

UNIVERSITY OF NAIROBI

FACULTY OF ARTS

DEPARTMENT OF SOCIOLOGY

*THE IMPACT OF REGULATORY FRAMEWORKS ON
BUSINESS IN KENYA: A SURVEY OF RURAL SMEs IN
KESSES DIVISION, UASIN GISHU DISTRICT*

A PROJECT PAPER PRESENTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS OF THE MASTER OF ARTS DEGREE IN SOCIOLOGY
(ENTREPRENEURSHIP DEVELOPMENT)

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FEBRUARY 2005

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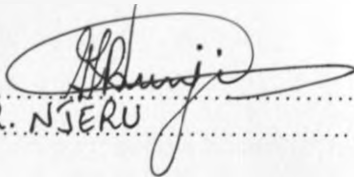
DECLARATION

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ACKNOWLEDGEMENT

I would like to acknowledge the support given by my supervisor, Mr. G.R. Njeru. I also want to acknowledge the moral and financial support given by my mother Mrs. Rael Kosgei. Without these people, I would not have been able to undertake this task or complete it in time.

ABSTRACT

This research dwelt on the regulatory frameworks in the Small and Medium Enterprise (SME) sector in Kesses Division, Uasin Gishu District. It looked at the effects of government regulations and procedures on the establishment, growth and competitiveness of rural-based SMEs.

Kesses Division has a population of approximately 700 SMEs, which include all types of enterprise. The sample size was 105 SMEs representing about 15% of the SMEs in the area of study. The sample size was arrived at using probability-sampling techniques, specifically stratified random sampling. The sampling frame was obtained from the District Trade Development Office. The regulatory frameworks studied included trade licensing, business names registration and local authority by-laws.

The data collected from the field were analyzed quantitatively and qualitatively using social statistical techniques and computer packages. The data so analyzed were presented using bar graphs, pie charts and tables.

From the study, it was found out that regulatory frameworks affect business establishment, growth and competitiveness of enterprises in Kesses division more positively than negatively. It was also found out that some of the enterprise owners in Kesses division have considered compliance as the solution to most problems hindering the running and development of businesses. The enterprises, which have complied, tend to have more annual turnovers than those who have not complied

LOCATION OF THE DISTRICT

-UASIN GISHU-



CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND

The informal sector is generally assumed to comprise those heterogeneous economic activities, which do not fall within the realm of modern or traditional sectors as conventionally defined. One major characteristic of this sector is that it constitutes spontaneous economic activities by the people and that the government has little or no promotive role. The informal sector does not enjoy the privileges and facilities available in the formal sector such as access to formal credit, legal protection, modern technology and basic infrastructure facilities (GoK, 1982). The rural informal sector is dominated by trade activities and male entrepreneurs with basically no further training after graduating from school (Ng'ethe and Ndua, 1989).

The legal and regulatory frameworks are a major hindrance to SME development. For instance, many licences are required for one to operate a single business (Mullei et al 1999). This study also points out that although the policy environment towards the sector is considered positive, the regulatory environment has remained largely hostile to many small business operators. He also says that legal and regulatory constraints hinder the development of the informal sector by inhibiting business competitiveness and that besides imposing costs and inflexibilities that frustrate enterprises, they also hamper innovation, deter investments and minimize opportunities for employment creation.

The legal and regulatory frameworks are (among other things like public health regulations) in the form of trade licensing and registration of business names (Caps 497 and 499, Laws of Kenya) and Local Authority Licensing by-laws (Cap 265, Laws of Kenya). The regulatory procedures contained in these frameworks have remained a hindrance to the development of SMEs. This is because of the fact that they have costs whether an entrepreneur complies with them or not (K'Obonyo et al. 1999). Such costs

may affect the establishment, growth and competitiveness of SMEs, more so in the rural areas as opposed to the urban.

First, for a person wishing to establish a business enterprise, he or she for example, must obtain a license. This implies that such a person will have to incur costs in acquiring the license, in terms of application fees, transport costs (bus fare to and from the licensing offices and other travel expenses) and time costs (time spent in applying and waiting for the license). In addition to these costs, the person may incur some unofficial costs like bribes (K'Obonyo et al, 1999). These costs may have a negative effect on the establishment of the intended business since part of the capital initially planned for its establishment may be used in the process of compliance. If that is the case, then the rural SMEs may be affected more as opposed to the urban ones because rural entrepreneurs have poor capital formation or lack enough capital (K'obonyo et al, 1999).

Secondly, as the business grows or develops after establishment, it may still be affected. This is especially so if the entrepreneur chose not to comply with the regulations. The entrepreneur for example, may incur costs such as bribes to licensing officials, loss of goods due to confiscation and loss of valuable time due to the frequent closures (K'Obonyo et al, 1999). These may in turn affect the growth of the business. Again, if this happens, and given that rural entrepreneurs have poor or lack infrastructure and managerial capacity to go around the regulations (Mullei et al, 1999), they are more adversely affected by the regulations as opposed to their urban counterparts.

Thirdly, from the above two scenarios, it can be inferred that the entrepreneurs may incur unnecessary costs and waste a lot of valuable time. If that is the case, then their competitiveness may be affected, in that they cannot direct the strategy and operations of the business by proper utilization of valuable time and reduction of unnecessary costs (Mullei et al, 1999). Considering the reasons given earlier, and the fact that rural entrepreneurs have poor knowledge of legal issues (Mullei et al, 1999), this may have a greater impact in the rural areas than in the urban. This and the other two cases above

imply that regulations and procedures may have a stronger negative effect on the rural based SMEs, as opposed to the urban ones.

1.2 PROBLEM STATEMENT

Rural-based enterprises (such as those found in Kesses division, Uasin Gishu District) are constrained largely by the problems associated with the government's regulatory frameworks, relative to their urban counterparts. This is contrary to the general view that urban-based enterprises are more negatively affected by the regulations as opposed to rural enterprises. This could be mainly because urban-based entrepreneurs know how to evade the authorities and effectively manage the consequences and costs of non-compliance, or comply and make minimal profits. However, rural-based entrepreneurs have demonstrated a rare ability to get started, grow, compete and survive even longer than some urban-based SMEs even when they choose to comply. Currently, few studies have been done to establish this unusual resilience of rural SMEs.

This study is therefore an attempt to shed more light on how government regulations and procedures affect the establishment (starting), growth and competitiveness of rural-based enterprises. This was done bearing in mind that government regulatory frameworks have costs whether an entrepreneur complies or not.

