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INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**THE IMPLICATIONS OF EAST AFRICA REGIONAL INTEGRATION ON
IMMIGRATION POLICIES: A CASE STUDY OF KENYA**

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DECLARATION

This research project is my original work and has not been presented for examination in any other universities.

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


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DEDICATION

My study is dedicated to my beloved wife Waeni, daughter Nini and son Junior.

Thank you for your love. May the Almighty God bless you abundantly.

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LIST OF ABBREVIATIONS

| | |
|----------|--|
| AfCFTA | -Africa Continental Free Trade Area |
| ASEAN | -Association of Southeast Nations |
| CDC: | -Centre for Disease Control |
| CMP | -Common Market Protocol |
| COMESA: | -Common Market for Eastern and Southern Africa |
| DRC | -Democratic Republic of Congo |
| EAC | -East Africa Community |
| EAC-CMP | -East African Community Common Market Protocol |
| EC: | -European Community |
| ECOWAS | -Economic Community of West Africa States |
| EEC | -European Economic Community |
| EU | -European Union |
| FDI | -Foreign Direct Investment |
| IGAD | -Intergovernmental Authority on Development |
| ILO | -International Labour Organization |
| IOM | -International Organization of Migration |
| LAPSSET | -Lamu Port Southern Sudan-Ethiopia Transport |
| MDGs | -Millennium Development Goals |
| MiGOF | -Migration Governance Framework |
| MIRP | -Ministry of Immigration and Registration of Persons |
| NACOSTI: | -National Council of Science and Technology Innovation |
| NAFTA: | -The North American Free Trade Agreement |

| | |
|---------|---|
| OAU | -Organization of Africa Unity |
| OECD | -Organization for Economic Co-operation and Development |
| OSBPs | -One-Stop Border Point Stations |
| PEEACCM | -Protocol on the Establishment of the East Africa Community Common Market |
| PISCES | -Personal Identification Secure Comparison and Evaluation System |
| RCM | -Regional Conference on Migration |
| RIA | -Regional Integration Arrangements |
| SADC | -The Southern African Development Community |
| SDGs | -Sustainable Development goals |
| SPSS | -Statistical Package for Social Sciences |
| UNCTAD | -United Nations Conference on Trade and Development |
| UNDP | -United Nations Development Program |
| UNHCR | -United Nations High Commissioner for Refugees |

ABSTRACT

Kenya places a high value on migration, particularly as it relates to regional integration in East Africa. For a long time, migration policies have been linked to the movement of people, goods, labor, and capital from one sovereign state to another. This study examines the implications of East Africa regional integration on immigration policies: a case study of Kenya. Three key objectives will guide the study to examine the factors that affect immigration trends in the East African region, examine the implications of East African Integration on immigration policies in Kenya, and examine the government of Kenya's response to immigration policies due to East Africa integration. This research used the migration theory as advanced by Ravenstein Ernest George Ravenstein in his 'Laws of Migration' in 1885. This study adopted a mixed-method research design. This design adopted both quantitative and qualitative approaches. This study was mainly conducted in Nairobi, which hosts the two EAC-related ministries, and most immigrants reside. The migrants were accessed through sampling at the various points of entry in Kenya. The researcher then applied the concepts from Neuman's book to a small population (under 1000); for a high degree of precision, a large sampling ratio (around 10%) was needed. Hence, the target population was 100 respondents comprising immigration officials, EAC Ministry employees, foreign affairs officials, Civil society organizations, and migrants. Both primary and secondary data were relied upon. The collected data were analyzed through content analysis for qualitative data and Statistical Package for Social Sciences (SPSS) Version 21, which generated frequency distributions and percentages for quantitative data. The findings of the study were. The EAC integration has led to the free flow of people within the East African region resulting in various immigration policies in Kenya. Among them are policy and administrative responses. The policy responses the Kenyan Constitution of 2010, the Kenya Citizenship and Immigration Act of 2011, the Refugee Act of 2006, and the East Africa Community Customs Management Act of 2004 were all harmonized in accordance with the Common Market Protocol domestication to improve the free movement of people, capital, and services within the EAC Region. The study, therefore, recommends that based on strong immigration trends in East Africa, the governments should abolish passports among EAC citizens to simplify and facilitate the process of cross-border movement. Consequently, countries in the EAC region should establish a harmonized cross-border policy to facilitate inter-state movement. (Common Identity Card).

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

The East African Community (EAC) brings together six partner states: Kenya, South Sudan, Uganda, Burundi, Tanzania, and Rwanda. The sub-regional organization hosts 177 million citizens and has a combined Gross Domestic Product of US\$ 193 billion.¹ This project the key facts behind the continued efforts by the partner states to achieve full political integration. At the center of the regional integration process in the EAC is economic integration as espoused in the EAC Treaty and other protocols entered into by partner states. Migration within the EAC is an important policy issue as in other regions with regional integration. Migration concerns movement issues of people and goods within the region and encompasses other matters such as economic nationalism, security, and cross-border management. In this strength, though provided in various legal frameworks entered into by the EAC countries, the movement of people and goods is still a policy issue that has not been optimally achieved due to multiple factors.²

In the pre-colonial era, people-to-people integration occurred across borders in the EAC based on cross-border communities such as the Maasai and Kuria in Kenya and Tanzania; and the Teso, Samia, and Luo in Uganda and Kenya. However, post-colonial boundaries have controlled these relations, limiting the movement of such communities and the EAC people across borders and

¹ East African Community, "Overview of EAC". Available at: <https://www.eac.int/overview-of-eac> Accessed on April 24, 2021.

² Oucho, J.O. Et Al., *The Biggest Fish in the Sea? Dynamic Kenyan Labor Migration in The East African Community*. (Switzerland. ACP/IOM Publication, 2013) pp 5.

instituting various processes controlling the cross-border movement.³

The force of globalization has elevated the need for deeper integration among states at the global, regional, and sub-regional levels. Economically, states enter into regional integration arrangements to obtain factors of production such as labor. Migration concerns labor mobility as a factor of production, allowing free movement of people for economic reasons such as work, investment, and even studying. In this context, various steps have been undertaken at the global, regional, and sub-regional levels to develop and promote arrangements that would allow for the free movement of Africans throughout the continent and the East African region.

The African Charter on Human and People's Rights (1996) in Article 12 provided for the freedom of movement and mobility rights as a human rights principle; the Treaty for the Establishment of the EAC (2000) espouses an integrated region where there is free movement of people; the EAC Common Market Protocol (Articles 7, 9, 10, 13 and 16) provides for the free movement of persons, labor services and establishes the rights of workers migrating within EAC, national identification cards harmonization, qualification recognition system and the streamlining of labor and social security programs; the Migratory Policy Framework for Africa (2009); the launch of the Common Biometric African Passport in 2016; the Protocol on Free Movement of Persons in Africa (2018) which promotes intra-Africa trade and labor mobility and ultimately the African Continental Free Trade Area (AfCFTA) in this year. These legal and practical implementation efforts have codified and expressed the centrality of free movement in sustaining viable regional integration in Africa and East Africa.⁴

³Kibia, T.Z and Tostensen, A., Fast-Tracking the East African Integration. (Bergen-Norway. Chr. Michelson Institution, 2005) pp 1-3

⁴ Ibid.

Despite these efforts and mechanisms, free movement of persons remains elusive due to various factors such as political tensions between and among states, registration issues in certification, issuance of permits, restrictions applied to non-nationals in accessing the labor market, inconsistencies in the management of migration by states, insufficient migration data and ad hoc decisions taken by border officials.⁵ Further, there is a limited definition of migration to mean worker migration, thus leaving out refugees, displaced persons, and asylum seekers who are often not recognized in free movement protocols but different frameworks.⁶

As a critical pillar of economic integration and development through ensuring skill availability and labor in the East African region, this study intends to examine the implications of the East African regional integration on migration trends within the region. The study will pay attention to the contemporary geopolitical environment in the world and regional politics, events such as the Covid-19 pandemic and its implications on regional integration and immigration, the rise of economic nationalism, and thus proffer relevant recommendations on the study problem.

1.2 Statement of the Problem

Migration is as old as humanity. However, integration-related migration is a new phenomenon that has arisen globally in the 20th century. As a result, there has been a push for integration as a common international practice in recent years. As Kenya and its partners make strides towards

⁵ Ibid. .

⁶ Oucho, J. O., *Changing Perspectives of Internal Migration in Eastern Africa*, Nairobi. African Migration and Development Policy Centre (AMADPOC) (Nairobi, Kenya, 2015) pp. 11.

regional integration, free movement of people within the region has become a significant focus on one side while still trying to manage the geographical borders as a sign of sovereignty.

There has been a realization that as countries pool their wealth, they are likely to achieve significant development and security, which significantly improves the lives of their people. This necessitates the coordination of government agencies with the goals of the integrating states. Since it deals with people's movements and the movers of demand factors, immigration is an essential player in the integration process. East African countries' approach to mobility and the labor market differs. As integration in East Africa grows, so does the movement of people and goods; hence immigration goes hand in hand with regional integration.

In East Africa, Workers' freedom of mobility is addressed by the Common Market Protocol, which guarantees the free movement of workers, who are citizens of the partner states, within the territory. In addition, it provides that the partner states shall ensure non-discrimination of the workers of each state based on their nationalities, concerning employment, remuneration, and other conditions of work and career.⁷ The clause also provides employees with the right to apply for jobs, travel freely within the territory, enter into workplace contracts, and possess collective bargaining rights and freedoms.

Despite this, the East African member states are still sovereign, each with a government and national policies on immigration. Therefore, the integration process and the free flow of people, goods, and services will affect the immigration policies of member states. Therefore, this study will analyze how the integration process has impacted Kenya's immigration policies in the East

⁷ Article 10, EAC (2009), Protocol on the establishment of the East African Community Common Market.

Africa Community.

1.3 Research questions

- i. What factors affect immigration trends in the East Africa region?
- ii. What are the implications of East Africa's regional integration on immigration policies in Kenya?
- iii. What has been the government of Kenya's response to immigration policies in the East Africa region?

1.4 Research Objectives

1.4.1 General Objectives

The general objective of this study will be to analyze the impact of East Africa's regional integration on immigration in Kenya.

1.4.2 Specific Objectives

- i. To examine the factors that affect immigration trends in the East African region.
- ii. To examine the implications of East African Integration on immigration policies in Kenya.
- iii. To examine the government of Kenya's response to immigration policies due to East Africa integration.

1.5 Literature Review

This section of the research will address the literature on East Africa integration. In this section, the study will probe what different authors have done on the issue of EAC integration and in

matters of migration with the EAC setup. This will help the researcher look at the research topic from an angle different from the existing literature.

1.5.1 Regional Integration

Junichi Notes that regional integration is a common economic arrangement in the current global economic order. He notes that there are several regional and sub-regional economic blocs today. The most notable regional blocs are the European Union (EU), the North American Free Trade Agreement (NAFTA), and the Association of Southeast Asian Nations (ASEAN). Regional integration is a trend that has spread all over the world. There are many regional integration arrangements in Africa, such as the East African Community, the Economic Community for West African States (ECOWAS), and many more.⁸

Mitrany, in his *"Working Peace System,"* looks into the practicability of how international ties could lead to global integration. Mitrany believes that improved international peace can be achieved through reduced extreme nationalism. Mitrany strongly argues that modern society ought to create technological problems that experts rather than politicians better solve.⁹ In his view, non-political issues are better solved by experts as opposed to politicians. Mitrany's main point is that collaboration in functional or technical areas will spill over to other areas.¹⁰

According to Assa, "political actors in different unique national contexts are convinced to move their loyalties, aspirations, and political action toward a new center, whose institutions hold or

⁸Junichi, G., *Regional Integration in East Africa Diversity or Economic Conformity: Japan*: (JICA Research institute, 2012) pp 7-33

⁹ Mitrany, D. *A working peace system* (Oxford University press, London, 1994).

¹⁰ Paul, R. Viotti and Mark, V. Kauppi, *International Relations Theory: Realism, Pluralism, Globalism*. (New York: Macmillan Publishing Company, 1987) pp 11-40.

demand jurisdiction over the pre-existing national states and neo-functionalism." Assa states that for integration to occur, it ought to be perceived by politicians to see it to their self-interest.¹¹ Regional integration involves the integration of economic, political, and social aspects. This means that some functions that were state-centric shifted to a more extensive regional setup. Likewise, loyalty becomes to the region and not to the country as the citizens are more connected under regional integration.

In her work, *Economic Development and Regional Integration in the East Africa Community*, Grant Eyster give a good background for the East Africa region that made them ready for integration. From the time of the Portuguese at the East coast in 1498, all through to the time of the British colonization of Uganda and Kenya and later Tanganyika at the end of the First World War. The work enumerates the economic strength and weakness of each country as a pillar to the confederation. It further states the respected benefit that each country is likely to get from the union. Finally, the effort of the revival is spelled out, which started in the year 1993, with the draft treaty completed in 1998. The cooperation other than economic also included social and security matters¹². What the community is now striving to attain is the envisioned political integration.

In East Africa, regional economic integration has been tried since the inception of the East African Community. Over the years, it has achieved tremendous and notable progress of economic forwardness, achieved through several steps and involving some protocols. On July 7,

¹¹ Okoth Assa, *A History of Africa* Vol. 2, (East African Educational Publishers. Nairobi, 2010) pp 20-121

¹² Grant E., *Economic Development and Regional Integration in The East Africa Community*. Indiana University 2014 pp 46.

2000, the newly formed EAC went into effect. Burundi and Rwanda were welcomed as additional members in 2007, bringing the total number of members to five: Burundi, Kenya, Rwanda, Tanzania, and Uganda. The EAC Single Market Protocol was signed by the five nations in November 2009, establishing a common market that allows free movement of goods, people, and money as an important feature of the East African Community.¹³

Adar Notes that East Africa's integration dates back when Kenya, Tanganyika (Tanzania), and Uganda were British colonies. The completion of the Uganda Railway line by the British administration in 1897-1901 set the stage for formal socio-economic, political cooperation, and integration.¹⁴ This was in line with the colonial's project on collaboration. A Customs Union was established in 1917. This early phase of integration included common services and institutions established between 1905-1946, such as the East African Posts and Telegraphs, Currency Board, Income Tax Board, and East African Airways, which ideally integrated the region's economic sectors and ensured harmonized operations.

1.5.2 Regional Integration and Immigration

In the process of regional integration, migration plays a crucial role. Migration management must be successfully handled to achieve the East African Common Market Protocol's key goals of open, stable, and orderly movement of persons. Irregular migration, human smuggling, and human trafficking, as well as other cross-border crimes like auto stealing, armed robbery, and

¹³EAC, The Treaty for Establishment of the East African Community, (EAC Secretariat, Arusha Tanzania, 2011)

¹⁴ Adar, K (2011). *The democratization of International Organization*. Centre for Studies on Federalism. Moncaheri, Italy. Pp. 3-14

fugitives of justice, are all linked to migration.¹⁵ Around the same time, United Nations Development Program (UNDP) writes that cross-border migration creates benefits for both receiving and exporting countries, such as increased legal labor migration, which boosts remittances, knowledge transfer, and increased cross-border commerce. To that point, migration must be managed to minimize the negative consequences while the positive outcomes are maximized.¹⁶

Schiff asserts that regional integration is a modern-day phenomenon based on the fundamental objective of different countries coming together towards shared prosperity. Regional Integration comes with several benefits: Trade gains where countries experience favorable terms of trade occasioned by free trade and increased competition availing a variety to consumers vis-à-vis the rest of the world. From experience, it is worthy to note that regional integration increases investments in countries. Enlarging a sub-regional market will entice more investors to increase production to tap the available market and attract direct foreign investment. Free trade is the central principle in a given economic integrated region where the movement of goods, labor, and capital across international borders eases through policies.¹⁷

According to Braude, Regional integration means that trade barriers are either lowered or removed, leading to more trade between the Member States. Kenya understands the benefit regional integration brings. Regional integration perfectly serves Kenya's economic interest.

