Man avoids criminal behaviour that elicits swift, severe and certain punishments (Krishna.2007). To him, to control crime punishments should be severe and certain. On the other hand Jeffrey 1965) argues we cannot reduce crime by being severe and certain. He argues severity of punishments can be gained only by sacrificing certainty and increasing penalties for crime has negative effect of making the punishment less certain. Severity and certainty of punishments are not inversely related to crime index nor are changes in their levels (John.1965). It is against this background that Kenya Citizenship and

Immigration Act, 2011 was enacted with harsh penalties and high tariffs to help reduce immigration offenders.

### 2.1.6 Global Problem of Immigration Offenders

The world today has grown into a very big village and people are moving in unprecedented numbers in search for better living conditions. Some move legally across national borders while others move without due regard to the laws. Some are properly documented while others are undocumented. Those who have no regard of the existing laws form the group of immigration offenders.

It is estimated there are 214 million immigrants in the world with 20% of these being illegal immigrants( Gonzalez.2014).To him, USA has about 11.1million undocumented persons, EU has 103,000 undocumented people entering every year, Australia has about 7million illegal immigrants, Asia 8millions and Africa has 3millions undocumented people.

Despite these huge figures of undocumented immigrants no country or nation has devised a perfect solution to this problem. The problem remains one of the world complex problems to solve and the solution is universally elusive. The challenge to the world is to find ways to manage illegal immigrations in a way that benefits all countries. Illegal immigration will always be there because people will always find a way to get in no matter how hard you try to close the borders (Gonzalez.2014). To him you can manage it by opening the doors to immigrants you need or want but completely effective solution will remain elusive. Since Kenya has its equal share of immigration offenders, it is against this background that this research project wants to find out the impact of using harsh penalties and high fees in the Kenya citizenship and immigration Act 2011, on reducing illegal immigrants in Kenya.

### 2.1.7 UN Convention on Organized Crimes

The world today has grown into a global village as a result of interconnectivity. This has resulted to development of international organized criminals who cross various borders to

other countries to go and commit crimes there. These crimes include terrorism, drug trafficking, human trafficking, smuggling, credit card fraud and money laundering.

In punishing the various individuals involved in organized crimes the United Nation has formulated the UN convention for prevention of organized crimes. This convection advocates that international criminals should be provided with proportional criminal penalties to their crimes. The convection also states that properties acquired through proceeds of organized crimes should be forfeited to the state.

However when dealing with international criminals the convention advocates that criminals be given a fair hearing while respecting their human rights. In particular it outlines that victims of human trafficking should be protected from deportation or forceful return if their security is not guaranteed at home (UNDOC 2004).

These measures are in line with the department of immigration in punishing immigration offenders who a big proportion falls under organized crimes. Despite penalties being severe they are proportional to the nature of the crime and respecting their human rights.

### 2.1.8 Africa Immigration Problem

Africa as a continent has not been spared the problems of immigration offenders. Huge populations move within the African states while others move outside the continent (Solomon 2003). He argues that these movements are caused by push and pull factors which include a variety of hardships and challenges that are faced by the individuals and states in Africa alike. The push and pull factors include labour, conflicts, economic prospects, trade, demographic pressure, poverty, human rights abuses and human trafficking(Normand 2007). In 2005 there were 16 million immigrants in Africa 8.8 million being internal migration while 7.2 million being emigrants to other countries (Normand 2007).

Africa's immigration problem comprises of illegal immigrants, human trafficking and economic tourists (Emerson 2010). These in turn results in a number of challenges within the continent like crime, terrorism, conflicts, security challenges, refugee problem and

asylum seekers. Despite these challenges Africa has not been able to develop a lasting solution to the problem of illegal immigration.

**2.1.9 Kenya Immigration Problem**

Kenya as a country has been faced with a myriad of immigration challenges even before its independence in 1963. Before independence Africans were given Identity Card (ID) which was very huge and discriminative on gender and race (IOM2006). These documents were easy to manipulate which resulted in illegal registration of aliens, forgery and theft as well as photo substitution.

After independence the size and purpose of ID and passport changed. Discrimination between genders was abolished and age limit was raised from 16years to 18 years. During this period the main challenges of immigration included illegal registration of aliens, forgery of documents, photo substitution in passports and identity theft (IOM 2006).

Today with technological advances the immigration challenges facing the country are enormous and complex. They include forced migration, transit of illegular immigrants, labour migration, internal rural to urban migration, document forgery, identity theft and outright violation of immigration laws (Olum 2012). Other challenges include human trafficking, terrorism, cyber-crime, money laundering, drug trafficking and refugee problem.

The current state of affairs has been aggravated by laxity in implementation of immigration law, political instability in neighbouring countries, international criminal syndicates, corruption, technological advances and economic hardships (IOM 2015). Currently there are 533,267 Somali refugees in Dadaab, 92,317 South Sudan refugees and20,000 children trafficked every year which complicate immigration problem further (IOM 2015).

Despite all these challenges there has not been a perfect solution to the problem of immigration offenders in Kenya hence the enactment of the Kenya citizenship and Immigration Act 2011, to address these challenges.

## 2.1.10 Baseline Data for this Study

This is usually a set of data that is initially collected and is used as a basis of comparison or as a control study (Jack 2012). In order to effectively establish the impact of Kenya citizenship and Immigration Act 2011 this study will use data derived from prosecution records of the last three years of the repealed Act held at the headquarters which will be used as a base to compare whether immigration offenders have increased or decreased under the new Act. This data is derived from the period September 2008 to 30$^{th}$ August 2011 when the new Act was enacted. This data is tabulated as follows:

**Table 2.1**: **Baseline** Data

| Period | Prosecuted Cases | Total |
| --- | --- | --- |
| **Before the Law** | | |
| Sept. 2008 – Aug 2009 | 391 | |
| Sept. 2009 – Aug 2010 | 342 | |
| Sept. 2010 – Aug 2011 | 420 | **1153** |

**Source: Immigration Prosecution Records 2008-2011**

## 2.1.11 Measures Used to Curb Immigration Offenders

The world all over is struggling with the problem of looking for a perfect solution to immigration offences. Different countries have adapted different approaches to this problem. Some of the measures used include prosecution with heavy penalties, detentions, deportations, repatriations, use of ICT border management, building walls across borders, administrative removals and increasing border police agencies (IOM 2010). Other measures include use of biometrics in profiling passengers, simplifying visa regulations, issue of residence permits and issue of citizenship.

Kenya is also using most of these measures hence the need to evaluate the impact they have on the problem of reducing immigration offenders.

## 2.1.12 Researchers Opinion on Punishments

A lot of research has been done on the impact of punishments on crime levels but researchers have never agreed on the most effective way to control crime. Some argue harsh and punitive punishments are required to control crime while others advocate on the reforming of offenders. Longer prison sentences do not reduce crime rate (Jeffrey .2011). To him increasing the risk of arrest and imprisonment are the most effective measures. He suggests policy makers should focus more on strategies to increase the risk of arrest and less on increasing the severity of the punishment.

Marginal penalties could entice people to commit small crimes hence penalties should not be too light and at the same time too severe punishments encourage criminals to commit more egregious crime (Kathleen.2010). Eliminating crime is a must and harsh punishments are a must for effective crime reduction (Bhavlen.2014). Major W. (1994) argues that the siege of crime and all misery it brings both to those who commit it and those who are victimized, is a high price to pay for our liberty. It is a high cost that is badly and unfairly distributed. But for now, at least, there may be nothing to do but grit our teeth and pay the price (Major.1994).

Since there is no agreed measure to control crime there is need for continuous research on best measures to control crime a task this project entails.

## 2.1.13 Kenya Citizenship and Immigration Act, 2011

This is an Act of parliament governing immigration matters in Kenya since 30th August 2011. It was enacted after the repeal of Immigration Act, Cap 172 after the promulgation of the new constitution in the year 2010. It was enacted against the background of increased immigration offenders and very low penalties that were prescribed in the earlier Act. At the time the country had many incidences of terrorism activities which were blamed on lax immigration rules and corruption among the immigration officials.

As a consequence, fines stipulated in the Act were increased from Ksh.20, 000 to Ksh.500, 000 for general immigration offences and from Ksh.100, 000 to Ksh.5, 000,000 for offences against immigration documents.

For services, permit fees were increased from Kshs. 50000 for investors to Kshs.200, 000 and from Kshs. 100,000 to Kshs. 400,000 for employees. This was meant to ensure only serious investors were allowed in the country and only essential skills are imported.

To curb on those immigrants who overstay their visas an instant fine of Kshs.50, 000 was introduces for those who have overstayed for duration of between one to ten days.

Human trafficking was criminalized in the new Act and traffickers if convicted can be charged a maximum fine of ksh. 5,000,000 or be imprisoned for a maximum period of five years.

Carriers were not spared in the new Act. For bringing undocumented persons or undesired immigrants carriers are surcharged Kshs. 500,000.

The Act also shortened the period within which an employer should pay for a work permit from the date of notification of approval from 90days to 30days. This was meant to check on those who are working without work permits. The Act also empowered immigration officers to conduct impromptu raid/visits at the premises to verify on the number of expatriates there and their immigration status (KCIA, 2011).

The Act also provides for Kenyans who lost their citizenship through acquiring another country's citizenship to apply and regain it. Foreigners who have been married to Kenyans legally for a period of seven years are now allowed to apply for citizenship. The Act also provides that if a person has been declared a prohibited immigrant (PI) and deported he cannot return into the country (KCIA, 2011).

It is against this background that this research project endeavours to find out the impact these changes have on reducing immigration offenders in Kenya for the period it had been in operation.

## 2.2. Theoretical Framework

This section will examine theories that have been used to explain the authority to punish and punishments withtheir resultant effects on crime. The theories include state theory, retributive theory, deterrence theory, preventive theory, reformative theory, rational choice theory and utilitarian theory.