1.2.1 RESEARCH QUESTIONS

The research problem was broken down into three research questions, as follows:-

- i) How do government regulations and procedures affect the establishment of rural based enterprises?
- ii) How do the regulations and procedures affect the growth of rural based enterprises?
- iii) How do the regulations and procedures affect the competitiveness of rural enterprises?

1.3 RESEARCH OBJECTIVES

Broad objective.

The broad objective of this research was to understand how government regulations and procedures affect small and medium enterprises in the rural areas.

Specific Objectives

1. To establish the effect of government regulations and procedures on the establishment of SMEs in the rural areas.
2. To determine the effect of the regulations and procedures on the growth of SMEs in the rural areas.
3. To establish the effect of the regulations and procedures on competitiveness of SMEs in the rural areas.

1.4 HYPOTHESES

The following hypotheses were formulated for the study:

- i) Compliance with government regulations and procedures affects positively the establishment of rural-based enterprises.
- ii) Non-compliance with the regulations and procedures hinders the growth of rural based enterprises.
- iii) Compliance with the regulations and procedures affects positively the competitiveness of rural-based enterprises.

1.5 JUSTIFICATION AND SIGNIFICANCE OF THE STUDY

Firstly, the findings would lead to more knowledge on the rural SME sector. The study intended to investigate the effects of regulations and procedures on establishment, growth, development levels, and competitiveness of the sector. This is because much of the existing literature fails not only to address the problems comprehensively at the different levels, as adduced to above, but also to specifically address them (problems) as viewed by the rural entrepreneur and how they affect the development of small and medium enterprises. The available literature is also not particular on the rural or urban

areas, despite the fact that there is a difference between the two areas in terms of infrastructure and approaches to reduction of constraints (Mullei et al, 1999). The study therefore aimed to contribute to the existing knowledge on SME establishment, growth and competitiveness against a background of governmental regulatory frameworks.

Secondly, the findings of the study would be used to improve the policy environment since the real impacts of the regulatory constraints would have been brought to light. The intention to study the effects at the two levels (establishment and growth levels) and on competitiveness was because if the problems are better understood, it would enable SME development agents to know how to seek interventions at the different levels. This would then assist in the improvement of the rural SMEs and hence the sector as a whole in its development and provision of employment to Kenyans.

1.6 SCOPE AND LIMITATIONS OF THE STUDY

The study dwelt on licensing, business names registration and local authority by-laws related to the establishment and running of businesses. Emphasis was laid on the effects of such regulations and procedures on the establishment, growth and development, and competitiveness of small and medium enterprises.

The research encountered problems especially from hostile respondents who could not readily accept to give the correct information about the legal status of their enterprises. Since what concerns legal issues is sometimes sensitive, some respondents took undue caution, but the researcher allayed and dispelled their fears by explaining the intention of the study and its importance to the researcher and ultimately the Small and Medium Enterprise sector.

1.7 DEFINITIONS OF KEY TERMS

The following are the definitions of the key terms used in the study:

- 1 The informal sector - -Comprises heterogeneous economic activities which do not fall within the realm of modern or traditional sectors as conventionally defined, (GoK, 1982);

- 2 Establishment- -The starting of a business, in terms of capital formation, acquisition of start-up information, premises and basic infrastructure (phones, fax e.t.c) and finally beginning operations (Kobonyo et al, 1999).

- 3 Competitiveness- -Ability to direct strategy and operations of a business by proper utilization of valuable time and reduction of unnecessary costs (Mullei et al, 1999)
-Ability to make profits despite the presence of other similar businesses.

1.8 LIST OF ABBREVIATIONS

1. IDS – Institute for Development Studies
2. FGDs – Focus Group Discussions
3. SMEs – Small and Medium Enterprises.
4. MSEs – Micro and Small Enterprises
5. UoN – University of Nairobi
6. CBS – Central Bureau of Statistics
7. ILO – International Labour Organization

CHAPTER TWO

2.0 LITERATURE REVIEW AND THEORETICAL FRAMEWORK

This section provides a review of the available literature and is organized according to six thematic areas. The areas are:

- (a) Development of regulatory framework and policies in Kenya.
- (b) The general effects of regulations and procedures on SMEs.
- (c) Regulations and procedures as constraints to business establishment.
- (d) Regulations and procedures as constraints to business growth.
- (e) Regulations and procedures as constraints to business competitiveness.
- (f) The structure and magnitude of the SME sector in Kenya.

2.1.1 DEVELOPMENT OF REGULATORY FRAMEWORK AND POLICIES IN KENYA

Excessive regulatory constraints inhibit business competitiveness worldwide. This is because such constraints impose costs and inflexibilities, which frustrate enterprises, hamper innovations, deter investment and minimize opportunities for employment creation (Mullei et al, 1999). Small and Medium Enterprises (SMEs) have fewer financial resources and less management depth and hence no capacity to get around regulations. Mullei et al (1999) also points out that this seriously hampers them (SMEs) than the large businesses, which have the capacity and resources.

The Government of Kenya set up a task force in 1987 that came up with Sessional Paper No. 2 on Small Enterprises and Jua Kali Development in Kenya (*Parker & Torres, 1993*). This Sessional Paper (GoK, 1992:11) states that although some supportive measures had already been taken to ease some constraining regulatory frameworks for business, other measures were to be taken by the relevant ministries, for example that of reviewing licensing arrangements and building codes for small enterprises with a view to relaxing any of them that hindered small scale enterprises' businesses.

The first hint on the suspension of certain categories of licenses was contained in the National Development Plan for the period 1989-1993 (Kenya, 1989). It pointed out that the Government of Kenya was to speed up the already initiated review of Local Authority by-laws and regulation that had proved restrictive to the development of the small-scale and Jua kali enterprises. This was because there were many licenses required for one to operate a single business (Mullei et al, 1999).

The licensing officers illegally demand payments from the licence applicants (K'Obonyo et al, 1999). This denies those who do not have extra money to acquire licenses. This also further burdens the applicants because in addition to the fees paid for the many licenses, they have to pay extra money to the licensing agents. There are also some miscellaneous cash payments done by the licensees, which they have to pay from time to time while renewing their annual licences (Parker & Torres, 1993).