¹⁵Newland, K., What we know about migration and development. Washington DC: (Migration Policy Institute, 2013) pp 15-21

¹⁶UNDP, Human development Report: Overcoming Barriers: human mobility and development. (New York: UN, 2013)

¹⁷Schiff, M. & Winters, A., Regional Integration and Development. (Washington D.C.: The World Bank, 2003) pp 13

Trade between countries is an essential factor contributing to economic growth and creating opportunities like jobs. For Kenya, Uganda remains one of the most important trading partners within the East African region.¹⁸

According to Senghor, integration is delicate because it is a socio-economic and political process. Therefore, the people ought to grasp the benefits. Nevertheless, consultations and negotiations generally take much time because numerous discordant cultural, political, and economic issues factored into the regional integration. Therefore, to improve the integration process, the combination of the Common Market, Customs Union, and structuring of a solid foundation for forward-moving towards Political Federation and Monetary Union must be done very carefully.¹⁹

Migration is critical for Kenya, Tanzania, Burundi, Uganda, and Rwanda, according to studies from the International Organization for Migration (IOM), particularly in developing regional integration in East Africa. Millions of rural households in eastern and southern Africa have historically migrated to cities and big towns, providing investment cash for rural commodities production and stimulating new ideas.²⁰

Reith postulates that the East Africa region is heading towards its highest stage of regional integration. The Current Stage of regional integration in Africa covers several cooperative areas across different sectors. The main area of cooperation in EAC is manufacturing and trade. The

¹⁸Braude W, "Regional Integration in Africa: Lessons from The East African Community," (Johannesburg: South African Institute of International Affairs, 2008). pp 5.

¹⁹Jeggan C. Senghor, Theoretical Foundations for Regional Integration in Africa: An overview, in Anyang' Nyong'o (ed.), Regional Integration in Africa: Unfinished Agenda (Nairobi: Africa Academy of Sciences, 1990), pp 9- 22

²⁰IOM Report. Labor migration in Kenya. International Organization for Migration (IOM). (Geneva: Switzerland, 2015)

more EAC regional Integration intensifies, the more sovereign member states become interlinked. Migration hence becomes a norm in the process of economic integration, especially as the citizens of member states seek opportunities in other member states.²¹

By pooling resources or combining markets, regional cooperation, according to Grants, is one way to offset the drawbacks of economic smallness. EAC members, for example, are all emerging nations with modest economies that struggle to attract large investments. As a result of its integration, the EAC now has a larger market where investors may benefit from economies of scale and enhance foreign direct investment.²²

John writes that one of the main challenges to the free flow of people within a regional integration setup is the failure of member States to surrender some of their sovereignty. Before it collapsed, the EAC partner states had begun to perform practices against the spirit of integration. With Tanzania closing its borders and demanding its citizens' employment in all EAC's cooperation in Tanzania and Kenya charging more for hosting Tanzania aircraft. The reluctance of Tanzania to freely allow the movement of citizens of member states was one of the factors that led to the failure of the first EAC.²³

According to the 2018 EAC report, the movement of students throughout the region to pursue education is an intriguing aspect of East African migration. These types of movements have a long history of pre-colonial and colonial education systems, and they are an integral aspect of

²¹Reith, S. *The East African Community Regional Integration between Aspiration and Reality*. (Kas International Reports, 2011) pp 17

²² Grant, E., *Economic Development and Regional Integration in the East Africa Community*. Indiana University (2004) pp 24.

²³John B, K., *Integrating migration with development in EAC. policy challenges and recommendations: (Bieac Project. Cuts International, 2008) pp 17.*

migration in Kenya, Tanzania, and Uganda. Despite the increased availability of schools within regular commuting reach, these trends have persisted until now. Many refugees have crossed foreign boundaries in search of higher education, which has resulted in greater economic and socio-cultural integration in the country.²⁴

Reiss notes that regional integration is the manipulation of social identities during political contestations, where a common political strategy amongst political actors to obtain and maintain a cohesive regional unit. As in the first attempts, the East Africa regional integration was based on several shared institutions in the East African region. Lake Victoria, for example, is a crucial shared resource in the region. Lake Victoria brings three early members of the EAC and is also a symbol of shared heritage. The shared resources like the Lake Victoria and the Kenya-Uganda Railway also provide a route through which citizens of the member states can move easily between the three original members of the EAC.²⁵

Oucho emphasizes that transport and connectivity are essential for successful intra-regional migration and integration, necessitating the construction of railways and roads connecting member states. The Lamu Port Southern Sudan-Ethiopia Transport (LAPSSET) corridor project exemplifies East African countries taking ambitious steps toward deeper integration through shared transport and connectivity networks at seaports and transportation corridors.²⁶

²⁴EAC Report, Migration and Regional Integration in the East African Community. (Arusha: EAC Secretariat, 2018)

²⁵Mariel Reiss, *Political Integration in the East African Community: Vision or Reality?* (East African Educational Publishers, 2010) pp 1-98

²⁶ Ibid. .

1.5.3 EAC Migration Policies

Migration policies are central to any regional integration. The East Africa regional bloc also has its migration policies. The member states of EAC have agreed and signed many laws that allow for the free movement of people within the region. These laws aim to ensure a working authorization and residency and the free movement of labor and capital. The migration laws in the East African community borrow from Regulation 6(7) of the EAC Common Market (Free Movement of Workers) regulations. The regulations call for member states to process work permits to allow citizens from the East African region to work within the partner states to operate freely. According to the regulations, the duration of work permits should be up to two years with an option of renewal. The regulations hence require member states to foster free movements within the EAC region.

Oucho writes that Kenya is a significant migration destination for people from Central and Eastern Africa and a key transit hub of the continent. In addition, the country has an intra-regional solid migration pattern with its East African neighbors. Kenya's borders with Ethiopia, Somalia, Uganda, Sudan, and Tanzania are more than 4,000 kilometers long and highly porous. Moreover, violent conflict and natural disasters continue to plague some of these nations, raising the risk of illegal migration.²⁷

Migration policies are the Government actions that regulate the arrival or departure of foreigners based on their nationality, reason of entry, and length of stay. Emigration, relocation, seasonal migration, and refugee policies are all part of the migration policies. East African migration

²⁷Oucho. O. The Biggest Fish in The Sea? Dynamic Kenyan Labour Migration in The East African Community. (Research report, 2013) pp4- 36

policies are focused on limiting foreigners' and increasing nationals' job opportunities. Migration policies translate into more or less stringent regulatory structures consisting of immigration laws for foreigners' entry, residency, and jobs in all three East African countries (Tanzania, Kenya, and Uganda). Although migration policies intend to regulate labor mobility through states, the reality is that national governments regulate labor mobility to foster domestic jobs while prohibiting foreigners from working, as demonstrated by the issuance of work permits.²⁸

In general, a study conducted in East Africa by the International Labor Organization (ILO) found that Migration from rural to urban areas in Africa has a lower influence on industrialization and economic growth than migration from other parts of the world, notably Europe and North America. Commercial migration to plantations (cotton and coffee in Uganda), mines (DRC and Uganda), and seasonal movement (pastoralist communities in Kenya, Tanzania and Uganda) has a long history in East Africa.²⁹

Several classifications explain the migration policies in East Africa, each in its own country. Uganda has many policies dealing with labor migration, for example, an approach primarily focused on international migration and controlled both emigration and immigration. The EAC's member states have drafted migration policies to maximize the benefits of the common market's freedoms. Kenya, which is a significant focus of this study, has made tremendous progress in improving immigration policies. A Strategic Plan for the Ministry of State for Immigration and Registration of Persons (MIRP) is in place.

²⁸ EAC., The EAC Common Market Protocol. Arusha: (East African Community Secretariat, 2010)

²⁹ Makoffu, M. The Global Migration Group Symposium on Overcoming Barriers: Building Partnerships for Migration and Human Development. East African Community Secretariat, Arusha, Tanzania, 9 May Migration Policy Institute, 2010) pp 7- 21

Articles 76 and 104 of the EAC Treaty define five freedoms and two privileges in the Protocol on the Establishment of the East African Community Common Market (PEEACCM): free movement of goods, free movement of individuals, free movement of labor, right of establishment, right of residency, free movement of services, and free movement of money. As evidenced by the immigrant population that resides or works in the four group members, the legislation has enabled Kenya to benefit economically from her East African neighbors.³⁰

According to a report done by IOM, following serious allegations that Kenya had become a transit, source, and destination for trafficked people, the country enacted dynamic legislation to control the immigrants. The law seeks to combat human trafficking, regulate cross-border migration, and address citizenship problems, among other items. The Kenya Citizenship and Immigration Act of 2011 and other related laws make systemic and organizational arrangements within the Directorate of Immigration with regional and sub-regional offices in strategic locations to improve migration management.³¹

According to Mau and Guyo, EAC member States ought to work together to identify effective methods for addressing migration challenges such as reducing irregular migration, forced displacement, addressing migration health issues, ensuring regional stability, and maximizing the

³⁰Article 10, EAC Common market Protocol: Arusha: EAC secretariat

³¹ IOM., Migration in Kenya. A country Profile 2015. (Nairobi: International Organization for Migration, 2015)

positive effects of migration such as labor migration, Diaspora participation, remittance use, and border management, among others.³²

The EAC Secretariat is coordinating the mechanism for harmonization of work/residency permit fees in accordance with Regulation 6(9) of EAC Common Market (Free Movement of Workers) Annex II, as decided by the Sectoral Council for Ministers Responsible for EAC and Planning at its 20th meeting in 2014. The Secretariat organized a meeting of multi-sectoral specialists from Partner States' immigration and labor departments/directorates/agencies, Investment Authorities, Employers and Staff, and employer organization associations. The present status of work/residence permit fees is governed by the national laws and administrative processes of each EAC Partner State. As part of the EAC Common Market Protocol implementation, the Republics of Rwanda, Kenya, and Uganda have eliminated work visa costs for East Africans who are workers or growing firms.³³

1.5.4 Gaps in the Literature Review

From the above literature review, it is evident that regional integration involves the movement of goods and services and, equally important, the movement of people. In the East Africa integration protocol, the movement of people, especially workers, is well spelled out. However, there is a gap in explaining the impact East Africa integration has had, on the immigration policies of member states, especially in Kenya. Each state in the EAC is sovereign, with its

³² Mau, M & Guyo, W., Effective Electronic Strategies on Cross Border Migration Control adopted by Immigration Authority in Kenya. 9 Nairobi. Prime Journal of Social Science, 2014) pp 5-30.

³³Article 10, EAC Common market Protocol: Arusha: EAC secretariat

internal policies on immigration; hence it will be interesting to understand how the integration process has impacted these immigration policies.

1.6 Justification of the Study

The implication of regional integration on migration is an important area of study, as the EAC member states are focused on deepening the regional integration. The Study hence will be of interest to several stakeholders.

1.6.1 Policy Justification

This research will critically look at the implications of regional integration on migration in East Africa. This will be helpful to the policymakers as this work will try to give a deeper analysis of the implication of regional integration on migration. The Study will provide a foundational framework that will improve capacity building by various policymakers, Government officials, and think tanks towards improving and addressing the challenges of immigration in the East African region. This will be important for planning purposes as well as the formulation of policy towards regional integration.

1.6.2 Justification to the Field of Study

This research is driven by little availability of empirical study and documentation as to what are some implications of regional integration on Migration in EAC integration. This study will provide academic knowledge on the subject area. The study will provide an in-depth analysis of the implications of East Africa regional integration on immigration policies: A case study of

Kenya. The findings of the study will provide scholarly literature in the field of international relations and the migration policies

1.7 Research Hypotheses

- i. Employment is the key factor that influences immigration trends in the East African region.
- ii. The East Africa integration has had positive implications on immigration policies in Kenya.
- iii. The government of Kenya's response to immigration within East Africa has been positive.

1.8 Theoretical Framework

This research will use the migration theory as advanced by Ravenstein Ernest George Ravenstein in his 'Laws of Migration' in 1885, which explains the relationship between migration and regional integration.³⁴ Ravenstein explains the dynamics of migration as based on various principles. The first principle or law relates to the nexus between migration, gender, and distance, positing that males predominate in long-distance migration. In contrast, females have the predominance to migrate more within short distances. Secondly, he asserts that migration occurs in stages whereby one migrates from a village to a nearby central point of attraction and eventually to distant locations. The third principle pertains to technological advancements, development in infrastructure, and transportation as providing impetus for increased migration. Finally, the notable principle or law is that migration results from an individual's rational-choice

³⁴ Ravenstein, E. G. "The Laws of Migration", *Journal of the Royal Statistical Society*, 48 (2), (1885), pp. 167-235.

decision based on a cost-benefit analysis of a given moment. Thus, Ravenstein cites economic considerations as the significant reason why people migrate from one country to another.

The theory, therefore, contextualizes the significance of regional integration as an import in the creation of the push and pull argument, which posits that migration is a result of economic considerations of the region in question. This will help analyze the push and pull factors within the East African Community member states that influence the migration trends in the region.

1.9 Research Methodology

This chapter presents the research design, target population, sampling techniques, data collection methods, and data analysis procedures. It also encompasses reliability, validity, and ethical considerations for the study.

1.9.1 Research Design

This study adopted a mixed-method research design. This design adopted both quantitative and qualitative approaches. According to Kombo and Tromps, a design is a blueprint for collecting, measuring, and analyzing data.³⁵ This design was selected to allow comparison of the findings, description, and inferences of the results. The collected data was both quantitative and qualitative. The goal was to rely as much as possible on the data collected on regional integration and migration. This helped analyze the implications of regional integration on migration in East Africa, which are the variables in this study. The study intended to interpret the meaning that the respondents have about the implication of regional integration on migration. The primary data

³⁵ Kombo, K and Tromps, I. Social Research Methods: A Complete Guide. Nairobi: (Eureka Publishers, 2015) pp 18.

collection instruments were the questionnaires. Therefore, the appropriateness of this study design was guided by the need to establish how regional integration impacts migration.

1.9.2 Description of the Study Area

This study was conducted in Kenya with a comparative analysis of the EAC member states. There have been two attempts towards integration in the East African Region. The EAC is an intergovernmental organization composed of six countries in the African Great Lakes region in Eastern Africa: Burundi, Kenya, Rwanda, South Sudan, Tanzania, and Uganda. This study was mainly conducted in Nairobi, which hosts the two EAC-related ministries and most immigrants reside. The migrants were accessed through sampling at the various points of entry in Kenya.

1.9.3 Target Population

According to Kombo and Tromp, a target population comprises humans, objects, or items from whom samples are taken for measurement. This study's target population was made up of Immigration officials, EAC Ministry employees, foreign affairs officials, Civil society organizations, and migrants.

1.9.4 Sampling Procedures

Sampling is the process of picking persons or items from a population so that the chosen group represents all categories and traits found in the total population. Respondents were chosen using stratified and purposive sampling approaches. A purposive sampling strategy was utilized to ensure that a reasonable representative sample was chosen for the groups. The researcher then applied the concepts from Neuman's book to a small population (under 1000); for a high degree

of precision, a large sampling ratio (around 10%) was needed.³⁶ Purposive sampling considers the population's common traits, seeks to figure out where people are, and studies and collects data from them. The researcher regarded the fact that the majority of migrants staying in Kenya had personal knowledge of the country's immigration rules as extremely useful to this investigation.

Table 1.1: Sample Size Selected

| Target Sample | Sample size selected |
|---------------------------------------|----------------------|
| Immigration officers | 20 |
| Ministry of East Africa officers | 10 |
| Ministry of Foreign Affairs Officials | 10 |
| Civil Society Organization | 10 |
| Immigrants | 50 |
| Total | 100 |

Source: Researcher, 2021

1.9.5 Methods and Instruments of Data Collection

According to Kombo and Tromp, a research instrument is a tool used to collect data. The instruments to be employed in this study enabled the collection of both descriptive and numerical data. The primary data collection was through online administration of questionnaires in google forms to the four categories of the respondents in the population. This solely depended on the respondent's preference. Secondary data was collected from existing archival records like websites, publications websites, journals, government reports, published/unpublished materials, and newspapers and newsletters.

³⁶Neuman. W., Social Research Methods: Qualitative and Quantitative Approaches, (1991) pp 22.