### 2.2.1 State Theory

States are usually defined as the units of governance that exercise legal authority over specific territory and the people in it and that recognizes no legitimate external higher authority (John 2007). Punishments in any states are executed by the state which has the legal authority to do so. The state theory states that the purpose of state is making wars and ensuring internal order (Evan P.and James R.1999). States therefore ensure internal order through enactment of laws and policies which criminalizes certain activities. The war making role of a state justifies the state's monopoly of violence to avoid the Hobbesian chaos internally and accrue universal interest in society (Gilpin 1987). This violence is usually meted out using punishments and penalties to those who threaten the internal order. The Kenya Citizenship and Immigration Act 2011, is one such measure used by the state to control offenders.

States derives their powers to punish from social contracts which they are given by the citizens. The constitution is the supreme law that defines the governance system of any particular government. Laws and regulations are then derived from these constitutions. The Kenya Citizenship and Immigration Act 2011, is one such laws derived from the Kenyan constitution promulgated in 2010 which is a social contract between the Kenyan people and the government. If these laws are not enforced and are violated anarchism may occur.

State theory states that a state must put actions and policies to promote safety and security of itself because it must preserve itself first before it promote the welfare of its people (John 2007). The Kenya Citizenship and Immigration Act 2011 is one of the policies enacted by the Kenya government in order to preserve it from external criminals.

Some state theorists Pluralist, Elitists and Marxists feel the main duty of the state is to protect the interests of the ruling class and to oppress the poor. They argue the state is characterised by the use of force by the army, police and the legal system to suppress the troublesome people in society (Gramcsi 1937). If states are weak they are easily penetrated or exposed to the vulnerability of the world economy and the temptations of shallow world culture and ideology (Evans and James 1999). The Kenya Citizenship and Immigration Act 2011 is one such law that guard Kenya as a country from such vulnerability. Derived from is authority the state today punishes violators of its laws and policies in order to deter, prevent, reform, help them make rational choices and help them get utility of their decisions. These current objectives of punishments are explained by the following theories:

### 2.2.1 Deterrence Theory

Deterrent theorists argue that punishments should be used as a means of improving social behaviour. Punishment is designed not to take revenge but to terrorize the future offenders (Sutherland and Cressey.1974). Punishment should be given to the criminal so that others may learn a lesson from him (Sutherland and Cressey.1974).

Deterrent is divided into general deterrent and specific deterrent. General deterrent deter future crime by making an example of the offender by frightening citizens so that they will not do what the offender did. Specific deterrent is aimed at reforming the offender by creating fear of repetition of the punishment. This theory is based on the hedonistic assumption that people regulate their behaviour by calculating pain and pleasure. It assumes people will not commit crime if the pain or penalties are very high. Walter (1999) dismisses this theory and states that giving severe punishments is like bending the bow till it snaps back. The use of fear cannot help reduce crime.

The Kenya Citizenship and Immigration Act 2011 was designed with very punitive fines and punishments with the aim of deterring immigration offenders from violating the law a purpose this theory serves. This theory serves best the Immigration Departments as most offenders are non-Kenyans, who are punished so that others may not engage in the same crime,

## 2.2.2 Reformative Theory

According to this theory the object of punishment should be to reform the offender. It is not aimed at punishment but is a mere rehabilitative process. It aims to make the offender a better person through moral and ethical training. This is done through isolation, moralizing by sermons in the name of God, signing a pledge to live a law abiding life, hard and dreary work in prisons and rigid prison discipline (Krishna 2007).

The theory advocates treating offenders separately, being sympathetic to them, loving and changing tact to reduce crime in societies. It advocates for peno-correction institutions, borstal schools, probation of offenders and parole boards in order to reform offenders. This theory has emerged as a novel idea in reforming offenders without inflicting pain.

However this approach to fighting crime is faced with high incidence of recidivism and radicalization in prisons and has not really achieved the intended outcomes.
The Kenya Citizenship and Immigration Act 2011 have provisions for sending immigration offenders to prison for them to reform which is a tenet of this theory. However this theory do not serves the department of immigration well as most offenders are non-Kenyans and are repatriated after the punishment.

## 2.2.3 Rational Choice Theory

This theory is based on the utilitarian classical school philosophies of Cesare Beccaria and was popularized by Jeremy Bentham (Beccaria 1763). They argued that punishments, if certain, swift and are proportionate to the crime was a deterrent for crimes, with risks outweighing possible benefits to the offender. This philosophy was later replaced by

positivists and Chicago schools philosophers (James and Wilson 1965). These philosophers argued that criminals like other people weigh cost/risks and benefits when deciding whether or not to commit crime and thinks in economic terms. They argued criminals try to minimize risks of crime by considering the time, place and other situational factors. They try to ensure benefits of their crime outweighs the costs such as the probability of apprehension, conviction, punishment as well as their current set of opportunities.

Criminologists in the 1980s and mid 1990s argued personal shame and loss of self-esteem is one of the factors in deciding whether to commit crime (Gramsick and Bursik 1993). They also argue that social disapproval is the most important variable in decisions to commit crime (Pogarsky 1993). However the most important finding of rational choice theory is the choice /benefit analysis.

Proponents of this theory argue that to reduce crime, societies must maximize on fines and minimize on surveillance. It is probably against this background that the policy makers of Department of Immigration in Kenya relied on when formulating the Kenya Citizenship and Immigration Act, 2011. But Stigler (1970) argues that increasing risk of offender being caught, added surveillance, police presence and added street lighting would be an effective measure to control crime.

### 2.2.4 Social Control Theory

This theory states that people obey rules and follow laws because that is what is generally accepted by everyone else(Jessica 2014). Further the theory postulates that people adhere to certain guidelines out of moral pressure to save face. They don't want to fall out with the rest of society by breaking laws. This theory states if there are no social or cultural norms, then people will behave the way they want.

It is against this background that Kenya Citizenship and Immigration Act, 2011 was formulated with heavy fines as the social norms aimed at ensuring public norms and regulations are obeyed.

### 2.2.5 Utilitarian Theory

This is a theory that justifies the evil of punishment only when such punishment has some utility (Baker 1971). It states that punishment is only justified when it has some use like preventing further crime or when the punishment is most conducive to the welfare of the society (Lessnoff 1971). The theory insists that the value that a society gains by administering a punishment should be more than the disadvantage caused by the offender.

The formulators of Kenya Citizenship and Immigration Act, 2011 may have had this theory in mind. There are a lot of benefits that a society derives from having a crime free society. The high fines advocated by this Act are aimed at punishing offenders so that society can get more value of its actions than the disadvantages incurred by the offenders.

### 2.3 Conceptual Framework

From Figure 2.1 (a) above the fight against immigration offenders have three variables. The constitutions where the various Act are derived and the policy formulation level forms the independent variables. Fines and levies are the intervening variables while the dependent variable is the control of immigration offenders. If the constitution and policy formulation levels adopt heavy fines and levies immigration offenders are expected to go down. On the other hand if the constitution and policy formulators adopt very low fines and levies then the number of immigration offenders is expected to go up.

**Figure 2.1(a): Conceptual Framework showing linkages between independent, intervening and dependent variables**

| Independent variables | Intervening variable | Dependent variable |
|---|---|---|

Policy Formulation

Constitution Provisions (The Act)

Fines And Levies

Control of Immigration Offenders
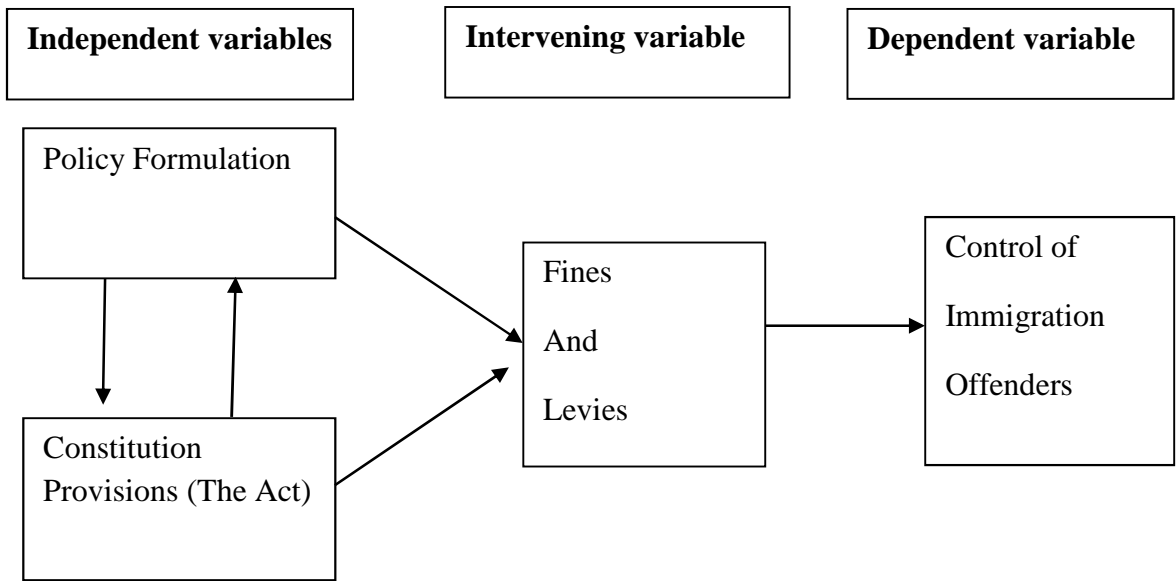
**Figure 2.1 (b): Rate of crime in relation to levels of Fines and Levies**

From Figure 1(b) above when penalty levels are very high ie (1,1) it is expected that crime rate will go down. On the other hand when penalties levels are too low ie (2,2) crime rate is expected to go up. This is the concept that this study aims to investigate whether harsh penalties and high tariffs has any impact on reducing the levels of crime.



**Source: Researcher, 2016**

## CHAPTER THREE
## RESEARCH METHODOLOGY

### 3.0 Introduction

This chapter describes the research methodology that was used in achieving the objectives of the study. It covered research design, data collection instruments and data analysis methods.

### 3.1 Site Description

This study was carried out within the Department of Immigration Kenya. The department is divided into seven Administrative Regions which are Nairobi Region, Coast Region, North Eastern Region, Eastern Region, South Rift Region, North Rift Region and Nyanza Region.