Collaboration among the Ministry of Commerce & Industry and other players was called for by the government, so as to review and harmonize licensing procedures for the informal sector enterprises (GoK, 1997). The current National Development Plan, that is, for the period 2002-2008, points out that initiatives to be undertaken to address legal issues include trade licensing reform introducing the single business permits. (This has already been achieved; there is a single business from the Local Authority and one from the Trade Licensing Act, that is, by the government itself). It also reiterates that to address issues and problems in the SME sub-sector, measures are to be taken to create a positive legal and regulatory environment by decentralizing registration of business names to district level. Other measures in the plan include eliminating the problem of information dissemination on legal and regulatory issues and enacting an MSE Act (GoK, 2002).

The Government of Kenya with the support of the British Government's Department for International Development set up the De-regulation section within the Ministry of Planning and National Development. This is because the government had recognized a need to remove or reduce unnecessary barriers affecting Small and Micro-Enterprises

(SMEs) since there were a number of restrictive regulations that affected their operation (K'Obonyo et al, 1999).

2.1.2 THE GENERAL EFFECTS OF REGULATIONS AND PROCEDURES ON SMEs

Regulations and procedures affect enterprises, the public, policy makers and administrators, because they are requirements of any orderly development and/or business activity. During the colonial period, regulations were aimed at controlling and regulating of growth of African enterprises. The current business regulations and procedures in Kenya owe their origin to the colonial period. The administrative and regulatory procedures have multiplied, and with passage of time, the regulatory framework has proved a major impediment to the establishment and growth of the African-owned businesses that they were intended to support, protect and promote (K'Obonyo et al, 1999).

Excessive regulatory constraints inhibit business competitiveness by imposing costs and inflexibilities that frustrate enterprises, deter investment and minimize opportunities for employment creation. In Kenya, MSEs are particularly inhibited by cumbersome laws and regulations, most of which are out of tune with current development realities (Mullei et al, 1999).

The development of SMEs in Kenya may be inhibited by regulations and procedures which involve a lengthy and cumbersome annual licensing process and excessive discretionary powers of officials, which create opportunities for corruption (GoK, 1997). A large number of enterprises no longer bother to follow any regulation or procedures hence courting problems with the authorities, which include harassment, eviction and conviction, with some closing businesses to avoid physical beating when they notice the presence of the officials (K'Obonyo et al, 1999).

The Regulations and Procedures are administered through trade licensing and business registration by central government and local authority licensing by-laws. The legal basis and functions together with possible constraints to the development of SME are outlined below:

2.1.2.1 TRADE LICENSING

Trade licensing is part of the Laws of Kenya as an Act of Parliament under the name the Trade Licensing Act (Cap 497, Laws of Kenya). This is done by central government through licensing officers appointed by the Minister of Trade. The Ministry of Finance collects trade-licensing fees for revenue purposes (Mullei et al, 1999). Trade licensing, under this Act, is also administered by other Ministries (K'Obonyo et al, 1999).

All the rules that operate to authorize or permit the carrying out of any trade or business activity are what licensing stands for. Non-compliance with this requirement makes such trade or business activity illegal. In Kenyan Laws, a license authorizes a licensee to conduct a business or businesses specified in the license at the premises so specified (Cap 497: II, 9(7), Laws of Kenya). Trade licensing has two functions: To control certain activities and to raise revenue (K'Obonyo et al, 1999).

2.1.2.2 LOCAL AUTHORITY LICENSING BY-LAWS

The local authorities are empowered by the Local Government Act (Cap 265, Laws of Kenya) to make by-laws necessary for planning and managing their areas of jurisdiction (K'Obonyo et al, 1999). Among their activities is the provision of licenses to businesses within their areas of jurisdiction. They make necessary by-laws to prohibit, control and regulate various trades and businesses that are carried out. The authorities make such by-laws with great emphasis on control. The great emphasis laid on control ensures harsh penalties and criminal convictions for non-compliance and give broad discretionary powers to local authority officials to impose a wide variety of restrictions (Mullei et al, 1999).

2.1.2.3 REGISTRATION OF BUSINESS NAMES

Business names must be registered with the Registrar General's office, which is situated in Nairobi. Business name registration is contained in the Registration of Business Names Act (Cap 499, Laws of Kenya). The Act gives the Registrar General powers to decide whether a business should be registered or not. SMEs do not have to comply with the Act since it is optional (K'Obonyo et al, 1999).

2.1.2.4 OTHER ACTS, BY-LAWS AND REGULATIONS

There are other Acts, By-laws and Regulations, which may affect the development of SMEs directly or indirectly.

1. **Public Health Act**

The Public Health Act (Cap 242, Laws of Kenya) is aimed at securing and maintaining public health. It empowers the Local Authorities to enact by-laws as to specification of building, works and fittings to ensure adequate sanitation (K'Obonyo et al, 1999).

2. **Building Code**

"Section 126(a) of the Building Code – deals with injury to health, use of temporary and movable building materials – has been used by the Nairobi City Council and other Local Authorities to justify demolition of kiosks and business sheds used by SMEs" (K'Obonyo et al, 1999).

3. Local Authority Service Act (Cap 274, Laws of Kenya), Land Planning Act (Cap 303, Laws of Kenya), Hotel and Restaurant Act (Cap 498, Laws of Kenya), and other Acts of Parliament also influence the development of SMEs, to varying degrees. The influence could be positive or negative but in most cases, the influence is negative (K'Obonyo et al, 1999).

2.1.3 REGULATIONS AND PROCEDURES FOR THE ESTABLISHMENT OF SMALL AND MEDIUM ENTERPRISES

In Kenyan law, a person intending to start or establish a business must obtain a license, which authorizes him or her (the licensee) to conduct a business or businesses as specified in the license at the premises so specified (Cap 497:11,9 (7), Laws of Kenya). This requirement for a license serves two functions: to control certain business activities and to raise revenue for both the central government and the local authorities (K'obonyo et al, 1999).

2.1.3.1. REGULATIONS AND PROCEDURES AS CONSTRAINTS TO BUSINESS ESTABLISHMENT

The main laws that apply in business establishment are the registration of Business Names Act and the Trade Licensing Act (Caps 497 and 499, Laws of Kenya respectively), Ojwang and Kabeberi (1988).

The person intending to establish a business entity can choose to comply or not. This leads to costs, that is, costs of compliance and costs of non-compliance. If an entrepreneur chooses to comply, he/she incurs the cost of obtaining information and the cost of licenses and registration certificates (K'obonyo et al, 1999).