According to Neuman, a questionnaire is a list of research or survey questions asked to extract specific information.³⁷ These methods were applied to collect detailed and accurate data that assured valid and reliable inferences about the population under study. The researcher also ensured the completeness of collected data from the filled-up questionnaires before it was coded and analyzed.³⁸

1.9.6 Data Analysis and Presentation

Both quantitative and qualitative techniques were used for the analysis of the collected data. The qualitative data were summarized and categorized according to the themes and presented thematically. Analysis of quantitative data was through Statistical Package for Social Sciences (SPSS) Version 21, which generated frequency distributions, percentages, and inferential statistics. This gave accurate and consistent responses to the research questions. Descriptive statistics such as mean and percentages are calculated and presented in tables and charts. In addition, inferences such as correlation and chi-square measure of variables' independence were computed. This will establish the strength of relationships between the study variables. The qualitative data were analyzed through content analysis and triangulation.

1.9.7 Ethical Considerations of the Study

The mandatory research authority was requested from the University of Nairobi, and the license was applied and obtained from the National Council of Science and Technology Innovation (NACOSTI), Nairobi. Research assistants who were known as the key respondents will be

³⁷ibid

³⁸Neuman, L. Social Research Methods. Qualitative and Quantitative Approaches. (Whitewater: University of Wisconsin, 2006) pp 33

engaged. They were inducted to understand the expectations of the study for the avoidance of deception. Respondents' consent was established to show agreement and willingness to participate. They were also assured of privacy and confidentiality of their identity and of the collected data too. It was confirmed that collected data was only to be used for the academic work and kept by the researcher. Every secondary source of information used in this study is duly acknowledged.

1.10 Chapter Outline

Chapter one provides the introduction and background to the study. The chapter provides the problem statement, research objectives, summary of relevant literature, the theoretical framework, and the methodology the study used.

Chapter two, integration and immigration policies, will extend the literature review guided by the Migration theory.

Chapter three examines the factors that affect the trend of immigration in the East African region. The chapter also evaluates the implications of East African Integration on immigration policies in Kenya.

Chapter four assesses the government of Kenya's response to migration due to East Africa. Integration.

Chapter five provides the summary, conclusion, and recommendation of the study

CHAPTER TWO

INTEGRATION AND IMMIGRATION POLICIES

2.1 Introduction

Regional Integration is a common economic arrangement in the current global economic order. It is critical for the economic growth of source and destination nations and the welfare of migrants and their families. Regional integration has had many impacts on social, economic, and political spheres. On the social front, integration has impacted patterns of migration and migration policies, thus increasingly crucial for adjusting to changing demographics and environmental conditions in the future. However, despite increased efforts by regional organizations to promote orderly, safe, and regular migration, there is still little recognition and practice amongst the member country's policies and processes.

2.2 Background on Integration

Modern regional integration was founded in 1973 by the English-speaking Caribbean countries with the major goals of promoting economic integration and cooperation, ensuring that integration advantages are shared equitably, and coordinating foreign policy³⁹. However, even before that, different countries made attempts to come together for the common good.

At the start of the 20th Century, the world had only 43 Sovereign recognized states, and as such regional integration was not practical. However, there has been an uptake in most Regional Integration Arrangements (RIAs), especially after World War II in September 1945 and The

³⁹ “Regional Integration in the Commonwealth Caribbean and the Impact of the European Union: The Round Table: Vol 97, No 399.”

Cold War in 1991. This was achieved by the states' coming together to tackle vast issues that the states faced by following a set of rules and regulations developed in signing an agreement to be part of regional cooperation. From a constructive view, regional integration exists as "the course of availing customary rules, regulations, and policies for a region." All these efforts were in a bid to come up with a borderless world. Regional integration aims to formulate interstate relations in infrastructure, culture, trade, and investment that assimilate migration in a mutually enabling cooperation.⁴⁰

In Europe, regional integration took the form of the European Union. The European Union expanded dramatically eastward in May 2004, adding ten new member nations and 75 million more inhabitants, signaling the end of the divided continent defined by the Cold War. However, even though this enlargement was a considerable step toward regional integration and one of the most important geopolitical events of the decade, it was accompanied by widespread anxieties and intense political rhetoric about migration — a "ripple of frenzy" to be sure.⁴¹

2.3 The Emergence and Evolution of International Migration Policies

Migration dates to the pre-colonial era where people moved freely within regions as there were no boundaries which are pivotal in the history of humankind. However, the frequency of cross-border mobility has increased compared to the preceding centuries due to technological revolutions constricting space and time. In most states, migration has become a disputable matter due to unbalanced immigration and the emigration of their citizens. Although several states

⁴⁰ Penninx, R. (2014). Regional Economic Integration and Migration: Lessons from the Case of Europe pp 17

⁴¹ Comte, E. (2012). European Regionalism and Migration Global Governance. *The Irice notebooks*, pp 117-137. <https://doi.org/10.3917/lci.009.0117>

encounter a higher migration flow than others, migration persists in most states that strive to manage and effectively control. A Keynote lecture delivered by Angel Gurría, the Organization for Economic Co-operation and Development (OECD) Secretary-General at the Edmund A. Walsh School of Foreign Service, Georgetown University in October 2016, noted that migration had gotten out of control of the various nations and how the states were going to tackle this menace would impact majorly on the countries. According to statistics, he stated that migrations are increasing, and it is fathomable that they will increase due to the different political, demographic, and economic imbalances and climatic changes. Bhagwati simplifies this theory that the anomalous capacity to manage migration has diminished as the urge to manage it has risen.⁴²

The increase in migration patterns impacts societies as there are changes in the cultural and societal norms in the areas where people emigrate and immigrate. Before the United States gained independence, most of its political leaders were concerned with immigration into their country. For example, nativistic opinions aired out by Benjamin Franklin "Why should Pennsylvania, which the English founded, become a colony of Aliens who will shortly be so numerous as to Germanize us instead of us amplifying them, and who will never adopt our language or customs any more than they can acquire our complexion?" he asks of the German immigrants in 1751. These anti-German expressions by Franklin show that fear of nativists from

⁴² Angenendt, S., & Koch, A. (2017). 'Global Migration Governance' im Zeitalter gemischter Wanderungen. Folgerungen für eine entwicklungsorientierte Migrationspolitik (SWP-Studie 8, April 2017). Berlin: Stiftung Wissenschaft und Politik (SWP).

experiencing a societal change that immigrants accrued, and this fear has continued to last for centuries.⁴³

In 2015 an estimated 244 million people had immigrated to countries different from their birth countries, accounting for 3% of the world population; this percentage has increased to 3.9% by 2019. The United Nations calculates the figures of foreign migrants to have doubled through the last forty years. Furthermore, the overall population of migrants has considerably risen during the first ten years of the 21st Century, rising from an initial figure of 150 million in the year 2000 to 214 million in the year 2010 and has issued its concern that the numbers would increase regardless of the efforts put by various states to restrict immigration. The International Organization for Migration has forecasted that by 2050 the number of migrants is likely to hit 405 million. The IOM World Immigration Report of 2020 put 272 million persons to have migrated from the countries of origin, of which 67% of these people were labor migrants.⁴⁴

A statement by Kofi Annan, the former UN Secretary-General, bid to help understand the impacts international migration had on the various states. He stated that " We now understand that migration is not a zero-sum game better than we ever did previously. It helps the recipient nation, the country of origin, and migrants in the best-case scenarios. "Efforts to control migrations are, however, frustrated in the states that experience higher immigration. This is further discussed by Demetri Papadimitriou of the Migration Policy Institute. During the colonial era, migration was mainly involuntary and was majorly a result of the spread of the Trans-

⁴³ Awumbila, M. (2017). 'Drivers of migration and urbanization in Africa: Key trends and issues'. (UNDESA Background Paper). New York: United Nations Department of Economic and Social Affairs. Börzel, T. / Risse, T. 2016: Introduction: Framework of the Handbook and conceptual clarifications. In: Börzel, T. / Risse, T. 2016: Oxford Handbook of Comparative Regionalism. Oxford University Press. P. 3 – 13.

⁴⁴ Clemens, M. A. (2014). Does development Reduce Migration? International Handbook on Migration and Economic Development, 152-185.

Atlantic slave trade. In the modern world migration, is a result of various factors, including but not limited to; sociopolitical, economic, and ecological factors. Immigrants are categorized into two groups, humanitarian and economic immigrants. Humanitarian immigrants are persons who moved from their home countries mainly to seek asylum or protection from neighboring states, whereas economic immigrants are persons who move to other states with the sole purpose of getting employed and making wealth. For example, several Afghanistan's citizens have emigrated from their countries to Pakistani and Iran, seeking protection due to the wars back in Afghanistan.⁴⁵

Persons migrating due to sociopolitical reasons majorly migrate as humanitarian immigrants. The socio-political factors that push people to migrate from their states of birth include ethnicity, racial segregation, discrimination based on a person's religion, wars and political instability, and diminishment of one's culture. Economic migrants move from their countries of birth due to their countries' low economic status, which ranges from the high unemployment status, low income in their countries, and technological development in the countries they emigrate to. The International Organization of Migrants defines ecological migrants as persons who flee their countries of origin due to sudden or increasing environmental changes that make it tedious and hectic to reside under such conditions. These include droughts, floods, or earthquakes, and these people may migrate either permanently or temporarily.⁴⁶

⁴⁵ IOM (International Organization for Migration) (2005) Internal Migration and Development: A Global Perspective, IOM Migration Research Series, No. 19. Geneva: IOM.

⁴⁶ Lavenex, S., Flavia, J., Terri, E., & Buchanan, R. (2016). Regional migration governance. In T.A. Börzel & T. Risse (Eds.), Oxford handbook of comparative regionalism (pp. 457-485). Oxford University Press: Oxford. P. 457 – 485.

Customarily the onset of immigration was in the Northwest-European countries. However, in a bid to save their countries from economic stagnation, most European and Asian countries are coming up with ways to promote legal migration into their countries. These states attract highly skilled individuals from other countries, and in return, they are given lucrative benefits to lure them to continue their stay in the countries. Up to 1980, most countries were emigration countries when Italy, Spain, Portugal, Greece, Ireland, Norway, and Finland became hotbeds for immigrants during the late 20th Century. Thus, generally, Europe has been an immigration continent.⁴⁷

Even though scholars have constantly agreed that the main drivers to migration of persons to a specific nation and avoid other countries are still not understood. It is evident that the drivers of migration are vast and may be categorized into push and pull factors. The push factors that drive the migrants to emigrate from their countries include political wars, geographical factors, and economic factors such as unemployment within their residency areas. The pull factors are the factors that compel persons to immigrate into a specific country, such as advanced technology in a country, better employment opportunities, affordable cost of living, and the peace and tranquility in the country that experiences immigration. However, immigrants within a region always have the same reasons for immigrating to a country. For instance, many studies have deduced that the post-enlargement immigrants to the European Union were majorly young and male from Poland and the Baltic States.

⁴⁷ Pillinger, J. (2008) The Migration-Social Policy Nexus: Current and Future Research (prepared for the UNRISDIOM-IFS project on Social Policy and Migration in Developing Countries). United Nations Research Institute for Social Development, International Organization for Migration, Institute for Future Studies.

Migration is beneficial to the migrants and the countries with high traffic of immigrants; however, these phenomena should be controlled to enhance the development of the various states that experience migration. Therefore, migration should not be considered a way to solve the problems of various states; however, if it is well-regulated, it can be of high benefit to the fight against poverty and stagnant development as the global flow of sums of money is up to 68.5 billion US dollars yearly. If this value were to be increased to 100 billion US dollars, then the realization of the Millennium Development Goals (MDGs) would be a reality according to the United Nations.⁴⁸

2.4 Theoretical Literature on Regional Integration and Migration

There were two outstanding theories of regional integration that provided notable perceptions relating to the regional integration process: supra-nationalism and inter-governmentalism, neo-functionalism, and institutionalism. The two theories, neo-functionalism and inter-governmentalism, collectively helped drive the process of European integration within governmental and non-governmental stakeholders. Neo-functionalism defines the process of regional integration as the product of joined action and contention among major players in society. On the other hand, inter-governmentalism explains the process of regional integration as the product of collaboration and competitiveness within national governments. Inter-governmentalism depends on the lopsided interdependence of states. In contrast to neo-functionalism that points out the disparate access to information, inter-governmentalism postulates a flat edifying setting, making it easy for administrations to make decisions, leaving

⁴⁸ Clemens, M. A. (2014). Does development reduce migration? *International Handbook on migration and Economic development*, 152-185.

independent movers and shakers in policymaking. However, both theories look at regional integration as a coherent way of enhancing economies.⁴⁹

According to Schmitter, Neo functionalism is broad in its philosophical roots and is majorly derived from the theories of pluralism and functionalism. The theory of regional integration is analogous with a neo-functionalist Haas, who was famous for his concept of "The Uniting Europe." Haas defined regional integration as forming a more powerful organ than a single nation or state. His concept was based on Europe being the point of convergence for most of the works of regional integration theory with the signing of the Maastricht Treaty that materialized in November 1993 hence the creation of The European Union (EU), which later enlarged on January 1st, 1995, to The European Community (EC). Haas and Schmitter came up with an intellectual superstructure that opened out the regional integration process past Europe in industrial and non-industrial settings by coming up with a contextual framework that would be practical in both settings. Other neo-functionalists, including Sandholz and Sweet 1998 and Marks, Hooghe, and Blank 1996 were inspired by European integration. However, during the mid-1960s, the European Integration process started to experience a crisis. Haas, together with Lindberg and Scheingold, became challengers of regional integration.⁵⁰

Intergovernmentalism theorists view regional integration from the point of national states searching for mutually advantageous bargains. As Nugent suggests, inter-governmentalism refers

⁴⁹ de Haas, H. (2010) 'Migration and development: a theoretical perspective', *International Migration Review*, 44(1): 227-264.

⁵⁰ Pellerin, H. (1999). Regionalization of Migration Policies and Its Limits: Europe and North America Compared. *Third World Quarterly*, 20(5), 995-1011. Retrieved June 28, 2021, from <http://www.jstor.org/stable/3993608>

to arrangements in which nations and states can control and cooperate on matters of common interest. For a policy or decision to be reached within regional cooperation, all states must veto the decision. States are the central players in world politics, and they are usually lucid players. Governments are the primary negotiators on regional integration, and their negotiations are based on the formulation of integration and substantive policy arrangements, institutional designs of the cooperation.

The main theory in regional integration and migration policy is the Law of Migration theory advanced by Ravenstein. Laws of Migration in 1885 explain the relationship between migration and regional integration.⁵¹ Ravenstein explains the dynamics of migration as based on various principles. The first principle or law relates to the nexus between migration, gender, and distance, positing that males predominate in long-distance migration while females predominate more within short distances. Secondly, he argues that migration occurs in stages whereby one migrates from a village to a nearby central point of attraction and eventually to distant locations. The third principle pertains to technological advancements, development in infrastructure, and transportation as providing impetus for increased migration. The notable principle or law is that migration results from an individual's rational-choice decision based on a cost-benefit analysis of a given moment. Ravenstein cites economic considerations as the major reason why people migrate from one country to another.