The study covered stations within these Regions which were actively involved in investigation and prosecution. The target stations and the population of this study were selected from these Regions. The study also used secondary data which was held at the headquarters. In addition the studyinterviewed immigration prosecutors as experts in the enforcement of the Kenya Citizenship and Immigration Act 2011 who were based in the various Regional headquarters.

### 3.2 Sampling Method

In order to achieve the objectives of this study the researcher used purposive sampling method. This is a method where the researcher chooses his population who in his opinion are thought to be relevant to the research topic.

For this study the researcher purposively selected all stations involved in investigation and prosecution duties and a census of all the officers in those stations was conducted. Also a census of all officers in charge of regional offices and immigration prosecutors was conducted as key informants.

Immigration offenders were not selected because immigration officers have very little contact time with them before they are repatriated back.

## 3.3 Research Design

A descriptive survey research design was used in this research project. This was a method of collecting information by interviewing or administering a questionnaire to a sample of individuals (Orodho.2003). This design is devoted to gathering of information about prevailing conditions or situations for the purpose of description and interpretation (Aggarwal 2008).

This study aimed to assess the effectiveness or the impact of the Kenya Citizenship and Immigration Act 2011 in reduction of immigration offenders in Kenya. It was an on-going or formative evaluation. It used descriptive data as well as quantitative data which were derived from secondary sources.

## 3.4 Unit of Analysis and Unit of Observation

A unit of analysis is the major entity that one is analyzing in a study (William 2006). In this study the unit of analyses was numbers of immigration offenders since Kenya Citizenship and Immigration Act, 2011 came into force.

Unit of observation refers to the units in which the researcher takes measurements on (Bailey 2011). In this study the units of observations were immigration respondents, secondary data and immigration informants.

## 3.5 Target Population

This research was confined to Department of Immigration, covering stations involved in investigation and prosecution duties. It was a census for all officers involved in investigation and prosecution. It also targeted officers who had worked for over 12 years as key informants. The study also used secondary data held at the headquarters for analysis.

The study covered the seven Regions of the Immigration Department where investigation and prosecutions duties are carried out. These were Nairobi Region with 15 officers, South Rift Region 5 officers, North Rift Region 17 officers, Nyanza Region 6 officers, Eastern Region 6 officers, North Eastern Region 4 officers and Coast region 7 officers. Officers who were involved in investigation and prosecution were targeted. The study endeavoured to use secondary data of immigration offenders prosecuted that was held at the headquarters. Seasoned immigration officers were interviewed as informants and one officer was purposively selected in each region to act as key informant.

## 3.6 A Census of Immigration Officers

From the seven Regions within the Immigration Departments the population of officers involved in investigation and prosecution duties were interviewed to represent the views of the whole department. This was a census of all officers in investigation and prosecution.

In Nairobi region, investigation and prosecution section had 15 officers, south rift region Nakuru office was selected and had 5 officers, North rift region Malaba was selected and had 17 officers, Nyanza region Kisumu was selected and had 6 officers, Eastern region Isiolo was selected and had 6 officers, coast region Mombasa was selected and had 7 officers and North Eastern Garissa was covered and had 4 officers.

A total number of 60 officers were involved in this study and this covered 100% of the total population.
The seven head of regions in the seven regions were interviewed as key informants.

## 3.7 Data Collection Instruments and Procedures

A data collection instrument refers to the tools the researcher will use to collect data in the field. On the other hand a data collection procedure refers to how the researcher will employ the data collection instruments in order to collect the required data.

### 3.6.1 Collection of Quantitative Data

Quantitative data was collected using a questionnaire which was administered to the 60 immigration officers in the Department of Immigration dealing with investigation and prosecution. An interview guide was also administered to key informants in the seven regions.

The questionnaire was divided into five sections. Section one covered general demographic data of the respondent, section two foreigners awareness of the ACT, section three general opinion on KCIA,2011, section four on impact of KCIA,2011 on reducing crime and section five policies on crime.

The questionnaire was administered on "drop and pick later" basis. This method of distribution was chosen as direct contact with potential respondents was believed to motivate the respondents to complete the questionnaire. There was follow-up through email, phone calls and visits to ensure high response rate and to assist in cases where respondents needed clarifications.

Permission to carry out the research was obtained in advance from the Ministry of Interior and Coordination of National Government (MICNG) through the Director of Immigration Services (DIS). The researcher informed the concerned Border control in charges (OIC) and heads of regions and sections. The concerned immigration officers were notified. The expected duration of participation and administration of the questionnaires was agreed between the officer in charges and the immigration officers.

The researcher also informed the respondents about the extent of privacy and confidentiality of the study and guaranteed that data collected was to be used for academic purposes only.

### 3.6.2 Collection of Qualitative Data

Qualitative data was collected using key informants interview guide. The interview guide constituted of key questions addressing each of the stated objectives of this study. The key informants were the officers in charges of the seven regions and immigration prosecutors. These were officers who had worked with the Department of Immigration for a long time and are used in policy formulation and implementation. The prosecutors are the officers who take immigration offenders in court and can comfortably assess whether offenders are increasing or not.

### 3.6.3 Use of Secondary Data

Secondary data was collected from the existing records held by the Department of Immigration. The data was collected using transcript forms for it to be analysed. This was later compared with baseline data collected before the new Act was enacted.

### 3.7 Ethical Considerations

Ethics are norms governing human conduct which have a significant impact on welfare of respondents. It is the responsibility of the researcher to carefully assess the possibility of harm to the research participants and the possibility of reducing the harm (Bryman 2007).

The researcher recognized that the issue under study was sensitive because it touched on the core functions of the Department. Therefore, there was need to protect the identity of the respondents as much as possible. This means the questionnaire did not require the respondent's name or details that can reveal his/her identity.

The researcher also obtained permission from the Ministry of Interior and Coordination of National Government (MICNG) through the Director of Immigration Services (DIS) in order to undertake the study. An introductory letter from the University of Nairobi explaining the purpose of the study was also given.

## 3.8 Data Analysis

The data collected was qualitative and quantitative in nature. The researcher then embarked on the process of data analysis. This process involved several stages namely: data clean-up and explanation. Data clean-up involved editing, coding, classification and tabulation in order to detect any anomalies in the responses and assigning numerical values to the responses for analysis. Completed questionnaires were edited for completeness and consistency.

Frequency tables, percentages and mean were used to present the findings. Responses in the questionnaires and secondary data were tabulated, coded and processed by using Statistical Package for Social Sciences (SPSS). The results were interpreted in order to draw conclusions and recommendations.

# CHAPTER FOUR

## DATA ANALYSIS, PRESENTATION AND INTERPRETATION

### 4.0 Introduction

This chapter is concerned with the analysis, presentation and interpretation of the collected data. Due to the nature of the data, frequencies, percentages and correlations will be mostly used to compare the various aspects of the data.

### 4.1 Response Rate

Data was collected from a census of all immigration officers involved in the investigation and prosecution duties in all the seven regions of the Immigration Department in Kenya. The seven heads of the regions were also interviewed as key informants.
The researcher issued 60 questionnaires to the interviewees.

**Table 4.1: Questionnaire response rate**

| Region | Target | Respondents | Percent |
|---|---|---|---|
| 1. Nairobi | 15 | 15 | 27.3 |
| 2. Coast | 7 | 6 | 10.9 |
| 3. North Rift | 17 | 14 | 25.4 |
| 4. Nyanza | 6 | 5 | 9.1 |
| 5. South Rift | 5 | 5 | 9.1 |
| 6. Eastern | 6 | 6 | 10.9 |
| 7. North Eastern | 4 | 4 | 7.3 |
| **Total** | **60** | **55** | **100.0** |

A total number of 55 respondents were able to respond to the questions asked accounting to 91.7% of the target population. However 5 of the respondents did not return their questionnaires accounting for 8.3% of the total respondents. The most preferred response rate is 80% or more (Andrea F.2015). This means a response rate of 91.7% was good.

## 4.2 Reliability Analysis

Reliability refers to the property of a measurement instrument that causes it to give similar results for similar inputs. This involves administering the instrument to the same group of respondents and then put them in groups of two to identify the degree of correlation.

From the data collected, the Guttmann Split-Half coefficient turned out to be 0.812 which surpasses the minimum recommended value of 0.75. Hence the research instruments are very reliable for this study.

## 4.3 Social and Demographic Characteristics

The researcher sought to analyze the basic demographic characteristics of the respondents in terms of gender, age, academic qualification and working experience.

### 4.3.1 Gender Distribution

The study sought to establish the gender distribution of the respondents. The findings were collected using the questionnaire and the results are presented in figure 4.1 below:

**Figure 4.1: Respondents' Gender Distribution**
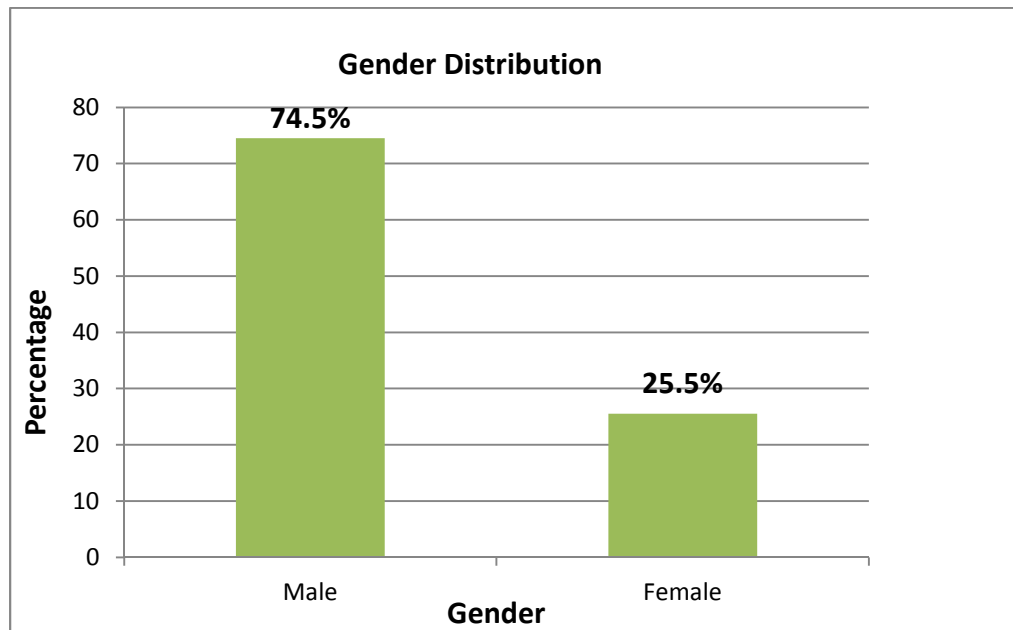
Figure 4.1 above shows that there are relatively more male officers (74.5%) as compared to female officers (25.5%) involved in investigation and prosecution duties. This may be attributed to the nature of the work which involves arresting suspects which most female officers shy away from.