2.1.3.3. THE COST OF OBTAINING INFORMATION

Business owners need to know which licenses and/or registration certificates are required, where to obtain them, the ease of obtaining them, their cost, the frequency of renewal and the risks involved in non-compliance. This implies that they need information (K'obonyo et al, 1999). Owners of small enterprises tend to obtain such information from other businesses. But accurate information about registration may not be readily available. This

is because other entrepreneurs may not be as reliable a source of information. Therefore, business owners may have to spend more money, time and effort to get information or assume the risk of operating on misinformation (K'obonyo et al, 1999).

2.1.3.4. COST OF OBTAINING INFORMATION ON BUSINESS REGISTRATION ACT AND DIRECT COST OF REGISTRATION

For businesses, which are not required to register, the only cost of compliance is that of obtaining information on the Act. Registered businesses, however, have additional costs: the direct cost of registration, travel time and the cost of displaying the registration certificate. This last one is thought to be small and can be ignored.

Estimates of the costs are summarized in table 1 below.

Table: 1 Enterprise Costs of Compliance with Registration of Business Names Act

Type of Costs	N	Mean Cost (Kshs)
Official	56	4,189
Unofficial	21	3,466
Traveling	-	1,000
Time	-	5,533
TOTAL		14,188

Source: Parker and Torres, 1994:22

NB: These costs are extrapolated to obtain estimates for all small and micro enterprises in Kenya.

The direct cost of registration is the combination of the official and unofficial costs. The official cost is the sum of the fees applicable to the business as specified in the Act. Unofficial costs are the amounts that are required to facilitate the registration process. They take the form of bribes, mandatory “contributions” to officials’ fundraising functions, etc. (K'obonyo et al, 1999).

2.1.3.5. DIRECT COST OF LICENSING

The direct cost of licensing, like direct cost of registration, is also a combination of official and unofficial costs. The official costs are the license fee specified in the

applicable regulation. Unofficial costs are bribes and other payments made to ensure that the license is obtained in a reasonable time. Both official and non-official costs vary considerably from one type of license to another. The table below shows the mean official and unofficial costs for selected licenses.

Table 2: Official and Unofficial Costs of Selected Licences.

License Type	(N)	Mean Official Cost (Ksh.)	N	Mean Unofficial Cost (Ksh.)
Hotel and Restaurants	4	9,075	1	500
Local Authorities	44	3,891	9	978
Trade	85	2,687	19	2,358
Hawkers	4	2,175	1	2,000
Fisheries	13	362	0	N/A

Source: K'obonyo et al, 1999:26

2.1.4 REGULATIONS AND PROCEDURES AS CONSTRAINTS TO BUSINESS GROWTH

Regulations and procedures affect enterprises not only during their establishment but also well after being established, that is, during their growth since they are requirements for orderly business activities. Owing their history to the colonial period, business regulations and procedures have multiplied with passage of time and have proved a major impediment to the growth of the African-owned businesses, that they were intended to support, protect and promote (K'obonyo et al, 1999).

As said earlier, when a business entity chooses to comply with regulations and procedures or not, both leads to costs, that is, cost of compliance and costs of non-compliance (K'obonyo et al, 1999). For a business entity, which chooses to comply, there is the cost of compliance, that is, the cost of obtaining information, cost of licenses and registration certificates. It then follows that if the entity chooses not to comply, the cost of non-compliance will greatly affect the growth and development of the business since the business will have been established.

2.1.4.1 THE EFFECTS OF NON-COMPLIANCE ON BUSINESS GROWTH

K'obonyo et al, (1999) points out that those businesses which do not comply with specific regulations, incur costs but the costs cannot be easily documented as the costs of compliance. Such costs, consist of the money for bribing the officials to prevent them from taking punitive actions as a result of the enterprise's failure to comply and the financial consequences of punitive action actually taken by the authorities. The authorities can choose to close businesses, evict firms from their premises, demolish premises or confiscate goods and these have direct costs, which may affect the growth and development of business.

Businesses, which are non-compliant with the Registration of Business names Act, are those businesses with a name other than the surname(s) of the owner(s) and have not been registered with the Attorney General's office in Nairobi (K'obonyo et al, 1999). K'obonyo et al, (1999) further say that checks on business registration are not common although harassment cases have been reported due to lack of registration. They point out that harassment costs, unlike the cost of obtaining registration, are on going.

K'obonyo et al, (1999) point out that unlicensed firms are most vulnerable to punitive measures on the part of the central government and local authorities. Some incur costs attempting to prevent punitive action but punishment still occurs for both those that have taken preventive measures and those that have not and such punishment has costs.

2.1.5 REGULATIONS AND PROCEDURES AS CONSTRAINTS TO BUSINESS COMPETITIVENESS

Excessive regulatory constraints inhibit business competitiveness by imposing costs and inflexibilities that frustrate enterprises, deter investment and minimize opportunities for employment creation. The time taken up with regulatory issues diverts the limited capacity of management (of SME owners) from directing the strategy and operations of the enterprise. In the long term, diversion of scarce managerial resources may prove to be most damaging of all the many effects of regulation on the competitiveness of SMEs (Mullei et al, 1999).

Mullei et al (1999) further says that SMEs tend to have less capital available and hence less capacity to absorb unproductive capital expenditure that arises as a consequence of regulations. They also add that such regulations can set unnecessarily high standards of compliance that far exceed the capacity of SMEs.

Regulations themselves are not the only sources of negative impact on the conduct of business but also the manner in which they are implemented and enforced (Mullei et al, 1999). Mullei et al (1999) also points out that the current licensing provisions give wide discretionary powers to licensing officers to grant, revoke, cancel or renew licenses. As a result, there is uncertain business cost, wasted time and additional expenditure in the form of bribes. This affects business competitiveness a great deal.

The manner in which licensing provisions are enforced in Kenya creates a major disincentive to investment hence affecting business competitiveness of SMEs. The newspapers carry daily reports of serious property rights violations by licensing enforcement officers, and street traders identify police harassment and bribery as the most serious constraints they face in the conduct of business. SME entrepreneurs suffer a disproportionate impediment because they are less likely to be aware of their rights and because they experience greater difficulties accessing justice and meeting the cost of bribes (Mullei et al, 1999).

K'Obonyo et al (1999:41) points out that the time taken dealing with either preventive measures or punitive actions can translate into millions of shillings which are lost in the process. It adds that coping with punitive action takes more time than paying for protection. It estimated that dealing with the consequence of an eviction, demolition or confiscation is likely to take at least one week, which translates into a cost of 114 million shillings in time cost for all unregistered businesses. This clearly affects the competitiveness of businesses. The following table, (Table 3) shows the estimated mean costs of eviction, arrest, demolition of premises and confiscation of goods, for all enterprise owners in Kenya.