2.5 Overview of Regional Integration and International Migration.

Neo-functionalism, Intergovernmentalism, and Law of Migration theories can all be used to understand the correlation between regional integration and international migration. Using the

⁵¹ Ibid.

three theories in this research involves understanding the specific case and studying it through distinctive approaches, whereas nomothetic research examines multifarious cases stressing the need to explain the phenomena studied. Scholars have singled out the scarcity of available regional integration and international migration cases to make it complex to understand the correlation between these two issues. However, there is a deficiency of many relationships between regional integration and global migration phenomena. Therefore, two tests will be carried out based on international migration as a dependent variable and regional integration as a dependent variable to understand the relationship.⁵²

Firstly, taking the case where international migration is a dependent variable in parallel to a coterie of independent variables which influence the economy, governance, trade, geography, and the political orientation of a country. The test aims to show how the most significant independent variables affect international migration and their impact on migration, whether positive or negative. The test helps to further understand the importance of regional integration as a significant influence of international migration and helps comprehend which nations have had a higher immigration issue. Secondly, considering the case of regional integration as a dependent variable matching it against various independent variables, one should comprehend how some nations are more regionally integrated than others. The two scenarios indicate that efforts by governments to have their countries integrated within their regions are less likely to impact the numbers of immigrants the country will receive.⁵³

⁵² Shrestha, S. A. (2017). No Man Left Behind: Effects of Emigration Prospects on Educational and Labour Outcomes of Non-migrants. *The Economic Journal*, 127(600), 495–521. <https://doi.org/10.1111/ecoj.12306>

⁵³ *ibid*

2.5.1 Correlation Between International Immigration and Regional Integration.

To understand the correlation between these two phenomena, we will delve into case studies on various regions globally: Latin America, which consists of the Caribbean, Central America, and South America; The Middle East countries and North African countries; Sub-Saharan African countries; North America; and European countries which form the core of getting to understand the correlation amidst regional integration and international immigration.⁵⁴

Africa is one of the most regionally integrated continents globally, and the affinity between regional integration and international migration in Africa is outstanding. Nonetheless, most African countries are still underdeveloped, which leads to stricter policies against persons from such countries immigrating to more developed nations. Despite most of the regional cooperations coming up with ways to enhance movement by easing border restrictions for citizens of members states within their regional cooperation and even going to the extent of coming up with free movement areas within their region's migration has not been as successful as in the European and American countries.⁵⁵

East Africa countries such as Burundi, Uganda, Rwanda, Tanzania, and Kenya, who constituted the EAC, came up with a standard East African passport; however, the passport was only used for travel purposes within the East African Community until it was eventually phased out. Additionally, the Common Market for Eastern and Southern Africa (COMESA) and the Intergovernmental Authority on Development (IGAD) have been associated with regional

⁵⁴ Asis, M.M.B. (2004) 'Borders, globalization and irregular migration', in A. Ananta, and E.N. Arifin (eds.) International Migration in Southeast Asia. Singapore: Institute of Southeast Asian Studies, 199-227.

⁵⁵ Byiers, B. (2016), 'The political economy of regional integration in Africa. Intergovernmental Authority on Development (IGAD)', Maastricht: ECDPM.

integration efforts to promote the migration of persons among its African member states to enhance development in the countries. As a result, the IGAD Regional Consultative Process (IGAD-RCP) has enacted a unifying and equal policy concerning migration by its member states; Djibouti, Ethiopia, Kenya, Somalia, Sudan, and Uganda.⁵⁶

The Economic Community of West African States (ECOWAS) enacted a policy to ensure that immigrants are treated as citizens of the countries they move to; however, this has faced challenges in some of the 15 member states of ECOWAS. Managing migration within regional integrations in Africa has been met with challenges due to the developing nature of most African nations since brain drain is evident as citizens tend to migrate to European countries for greener pastures. In 2005 the Southern African Development Community (SADC) drafted a Protocol on Facilitation of Movement of individuals within the South African region, but the implementation of this policy is yet to be achieved. Furthermore, a majority of the South African countries are signees of other regional blocks other than SADC, thus making the already scarce resources of those African countries to be stretched.⁵⁷

Page asserts that regional integration helps eliminate barriers that would delay the circulation of products, funds, and individuals beyond interstate extremities, bringing about the founding of parochial metropolises due to regional migration. It also helps open up landlocked countries; Africa has the majority of countries without a coastline in the world and enables them to access the ports easily within their regional cooperation. The relationship amidst regional integration

⁵⁶ Byiers, B. (2016), 'The political economy of regional integration in Africa. Intergovernmental Authority on Development (IGAD)', Maastricht: ECDPM.

⁵⁷ *ibid.*

and foreign immigration within Africa is impressive since most of the 54 African countries are regionally integrated. However, there have been fewer or no results as the countries are incapable of executing the integration policies and migration within the African continent.

The Association of Southeast Asian Nations (ASEAN) was contoured in 1967 to help the Asian countries speed their economic, social, and cultural growth. However, at that point, immigration and regionalism were not factors there hence was no framework to regulate the migration of persons within the region. The ASEAN Framework Agreement for the Integration of Priority Sectors (FA) in 2004 addressed regional integration and international immigration. The Framework Agreement pointed out that the easy movement of experienced and skilled persons in different fields and trade goods were the most warring areas affected by the migration of people in the ASEAN countries. The framework's main concern was adding value to the ASEAN countries, and it discriminated against the unskilled migrants who were the highest in the intra-ASEAN flows. There was a conglomeration migration of labor workers from India and China in the late 19th century and early 20th century to Southeast Asia, resulting in an immigrant community with different cultural and social forms of life from the initial inhabitants of the area.⁵⁸

Hickey notes that the intra-regional migration within the ten ASEAN countries has either labor immigrants or labor emigrants. Developed countries like Brunei and Singapore are labor receiving countries. Labor-sending countries consist of underdeveloped countries like Vietnam, Laos, Indonesia, Cambodia, and the Philippines. However, developing nations like Malaysia and

⁵⁸ Hickey, M., Narendra, P., & Rainwater, K. (2013). A review of Internal and Regional Migration Policy in Southeast Asia. Migrating Out of Poverty Working Paper, 8.

Thailand fall in both categories. A principle was formulated in 1976 by the ASEAN member states that no state would interfere with the sovereignty of or territorial integrity of any other state within the ASEAN community. In 2006 a Task Force on ASEAN Migrant Workers (TFAMW) was formed to formulate policies to protect the freedom of immigrants. In addition, the supreme leaders of the ASEAN countries signed a Declaration on the Protection and Promotion of the Rights of Migrant Workers at Cebu, the Philippines, in 2007, a move towards immigrant protection within the region. Katsumata notes that the framework put in place for migration within the ASEAN communities is pivotal in fastening the growth of ASEAN economies and that regional integration is mainly stonewalled by the treaty signed earlier, which prevented nations from interfering with the sovereignty of other states and emphasized on the absolute consensus for a decision to be enacted.⁵⁹

The European regional integration was ignited by forming the European Economic Community (EEC), dubbed the Maastricht Treaty enacted in 1993. The Maastricht Treaty birthed the Four Freedoms to ensure the unrestricted carriage of goods, personnel, services, and resources being major innards in any market. One indispensable element of the treaty since the establishment of the European community was the development of European citizenship which permitted nationals of nations that were signatories of the European Union to travel openly and enjoy similar rights within all the states of the European Union, it, however, did not supersede nor replace the national citizenship of the individuals. For instance, a citizen of France can migrate to Germany freely and settle as a resident of Germany without any hindrances and vice versa. The open borders in the European Union have been the drivers of regional integration among many

⁵⁹ Hickey, M., Narendra, P., & Rainwater, K. (2013). A review of Internal and Regional Migration Policy in Southeast Asia. Migrating Out of Poverty Working Paper, 8.

countries. Even with policies allowing free movement among other regional cooperation's, none of the integrations have been able to achieve yet what Europe achieved with the opening of borders. Favel describes the migrants from East Europe as free movers within the European Union. They are not considered immigrants, as with open borders, the probability of short-term annular supranational migration. The EU open borders have sparked mixed reactions among various stakeholders, making it tedious to adapt current policies on migration within the EU.⁶⁰

As the European Union member states have become regionally integrated into an immense manner, states in North America are integrating sluggishly to the NAFTA contract. The inauguration of NAFTA has had increased trade. The Northern American member states' trade in 2002 between the three countries was at 621 billion US dollars, which was a double-figure compared to 1993 trade value at 306 billion US dollars. Mexico was the highest benefactor of this increase. However, with the United States as the region's de facto leader, efforts for an effective regional integration have been frustrated. One of the main hindrances to regional integration in North America is that Canada and Mexico are vested in having a good relationship with the United States more than they are interested in each other.

The North American Free Trade Agreement of 1994 is structured in a very contrasting manner compared with the European Union structure of an open market. However, it brought together the predominant trade-dependent states. Even though NAFTA tackles both the policies enshrined in the European Union, it does not have measures to tackle international migration within its member states. Due to the lack of a supreme leader in NAFTA, addressing matters to do with

⁶⁰ Dustmann, C., Fasani, F., & Speciale, B. (2017). Illegal Migration and Consumption Behavior of Immigrant Households. *Journal of the European Economic Association*, 15(3), 654–691. <https://doi.org/10.1093/jeea/jvw017>

immigration has been futile even though the United States faced a significant challenge of illegal immigrants from Mexico before the formation of NAFTA. Contrary to one's expectations of the United States, Mexico, and Canada working together to solve the issue of immigration to its countries, they have consistently come up with stricter measures to keep their borders closed. In 1996 there was a formation of a forum to help discuss matters relating to migration in North America and Central America by 11 countries. The genesis of the Regional Conference on Migration (RCM), otherwise identified as The Puebla Process in 1996, hoped that a successful regional integration was foreseeable for North American countries. Adapting a regional integration policy based on neutral migration to both states would help transparency amongst the three North American member states. Thus, it would be beneficial to successful regional integration.⁶¹

2.6 Impacts of Regional Integrations on Migration Policies

In line with the Law of Migration Theory, the advent of the proliferation of the world, nations were compelled to enact policies that would favor their belief in impeding the growth of other states within their regions. This led to countries being involved in international cooperation to control the migration of persons along their borders. However, in formulating such regional cooperation, the states involved were more centrally to policies beneficial to their countries. The establishment of regionalism meant that the policymakers of the states involved would reanalyze national borders. These efforts were to promote the free movement of citizens to and from the countries within the regional cooperation. The free movement would be beneficial in cutting down on the pressures that faced the labor market in a country that received immigrants

⁶¹ Rigaud, K. K., De Sherbinin, A. M., Jones, B., Bergmann, J., Clement, V., Ober, K., & Midgley, A. (2018). *Groundswell: Preparing for Internal Climate Migration*. Washington, DC: The World Bank

for labor purposes. This phenomenon was experienced during the most recent world economic credit crunch, where the United Kingdom experienced a 50% drop in the influx of immigrants using the A8 Visa between the years 2007 and 2009. Consequently, a two-day workshop by the International Organization of Migration (IOM) and the United Nations Conference on Trade and Development (UNCTAD) to discuss the Free Movement of Persons in the Regional Integration Process.⁶²

With the increasing international migration and formation of regional cooperation, there have been increased debates on formulating policies. Such policies are formulated because of the rising global refugee crisis and the onset of the third wave of nationalist electoral victories. To vet the limitation of immigration that should exist, policymakers are interested in knowing and understanding the impacts immigration has on their nations. The implications of immigration range are reliable on the where, when, how, and who. A more visible example reflects the impacts Afghanistan refugees had on Canada and Bolivian countries.⁶³

The effects of immigration on nations are vast, and this has necessitated the formation of specific policies. An example where immigration negatively affects employment, some nations where the natives of the countries experience a high number of under-skilled immigrants, as illustrated by Hunt and Gindling. However, this theory can be viewed from a positive perspective. It motivates the natives of the countries to seek further education and upgrade their professions by elevating the involvement of the human resources of the aboriginals, compensating for the shortage of

⁶² IOM (International Organisation for Migration) (2016) Internal Migration and Development: A Global Perspective, IOM Migration Research Series, No. 19. Geneva: IOM

⁶³ Raghuram, P. (2009) 'Which Migration, what Development? Unsettling the edifice of Migration and Development', *Population, Space and Place*, 15(2): 103-117.

labor in the countries. Thus, immigration ends up consuming the taxpayers' money. Various settings in different nations can be different.⁶⁴

The necessity for policies that house positive outcomes from immigration is multiplying rapidly as migration continues to happen globally. It forecasted that by 2040, the population of the age bracket for working persons would have increased in low-income countries by 330 million, accounting for a 91% increase. In average-income states, the population is estimated to increase by 625 million and 800 million in Sub-Saharan Africa, according to Hanson and McIntosh 2016, Bertolli 2017. With the development of modest-income countries to average-income countries, there is an increase in the demand of working age to immigrate into the countries as new opportunities would attract immigrants.⁶⁵

Clemens suggests that the effects of immigration within regional blocs would benefit both the countries with immigrants and emigrants and migrants with constructive policies. The countries having immigrants will benefit from labor. The migrants will benefit from higher-income jobs and, due to their increased income, their remittances back home would increase, helping their countries of origin. As a result, a substantial concentration is put on the impact immigration has and how it influences policy development. There has been clamber like-mindedness among nations to develop policies that will help strengthen international coordination and cooperation regarding foreign migration to realize the full benefits of immigration to the different states. In Cairo, various governments have acknowledged that effectual plans and policies to manage

⁶⁴ *ibid*

⁶⁵ Raghuram, P. (2009) 'Which migration, what development? Unsettling the edifice of migration and development', *Population, Space and Place*, 15(2): 103-117.

migration are based on substructures of harmonious policies and programs both at a regional and global platform.⁶⁶

Stakeholders in the regional co-operations have joined efforts to try and tackle matters relating to public health, the disintegration and destruction of natural resources, and the loss of essential years of working and learning caused due to migration within their cooperation. The Regional Consultative Processes have unified different states, intergovernmental organizations, and non-governmental organizations on Migration (RCPMs) to develop various migration policies. The prime colloquium was birthed in 1985 as Intergovernmental Conference (IGC) for Europe, North America, and Australia. This marked the beginning of many forums that later followed, including the Northern and Central America enhanced by the Puebla Process. In Asia, there was the Manila Process, Southern Africa had the Migration Dialogue for Southern Africa (MIDAS), and in Europe, the Budapest Process. RCPMs are preferable and effective in discussing matters relating to migration within the region due to their informality compared to formal institutions founded with intentions of dealing with issues of immigration such as the United Nations (UN) and regional groupings such as the European Union. Migration is discerned by the 2030 Sustainable Development goals (SDGs) as a contributor to the development of a region. This is manifested in that out of the 17 goals, 11 aim towards migration.⁶⁷

⁶⁶ Clemens, M. A. (2014). Does development reduce migration? *International Handbook on Migration and Economic Development*, 152-185.

⁶⁷ Angenendt, S., & Koch, A. (2017). 'Global Migration Governance' im Zeitalter gemischter Wanderungen. *Folgerungen für eine entwicklungsorientierte Migrationspolitik (SWP-Studie 8, April 2017)*. Berlin: Stiftung Wissenschaft und Politik (SWP).

2.7 Conclusion

International migration and regional integration are of great significance in the 21st century. However, it remains an area that has been positively accepted and equally received criticism from certain nations, stakeholders, and scholars. The study will show that the relationship between the two phenomena is yet to be well understood. Therefore, there is a need for more studies to help the nations that are yet to achieve regional integration do so to ease the flow of individuals, goods, and funds through foreign remittances hence benefiting both the states involved.

CHAPTER THREE

MIGRATION TRENDS AND POLICY FRAMEWORK IN EAST AFRICA

3.1 Introduction

This chapter will look at the factors that affect the trends of immigration in the East African region and their implications on East African integration on immigration policies in Kenya. The East African region is known for its long history of immigration from the pre-independence period. The region continues to witness mass displacement and migration caused by various factors ranging from poverty, conflict, and trade. In its bid to integrate and form a political union, the region has triggered substantial immigration within its member states. East Africa's migration goal is intertwined with the continent's broader economic integration ambition, including intra-African trade and investment.

3.2 Migration Trends in East Africa

Migration into and out of East Africa is large-scale and diversified in composition, with diverse migratory patterns including refugees, asylees, compelled immigrants, and migrants driven by various causes. Mixed immigration movements from East Africa usually use three key migration routes: the 'Northern Route' to North Africa and, in many cases, onwards to Europe; the 'Southern Route' to South Africa; and the 'Eastern Route' to Yemen and other Gulf countries. According to Mixed Migration Centre's study, a complex interplay of war, instability, and economic causes are major drivers of mixed migration from East Africa, with a wide range of individuals on the move.⁶⁸

⁶⁸ Migration data in East Africa <https://www.migrationdataportal.org/regional-data-overview/eastern-africa>

The notion of migration can be linked back to pre-colonial times in East Africa, distinguished mainly by the absence of “boundary lines” as we know them in the modern world. There was considerable inter-society contact in East Africa and the unrestricted movement of people and products. Significant traditional as well as ethnic ties aided in this condition of things. These ties established solid relationships, which were strengthened through barter trading among communities. With the founding of the old East African Community in early 1967 and the ratification of a Treaty of Cooperation between Tanzania, Kenya, and Uganda, one of the essential aspects underlying the cooperation was the open borders throughout the East African Region.⁶⁹

Tragically, driven by political disagreements amongst signatory countries, the EAC dissolved in 1977. However, in roughly 20 years, the three states of Uganda, Kenya, and Tanzania launched endeavors towards reestablishing the East African Community's former grandeur and the administrations of the three nations committed to rebuilding their relationships. Such efforts ultimately resulted in the East African Community's resurgence in 1999, with the Treaty's ratification for the Establishment of the East African Community. Rwanda and Burundi joined the founding nations of the organization in 2007, bringing the EAC to 5 members. Per Article 104 of the Convention, the Member Nations committed to securing the free movement of people, labor, and goods and protecting respective nationals' freedom of settlement and residency within the region. Accordingly, the Member Nations signed the Protocol for the Establishment of the East African Community Common Market to make it easier for individuals to enjoy the aforesaid freedoms and rights. Protocols are fundamental elements of the Treaty under Article 151 of the

⁶⁹ Raghuram, P. (2009) ‘Which migration, what development? Unsettling the Edifice of Migration and Development’, *Population, Space and Place*, 15(2): 103-117.