### 4.3.2 Age of Respondents

The study sought to establish the age distribution of the respondents involved in the investigation and prosecution duties. The findings are presented in figure 4.2 below:

**Figure 4.2: Respondents' Age Distribution**
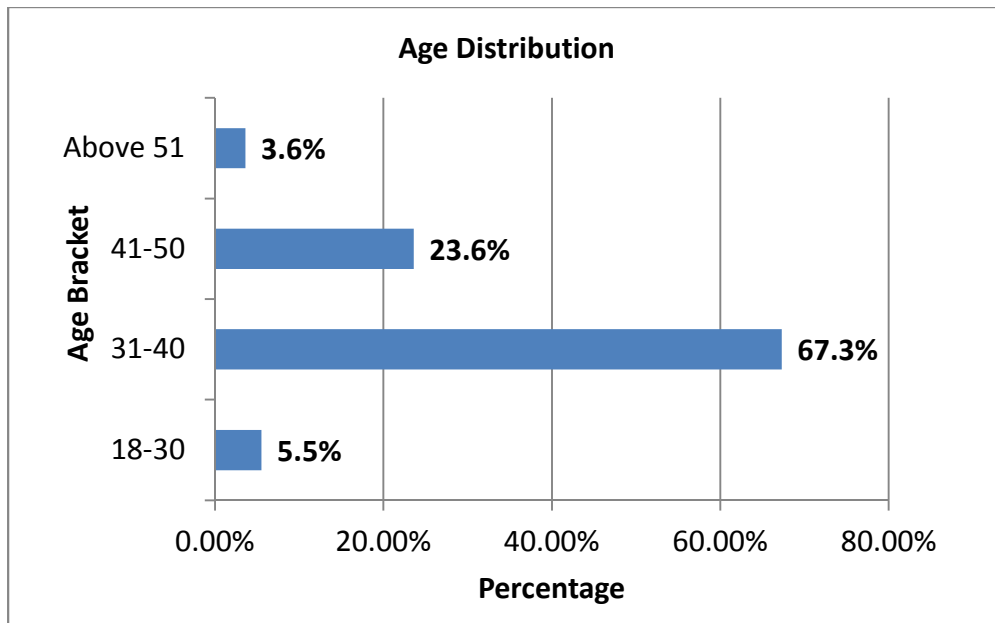


Figure 4.2 shows that majority of the officers involved in investigation and prosecution duties are in the 31-40 years age group. This indicates most officers involved are young people with few experienced officers to guide them. This could be attributed to the nature of work involved.

### 4.3.3 Academic Qualification of the Respondents

The researcher also sought to find out the academic qualifications of the respondents.
Figure 4.3 below shows the qualification distributions of the officers who participated in
the study:

**Figure 4.3: Academic Qualification of the Respondents**
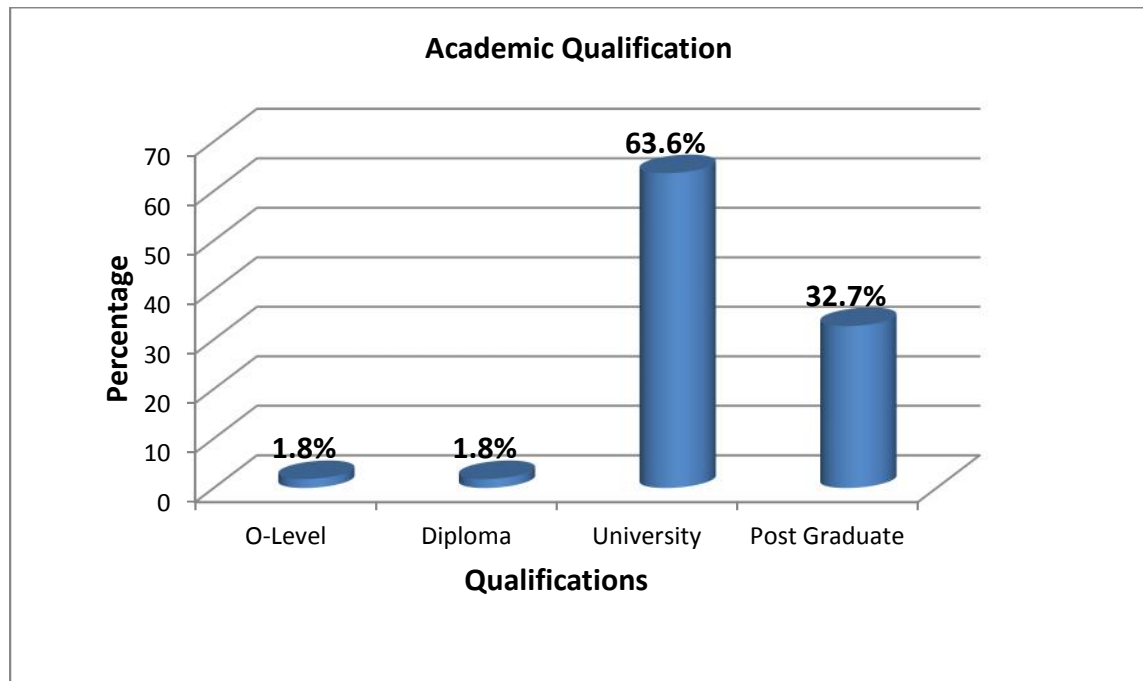


From the figure above it was evident that almost all of the respondents (96.3%) are
university graduates. This is a very important component to officers in investigation and
prosecution duties as they have to interpret the law and apply it in the course of their
work.

### 4.3.4 Work Experience of Respondents

The researcher sought to establish work experience of the respondent in order to assess if
they are capable of articulating the issues being sought. Figure 5 below shows the
working experience of the respondents:

**Figure 4.4**: **Working Experience of the Respondents**
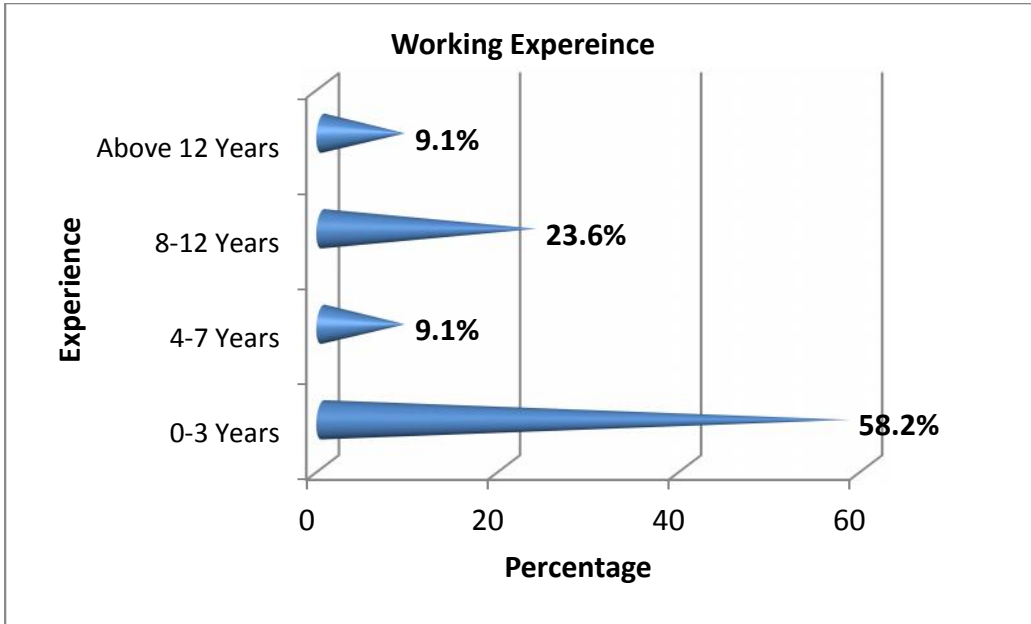


From figure 4.5 above, 58.2% of the officers have experience of up to 3 years which implies that most of officers involved in investigation and prosecution duties are young officers.

**Table 4.2: Distribution of respondents by age and working experience**

| Age | Working Experience | | | | Percent | Total N |
|---|---|---|---|---|---|---|
| | **0-3 yrs** | **4-7 yrs** | **8-12 yrs** | **Above 12 yrs** | | |
| 18-30 | 100.0 | 0.0 | 0.0 | 0.0 | **100.0** | **3** |
| 31-40 | 59.5 | 10.8 | 24.3 | 5.4 | **100.0** | **37** |
| 41-50 | 53.8 | 7.7 | 30.8 | 7.7 | **100.0** | **13** |
| Above 51 | 0.0 | 0.0 | 0.0 | 100.0 | **100.0** | **2** |
| **Percent** | 58.2 | 9.1 | 23.6 | 9.1 | **100.0** | |
| **N** | **32** | **5** | **13** | **5** | | **55** |

Table 4.2 above shows that 58.2% of the officers had working experience of three or fewer years while 23.6% had worked for a period of 8-12years. Only 9.1% had worked for more than 12 years. It is noteworthy that only 5.5% of the officers (respondents) were

35

aged 30 years and below. Thus 94.5% were above 30 years of age. Among these respondents, nearly 60% of those aged 31-40 years had work experience of less than 4 years while 29.7% had worked for over 7 years. The percentage of the officers aged 41-50 years were 53.8% and 42.5% respectively.

Those who have worked for long are the officers in charges and are used to guide and supervise those who have not worked for long.