Table 3: Cost to Enterprises of Government Punitive Action Related to Non-compliance with Licensing

Action Taken	Av. Cost to Enterprise (KSh)
Eviction	19,064
Arrest	8,905
Demolition of premises	8,017
Confiscation of goods	3,796

Source: K'Obonyo et al, 1999:42

Like in non-compliance with the Business Registration Act, non-compliance with trade licensing has a lot of costs as shown in the above table. K'Obonyo et al (1999) points out that the cost of failing to comply with the requirements of the Trade Licensing Act can be divided into three categories:

(a) Cost of preventing punishment, (b) cost of punishment that has occurred, and (c) the cost of the time taken in either case. At an approximated cost of KSh. 1,829 per enterprise for 77,000 unlicensed businesses in the whole country, it translates to KSh. 141 million annually.

2.1.6 THE STRUCTURE AND MAGNITUDE OF THE SMALL AND MEDIUM ENTERPRISE SECTOR

The most recent national MSE baseline survey conducted by the Central Bureau of Statistics (CBS) in conjunction with the International Center for Economic Growth (ICEG) and K-Rep Holdings Ltd shows that 1.3 million SMEs exist in Kenya, employing some 2.3 million people. It further points out that about 26% of the total households in the country are involved in some kind of non-farm business activity (CBS, *K-Rep and ICEG, 1999*).

The provision of both employment and income to a majority of people in both rural and urban areas by the SMEs has made this sector important in all sectors of the Kenyan economy (K'Obonyo et al, 1999). As of 1995, Kenya was producing nearly 0.5 million people into the labour market annually. The modern and small farm sectors could only accommodate 0.24 million workers. The remaining 0.26 million people engaged in economic activities outside the formal sector, which include the SMEs sector (Daniels et al, 1995). The sector was projected to increase in employment from 1.3 million in 2000 to 2.366 million in 2010 (K'Obonyo et al, 1999), but this projection was based on an annual growth rate of 8.8%. The situation now is that even as of 1999, the sector was already employing 2.3 million people. This further shows the fast growth rate of this sector (CBS, K-Rep & ICEG, 1999).

The MSE baseline survey of 1999 further shows that the average number of enterprises per 1,000 residents of the Kenyan population is about 43 MSEs. It also points out that almost two thirds (66%) of the Kenyan MSEs are found in the rural areas, and that whereas the density of MSEs is higher in the urban areas, the aggregate or relative number of MSEs is higher in the rural areas. Considering the fact that 72.3% of all enterprises are based in the rural areas as indicated above, calculations show that out of 1.3 million enterprises, 939,900 enterprises exist in the rural areas.

Table 4: Distribution of SMEs in Kenya and the Proportion of Workers They Employ

	% of National Population	SMEs		Workers		Mean
		Number	%	Number	%	
Nairobi & Mombasa	9.7	204,280	15.8	394,838	16.9	2.0
Other major towns	6.2	157,533	12.2	279,133	11.8	1.8
Rural towns	2.1	81,320	6.3	135,349	5.6	1.6
Rural areas	82.0	845,879	66.6	1,551,930	65.7	1.8
TOTAL	100.0	1,289,012	100.0	2,361,250	100.0	1.8

Source: CBS, K-Rep and ICEG, 1999:5

2.2.0 THEORETICAL FRAMEWORK

Three theories may be used to understand government regulatory frameworks for business. These are The Social Systems Theory, The Theory of Economy, Society and Law, and The New Institutional Economics Theory. The Social Systems Theory by Talcott Parsons, can be used to explain why entrepreneurs may come to adapt to the regulations or procedures, or simply why consensus may be reached between the authorities (charged with ensuring that the entrepreneurs abide by the regulations, which in itself may create conflict) and the entrepreneurs.

The Theory of Economy, Society and Law by Max Weber, can be used to define the functions of the state, the laws and the individuals who must work towards the achievement of societal objectives and which include the advancement of the economy. The New Institutional Economics Theory by Douglas C. North describes what the laws and regulations constitute and their contributions to order in society. All the three theories are given and their relevance to the study provided.

2.2.1 THE SOCIAL SYSTEMS THEORY

The social systems theory is attributed to Talcott Parsons in his work, *The Social System* (1951). Parsons' social system is a system of interdependent action processes. The aspects that structure a complete system of social action are the social system, the personality system and the behavioral organism/biological system. While each of these may be considered to be an independent focus of the organization of the elements of the action system, each is indispensable to the other.

Parsons defines the cultural system as the major force binding the various elements of the action system. He defines cultural system in terms of its relationship with the other action systems. The symbolic and subjective characteristic of culture enables it to move from one social system to another through diffusion and from one personality to another through learning and socialization. In addition, the symbolic/subjective character, gives it prominence and capability to control Parsons' other action systems.

In Parsons' work, the real concern is to study the needs of the system as a whole and its stability that is dependent upon their satisfaction. A system, according to Parsons, is an action framework where all actions occur. The individuals are the actors who play their roles in the context of shared values of the system.

However, social system is not limited to interpersonal interaction only, but also refers to two analysis groups, institutions, societies, social relation and inter-social entities. For instance, a state, a university, a school, an organization or company, may be analyzed as a social system, which has structures of interrelated parts and performing various functions. From a cybernetic point of view, a social system is regarded as an information system or input-output system.

Parsons' conception of the social system begins at an elementary level where he refers to the unit of a social system as the act. This is the micro level of analysis where interaction between ego and alter ego occurs. The second level of analysis is the macro level which he refers to as status-role. The status refers to a structural component of the social system, and role is what the actor does in such a position, seen in the context of its functional significance for the larger system. A higher level of analysis is the actor himself or herself as a unit of the social system. The individual actor as he or she who holds a status or performs a role is treated as a higher order unit than the status-role (Ritzer, 1992).

The relevance of the social systems theory to this study lies in the fact that both the cultural system and the social system control the personality system. The main function of a true personality system involves learning, developing and maintaining through the life cycle an adequate level of motivation so that individuals will participate in socially valued and controlled activities. The fact that regulations and procedures are basic requirements of any orderly development and/or business activity (*K'Obonyo et al, 1999*) is supported by this theory because the cultural and social systems control the personality system.

Another important issue is that according to this theory, the real concern is to study the needs of the system as a whole and its stability which is dependent upon their satisfaction. The individuals play their roles as actors in the context of shared values of the system. The satisfaction of entrepreneurs depends on the implementation of favourable policies so as they can work according to laid down procedures and regulations. The removal of constraints, for example legal constraints, would be an important step in meeting their satisfaction.