Treaty. The Protocol came into force on July 1, 2010, following assent from all Member Nations.⁷⁰

In the framework of the protocol, migration may well be expressed in several clauses. Article 5 specifies the protocol's reach even in the execution of a Common Market and schemes for realizing community members' freedoms and rights; the convenience of cross-border migration of people and adaptation of interconnected border control; revocation of constraints on labor movement; services; and the freedom of establishment and residence. To identify the residents of signatory countries and Protocol Article 8, Member Nations sought to implement a familiar standardized approach of granting identity documents to their nationals. Citizens are expected to use a legitimate universal platform valid visa in compliance with Article 9. Partner States that desire to use computer-readable and digital identification cards as immigration documents could do so.⁷¹

Laborers' free movement is addressed in Article 10, in which Member Nations safeguard the free movement of labor who are permanent residents of other Member Nations within their borders. The article also gives employees the ability to apply for jobs, travel freely among Partner Countries, enter into employment agreements, and practice collective bargaining freedoms and rights. As per Article 11, Alliance Countries agree to acknowledge professional and academic credentials conferred consensually. Expertise procured prerequisites met, licenses or

⁷⁰ Dustmann, C., Fasani, F., & Speciale, B. (2017). Illegal Migration and Consumption Behavior of Immigrant Households. *Journal of the European Economic Association*, 15(3), 654–691. <https://doi.org/10.1093/jeea/jvw017>

⁷¹ U. N. OCHA, Eastern Africa to Host Over 9 million Displaced People, 14 (Sept. 2012–Mar. 2013), available at <http://reliefweb.int/report/democratic-republiccongo/eastern-africa-displaced-populations-report-issue-14-30-september>

accreditations conferred in other Member Countries, and to align one's school curriculum, tests, guidelines, certification, and accreditation of education programs. This article aims to make labor mobility a reality. Regarding synchronization of labor policies and ensuring free movement of workers, Article 12 stipulates: Member Nations commit to synchronization of labor policies, legislation, and federal statutes and initiatives to facilitate free movement of labor throughout the East African Community.

Furthermore, member countries' social protection policies, legislation, and procedures will be revised and aligned. Moreover, Articles 13 and 16 of the Treaty permit the settlement of citizens of their Member Nations inside their territory, free flow of service rendered by citizens of Member Nations throughout the East African Community, and open borders for vendors who are citizens of Member Nations.⁷²

Due to the territory's closeness to war zones in the Great Lakes region and the Horn of Africa, the East African Community shelters dozens of displaced persons. As a result of Article 124(5) (h) of the Treaty, Member Nations committed to developing shared procedures for asylum seeker settlement.⁷³ Furthermore, the Treaty's Article 7(8) states that applicable international laws shall control the migration of immigrants. In light of the preceding Convention and Treaty requirements on asylum seeker control, the EAC Chiefs of Refugee Management are developing the EAC refugee management strategy and action plan.⁷⁴

⁷² Oucho JO.(2006) "Migration and Refugees in Eastern Africa: A Challenge for the East African Community.". In: Views on Migration in sub-Saharan Africa. Pretoria: HSRC Press

⁷³ EAC (2009), Protocol on the establishment of the East African Community Common Market.

⁷⁴ Migration data in East Africa <https://www.migrationdataportal.org/regional-data-overview/eastern-africa>

3.3 Factors Affecting the Migration Trends in East Africa

Factors that influence people's choices to move across legal and unconventional routes are called migration drivers. These encompass voluntary and coerced migrations and both transitory and lifelong moves. Migration has existed for millennia of humankind. Humans always have migrated in the quest for better dwelling conditions for themselves and their family members or to escape dangerous situations in their home country. The above two primary forces were the foundations of Lee's 'push and pull' thesis, which included economic, ecological, cultural, and political variables driving people away from their home countries and drawing them to the country of destination. Lee's hypothesis does have the distinction of becoming the first to define the factors of these complex phenomena in a contemporary and scientific manner since Ravenstein initially discussed them in Scotland in 1885.

Consequently, the region confronts problems linked therewith poor socio-economic development. Furthermore, armed wars, sociopolitical tyranny, and repression are major migratory factors in several pertinent nations. Environmental concerns greatly influence the region's countries, influencing people's food and nutritional security, incomes, and immigration options. Many of the variables influencing migration are hard to foresee. While social, political, and economic changes are exceedingly difficult to anticipate accurately, decisions may be taken based on present circumstances. Migration occurs toward the more affluent countries, indicating higher-earning employment or a good paid income-generating occupation for a particular immigrant. There are, nevertheless, additional factors that may impact migration. To a greater degree, migration occurs for economic purposes; but, due to East Africa's closeness to the Great

Lakes Region, other causes also play a significant role, most notably civil conflicts, which have resulted in vast numbers of refugees.

3.3.1 Socio-Political Factors

The primary sociopolitical drivers of migration include the originating country's population growth and urbanization, conflicts, authoritarian regimes, and social issues. Contestations over permeable and artificial boundaries in East Africa remain a source of contention and violent conflict, perhaps leading to forced displacement. For example, boundary tensions involving Kenya and Uganda have resulted in a variety of disputes. Furthermore, border porosity and poor border management in Africa, along with the impacts of the fight on terrorism, make border crossing risky and necessitate stringent immigration restrictions and inspections. The politicization of racial and religious affiliations has the potential to spark intra-state severe conflict. Empirical data shows that governments transitioning from totalitarian control to democratic are more vulnerable to destabilization and internal strife. These nations cannot frequently respond appropriately to civil unrest. The foreseeable rate of migration from such states is entirely contingent on the duration and severity of any war sparked by societal discontent.⁷⁵

Humanitarian migrants are far more likely to migrate owing to social or political conditions. It will impact where they go, as some countries have more liberal immigration rules than others. Most of these folks would migrate to the next friendly nation that accepts migrants and refugees. This will not preclude them from relocating to a nation that offers refugees and migrants a

⁷⁵ Basnett, Y. (2013). Labour Mobility in East Africa: An Analysis of the East African Community's Common Market and the Free Movement of Workers. *Development Policy Review*, 31(2): 131- 148.

greater variety of legal protections. All through the Cold War, the US and the Soviets vied for control across resource-rich Africa. They provided combat training and weaponry to different organizations as part of their efforts to destabilize governments. These proxy conflicts intensified Africa's coerced migration.⁷⁶

Meanwhile, Kenya's weak borders and its stance for unhindered migration have prepared the ground for an influx of migrants. Beginning with Ugandan migrants in the 1970s and ultimately succeeded by an inflow from her neighbors within the East African region such as Tanzania, Sudan, Ethiopia, and Somalia. The surge of immigrants began to strain Kenya's infrastructure. The land also has a concern since the utilization of settlements is already restricted owing to Burundi's dense population, the fragmentation of parcels of land into smaller portions despite low yield, and land misuse by new inhabitants. South Sudan is confronted with a similar situation concerning the availability of land and necessities for migrants from the "north" (i.e., Sudan). In addition, Tanzania intensified its immigration rules in August 2013, Rwanda has faced a massive reintegration influx of returnees.⁷⁷

Kenya has considerably distinct features when compared to the other East African countries. Kenyans are seldom encountered among the waves of irregular migrants in the region. In the East African area, Kenya is a major transit and destination country for undocumented migrants leaving Somalia, Ethiopia, South Sudan, Eritrea, Sudan, the Democratic Republic of the Congo, and Rwanda. Compared to its neighbors, Kenya is relatively economically developed and

⁷⁶ Gil Loescher & James Milner (2005) The long road home: Protracted Refugee Situations in Africa, *Survival*, 47:2, 153-174, DOI:10.1080/00396330500156636

⁷⁷ Campbell, J and E Kiragu (2011) Navigating Nairobi: A review of the implementation of UNHCR's Urban Refugee Policy in Kenya's Capital City E Campbell, J Crisp, E Kiragu - Geneva: UNHCR, 2011

politically stable with robust infrastructure, established migrant communities, and large smuggling networks. All of these factors add together to make it a major irregular migration hub in the region. There are currently over a million recognized Somali immigrants in East Africa, with Kenya hosting well over half of these migrants. Many Somalis were compelled to escape to neighboring countries, particularly Kenya, due to the Somali civil war and following political turmoil and frequent droughts. The Dadaab Refugee Center in northeast Kenya houses the overwhelming bulk of Somali refugees.⁷⁸

3.3.2 Economic Factors

Economic factors are linked to a nation's labor legislation, rate of unemployment, and general financial health. If economic conditions are unfavorable and look to be deteriorating further, a higher proportion of people may likely migrate to a country with a robust economy. This frequently results in individuals relocating from the countryside to the cities within the boundaries of their country. Conversely, as low and middle-income nations continue to develop at a higher rate, high-income countries face a lower rate of development, migration from the latter may decrease. East African countries have a longstanding experience of labor migrants within the region and to other nations outside the region. In addition, expatriates have been present in East African countries, which has resulted in the mobility of labor within the region. People in East Africa have moved within and outside the region for various reasons, the most important of which is employment.⁷⁹

⁷⁸ Kumssa, A., Williams, J.H., Jones, J. (2014) Conflict and Migration: The Case of Somali Refugees in Northeastern Kenya. *Glob Soc Welf* 1, 145–156 <https://doi.org/10.1007/s40609-014-0006-9>

⁷⁹ Black, Richard & Mclean, Lyndsay & POOLEY, CLAIRE. (2004). Migration and Pro-Poor Policy in East Africa.

Labor migration has sparked in many East African areas, with records of people working in farms such as cotton and coffee plantations in Uganda, coalfields in DRC and Uganda, and seasonal pastoral nomad's societies in Uganda, Tanzania, and Kenya. Labor migrants from Rwanda, Burundi, and Zaire to Uganda, Kenya, and Tanzania were common during the colonialism. Such migrations have been bolstered by significant forced evictions, with Kenya constructing railways and Tanzania working in sisal estates and farmlands. Even so, in comparison to other parts of Africa, both urbanization rates and levels of migration flows continue to stay relatively low. According to research conducted in Western Kenya, the decision to migrate is linked to a type of inter-generational "migration contract" between a migrant and their parents. The male migrant travels and transmits cash transfers in anticipation of an eventually inherited wealth. According to IIED research, male migration to provide and invest in rural regions is prevalent in south Tanzania, while repatriation is less frequent. In northern Tanzania, on the other hand, migratory options appear to be especially significant for underprivileged women.⁸⁰

Kenya is recognized as East Africa's most dynamic economy, attracting the interest of its neighbors. As a result, many Tanzanians and Ugandans are said to have "migrated" to Kenya in search of better economic opportunities. However, that allure has shifted to Tanzania in recent years, which has emerged as a magnet for new foreign direct investment (FDI) and a favorite of donor countries. With increased job possibilities created by FDI and privatization, and a native population lacking the skills necessary to capitalize on these openings, Ugandans and Kenyans are pouring into the country to fill in the emerging lacunae. Another development is a shift in the

⁸⁰ Francesco C, (2018) Drivers of migration: why do people move? *Journal of Travel Medicine*, Volume 25, Issue 1, 2018, tay040, <https://doi.org/10.1093/jtm/tay040>

economics of what motivates individuals to migrate. For instance, some experienced professionals have targeted new markets with talent gaps to capitalize on current requirements. It has been the case as Kenyan and Ugandan professionals have progressively traveled to Rwanda and Burundi to give much-needed knowledge and expertise. Furthermore, entrepreneurs have been pursuing supposedly pristine and far less aggressive locations, which have caused several Kenyan firms, even financial institutions, to relocate to Rwanda and Burundi Equity and Kenya Commercial Bank "KCB."⁸¹

3.3.3 Environmental Factors

The environment continues to be a force of change globally and in East Africa as well. Environmental-related factors like climate change, food security, and the search for pasture for livestock have triggered considerable migration within the East African region. For instance, in Kenya and Tanzania, the Maasai community, pastoralists by nature and found in the two countries, move freely between the two countries in search of pasture for their livestock. This mostly happens during the dry seasons.⁸²

Climate change is likely the most prominent current environmental factor for people to migrate to East Africa. Over the next decade, climate change might increase the consequences of the social, political, and economic push factors outlined earlier in this essay. Even if climate change-affected people move only a short distance, their social, political, and economic dynamics may be transformed. Climate change and unpredictable weather patterns have jeopardized traditional

⁸¹ Raeme Hugo (2013), 'What we Know About Circular Migration and Enhanced Mobility', Migration Policy Institute.

⁸² Nancy A. Omolo,(2010) Gender and Climate Change-induced Conflict in Pastoral Communities: Case study of Turkana in north-western Kenya, 10 Afr. J. On C21á,&7resolution 81, 81–102

agricultural activities. Agricultural workers, for example, may be forced to search for other labor if their land can no longer produce or sustain viable quantities of commodities. In addition, food and water prices are expected to rise in some areas due to a scarcity of supplies. These costs put extra strain on the state's ability to assure everyone's well-being and, in some circumstances, preserve stability.⁸³

Climate change is a local and worldwide problem with wide-ranging consequences and risks with impacts on migration rates. Wetter beaches, drier midcontinent areas, and sea-level rise, according to the IPCC, may produce the most severe consequences of climate change by driving abrupt human migration. Due to shoreline erosion, river and coastal floods, and severe drought, millions of people relocated. In addition, men and women relocate to different rural or metropolitan regions as a kind of adaptation.⁸⁴

Climate change has emerged as a new danger, exacerbating existing political, socioeconomic, and environmental issues. Unexpectedly lengthy and dry hot seasons, changes in rainfall amounts and patterns, and changes in anticipated cloud cover are all happening in the region. Livestock has died due to these changes, and crops have failed or been wholly destroyed. Rainy seasons have become unpredictable, and the rainfall margin has shrunk.⁸⁵

⁸³ *ibid.*

⁸⁴ Intergovernmental Panel on Climate Change, (2013) *The Physical Science Basis*, in *CLIMATE CHANGE 2013*, Thomas F. Stocker and Dahe Qin, eds.

⁸⁵ Warlo R. Adano & Fatuma Daudi., *Links between Climate Change, Conflict and Governance in Africa.*, Institute for Peace Studies Paper No. 234, (May 2012), available at http://www.issafrica.org/uploads/Paper_234.pdf

3.4 Immigration Policy Framework in East Africa

The East African Community Common Market Protocol (EAC-CMP) regulates migration and labor movement in the region. The member state of the EAC is required by Article 10 section one to ensure the freedom of travel of employees who are nationals of other member states. Essentially, member states shall make sure that employees from the East Africa Community are not treated against in employment policies, wages, or any employment or job aspects because of their origin. Immigrants have these rights under the CMP: Right to write down a job application and accept job offers; Freedom of free movement among the member state for work; Freedom to sign agreements and work contracts and work in other member nations; Ability to reside in a member state's territory for professional reasons or work-related stay. Right to freedom of organization and bargain collectively for the decent working environment; Right to social welfare protections and entitlements provided to workers in a hosting country; and right to be joined by a wife and children.⁸⁶

Overall, it is worth noting that the East African Community is especially interested in fostering labor mobility for development for two reasons. To begin with, skilled labor migration from the area will ensure that East Africa receives much-needed foreign exchange for regional growth. Second, the labor migration plan will assist the Partner States in their attempts to generate jobs, therefore alleviating poverty in the area.