## 4.4 Awareness of the *Provisions* of Kenya Citizenship and Immigration Act 2011

The first objective sought to know whether immigration offenders were aware of the provisions of Kenya Citizenship and Immigration Act 2011. The researcher first sought to find out whether immigration offenders were aware of the Kenya Citizenship and Immigration Act 2011 before finding out whether immigration offenders are aware of the provisions of the said Act.

Figure 4.5 show the respective frequencies of the findings:

**Figure 4.5**: **Awareness of the Kenya Citizenship and Immigration Act 2011**
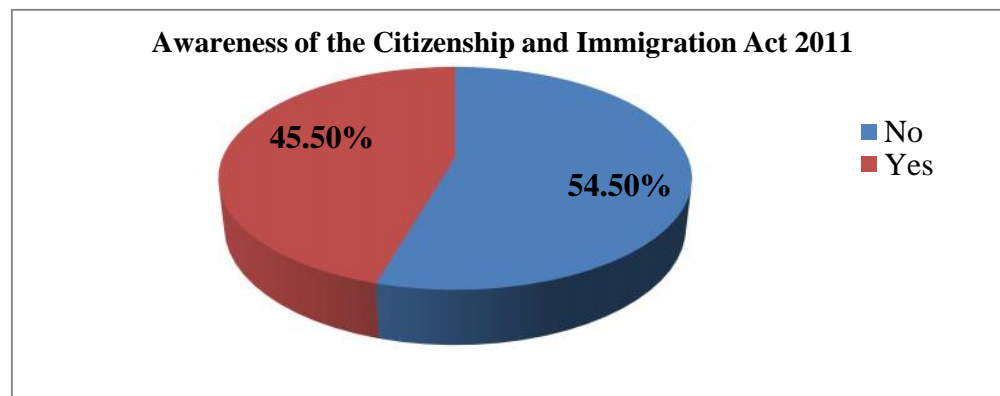


From figure 4.5 above it was found out that More than half (54.50%) of the immigration offenders were not aware of the existence of the new Kenya Citizenship and Immigration Act 2011. This shows that there was little or no sensitization that was done prior to the implementation of the Act. In fact, the data also showed that 73.1% of the respondents said that there was little or no sensitization was done before the implementation of the Kenya Citizenship and Immigration Act 2011. In return this could have affected the

effect of this new Act as most offenders presume they are still operating under the repealed Act.

Majority of the key informants were of the opinion the offenders are not aware of this new Act. When asked whether offenders are aware of this Act most of key informers retorted "very few if any are aware of this Act". The prosecutors stated that immigration offenders are completely not aware of this act as most of them are first time visitors into Kenya.

The overall effect of lack of awareness of this Act could be an increase in immigration offenders.

The researcher also sought to know whether immigration offenders were aware of the provisions of the Kenya Citizenship and Immigration Act 2011. The table and figure below shows the findings:

**Table 4.3: Awareness of the provisions of the Act**

|  | **Frequency** | **Percentage (%)** |
|---|---|---|
| Not at All | 7 | 18.4 |
| Little Extent | 13 | 34.2 |
| Moderate Extent | 16 | 42.1 |
| Great Extent | 2 | 5.3 |
| **Total** | **38** | **100.0** |

From table 4.3 above the findings indicate that 52.6% of immigration offenders have little or no information about the provisions of the Kenya Citizenship and Immigration Act 2011.

This was obtaining by calculating the mean average of the provisions awareness variable and value of 2.34 is obtained. From the ordinal scale used, this value lies between "Little extent" and "Moderate extent". Thus most offenders were not actually aware of the

provisions of the Act. More so, there were a considerable number of non-responses to this question which indicates some respondents were not sure whether the offenders were really aware of the provisions of this Act.

More so, information from key informants revealed nearly all of immigration offenders are not aware of the provisions of Kenya Citizenship and Immigration Act 2011 and there was no sensitization done before it was enacted. They argued that only a few stakeholders were sensitized ignoring nearly all immigration clients. Most immigration offenders being foreigners may not be aware of Kenyan domestic law hence as the prosecutors stated "this is a new phenomenon to them".

This would in return increase the number of immigration offenders and distort the effect of the new Act. This high level of lack of awareness is attributed to lack of civic education and sensitization before this new Act was enacted.

This concludes that immigration offenders are not aware of the provisions of Kenya Citizenship and Immigration Act 2011

**4.5: Rating of Kenya Citizenship and Immigration Act 2011 in terms of Dealing** with Immigration Offenders

The researcher sought to find out how the respondents rated the Kenya Citizenship and Immigration Act 2011 in dealing with immigration offenders. From the responses 61.8% of the respondents felt that this is a good Act that can help in reducing the number of immigration offenders in the country. This observation resonates well with the state theory which states that for a state to ensure internal order it must use punishments and penalties which are punitive enough to the offenders.

On the other hand key informants felt that this Act is moderate in dealing with immigration offenders. Some felt that this Act is an improvement of the previous Act with room further improvement. The prosecutors felt this law could greatly help in

reducing immigration offenders if only judges and magistrates are keen in enforcing its provisions.

Respondents were of the view that high fines and levies stipulated in this Act would hence terrorise the future offenders hence deter them from crime. Offenders would also weigh whether it is worth to engage in crime and make a reasoned decision as stated in rational choice theory hence offenders would reduce.

**4.6: Rating of Fines, Penalties and Levies in this Act**

The research study also sought to assess how the respondents viewed the fines, penalties and levies stipulated in this Act in terms of dealing with immigration offenders. The following were the responses:

**Table 4.4: Officers' view on fines, penalties and levies in KCIA 2011**

|  | **Frequency** | **Percentage (%)** |
|---|---|---|
| Very Low | 3 | 5.8 |
| Fair | 6 | 11.5 |
| Moderate | 7 | 13.5 |
| Very High | 36 | 69.2 |
| **Total** | **52** | **100.0** |

The findings from table 4.4 above show that majority of the immigration officers involved in investigation and prosecution duties (69.2%), view the current fines, penalties and levies as very high compared with the Immigration Act Cap 172 (now repealed). This resonates well with deterrence theory which emphasizes that punishments should be severe enough in order to deter potential offenders. The rational choice theory also states punishments should be very punitive for the offender to assess whether it is worth engaging in any crime. From this theory if the fines and levies are high this would translate to reduced offenders as crime would be too costly to the offender.

Majority of the respondents (69.2%) felt that the penalties, fines and levies stipulated in this Act are way beyond the reach of the offenders hence very punitive.

It was noted that 54.5% of the respondents felt that they are fair and reasonable to the immigration offenders. This could have been motivated by deterrence and a rational choice theory which emphasizes high fines or punitive punishments could in turn reduce offenders. On the other hand 69.1% of the respondents disagreed or were neutral that these high fines, penalties and levies were affordable to immigration offenders. This could be motivated by the fact that most of the offenders are presumed to have no knowledge of the provisions of the new Act. However 78.4 were of the view that this Act is a good Act in dealing with immigration offenders than the repealed Act. This could be as a result on the need to deter immigration offenders who were not effectively dealt with by the old Act.

When asked about their views on the high fines and penalties key informants were categorical that they were very high and beyond the reach of the poor offenders. Immigration prosecutors were of the view these fines were designed to terrorise the poor immigration offenders as the rich always pay the fines.

## 4.7 Relationship between Heavy Fines/Levies and Deterrence of Immigration Offenders

This study had the objective of finding out the impact of the Kenya Citizenship and Immigration Act 2011 on immigration offenders.

The researcher went ahead to find whether these heavy fines, penalties and levies deter immigration offenders. The researcher compared the effect of heavy fines and penalties with the general reduction of immigration offences. The following cumulative figure shows the findings

**Figure 4.6: Officers view on impact of Act on offences**
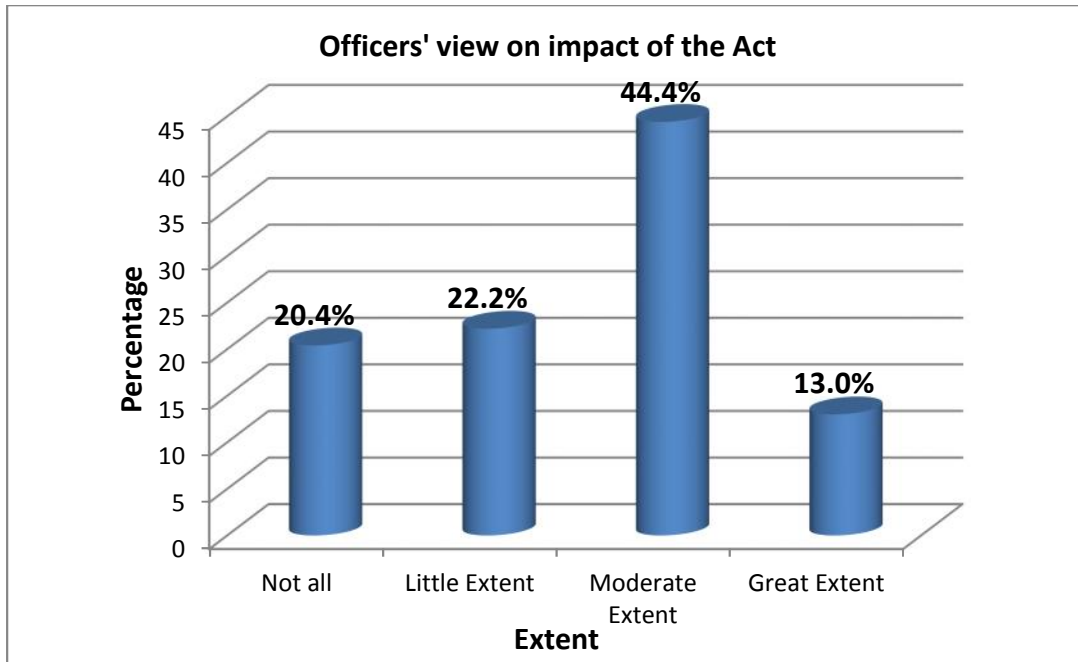


From figure 7above it was found out that 13.0% of the respondents were of the view that the Act has help to reduce immigration offences while 20.4% were of the view it had no impact. Majority of the respondents were of the view the act is deterrent enough to the offenders.