2.2.2 THE THEORY OF ECONOMY, SOCIETY AND LAW

This theory is attributed to Max Weber and is enunciated in his work, *Economy and Society: An Outline of Interpretive Sociology* (1968). In this work, Weber points out that in trying to understand the laws and rules in society, the most important distinctions to be made in modern legal theory and practice are those between public and private law. Sociologically, he adds, one might define public law as the total body of those norms that regulate state-oriented action whereas private law would be defined as the totality of those norms from the state, which regulate conduct of individuals. Public law regulates those activities which serve the maintenance, development and direct pursuit of the objectives of the state. Private law, he says, comprises the laws of coordination as distinguished from those of subordination.

Weber further says that private law would be concerned with those legal affairs in which several parties are likely to confront each other. The law comes in to regulate their conduct so that their activities, while being confrontational, are coordinated and their legal spheres properly defined. The legislature does this by means of legal transactions in sessions which provide the legal basis upon which the transactions are to be carried out.

Weber points out also that certain public activities are intentionally regulated so that unnecessary confrontation is reduced. The rights vested in individuals and power conferred upon state agencies coexist and compete with each other. Whereas the state wants to achieve certain objectives in developmental terms, individuals may feel their rights are being trampled upon, hence they may devise ways of competing with the state.

Another important factor, which Weber brings out, is that of the government being bound by legal norms and limited by vested rights. In these respects, the government must have a legitimate basis for its own jurisdiction. The government must function as a legitimate jurisdiction. One specific characteristic of the government resides in the fact that it aims at acknowledging and enforcing the law. It also, at the same time, pursues other concrete objectives of a political, ethical or utilitarian nature.

The relevance of this theory to this study lies in the fact that whereas the state has to achieve its objectives, it must respect the rights of individuals because the latter constitute the state. The other factor is that the law, in this case the legal framework, comes in to regulate the conduct of individuals in order to reduce confrontation and help in the achievement of individual objectives which in the long run, translate into the objectives of the state. Therefore, the state, being legitimate, should always provide a framework that favours the individual; in this case the entrepreneur, while at the same time ensuring that there is no confrontation between the individuals. This ensures order in the society hence the achievement of objectives, which translate into economic development of the society. Whereas the government has to ensure the laws are followed, it should do this within the jurisdiction provided by the constitution of the state.

2.2.3 THE NEW INSTITUTIONAL ECONOMICS THEORY

This theory is attributed to Douglas C. North as expounded in his work, *Institutions, Institutional Change and Economic Performance* (1990). North defines institutions as the rules of the game in a society or, more formally, the humanly devised constraints that shape human interaction. Here, North implies that institutions are constraints, which in consequence, structure incentives in human exchange, whether political, social or economic. He further notes that institutional change shapes the way societies evolve through time and hence is the key to understanding historical change.

In every day life, there is uncertainty as to how certain tasks are to be performed. That is why North argues that there is need for these institutions (rules) to reduce the uncertainty by providing a structure to everyday life. He points out that rules are a guide to human interaction so that when we wish to greet friends, drive an automobile, borrow money, form a business, bury the dead, or whatever, we have a know how (or can learn easily) how to do these tasks. The institutions, he points out, include any form of constraint that human beings devise to shape interaction.

North also states that institutions can be created or may simply evolve over time. He further points out that institutional constraints (rules) include both what individuals are prohibited from doing and sometimes under what conditions some individuals are permitted to undertake certain activities. Institutional constraints, he notes are analogous to the rules of the game in a competitive team sport. This consists of typically unwritten codes of conduct that underlie and supplement the formal rules.

North also gives a crucial distinction between institutions and organizations. He notes that organizations include political bodies (political parties, the senate, city council, a regulatory agency, etc.) social bodies (churches, clubs, athletic associations), economic bodies (firms, trade unions, family farms, cooperatives) and educational bodies (schools, universities, vocational training centers). He adds that the organizations are created with purposive intent in consequence of the opportunity set resulting from the existing set of constraints (institutional as well as the traditional ones) and in the course of attempts to accomplish their objectives. He further adds that like institutions, organizations provide a structure to human interaction, "Indeed when we examine the costs that arise as a consequence of the institutional framework, we see they are a result not only of that framework, but also of the organizations that have developed in consequence of that framework" (North 1990:4). He also adds that good institutional frameworks provide better achievement of the objectives. He points out that most third world countries do not have sound institutional framework. Economic advancement, he adds, is directly related to the institutional frameworks in place.

Another important factor that North points out is that the major role of institutions in a society is to reduce uncertainty by establishing a stable (but not necessarily efficient) structure. But the stability of institutions is no way, he adds, means that they are changing. From conventions, he points out, codes of conduct and behaviour to statute law, and common law, and contracts between individuals, institutions are evolving and therefore are continually altering the choices available. On institutions and constraints, North points out that institutions and the standard constraints of economic theory,

determine the opportunities in a society. Organizations are created to take advantage of those opportunities and as the organizations evolve they alter the institutions.