The Member States agreed to unify their labor policies, state legislation and programs, and social protection policies, regulations, and institutions to enable labor mobility inside the region. They

⁸⁶ The East African Community Common Market (Free Movement of Workers) Regulations, Annex II Regulation 5, p. 34-37

also agreed to make it easier for people to cross borders by implementing an integrated border management system and developing one-stop border stations (OSBPs). The Freedom of mobility of person regulations, found in Annex II of the or East African Community Common Market Protocol, underline agreement measures for member nations, such as arrival, departure, and stay provisions; working visa protocols; mobility of eligible beneficiaries; hiring of a migrant's wife and kid; access to job prospects through a labor market information system; and equitable pay in the workplace.⁸⁷

The EAC Regional Strategic Framework for electronic migration reaffirms the intention of EAC member nations to create a comprehensive system used to manage and share mobility data. The OSBP is particularly noteworthy; it is an idea intended to facilitate the mobility of products and persons throughout the EAC by a significant role in ensuring legislative and institutional frameworks that enable broader management at EAC member's citizens' entry and departure points. The EAC One-Stop Border Posts Act, 2016, and supporting rules establish the OSBP, whose goal is to improve trade by guaranteeing the products, services, and people travel efficiently throughout the zone. The idea is based on the AU's Strategic Action Plan for Infrastructure Development in the Continent, emphasizing the necessity and attempts to overcome the infrastructure difficulties that impede business in Africa. Last but not least, members must design and execute complete required telecommunications at their shared border to establish an efficient OSBP. Further, Section 16(1) permits members to use the integrated

⁸⁷ East African Community (EAC) (2017). Overview of EAC. Retrieved June 2017 from <http://www.eac.int/about/overview>

single-window system technology to operate at the OSBP, which primarily eases individual mobility and information sharing over the region⁸⁸.

The EAC created a project for transportation and trading efficiency. The OSBP was developed through three initiatives: Creating legal and institutional frameworks and processes for its governance that are consistent, which entailed modifying legal mechanisms at the state level of each member; two, the different government organizations participating in border checks, such as customs officials, immigration officials, and standards authorities, police, port health, must work together. Officials' working duration are aligned, controls are sequenced, and procedures and documents required in transit are harmonized, all of which help lessen duplication of operations and goods traveling period. Second, each member state must identify geographical boundaries at departure points where infrastructure for the OSBP is to be developed. These geographical boundaries must be jointly consented to by the respective nations⁸⁹.

The EAC regional approach attempts to provide a regionally proactive solution to migration management; enable the harmonization of guidelines in migration management at the EAC level and state levels; offer a good broader spectrum of suggestions on numerous migration issues as a reference to authorities; and, offer assistance to its member states' efforts in establishing national migration policies that are consistent with the regional migration policies.

⁸⁸ National IT Industry Promotion Agency, Republic of Korea and East African Community, Feasibility Study on Developing Harmonized e-immigration Information Systems for the East African Community (EAC) Region (EAC Secretariat, October 2012)

⁸⁹ *ibid.*

The model concentrates on regional issues such as movement and pastoral nomads, migration and social protection, and displaced persons caused by political upheaval.⁹⁰

3.5 Implication of EAC on Immigration Policies

Migration into the East African Community is part of a larger economic integration plan that includes regional trading activities and economic development. The question as to whether there is the ability to achieve optimal social benefits (in respect to effectiveness and equitable concerns) for all parties involved is a policy dilemma in the context of immigration. The evidence-based literature typically supports migration because it benefits both the economic development of the immigrant host country, which benefits from remittances, in certain instances, capabilities, and skills transfer, and finally, the growth of the economy in the countries of destination, which helps from stable labor supply critical for general development.

In East Africa, rapid migration across the borders of Kenya, Uganda, and Tanzania could be a continuation of the EAC migration trend in certain aspects. However, it is indeed unknown to what level these migration patterns have impacted the economies of both the native and destination countries.⁹¹

The workings of market forces in addressing quantity demanded in factor or commodities markets, permitting effective allocation of resources, and promoting deeper economic

⁹⁰ Regional Mixed Migration Secretariat (RMMS) (2014b). Going West – Contemporary Mixed Migration Trends from the Horn of Africa to Libya & Europe. Mixed Migration Research Series – Explaining People on the Move Study 5. Nairobi: Regional Mixed Migration Secretariat. Retrieved August 2021 from http://www.regionalmms.org/images/ResearchInitiatives/Going_West_migration_trends_Libya_Europe_final.pdf

⁹¹ Shaw, W. (2007) “Migration in Africa: a review of economic literature on international migration in 10 countries” World Bank, memo

cooperation, are often part of immigration cycles that answer the incentives for economic possibilities. Rapid immigration in the East African Community has resulted in higher trading activities and increased labor market adjustments in origin and receiving nations, essential for supporting prosperity and guaranteeing employment. The deeper the economic cooperation and the advantages of the integration, the more official and organized migrant movements become. Unless responsible national governments can collaboratively manage and supervise the activity of migrants and guarantee fundamental human rights for the period of migrants' presence, benefits like labor mobility cannot be achieved. Unlawful immigration became commercialized, and there have been reports of extortion, mistreatment, and exploitation of migrants going to other countries from East Africa⁹². Remittances are stifled by an absence of formal -functioning financial institutions, which reduces their potential impact on domestic wellbeing.

There is also a slew of concerns relating to property ownership, business licenses, and cash transfers that governments in East Africa are yet to unify in designed to motivate immigrants to participate in investment operations. This is reflected in regional trade groups trade, which has remained stagnant for several years. Increased economic cooperation, in theory, assists in halting the stream of migration by limiting its scale and content to what market fundamentals permit. Nevertheless, the migration in the East Africa Community is increasing rapidly, particularly the elite group moving into the developed economies like Kenya. The scholars are trying to figure out whether immigration of skilled human capital is likely to be a brain gain or drain. Whereas the empirical data is unclear since it depends on various conditions, policymakers can still take

⁹² Lucas, R.E.B. (2006), "Migration and economic development in Africa: a review of evidence", *Journal of African Economies*, Supplement 2, 337-395

steps to avoid a vicious cycle of lack of development and educated migration. Bad leadership, poor economic situations, and political persecution are highly associated with skilled workers' migration into better countries within their region. However, these variables do not substantially affect general migration or many East African countries with lesser or mid-level academic achievement. Massive migration by the elite may also lead to deteriorating economic circumstances, such as low government service quality, thereby generating a vicious spiral between industrialization and skilled workforce emigration⁹³. As a result of this scenario, governments or the head of state in both origin and destination nations will coordinate their policies to define and regulate the amount and makeup of migrants.

Section 104 of the East African Agreement of 1999 establishes a regional framework for migratory collaboration and, as a result, the convergence of East African migratory concerns⁹⁴. Free Movement of Persons, Labor, Goods, Freedom of Establishment, and Residency outlines the wide range of migration cooperation required to achieve free movement of productive resources. The EAC states agreed to implement steps to secure the free movement of individuals, labor, and commodities and guarantee the realization of their people's freedom of establishment and residency within the East Africa Community. Implementing the Common Market Protocol's provisions on the free movement of people and goods has a considerable impact on the region's migratory patterns. Increasing cross-border activities for commerce, vacations, and further education are due to the Protocol's entry into force and the culture it embodies, particularly in terms of the free movement of individuals. For example, there was

⁹³ Croix David de la and Docquier, Frederik, (2010), "Do brain drain and poverty result from coordination failures?" Discussion Paper Series 09/10, Center for Research and Analysis of Migration.

⁹⁴ EAC, "Protocol on the Establishment of the East African Customs Union."

increased movement up to 50 percent in the cross border of the East Africa countries. A statistical measure is the border of Kenya and Tanzania between June 2010 to the same month in the year 2014 there was an approximate 50.2 percent rise of person movement that is 180 to 380 thousand inflows and a 33 percent rise of the outflows.⁹⁵

The community has pushed for ease issuing of the work permits by simplifying the member states' application processes. The number of Tanzanians asking for working visas in Kenya rose by more than 20% since the CMP began; the situation in Uganda is the opposite. Ugandan applications steadily increased between 2010 and 2014, making it the country with the most significant number of candidates in East Africa. Kenya has a welcoming, open, and flexible migration policy and has adopted bilateral immigration agreements with other East African member states. The low figure of Rwandese visa applications in Kenya is due to such. For example, under a 2011 deal allowing identification cards for travel between Kenya and Rwanda, the requirement for Rwandan citizens to get a work visa was abolished. Eliminating working permits can affect the growing number of regional citizens on working visas in signatory countries. The more people who apply for licenses, the more integrated the region becomes when constructing solid long-term resident and working permits administrations. This promotes deeper integration the East African Community has experimented with the single East African passport. The adoption of a common standard visa will substantially aid in the reduction of bureaucracy at

⁹⁵ Shiraku M. R. 2013: A critical Analysis of the Implementation of Migration Law and Regulation in East Africa: Case of Regulations on Free Movement of Persons M. A Thesis. University of Nairobi

border crossings, facilitate mobility, and promote the region as a desirable place to visit and do commerce. Most visitors, based on experience, usually visit several countries within the region.⁹⁶

Member States of the East Africa community agreed to recognize academic qualifications mutually: knowledge gained, prerequisites met, licenses or certifications allowed in other member states; and coordinate their educational programs, tests, standards, credentials, and accreditation of education programs under article 11. This piece aims to make labor mobility a reality and increase migration for the individual seeking further education, hence increased exchange of skills in the host countries.⁹⁷

3.6 Conclusion

Migrations are fueled by rising levels of intolerance, economic inequalities between nations, and the danger of climate change and its attendant consequences. Burundi, Kenya, Rwanda, Tanzania, Uganda, and lately South Sudan, as the EAC Partner States, have pushed integration to a new level. With the completion and signature of the Common Market, and the area anticipating to join the Common Market, the region is looking forward to a Monetary Union in, and eventually a Political Federation. With the upcoming adoption of the Common Market Protocol, one of the major characteristics has been migration within the EAC through provisions of the free movement of labor, that is, the free movement of individuals. The migration of individuals within the EAC poses a challenge in practice and policy as the integration process reaches its milestones. Therefore, it is necessary to understand what migration implies for the region's

⁹⁶ Reina A (2006) Kenya Immigration Border Procedures Manual Guidelines on Policies and Procedures for Immigration officers: Nairobi: IOM

⁹⁷ Mbuu Peris Wanjiru(2015) Analysis of The Impact of Immigration on Regional Integration of EAC Case Study of Kenya. University of Nairobi.

development and poverty alleviation. Although there is no doubt that migration has a positive impact on development, we must consider the most beneficial policy changes that member countries should implement in order to reduce barriers, liberalize people's mobility, ensure social protection for migrants, engage the diaspora in contributing to the development of their home countries, and harmonize policy where necessary.

CHAPTER FOUR

KENYA'S RESPONSE TO EAST AFRICA INTEGRATION ON MIGRATION.

4.1 Introduction

The previous chapter analyzed the migration trends and their implications on East African integration and immigration policies in Kenya. This chapter will look at Kenya's response to immigration policies due to EAC integration. It will begin by giving the demographic characteristics of the respondents from the google questionnaire forms sent to various categories of the respondents. As part of its larger integration scheme, the EAC treaty underpins the need for the free flow of people, goods, and services across the member states. Based on this argument, it will be critical to examine Kenya's response to immigration policies in the EAC.

4.2 Respondents' Demographic Characteristics

This section presents the key demographic characteristics of the respondents adopted by the study. It also includes the response rate and gender of the respondents.

4.2.1 Response Rate

The data was collected by sending google questionnaire forms to study respondents who included immigration officers, officers from the Ministry of East Africa Affairs, Ministry of Foreign Affairs officials, Civil Society Organization, and Immigrants. A total of 100 google forms were shared out. Out of these, 45 responded, representing a response rate of 45%, which is good enough to provide a reliable conclusion for this study.

Table 4.1: Response Rate

| Target Sample | Sample size selected | Response rate |
|---------------------------------------|----------------------|---------------|
| Immigration officers | 20 | 10 |
| Ministry of East Africa officers | 10 | 4 |
| Ministry of Foreign Affairs Officials | 10 | 4 |
| Civil Society Organization | 10 | 5 |
| Immigrants | 50 | 22 |
| Total | 100 | 45 |

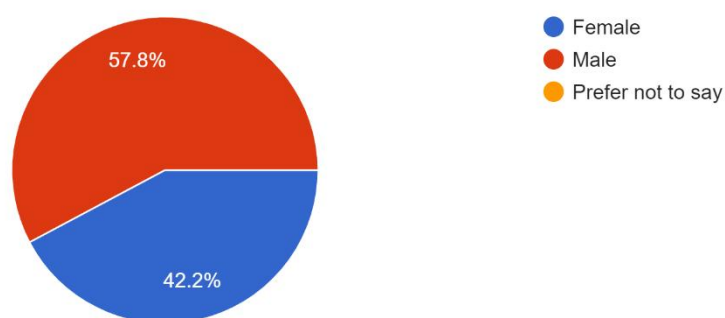
Source: Researcher, Field data (2021)

4.2.2 Gender

Most of the respondents, representing 57.8%, were male, while the females were 42.2%, as illustrated in figure 1 below. The gender dynamic was important to this study because different social-economic activities affect each gender differently.

Figure 4.1: Gender of the Respondents

i) What is your gender?
45 responses



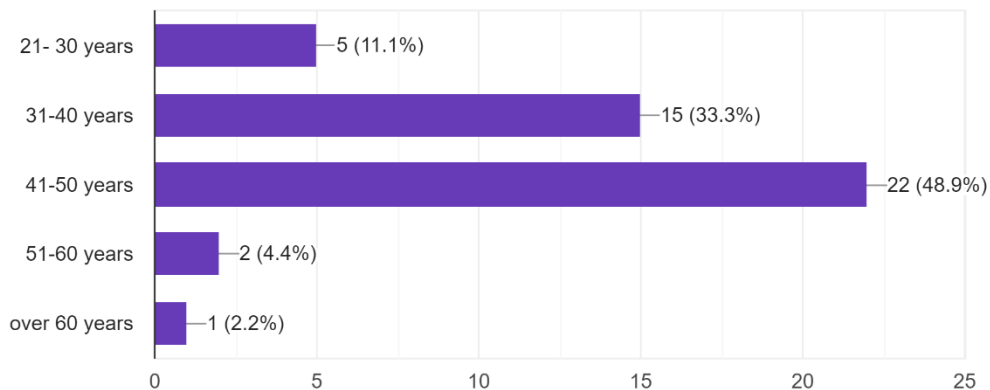
Source: Researcher, Field data (2021)

4.2.3 Age of the Respondents

The respondents' age ranged from 21-60 years. 11.1 % of the respondents fell in the bracket 21-30 years, with 33.3% falling in the age bracket of 31-40 years. An overwhelming majority, representing 48.9%, fell in the age bracket of 41-50 years, whereas 51-60 years age represented 4.4%. Finally, 2.2% of the respondents were over 60 years as illustrated in figure 2 below. The age of the respondents was important to this study since different sets of age are affected differently by immigration factors and immigration policies.

Figure 4.2: Age Bracket of the Respondents

ii) What is your age?
45 responses



Source: Researcher, Field data (2021)

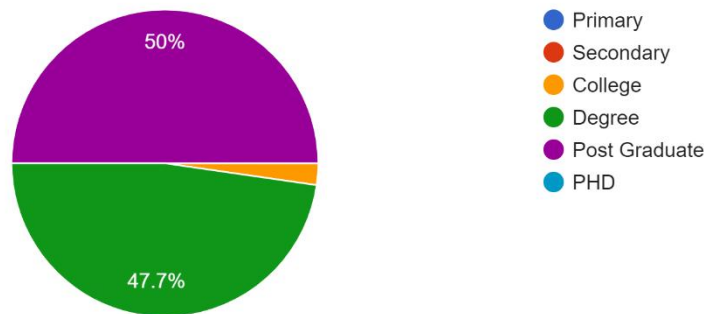
4.2.4 Level of Education

The study also sought to examine the respondents' level of education to judge how informative they were to the survey. It was critical to assess the respondents' educational level to determine whether or not they grasped the research study. Post-graduate made up 50% of the study respondents. 47% had bachelor's degrees. 3.3% of the respondents had studied up to college

level. This demonstrated the respondent's ability to understand, appreciate and give critical views on the subject of the research study.