In particular, the researcher obtained Spearman's rho correlation coefficient which is a good estimator of the degree of relationship for ordinal data.

The following table shows the generated correlation coefficient using SPPS 20 software:

**Table 4.5: Correlation between Heavy fines/penalties and Reduction of Immigration offenders**

|  |  |  | **Fines and Penalties** |
|---|---|---|---|
| Spearman's rho | Correlation Coefficient | **Reduction of Offenses** | -0.166 |
|  | Sig. (2-tailed) |  | 0.240 |
|  | N | 52 |  |

Table 4.5 shows that there is a weak negative correlation ($\rho = -0.166$) between heavy fines, penalties and levies with reduction of immigration offenders. Although not significant, the negativity of the correlation shows that there is a slight reduction of immigration crimes after the enactment of the Act which increased fines, penalties and levies. The coefficient of determination, i.e. the percentage of reduction in immigration crimes explained by heavy fines and penalties become:

$$\text{Co-efficient of determination} = (\rho^2) * 100\% = (-0.166)^2 * 100\% = 2.76\%$$

This implies that only 2.76% of the reduction in immigration crimes in Kenya can be explained by enactment of heavy fines and penalties.

However it is important to note that the research also found out that the immigration offenders have been increasing despite the enactment of the Citizenship and Immigration Act 2011 that introduced heavy fines and penalties. These findings are tabulated in the table and figure below:

**Table 4.6: Comparison of cases prosecuted before and after the enactment of Immigration Act 2011**

| Period | | |
|---|---|---|
| **Before the Law** | **Prosecuted Cases** | **Total** |
| Sept. 2008 – Aug 2009 | 391 | |
| Sept. 2009 – Aug 2010 | 342 | |
| Sept. 2010 – Aug 2011 | 420 | **1153** |
| **After the Law** | | |
| Sept. 2011 – Aug 2012 | 191 | |
| Sept. 2012 – Aug 2013 | 545 | |
| Sept. 2013 – Aug 2014 | 550 | **1286** |

Source: *Immigration prosecution records*.

**Figure 4.7:** *Prosecuted cases for the period September 2008 – August 2014*
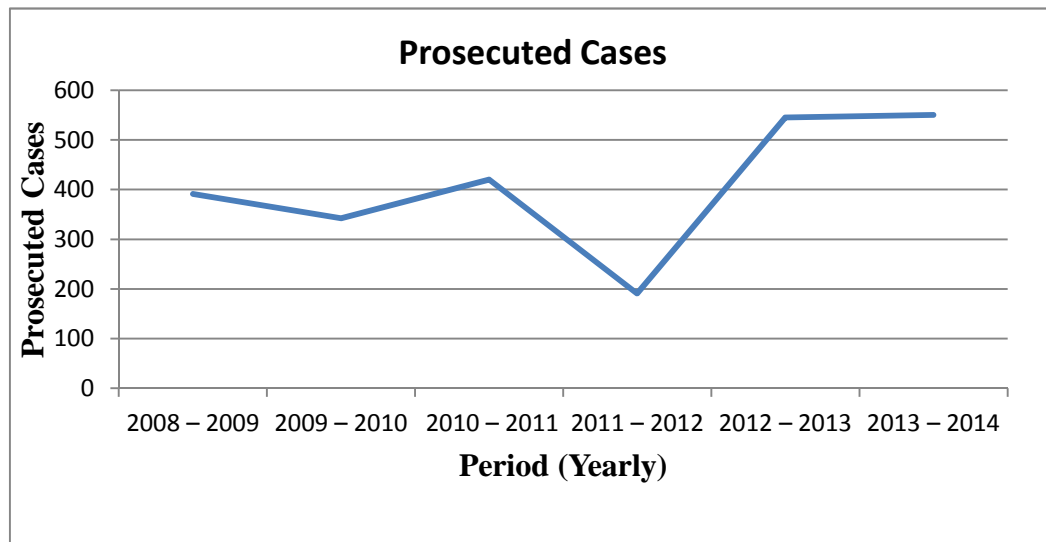


Source: *Immigration prosecution records*.

Table 4.6 and figure 4.7 above shows that there was a significant drop in the number of cases prosecuted immediately after the enactment of the law but afterwards the number of cases prosecuted rose steadily to a significant new level. This implies that the enacted heavy fines and penalties only managed to temporarily reduce the number of cases and therefore not a long term solution. The slight drop in the number of cases immediately after the enactment of the new Act could be attributed to 'culture shock" to the offenders but they later internalized the meaning and impact of the heavy fines.

Key informants when probed were of the view that heavy fines and penalties cannot help deter immigration offenders. As some of them stated heavy fines and penalties "only acts as deterrent to financially poor offenders". Immigration prosecutors were categorical that high fines and levies have not reduced immigration offenders but in essence they are increasing.

## 4.8 Reliance of Heavy Fines and Penalties to Control Crime
The researcher sought to find out whether policy makers can rely on heavy fines to control crime levels in Kenya.

The following table shows the responses towards this view.

**Table 4.7: Reliance on Heavy fines and penalties to Control Immigration offenders**

|  | **Frequency** | **Percentage (%)** |
|---|---|---|
| Not at All | 8 | 14.8 |
| Little Extent | 6 | 11.1 |
| Moderate Extent | 25 | 46.3 |
| Great Extent | 15 | 27.8 |
| **Total** | **54** | **100.0** |

Table 4.7 show that the policy makers rely heavily on heavy fines and penalties as a way of controlling immigration crimes. In particular, a total of 74.1% of the responses range from moderate to great extent.

It is to be noted that 27.8% of the immigration officers thought punitive punishments as the best policy of controlling immigration offenders.

However majority of the key informants were of the view this is not the best policy to control crime. This implies that even though policy makers seem to rely on heavy fines and penalties to control immigration crimes, there may be other better and more effective ways to do so. This response shows that high fines, penalties and levies are not reformative enough because offenders get hardened and recidivism rate rises.

**4.9 Other Crime Control Factors**

**4.9.1 Percentage of Immigration Offenders Arrested and Prosecuted**

The researcher sought to know level of arresting and prosecuting immigration offenders within the immigration Department. The following figure shows the responses.

**Figure 4.8: Percentages of Arrested and Prosecuted offender**
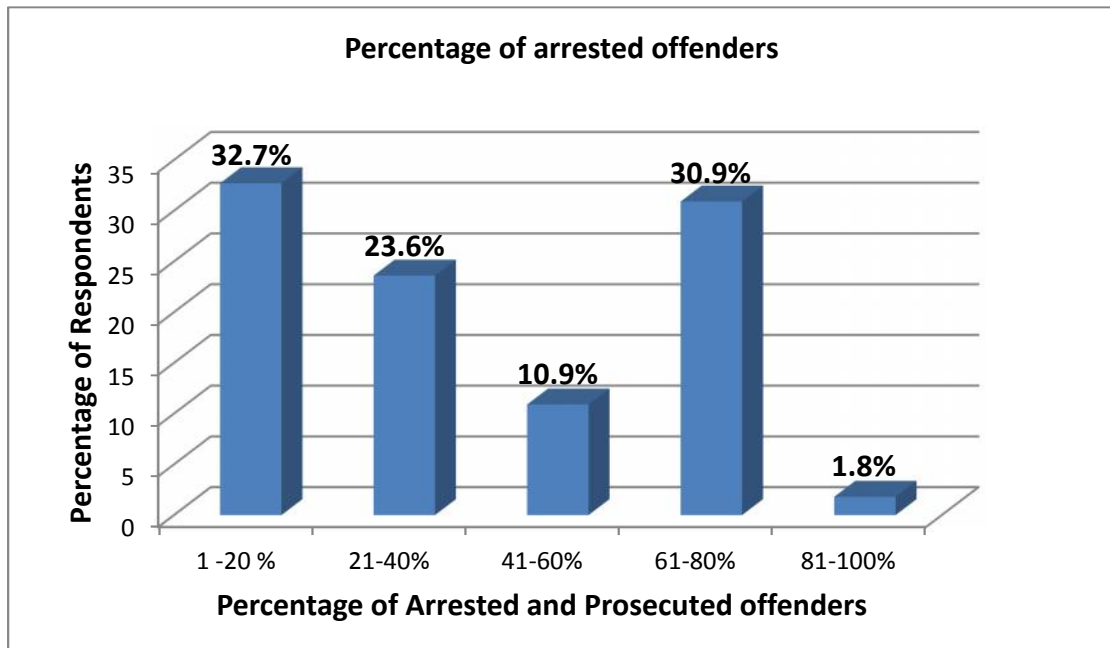


From figure 4.8 above there is a high percentage (32.7%) of respondents who are of the view that only a few immigration offenders are arrested and prosecuted. Also only 1.8% of the respondents are of the view that (81-100) % of the immigration offenders are arrested and prosecuted. This indicate that it's difficult to ascertain whether heavy fines, penalties and levies has any impact on immigration offenders as majority of the respondents (67.3%) are of the view that less than 60% of the offenders are arrested and prosecuted. The Department of immigration should enhance surveillance patrols if the impact of this Act can be ascertained.

**4.9.2 Use of Punitive Punishments to Control High Levels of Crime**

This research also sought to find out whether the use of punitive punishments can be used to control the high level of immigration offenders. The following table tabulates the responses.

**Table 4.8: Response whether Use of punitive punishments can control crime**

| Response | Frequency | Percentage (%) |
|---|---|---|
| No | 23 | 41.8 |
| Yes | 32 | 58.2 |
| **Total** | **55** | **100** |

Table 4.8 shows that 58.2% of the respondents are of the view that punitive measures can control high level of crime rates. This could be motivated by the need for harsher penalties for offenders advocated by deterrence and rational choice theorists.

On the other hand majority of key informants are of the view heavy fines, penalties and levies cannot be used to control immigration offenders. They were of the view that high fines and penalties are only used as a source of government revenue. Key informants were of the view that high fines and penalties are used to fuel corruption both within the department and in courts of law.

They suggest other methods should be sought to confront the offenders. This view could have been motivated by the need to reform the offenders rather punishing them as advocated by reformative theorists.

### 4.9.3 Best Policy to Control Crime

This study also sought to find out the respondents view on the use of heavy penalties as best policy to control crime in the country. The following figure shows the responses.