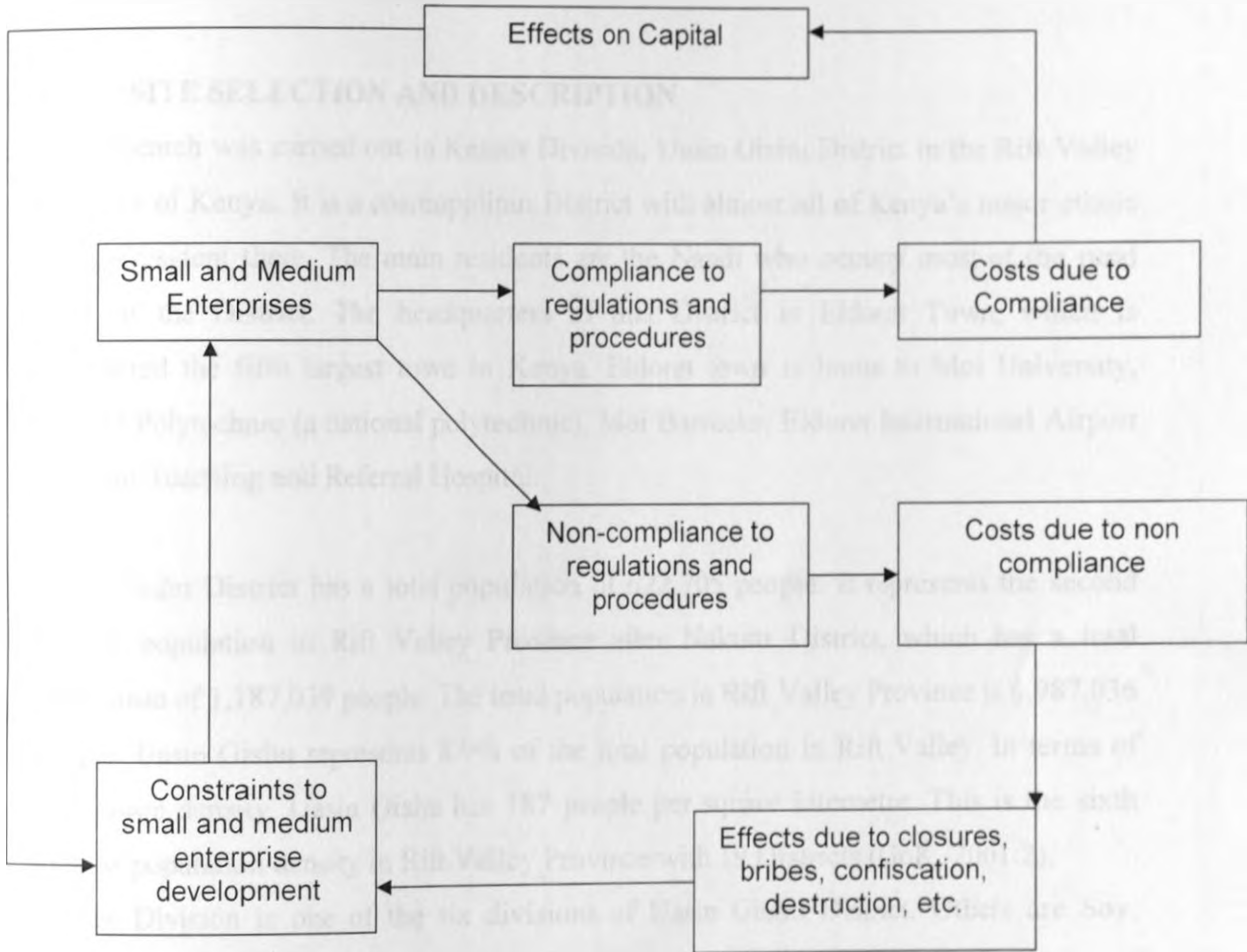
To conclude, North states that in understanding institutions, certain behavioural assumptions must be made. These assumptions based on economics, reflect accurately on human behaviour. In understanding these assumptions he says only are able to understand modification in behaviour of the actors so as to make sense out of the existence and structure of institutions and explain the direction of institutional change.

The relevance of this theory to the study is found in the fact that Government Regulatory Frameworks are formulated to guide and govern the formation and running of businesses (enterprises). They can therefore and with reference to the New Institutional Economics Theory be termed as institutions or human devised constraints which bring about order in the sector. As in other forms of human interaction, the business arena must have institutions (rules) to reduce the uncertainty by providing a structure, which guides human interaction. The enterprises, which are actually organizations, are formed to pursue certain objectives and to take advantage of the institutional framework. According to North, the organizations are created with purposive intent in pursuance of an opportunity set resulting from the existing set of constraints, which in our case are the regulatory frameworks.

From the fact that institutions (rules) are constraints devised by human beings to provide a guide to human interaction, which in this case include formation and running of enterprise, they may affect their development either positively or negatively. They are constraints, meaning they affect or constrain human interaction. Thus in this way, they can be said to affect the enterprises negatively. Also from the fact that they remove uncertainty and provide a guide, they may affect the enterprises positively. Good institutions bring about good economic advancement (North, 1990). This study attempts to gauge whether the Kenyan regulatory framework is good or bad to business and to what extent.

2.2.2 CONCEPTUAL MODEL

Conceptual Model Showing the Relationships between Compliance and Non-Compliance with Business Regulations and Procedures and the Development of Small and Medium Enterprises



Source: Author, 2004.

CHAPTER THREE

3.0 METHODOLOGY

This section discusses site selection and description, the unit of analysis, the unit of study, the population, sampling procedures and sample size, methods and tools of data collection, and methods of data analysis.

3.1 SITE SELECTION AND DESCRIPTION

This research was carried out in Kesses Division, Uasin Gishu District in the Rift Valley Province of Kenya. It is a cosmopolitan District with almost all of Kenya's major ethnic groups resident there. The main residents are the Nandi who occupy most of the rural parts of the District. The headquarters of this District is Eldoret Town, which is considered the fifth largest town in Kenya. Eldoret town is home to Moi University, Eldoret Polytechnic (a national polytechnic), Moi Barracks, Eldoret International Airport and Moi Teaching and Referral Hospital.