Figure 4.3: Level of Education

iii) Education Level
44 responses



Source: Researcher, Field data (2021)

4.3 The Government of Kenya's Administrative and Political Response

As much as international migration involves movement from one country to another, its regulation is domestic. The government plays a key role when it comes to the management of migration policies. For instance, it is mandated with the issuance of passports and other travel documents, regulation of entry and exit from the country, management of foreign nationals, and the registration of Kenyan citizenship to eligible foreigners. As an independent sovereign country, Kenya has the latitude in choosing which laws to enact and implement in migration matters. Again, the government has the power to tighten up or relax the same. To allow the flow of immigration, the government has the role to play.

Kenya Government has digitalized service delivery with internet-based services like the E-Citizen, e-FNS, and Personal Identification Secure Comparison and Evaluation System (PISCES) for border management. The e-citizen platform has made it easier for individuals to apply for an entry visa at the comfort of their homes or countries to avoid the long queues at the entry points. Citizens can also apply for passports and other travel documents online, book appointments for biometrics, track applications, and order delivery at the nearest post office. Travel documents to EAC are issued instantly from the e-citizen platform www.ecitizen.go.ke.⁹⁸

The Directorate of Immigration and Citizen Services is mandated to issue passports and other travel documents, regulate the entry and exit of persons and residency of foreigners. Applications submission for travel documents is available in Nairobi, Mombasa, Kisumu, Kisii, Eldoret, Nakuru, and Embu. For the diaspora population, the services are available in selected missions abroad in continents with large Kenyan citizens populace like Kenya High Commissions in the London United Kingdom and Pretoria South Africa; Kenyan Embassies in Paris, France, Berlin Germany, Washington DC, and Los Angeles in the United States of America; the Kenya Consulate in Dubai United Arab Emirates. Kenya has 51 Embassies and High Commissions and 30 Consulates across the world. These missions' purpose is to promote Kenyan interests abroad and provide consular services to her citizens in the diaspora. Each mission's consular office keeps a database of Kenyan residents in its jurisdiction and welfare issues with the support of the leadership of the diaspora communities. In addition, emergency travel documents, attestation of documents, registration of national identity cards are done at the consular offices.

⁹⁸ Binda, A., & Elvis, M. (2017). *The Legal Framework of the EAC*, In East African Community Law. Nairobi: Brill Nijhoff.

According to the 2019 Census, many immigrants in Kenya were from Africa, followed by Asia, Europe, and North America.⁹⁹ The increase in immigration was due to the rise in the number of embassies, High Commissions. In addition, in Africa, the government has facilitated free movement, making it easier for immigrants to do business. For Example, the abolition of visa requirements and work permit fees among the EAC citizens increased the activities in Kenya, with Tanzanians leading at 41.1%, as per figure 4 below.

In line with international obligations, Kenya has been a host to refugees. For instance, the number of refugees fleeing their countries into Kenya increased from approximately 15,000 in 1990 to 400,000 in 2007.¹⁰⁰ To accommodate these refugees, the UNHCR established the Dadaab Refugee Complex, the Kakuma Refugee Camp. These refugee facilities have seen enormous demographic growth in recent years, with the number standing at over 400,000 refugees and asylum seekers from neighboring states such as South Sudan, Somalia, and the Democratic Republic of the Congo. As a result, Kenya's refugee-hosting policy has changed dramatically.

Previously, national rules allowed refugees to work, travel, and settle anywhere in the country.¹⁰¹ However, when the number of immigrants expanded dramatically in the 1990s, the state's policy changed. Large-scale immigration spawned a new campground paradigm, restricting migrants to camps in isolated parts of the nation. Consequently, the government is compelled to institute immigration policies to tackle the rising challenges of immigration. These challenges are

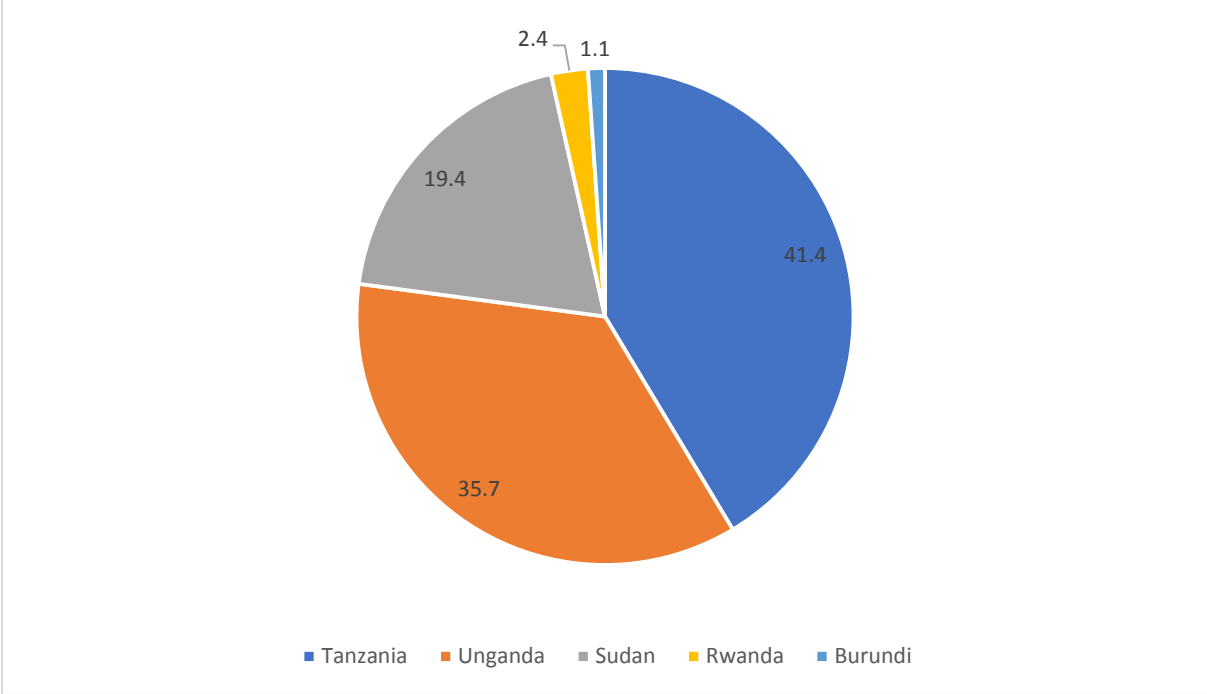
⁹⁹ Byiers, B., & Jaime, de Melo. (2018). Working with the grain of African integration. No. 4530. Netherlands: ECDPM

¹⁰⁰ *ibid.*

¹⁰¹ Migration in Kenya: A Country Profile 2015, International Organization for Migration (IOM)

dynamics such as national security, tax evasion, trans-border criminal activities such as smuggling of contrabands, human trafficking, and migrant smuggling, among others, thereby endangering the lives of its citizens.¹⁰²

Figure 4.4: The Immigration from the Neighboring Countries into Kenya



Source: Immigration data 2021

Another major role of the government in immigration is to enforce laws that enable them to achieve what they desire as a country that will enable them to have easier management when it comes to immigration. When no law is enforced on immigration, people tend to engage in criminal activities. A lack of sufficient policies compounds this.¹⁰³ The Kenyan government sets the standards or guidelines for who is eligible for entry and inadmissible. These guidelines are

¹⁰² *ibid.*

¹⁰³ Agwanda Alfred Titus and George Odipo 2011. Drivers of migration in The East Africa Community Partner State. Paper Submitted to Research Programme Consortium Moving out Poverty March 2011

codified in several immigration regulations and standard operating procedure manuals. The criterion for eligibility for entry is categorized in a broad spectrum of the reason(s) of entry and period of intended stay fall under the three streams: category 1, 2, and 3 of the visa regulations. The Kenyan government also plays a role in implementing migration policy, developing legislation to discourage and prohibit human trafficking and migrant smuggling, and deportation and repatriation of illegal immigrants. This may involve holding asylum applicants temporarily to determine whether or not they are genuine refugees.¹⁰⁴

It is important to set rules to prevent people from violating the existing migration law. The government's role also entails establishing who is allowed in the country, what purpose, and the duration to be granted. This allows legal proceedings to take place. The government is also mandated to maintain the integrity of its border and to protect public order. It is also the mandate of the government to remove illegal immigrants, law violators and ensure Kenya's migration policy is expeditiously implemented.¹⁰⁵

4.4 Government of Kenya's Policy Response

In response to the EAC Treaty, constructed around four pillars or freedoms and two rights, forming the foundation of the EAC Common Market, Kenya has initiated several policy responses. Among them are the free movement of goods, labor, services, and capital within the region. Freedom of movement, right of establishment, right of residency, and commitment to

¹⁰⁴ African Development Bank. (2014). African Development Report 2014: Regional Integration for Inclusive Growth. Ortigas Center, Mandaluyong: ADB Publication
Article 5, Common Market Protocol

¹⁰⁵ Government of Kenya and UNDP 2010 Draft Progress Report on Attainment of MDGs and Way Forward Towards Achieving MDGs by 2015 in Kenya. Ministry of Planning and National Development & Vision 2030. Nairobi

continued service liberalization for individuals and workers. In line with this, Kenya as a country has developed various Immigration laws to correspond to the aspiration of EAC.¹⁰⁶

4.4.1 The Constitution of Kenya

Kenya promulgated a new Constitution in 2010, the most recent among the partner nations of EAC. The Constitution in Chapter three gives entitlements of the citizens and their fundamental rights envisioned in chapter four. The constitution is the supreme national law governing the Country. The Constitution gives the conditions for attaining and maintaining citizenship, citizens' rights to travel documents issuance and various reports, and the provisions under which citizen status can be limited. The Bill of Rights allows for development elasticity, with each person having the right to development and the ability to emigrate out of Kenya. Furthermore, every Kenyan has the right to enter, reside in, and settle anywhere within the Republic of Kenya. In addition, it protects each individual's economic and social rights, including those of immigrants in the form from any part of the world.¹⁰⁷

Article 2(6) of the Constitution, stating that "every treaty or convention ratified by Kenya under that Constitution shall form an integral part of Kenya's law." Therefore, this rule indirectly recognizes the EAC Treaty and all other treaties signed by Kenya. On the other hand, comparing constitutions for partner states' of EAC does not reference the EAC.¹⁰⁸

¹⁰⁶ Binda, A., & Elvis, M. (2017). The Legal Framework of the EAC, In East African Community Law. Nairobi: Brill Nijhoff.

¹⁰⁷ The Constitution of Kenya 2010

¹⁰⁸ *ibid*

Therefore, article 2 (6) of the Constitution of Kenya renders credence to the EAC Treaty, and the prevailing jurisprudence makes the Treaty part of the laws of Kenya and the Protocols. Because of this constitutional guarantee, any future treaty or protocol Kenya will enter into regarding the EAC integration process will be safeguarded and enforceable in Kenyan courts. Furthermore, this entrenchment of the EAC treaty into the country's legal framework gives greater prospects of a deeper EAC integration since citizens can pursue the EAC clauses and provisions.¹⁰⁹

In 2018 government gave a directive that a tax compliance certificate should back every working permit renewal request; government agencies mandated to process work permits – either for a long or short-term period. In addition, businesses must share details on existing workers to the National Employment Authority by July 8th, 2019, and keep a record of their workers' details on file. Failure to meet these rules will be subject to legal fines. Since April 2018, Kenya has strengthened enforcement, which has led to delayed work permission clearances and more denials. Again, Kenyan lawmakers support the country's attempts to safeguard the local labor market by making it much harder for foreigners to work in the country.¹¹⁰

4.4.2 The Kenya Citizenship and Immigration Act 2011

Kenya's principal immigration policy framework is the Kenya Citizenship and Immigration Act 2011. This legislation governs all areas of immigration dogma, including border creation, border administration, and admission of people, among other things.¹¹¹

¹⁰⁹ Byiers, B., & Jaime, de Melo. (2018). Working with the grain of African integration. No. 4530. Netherlands: ECDPM

¹¹⁰ *ibid.*

¹¹¹ Government of Kenya: The Kenya Citizenry and Immigration Act No.12 of 2011, Government Press

Kenya's immigration policy has been geared toward promoting EAC integration. For example, prior to the Act of 2011, East Africans were allowed to enter the country with fewer restrictions than other persons. Furthermore, East Africans do not require a visa to visit Kenya. They are also permitted to work in the country with or without a work permit. The removal of entrance barriers for East Africans increased the integration of both the people and the states.

Section 104 of the Kenyan Citizenship and Immigration Act is well-defined. Section 6 and 8 on citizenship and dual citizenship, as well as Section 25 (c) on East African passports, subsection (g) on temporary permits for travel within the EAC, and Section 26 subsection 2 (a) and subsection 6 (a) on the same; and section 34 on entry and removal of migrants, are like laws in other partner states.¹¹² This promotes the achievement of common goals and objectives as envisioned in the EAC integration protocol.

4.4.3 2006 Refugees Act

The Refugee Act 2006 established an encampment policy that manages how refugees access humanitarian assistance. Under the Act, the government proposes the establishment of the Refugee Relief and Resettlement Commission in Kenya and the formation of the Refugee Affairs Secretariat. Recently, the government of Kenya announced the closure of the Dadaab Refugee Camp and voluntary return of refugees to their countries of origin and relocation. The announcement was prompted by the infiltration of terrorist militants and extremists into the camps. In addition, Kenya has been a victim of fatal terrorist attacks such as the Westgate Mall attack of 2013 that saw 67 persons lose their lives, the Garissa University terrorist attack of 2015

¹¹² Government of Kenya: The Kenya Citizenship and Immigration Act No.12 of 2011, Government Press

where 142 persons died, and the Dusit D2 Hotel terrorist attack where 21 persons lost their lives.¹¹³ Therefore, terrorism is a national security threat to the country, and consequently, the government announced the camp's closure.¹¹⁴

The definition of an immigrant in the Refugee Act (2006) borrows from the 1951 Convention on the Status of Refugees and the OAU Convention on the Specific Aspects of Refugee Problems in Africa. The Refugees Act, based on the last Convention, states that an individual should be granted asylum if he is compelled to leave their regular dwellings due to animosity, work opportunities, remote control, or occasionally legitimately aggravating open attractiveness in any part of his nation of birth or citizenship, to seek asylum elsewhere out beyond his country of birth or nationality. Kenya distinguishes between two types of refugees: prima facie and statutory. Initially, all asylum seekers must complete a registration process to determine if they are eligible for asylum. Then, the legislation provides class M work permits to be issued to refugees who secure gainful employment. However, the Act violates their residency terms, as it does not have a provision for non-refoulement, the ability to work, or the free movement of refugees.¹¹⁵

The IOM created the Migration Governance Framework (MiGOF) in 2015 to assist nations in defining what "well-managed migration policy" means at the state level to help governments implement the MiGOF.

¹¹³ Bryden, Matt, and Premdeep Bahra. "East Africa's terrorist triple helix: The Dusit Hotel Attack and the Historical evolution of the jihadi threat." CTC Sentinel 12, no. 6 (2019): 2-11

¹¹⁴ Gambino, C., & Edward, N., et al. (2014). Foreign-born Population from Africa, 2008-2012. US Department of Commerce, Economic and Statistics Administration, US Census Bureau. Washington DC: Apex Press

¹¹⁵ Winnie Watera 2017, Uganda's Refugee Management Approach Within The EAC Policy Framework. Konrad-Adenauer-Stiftung

4.4.4 The East African Community Customs Management Act

The EAC Treaty was signed on November 30, 1999, as previously stated. Five years later, in 2004, the Protocol on the Establishment of the East African Community Customs Union was signed. Its implementation commenced in January 2005 in a plan that would see this implementation done in stages over a five-year period. For intra-regional trade, the Partner States have legally removed tariffs on products.¹¹⁶ However, measures of equal effect, origin restrictions, sanitary and phytosanitary measures, extra taxes and levies, and technical impediments all remain in place. The Kenya Customs Services Department manages all the One-Stop Border Posts (OSBPs) domiciled on the Kenyan sides, housing border officers of the neighboring state.