**Figure 4.9: Respondents' view on heavy penalties as a policy**
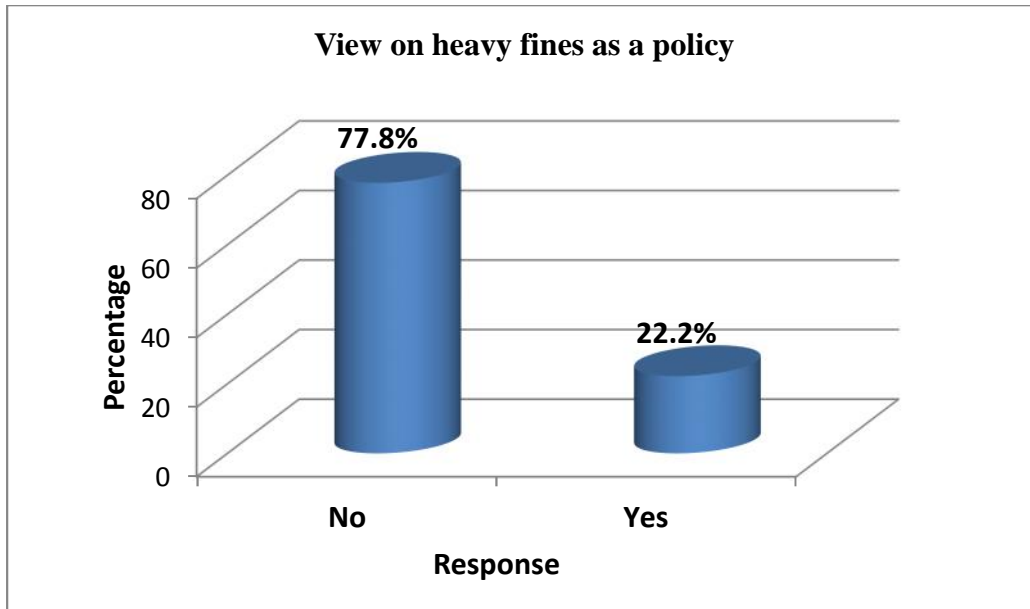


Figure 4.9 above show that 77.8% of the respondents are of the view that heavy penalties, fines and levies cannot be the best policy to control crime in any society. Most are of the view alternative methods should be used to reform the offenders.

### 4.9.4 Methods of Increasing Awareness

This research study sought from the respondents the best methods that can be used by the Department of immigration to increase awareness of the Act and its provisions in order to achieve its objectives. Most respondents and key informants suggested public sensitization, use of mass media and internet, conducting public forums and talk shows and distribution of the Act to the general public and judicial officers. They were of the view that if awareness is enhanced through these methods immigration offenders would then decrease.

### 4.9.5 Other Methods to Control Immigration Offenders

The researcher also sought to find out from the respondents if there are other methods that can be used by the department of immigration to control immigration offenders. The respondents suggested a variety of methods which included instant extraditions, increasing surveillance, addressing the root causes of immigration offenders, field visits

to confirm compliance, strict control of entry points and increasing of swoops and patrols. They were convinced these methods would help reduce immigration offenders.

### 4.9.6 Best Policy to Control Crime

Respondents in this study were required to suggest the best methods policy makers could use in order to control high crime rate in the country. Most suggested that policy makers could win the war on crime by increasing the certainty of arrests, addressing the root causes of crimes, increasing enforcement, long jail terms and sensitization. They were of the view these methods but not punitive punishments would greatly reduce the number of offenders in the society.

# CHAPTER FIVE

## SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

### 5.0 Introduction

This chapter focuses on the conclusions and recommendations in regard to the research findings. It also state areas that require further research.

### 5.1 Summary

This study sought to establish the impact of Kenya Citizenship and Immigration Act, 2011 on reduction of immigration offenders in Kenya. Specifically the study concentrated on the views of officers involved in investigation and prosecution duties, key informants, immigration prosecutors and secondary data for cases prosecuted from September 2008 to September 2014. Data collected was analysed, presented and interpreted for conclusions to be made.

### 5.1.1 Awareness of the Act and Its Provisions

From the findings it was found out that most of the immigration offenders are not aware of the existence of Kenya Citizenship and Immigration Act 2011 as 54.5% of the respondents were of the view that offenders are not aware of this Act. It was also evident that immigration offenders are not aware of the provisions of this Act. From the findings 56.6% of the respondents were of the view that immigration offenders were not aware of these provisions. Findings from the key informants indicated that immigration offenders are not aware of this Act and its provisions. This implies that immigration offenders are not at all aware of this Act neither are they aware of its provisions.

### 5.1.2 Impact of Heavy Fines, Levies and Penalties in Deterring Immigration Offenders

It was clear from the findings that increased fines, penalties and levies have not help to deter immigration offenders in Kenya. From the findings 87.0% of the respondents were of the view that they have not or to a little extent or moderate extent deterred immigration offenders. Majority of key informants held the same view.

The coefficient of determination, i.e. the percentage of reduction in immigration crimes explained by heavy fines and penalties become 2.76%. This implies that only 2.76% of the reduction in immigration crimes in Kenya can be explained by enactment of heavy fines and penalties. It was also noted from secondary data that the number of immigration offenders has continued to increase despite the enactment of this new Act. This then implies that heavy fines, penalties and levies cannot be used to control immigration offenders in Kenya.

The findings also confirmed that despite the measures adopted by the Kenya Citizenship and immigration Act 2011, the number of immigration offenders has increased. Records from secondary indicated that offenders reduced marginally immediately after the enactment of the act but later shot up to higher levels as compared to the repealed Act. This implies that despite the heavy fines, penalties and levies in this Act immigration offender continue to increase and as a consequence Kenya Citizenship and immigration Act 2011 has not reduced immigration offenders but instead they are increasing.

### 5.1.3 Heavy Fines and Penalties as Policy to Control Crime

The study also confirmed that in order to deal effectively with criminals in the country policy makers cannot rely on heavy fines, penalties and levies to control crime. Most of the respondents (77.8%) were of the view that this is not the best public policy to apply. This is because despite the heavy fines and penalties crime levels continue to soar up. So heavy fines, penalties and levies cannot be used as a measure to control crime in society.

### 5.2 Conclusions

It can be concluded that the Kenya Citizenship and Immigration Act 2011, has no impact in the reduction of immigration offenders in Kenya as 87% of the respondents attested to this. Majority of the key informants support this view. Records from secondary data also attest to the fact that there has been no impact on reduction of immigration offenders.

It can also be concluded that heavy fines, penalties and levies cannot be used as a means to control crime in any society.

## 5.3 Recommendations

The study recommends that for the Department of Immigration to deal effectively with immigration offenders policies should be enacted on the best methods to use in order to increase the probability of the offenders being arrested rather than the heavy fines and penalties.

It was also the researcher's view that surveillance should be enhanced in all areas of immigration operations in order to net most of the immigration offenders.

The government should also look at the possibility of devolving immigration services to all counties so that the whole country is covered in terms of policing for immigration offenders.

Governments all over the world need to address the root causes that force people to commit immigration offences like unemployment, civil wars and political upheavals.

The Department of Immigration should also explore the possibility of using the "NyumbaKumi" initiative in order to monitor on those who flout the immigration law.

The Department of Immigration should invest heavily in intelligence gathering on immigration offenders at the same time cooperating with other security agencies in order to reduce immigration offenders.

The department should also invest in increasing staffs, training and equipments if it has to be effective against immigration offenders.

## 5.3 Areas for Further Research

Research should be done to establish other methods that can be used to control immigration offenders in Kenya. In particular research should done to establish if the Department of Immigration can eliminate immigration offenders by increasing the certainty of arrest of the offenders.

# REFERENCES

**Aggarwal R. (1997***). Role of innovation characteristic and perceived voluntariness in acceptance of information technologies*.