4.5 Kenya's Handling of EAC Migrants

Kenya joined the EAC economic region to pursue its national interests, which include economic growth and development. Through the EAC economic bloc, Kenya has access to a bigger market for her products, thereby enhancing the country's economic prospects and being strong enough in the face of globalization where small economies may not survive through effective competition. This inability to seek integration into the global economy individually has forced Kenya to pursue its globalization agenda through the EAC.¹¹⁷

¹¹⁶ EAC Customs Union Protocol Article 11

¹¹⁷ Buigut, S. (2012). An assessment of the trade effects of the East African Community customs union on member countries. Washington D.C.: Nathan Associates Inc.

The state of Kenya does not see the EAC integration as a threat to its sovereignty and loss of jobs for Kenyans but rather as a much-needed opportunity to develop its economy and face globalization. As noted in his Second Inaugural Address, President Uhuru Kenyatta underscored his government's policy towards Africans and East Africans, in particular. In a speech lauded as integrationist-leaning, President Uhuru directed that any visiting African Kenya would get the visa at the port of entry without the expectation of reciprocity extended to Kenyan citizens. The President went further to decry "the political balkanization that risks our mutual security, the negative politics of identity" and promised that those negativities "will recede as our brotherhood expands to embrace more Africans."¹¹⁸

This show of political will to support and pursue the EAC agenda by the top leadership indicates a collective positive political will that is essential for the integration process's success. This "lack of strong political will" was amongst the main motives behind premature first efforts collapse towards integrating the EAC region. Such bold pronouncements from the top leadership of a partner state may suggest that the EAC is ready for deeper integration. If the Kenyan government follows these pronouncements by passing appropriate laws and implementing the treaty, protocols, and applicable community laws, there would be a substantial positive impact on Custom Unions, Common Market, Monetary Unions, and the ultimate Political Federation.¹¹⁹

¹¹⁸ African Development Bank. (2014). African Development Report 2014: Regional Integration for Inclusive Growth. Ortigas Center; Mandaluyong: ADB Publication
Article 5, Common Market Protocol

¹¹⁹ *ibid.*

The EAC-CMP aims to create a legislative framework for unrestricted movement of products, people, labor, services, and money and the freedom of establishment and residency. The primary goal is to promote the partner states' development of the economy through achieving free movement.

For Kenya to be the business in the EAC region, a favorable policy for the neighbors and her citizens must be formulated. East Africa's migration pattern is similar to that of the entire African continent. Human beings migrate to more developed locations for better earning employment or a (good) paying revenue-generating business. For a long period, Kenya has been regarded as East Africa's thriving economy, and as a result, attracted the attention of her neighbors. As a result, many Tanzanians and Ugandans have reportedly "shifted" to Kenya in quest of better economic and social possibilities. Nevertheless, the focus has switched to Tanzania in recent years, which has emerged as a hotbed of new Foreign Direct Investment (FDI) and a favorite of development partners. With more job possibilities being created due to FDI and privatization, and domestic labor lacking skills in taking advantage of these changes, Ugandans and Kenyans are streaming into the nation to fill the void.¹²⁰

4.6 Kenya's Response to EAC Immigration

The study went further to examine whether the response by the Kenyan government has promoted or limited EAC immigration. The majority of the respondents agreed that Kenya's geo-strategic location and political calmness make it attractive to EAC citizens. In addition, Kenya has many advantages for doing business or studying; it has some of the most stunning learning

¹²⁰ John Bosco KANYANGOGA, 2010, Integrating Migration with Development in EAC: Policy Challenges and Recommendations. Consultant – International Trade Expert

and research institutions, such as the University of Nairobi, Kenyatta University, Centre for Disease Control (CDC), at Kenya Medical Research Institute, among others. As a result, it attracts a more significant number of immigrants from the East African community. Furthermore, Kenya is one of the fastest-growing economies in the region, attracting many foreign investors and private business owners to expand their operations, prompting them to visit frequently.

Further, the study's findings established that partner states in EAC have embraced technology in efforts geared towards digitizing the immigration process. E-migration is a new trend by the government(s) in EAC to issue immigration documents and authorization efficiently, less bureaucratic, and cost-friendly. Some of the immigration activities offered to citizens intending to immigrate include application, processing, and issuance of; e-passports, e-visas; e-work permits; temporary permits, and inter-state passes. The Ministry of Interior and Coordination of National Government in Kenya, through the Directorate of Immigration and Citizen Services, embarked on a digital service provision where immigrants and persons seeking a visa, work permits, and residency permits can access them via an online portal established by the government of Kenya.¹²¹

In line with the Articles on the freedom of workers movement and the establishment right, the Kenya migration policy provides the citizens of the other partner states with residence rights. The right of residency also covers the spouse, the child, and an employee or an individual with freedom of movement and work permit without payment of fees like a Kenyan citizen. In

¹²¹ Primary data form google form, on 25th September 2021.

addition, East Africans are granted six months entry visitors pass. The researcher sought to establish if the Kenyan migration policy had entrenched the two rights stipulated in the protocol and asked respondents whether Kenya’s immigration policy facilitates the free movement of persons across the EAC.

The majority of the respondents (78%) indicated that Kenya was a free country where regional citizens could immigrate into and establish their business without discrimination and xenophobic attacks from the Kenyan nationals. The majority of respondents, 73%, stated that policy and administrative responses by the Kenyan government promote immigration. On the contrary, 27% of the respondents felt that some structures were outdated. Effective structures should ensure; the immigrants/refugees/asylum seekers should be accorded basic needs and those with special needs catered for separately.¹²²

Table 4.2: Immigration Trends from EAC into Kenya

| YEAR | MIGRATION POPULATION | % OF THE TOTAL POPULATION |
|------|----------------------|---------------------------|
| 2015 | 1,084,357 | 2.35 |
| 2010 | 926,959 | 2.30 |
| 2005 | 756,894 | 2.14 |
| 2000 | 699,139 | 2.25 |
| 1995 | 618,745 | 2.26 |

Source data from Directorate of Immigration and Citizen Services 2021

Migration statistics show that the number of migrants has been on the growing trend depicted in the above data. This can be attributed to the favorable migration policies within the EAC region. For instance, Kenya has exempted member states from payment of entry passes and work permits. South Sudan recently moved from Category 2 to Category 1 of the visa regulations of

¹²² Primary data form google form, on 25th September 2021.

2010, meaning that her nationals will be entering Kenya visa-free. In addition, Kenya has also introduced the use of identification cards, driving licenses, and students IDs, resident permits to facilitate the movement of EAC citizens and residents along with the borders within Ugandan and Rwanda using inter-state passes. The East Africa Tourist Visa issued by one country gives multiple entries for tourists within the other two for three months.¹²³

4.7 Conclusion

This chapter has established the government of Kenya's response to immigration policies within the broader regional integration. Among them are policy and administrative responses. The policy response includes the Constitution of Kenya 2010, The Kenya Citizenship and Immigration Act 2011, the Refugee Act 2006, and the East Africa Community Customs Management Act 2004, which were harmonized in line with the Common Market Protocol domestication to ensure free movement of persons, capital, and services. It also ensured that the establishment and residence rights were protected within the region. Finally, the Kenya government's policy and administrative responses have favored the free flow of EAC citizens in and out of Kenya.

¹²³ Primary data form google form, on 25th September 2021.

CHAPTER FIVE

FINDINGS, CONCLUSION, AND RECOMMENDATIONS

5.1 Introduction

This chapter offers the study findings consistent with the objectives elucidated in the first chapter. This last chapter draws broad generalizations based on the findings, which serve as a summary and conclusion of the overall effects of immigration policy on the integration process in East Africa. Finally, this chapter offers policy and academic recommendations that may be used to further academic discourse on integration while also providing appropriate tailor-made policy recommendations that can influence effective migration and regional integration policymaking.

5.2 Summary of the Key Findings

Based on the first objective, the study's key findings were that international migration and regional integration are of great significance in the 21st century and beyond. However, this area remains positively accepted even though it has equally received criticism from certain nations, stakeholders, and scholars. Furthermore, the study shows that the relationship between the two phenomena is yet to be well understood. Therefore, there is a need for more study to help the nations that are yet to achieve regional integration do so, given that this would ease the flow of individuals, goods, and funds through foreign remittances, hence benefiting the states involved.

The study's findings from the second objective were that Immigration and population migrations are fueled by rising levels of intolerance, economic inequalities between nations, and the danger of climate change and its attendant consequences. Burundi, Kenya, Rwanda, Tanzania, Uganda,

and lately South Sudan, as the EAC Partner States, have pushed integration to a new level. With the completion and signing of the Common Market Protocol, the region is looking forward to a Monetary Union and eventually a Political Federation. With the upcoming adoption of the Common Market Protocol, one of the major characteristics has been the free movement of individuals and labor inside the EAC.

From the third objective, the study established that Kenya has various responses to immigration policies within the broader regional integration. Among them are policy and administrative responses. The policy responses include the Constitution of Kenya 2010, The Kenya Citizenship and Immigration Act 2011, the Refugee Act 2006, and the East Africa Community Customs Management Act 2004, which were harmonized in line with the Common Market Protocol domestication to enhance free movement of persons, capital, and services within the EAC Region. It also ensured that the establishment and residence rights were achieved within the region. As a result, Kenya's government policy and administrative responses have heightened the free flow of EAC citizens in and out of Kenya.

5.3 Conclusion

This study, therefore, concludes that Kenya is a hegemonic powerhouse within the East African region in terms of labor and services. This has been made visible through both Kenya's skilled and unskilled workforce. In addition, Kenya is based on capitalist principles and enjoys relative peace compared to other countries in the region, making the country an excellent example of hegemonic influence in regional politics and integration. Migration to Kenya, therefore, has been on the rise due to its geostrategic positioning.

The policy response by Kenya has been positive mainly due to the existing political will to see EAC progress into an ultimate Political Union. The Kenyan Government does not see the EAC integration as a threat to its sovereignty or loss of jobs for its citizens but rather a much-needed opportunity to develop its economy and face globalization.

5.4 Study Hypotheses

The hypotheses of the study were tested as follows.

The first hypothesis was; employment is the key factor that influences immigration trends in the EAC region. This was positively confirmed in the study. It was established that economic factors are the main drivers of immigration in Kenya. Kenya is the EAC regional economic hub that places employment and searches for greener pastures as the main reason EAC citizens come to Kenya.

The second hypothesis was; the East Africa integration has had positive implications on immigration policies in Kenya. This was a null hypothesis in the study, given that EAC integration has both positive and negative implications in Kenya, although the positives strongly outweigh the negative.

Based on the third hypothesis; the government of Kenya's response to immigration within East Africa has been positive. This was positively tested in the study. The study's findings supported that the government of Kenya's response has been very positive on immigration within the EAC region.

5.5 Recommendations

This research study makes policy and scholarly suggestions to help EAC member states adopt solid immigration policies to aid in the region's successful integration.

- East African governments should abolish passports among EAC citizens to simplify and facilitate the process of cross-border movement. Consequently, countries in the EAC region should establish a harmonized cross-border policy to facilitate inter-state movement. (Common Identity Card).
- The East African regional block should aim at achieving a common currency system that can greatly unite the East Africans. In addition, there is a need to reduce the high cost of doing business in the EAC by establishing business-friendly taxation regimes such as licensing fees.
- There is a need for the EAC member states to come together and establish good infrastructural projects that can facilitate ease of doing business and create more employment opportunities. This will be achieved by the harmonization of all immigration policies for the EAC member states akin to the East Africa Community Customs Management Act 2004 so that all citizens and authorities in and visitors to the region refer to the same rules and regulations relating to movement, work, and residency within the region.

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APPENDICES

APPENDIX I: QUESTIONNAIRE

Dear Respondent

QUESTIONNAIRE

I am a student at the University of Nairobi pursuing a Master of Arts Degree in International Studies and currently doing my Research Project. The general objective of this research study is to analyze the Implications of East Africa Regional Integration on Immigration Policies: A Case Study of Kenya. However, this study will be guided by the following three specific objectives.

1. To examine the factors that affect immigration trends in the East African region
2. To examine the implication of East African Integration on Immigration policies in Kenya
3. To examine the government of Kenya's response to immigration policies due to East Africa integration.

This study targets immigration officials, East Africa Community Ministry employees, Ministry of Foreign Affairs and International trade officials, Civil Society Organizations, and Immigrants. The findings and recommendations of this study aim to contribute to knowledge and a deeper understanding of the movement of people within the East African region. The information collected in this study will be specifically for academic purposes only and will be treated with the utmost confidentiality. Therefore, kindly answer the following questions as honestly as possible to the best of your knowledge, and this interview is voluntary.

General Information

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

Male [] Female[]

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

21-30 years () 31-40 years () 41-50 years () 51-60 years () above 60 years ()

3. Kindly state your profession

.....
.....

4. Name of the institution

.....
.....

5. Education Level

Primary []

Secondary []

College []

Degree []

Post Graduate []

PHD []

PART B, OBJECTIVES

(i) **The factors that affect immigration trends in the East African region**

6. What pushes/pulls people to migrate to Kenya?

.....
.....

7. Are there policies that encourage or discourages immigration into Kenya

Yes [] No []

a) Encourages

.....
.....

b) Discourages

.....
.....

(ii) Impact of Integration on Kenya's immigration policies

8. According to you, what is Kenya's responsibility when it comes to immigration?

a)

.....
.....

b)

.....
.....

c)

.....

.....
9. What laws govern immigration in Kenya?

.....
.....

10. Are there any regional integration frameworks that influence migration in Kenya?

.....
.....

11. Does Kenya have any migration-related legal framework that is specific to the East Africa integration process? If yes, list them

.....
.....

(iii) Government response to immigration policies engendered by the EAC integration

12. How has Kenya handled migrants from the East Africa Community?

.....
.....

13. Do the existing migration structures correspond with the migrants' needs in Kenya? Kindly explain.

.....
.....

14. Is immigration within the East African region beneficial or non-beneficial to Kenya? Kindly explain.

.....

.....

APPENDIX 2: INTRODUCTION LETTER FROM IDIS, UNIVERSITY OF NAIROBI



UNIVERSITY OF NAIROBI
College of Humanities and Social Sciences
Institute of Diplomacy and International Studies

Tel: : (02) 31 8252
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Telex: : 22095 Varsity Ke Nairobi, Kenya
E-mail: : director@unoi.ac.ke

P.O. Box 50197
Nairobi
Kenya

August 06, 2021

TO WHOM IT MAY CONCERN

RE: MUTINDA SHADRACK WAMBUA R50/35085/2019

This is to confirm that the above-mentioned person is a bona fide student at the Institute of Diplomacy and International Studies (IDIS), University of Nairobi pursuing a Master of Arts Degree in International Studies. He is working on a research project titled, **“THE IMPLICATIONS OF EAST AFRICA REGIONAL INTEGRATION ON IMMIGRATION POLICIES: A CASE STUDY OF KENYA”**.

The research project is a requirement for students undertaking Masters programme at the University of Nairobi, whose results will inform policy and learning.


Any assistance given to him to facilitate data collection for his research project will be highly appreciated.

Thank you in advance for your consideration.




Professor Maria Nzomo,
Director, IDIS
&
Professor of International Relations and Governance

APPENDIX 3: NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY, AND INNOVATION RESEARCH LICENSE



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This is to Certify that Mr.. Shadrack Wambua Mutinda of University of Nairobi, has been licensed to conduct research in Busia, Homabay, Kajiado, Kwale, Migori, Nairobi, Taita-Taveta on the topic: THE IMPLICATIONS OF EAST AFRICA REGIONAL INTEGRATION ON IMMIGRATION POLICIES: A CASE STUDY OF KENYA for the period ending : 23/August/2022.

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APPENDIX 4: SIMILARITY INDEX REPORT

THE IMPLICATIONS OF EAST AFRICA REGIONAL INTEGRATION ON IMMIGRATION POLICIES: A CASE STUDY OF KENYA

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