**Ana A. (2013).** *Trends in Registration and criminal, civil Enforcement*. Oxford university press. London.

**Andrea F.(2015**). *Guide to great survey Design.* Survey gimzo publishers.

**Andy W. (2013).***Tougher new rules for illegal immigrants*.BBC world service. London**.**

**Bailey R(2011).** *Designing an experiment***.**

**Baker J(1971).** *Utilitarianism and secondary principles. Quarterly, Vol.21*

**Beccaria C(1763).** *On crime and punishments***.**

**Becker G. (1965).** *Crime and punishment*. Chicago university press. Chicago**.**

**Bhavlen R. (2014***). Harsh punishments are effective in reducing crime***.** Careerride publishers. London.

**Chava F. (1996**). *Research methods in social sciences*. Replica press limited. New Delhi.

**David. F (1994**).*Changes in crime and punishment in America*. Oxford university press. NewYolk.

**Emerson.V(2010**). *The problem with Africa: illegal immigrants, terrorism*, *polygamy and aids*. Netherlands.

**Evans and James(1999**). *Bureaucracy and Growth*. American sociological review 387-417.

**GilpinR(1987**). *The Political economy of international relations*.Princeton university press.

**Gonzalez and Nowicki. (2014).** *Governments across Globe and immigrants.* Arizona state press. Arizona.

**GramcsiA (1971**). *Selection from Prison notes*. New Yolk international publishers.New Yolk.

**Grasmick and Bursik (1993***). Shame and rational choice*.

**Harrison W. (2001).** *Description of Elizabethan. England. London***.**

**IOM (2014).**_Annual Report._Kenya annual report. Nairobi.

**IOM (2015)**._Annual country report_. Nairobi.

**IOM(2006**). _Immigration Border Procedure Manual_. Nairobi.

**IOM(2010**). _Immigration Border Procedure Manual_. Nairobi

**James and Wilson (1965**). _Crime and punishments_. Chicago.

**Jeffrey G. (1965**). _Criminal Behaviour and learning theory_. Cleveland university press.

**Jeffrey G. (2011).** _Do severe punishments deter crime_? Maryland. USA**.**

**John B. (1965).** _Journal of criminal law, criminology and police science_. Cleveland university press. Cleveland.

**John T(2007**). _International Politics on the world stage_. University of Connecticut. McGraw Hill Co. New Yolk.

**Kathleen H. (2010).** _Preventing crime wave_. Chicago university press. Chicago**.**

**Krishna K. (2007).**_Roles of theories of punishments in the policy of sentencing_. New Delhi.  India.

**Kulbir S.(2009**_). Methodology of Research in Education_**.** Sterling publishers. New Delhi.

**Lessnoff M.(1971**). _Two justifications of punishment. Quarterly, Vol.21_

**Lumumba P. (2012**). _Criminal procedure in Kenya._ Law Africa (K) limited. Nairobi.

**Major W. (1994).** _Crime and punishments in American history_. Dayton university press. Dayton.

**Maxwell P. (2014**_). Illegal immigration, a Global problem_**.** Borderzine publishers. Texas.

**Mboneko M. (2013**_). East Africa news Agency_. Arusha.

**Mugenda and Mugenda (2012).**_Research Methods dictionary_. Kijabe printing press. Nairobi.

**Normand L. (2007**). _Atlas of Regional Intergration_.

**Nowicki D. (2014**_). Italy, others find economy not fences control immigration_. Arizona state press. Arizona.

**Olum G. (2012**). *Assessment of migration data management in Kenya*. Nairobi.

**Orodho A.(2003**). *Research methods*. Kenyatta University. Nairobi.

**Orsag T.(1988**). *The effects of time served o recidivism*. Journal of Quantitative Criminology. USA.

**Pogarsky(1993***). Identifying Deterrable offender.*

**Sara M. (2010).** *Global doors slum shut on immigrants*. CS Monitor. Boston.

**Shitul and Smita (2013***).New Kenya Citizenship and Immigration laws*. Nairobi.

**Solomon H.(2003**). *Of myths and migration*. Unisa press. Pretoria.

**Stephen F. (1883).** *History of criminal law in England*. Oxford university press. London.

**Stigler G. (1970***). Optimum enforcement of law*. Chicago university press. Chicago.

**Suthland H. And Cressey D. (1974).***Criminology.Chicago University press. Chicago.*

**UN(2004).** *United Nation Convention on organized crimes. Vienna*.

**Valerie W.(2010**). *Deterrence in criminal sentencing project*. Washington DC.

**Walter G.(1999**). *Crime and chaos*.

**William M(2006**). *Research Methods Knowledge base*.

**Yin R. (2003).***Case study, research, design and methods*. Thousand Oaks. Sage.

**APPENDIX 1: QUESTIONNAIRE OR IMMIGRATION OFFICERS**

**This questionnaire is for the purpose of the academic research only and the information you give will be treated with utmost confidentiality. Please answer all the questions provided as honestly as possible and to the best of your knowledge.**

**DO NOT write your name on this Questionnaire.**

**SECTION A: BACKGROUND INFORMATION**

**(Tick the appropriate option (bracket).**

1. Please indicate your gender

      A) Male   (   )              b) Female          (   )

2. What is your current age bracket?

a) 18-30 years     (   )         b). 31-40 years      (   )

c). 41-50 years     (   )         d). 51 years and above   (   )

3. What is your highest level of education?

a). O-level        (   )         b). Diploma          (   )

c). University      (   )         d). Post graduate     (   )

4. For how long have you worked in your current station?

a). 0-3 years      (   )         b). 4-7 years         (   )

c). 8-12years       (   )         d). 13 years and above   (   )

**SECTION B: KENYA CITIZENSHIP AND IMMIGRATION ACT 2011 AND CLIENT AWARENESS**

5. There were sensitization seminars done to immigration clients before Kenya Citizenship and Immigration Act 2011 was implemented.

a). To a great extent   (   )         b). To moderate extent   (   )

c). To a little extent   (   )         c). Not at all          (   )

6. Are immigration offenders aware of this Act?

a).yes      (   )             b). No  (   )

7. If yes above to what extent are immigration offenders aware of the provisions of this Act?

a). To a great extent   (   )         b). To a moderate extent   (   )

c). To a little extent        (    )                    d). Not at all                          (    )

8. How do immigration offenders view the fines and penalties stipulated in this Act?

a). Very high        (    )                          b). Moderate        (    )

c). Fair                (    )                          d). Very low        (    )


## SECTION C: KENYA CITIZENSHIP AND IMMIGRATION ACT 2011 PROVISIONS

9. How do you rate this Act in terms of dealing with immigration offenders?

a) Excellent                    (    )                          b). Good        (    )

c). Satisfactory                (    )                          c). Poor        (    )

10. Fines and penalties stipulated in this Act are fair and reasonable to immigration offenders. Do you agree?

a). Yes                (    )                    b). No            (    )

If NO above please explain

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11. Fees and levies stipulated in this Act are affordable to all who seek immigration services. Use a scale of 1-5, where 1 is strongly disagree, 2=disagree, 3= neutral, 4= agree, 5= strongly agree

1 ...............(    )                    2.........(    )                    3...........(    )

4...............(    )                    5.........(    )

12. Kenya Citizenship and Immigration Act 2011 is a better law in combating immigration offenders than the Immigration Act Cap 172 (now repealed). Do you agree? Explain.

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**SECTION D: KENYA CITIZENSHIP AND IMMIGRATION ACT 2011 AND IMMIGRATION CRIMES**.

13. To what extent has general immigration offences reduced since the enactment of this Act?

a). Great extent      (   )                        b). Moderate extent        (   )

c). Little extent       (   )                        d). Not at all            (   )

14. What is your level of agreement with the following statements on the effects of this Act on immigration offences? Use a scale of 1-5 where 1=strongly disagree, 2=disagree, 3=neutral, 4=agree, 5=strongly agree

| | **statement** | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|---|
| a. | Number of those using forged documents have decreased | | | | | |
| b. | Number of imposters is on the rise | | | | | |
| c. | Illegal immigrants have been eliminated under this Act. | | | | | |
| d. | All foreigners are registering as foreign nationals under this Act. | | | | | |
| e. | Cases of forged endorsements are on the rise under this Act. | | | | | |
| f. | All foreign nationals working in Kenya have valid work permits. | | | | | |

15. What percentage of immigration offenders are arrested and prosecuted under this Act?

a). 1-20%                (   )                b). 21-40%     (   )

c). 41-60%              (   )                d). 61-80%     (   )

e).81-100%             (   )

16. With the new Act all incidences of immigration law violation are detected and prosecuted. Do you agree?

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17. Do you think there has been an overall reduction in the number of immigration offenders since the enactment of this Act?

a). Yes       (   )            b). No          (   )

If No what is your opinion?

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## SECTION E: KENYA CITIZENSHIP AND IMMIGRATION ACT2011 AND POLICY

18. To what extent can the department of immigration rely on the use of heavy fines and penalties to control immigration offenders in Kenya?

a). Great extent       (   )          b). Moderate extent       (   )

c). Little extent       (   )          d). Not at all          (   )

19. Suggest the best policy that can be used to control immigration offenders in Kenya.

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20. When crime rate soars in the country the general public demand for higher penalties and long jail terms for the offenders. Do you think this public notion is the best tool to be used by the government to control crime?

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21. Can the law makers and law enforcers depend on punitive punishments to control the high crime levels in Kenya?

a). Yes       (   )            b). No      (   )

If No please explain

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**Thank you for your time and participation**.

**This guide is for the purpose of the academic research only and the information you give will be treated with utmost confidentiality. Please answer all the questions provided as honestly as possible and to the best of your knowledge.**

**DO NOT write your name on this Questionnaire.**

Please indicate your position/occupation.......................................................................

## SECTION A: KENYA CITIZENSHIP AND IMMIGRATION ACT 2011 AND AWARENESS LEVELS

1. Do you think immigration offenders are aware of the provisions of Kenya Citizenship and Immigration Act 2011?

2. Do you think immigration clients were sensitized about the provisions of this Act before it was enacted?

If yes briefly explain how it was done.

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3. To what extent are immigration offenders informed of the provisions of this Act before being taken to court?

4. Suggest ways in which the Department of Immigration can increase awareness of provisions of this Act to its clients.

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## SECTION B: KENYA CITIZENSHIP AND IMMIGRATION ACT 2011 AND IMMIGRATION OFFENDERS.

5. Do you think heavy fines and levies can deter immigration offenders?

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6. What other methods can be used to control immigration offenders?

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7. Can the Department of Immigration effectively rely on heavy fines and levies to control immigration offenders?

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8. How can you rate this Act in terms of controlling immigration offenders in Kenya? Please explain.



## SECTION C: KENYA CITIZENSHIP AND IMMIGRATION ACT2011 AND POLICY

9. Do you think heavy fines and long jail terms can be used as best policy to control the high crime rates in Kenya?



10. If no in 13 above suggest other measures that can be used to control crime.

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11. What recommendations would you make to the Department of Immigration and Kenya government on best methods to control crime?

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**Thanks for your time and participation.**

**APPENDIX 3: TRANSCRIPT FORM FOR CASES PROSECUTED UNDER OLD ACT**

| YEAR | ILLEGALLY WORKING | FORGED DOCUMENTS | UNLAWFUL PRESENT | FAILURE TO REPORT ENTRY/DEP | FAILURE TO REGISTER | IMPOSTER | FORGED ENDORSEMENTS | MISLEADING | HARBOURING |
|------|-------------------|------------------|------------------|-----------------------------|---------------------|----------|---------------------|------------|------------|
| 2008/2009 | | | | | | | | | |
| 2009/2010 | | | | | | | | | |
| 2010/2011 | | | | | | | | | |
| **TOTALS** | | | | | | | | | |

**APPENDIX 4: TRANSCRIPT FORM FOR CASES PROSECUTED UNDER KCIA 2011**

| YEAR | ILLEGALLY WORKING | FORGED DOCUMENTS | UNLAWFUL PRESENT | FAILURE TO REPORT ENTRY/DEP | FAILURE TO REGISTER | IMPOSTER | FORGED ENDORSEMENTS | MISLEADING | HARBOURING |
|---|---|---|---|---|---|---|---|---|---|
| 2011/2012 | | | | | | | | | |
| 2012/2013 | | | | | | | | | |
| 2013/2014 | | | | | | | | | |
| TOTALS | | | | | | | | | |