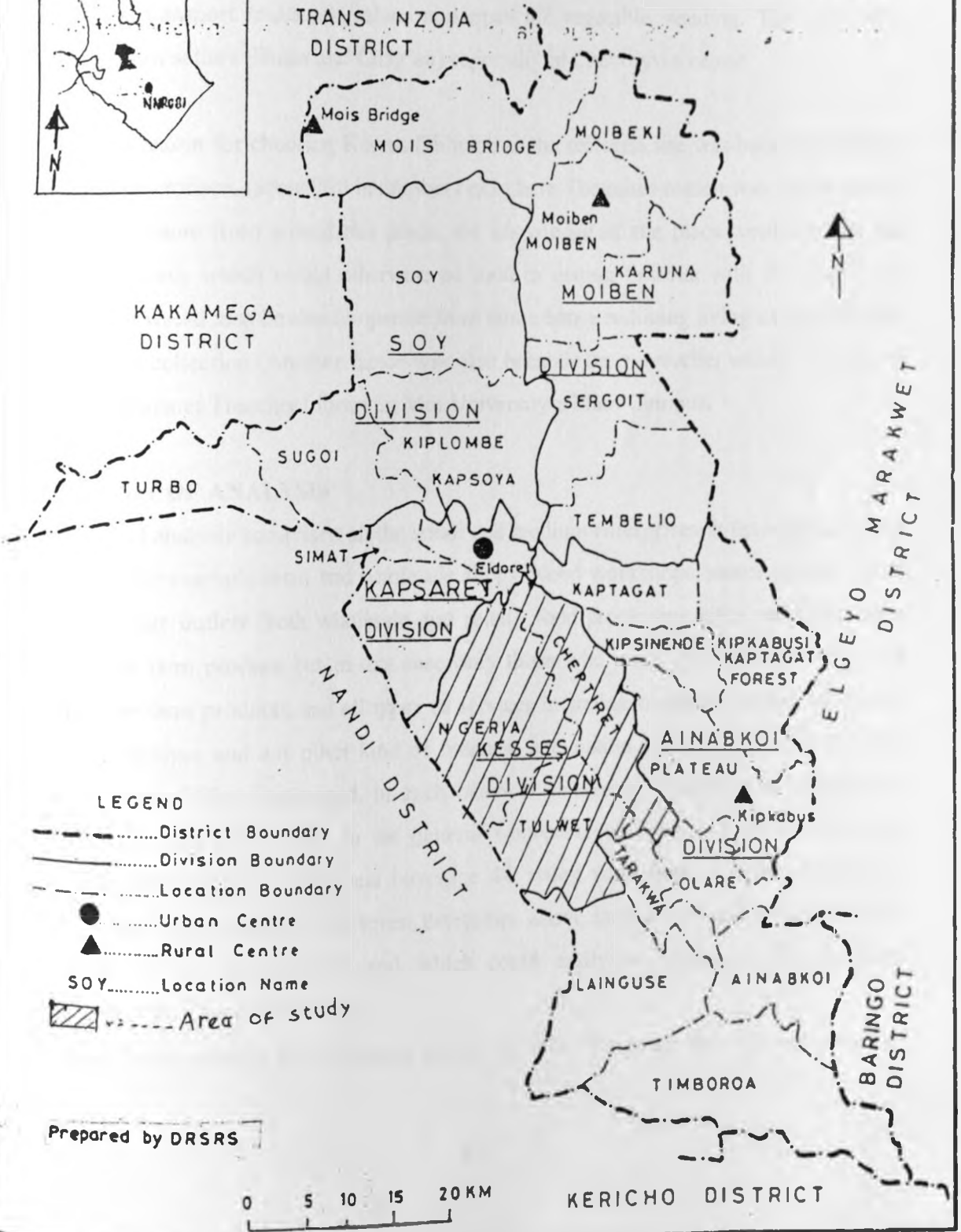
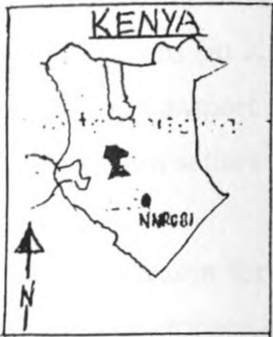
Uasin Gishu District has a total population of 622,705 people. It represents the second highest population in Rift Valley Province after Nakuru District, which has a total population of 1,187,039 people. The total population in Rift Valley Province is 6,987,036 people. Uasin Gishu represents 8.9% of the total population in Rift Valley. In terms of population density, Uasin Gishu has 187 people per square kilometre. This is the sixth highest population density in Rift Valley Province with 19 Districts (GoK, 2001:2).

Kesses Division is one of the six divisions of Uasin Gishu District. Others are Soy, Ainabkoi, Turbo, Kapsaret and Moiben Divisions. Kesses Division has a population of 84,894 people representing 13.6% of the total population of Uasin Gishu District. It also has a population density of 123 people per square kilometre (GoK, 2001:3). Kesses Division has 7 locations and 10 sub locations. The Divisional Headquarters is based at Kesses centre, which is under Wareng County Council (GoK, 1997:4)

The major centres of business, which have been boosted by Moi university include Cheplasgei, Cheptiret, Kesses, Chebarus. Stage (normally referred to as systems and is

UASIN GISHU DISTRICT

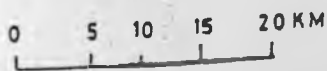
ADMINISTRATIVE BOUNDARIES



LEGEND

- District Boundary
- Division Boundary
- Location Boundary
- Urban Centre
- ▲ Rural Centre
- SOY..... Location Name
- ▨ Area of study

Prepared by DRSSRS



KERICHO DISTRICT

growing very fast) just at the main campus near the administration block, and Cheboiywo. The number of businesses in these centres has grown at a faster rate in the recent years since 1985 and constitute all types of enterprise. The major types of businesses are wholesale shops, retail shops, food and beverage outlets (including hotels and restaurants, bars, butcheries and cafeterias), wood workshops (carpentry and joinery), petrol stations (in Kesses and Cheptiret), motor vehicle garages (Kesses and Cheptiret), groceries, transport (matatus), salons and open air vegetable vending. There are also illegal* brew sellers (Busaa and Chag'aa) especially at Cheboiywo centre.

The main reason for choosing Kesses Division as the research site was because different types of enterprises, (about 700 in number) exist here. The other reason was that since the researcher came from around this place, the knowledge of the place would reduce the time and costs, which would otherwise be used in getting familiar with the place. The researcher would also be able to operate from home hence reducing living expenses while doing data collection. Another factor was also because the researcher would be able to use the Margaret Thatcher Library in Moi University's Main Campus.

3.2 UNIT OF ANALYSIS

The unit of analysis comprised all the small and medium enterprises. It involved all types of SMEs for example retail and wholesale shops, wood workshops, motor garages, food and beverage outlets (both wholesale and retail), food processing units and other units dealing in farm produce but in this case only those who were involved in buying and selling the farm products, and all types of services including transport, salons, telephone and fax services and any other kind of business occupation which the District's Trade Development Office recognized. In each business category, a sample was selected for study depending on its size. In the general wholesaler category, 14 enterprises were studied, retail shops 27, food and beverage 44, wood workshops 7, petrol stations 1, hardwares 3 and salons 9. The seven categories above included all the major types of business in the area of study and which could easily be accessed. The sampling procedures shall be discussed later.

**Illegal brew selling is not recognized by the law hence this study did not venture into it.*

3.3 SAMPLING PROCEDURES

Probability sampling techniques were employed in this research to select a sample of 105 enterprises from the population of 700 SMEs in Kesses Division. The sampling frame was obtained from the District Trade Development Office. The specific technique employed was stratified random sampling, which enabled all the enterprises in all the categories to get equal chances of being included in the sample (Singleton et al, 1988). Stratified random sampling is described below:

It involves subdividing the population into mutually exclusive segments called strata, based on the categories of one or a combination of relevant variables. Simple random samples are then drawn from each stratum, and these sub samples are combined to form a complete stratified sample (Singleton et al, 1988). The size of a sub sample depends on the size (quantity) of the category.

Considering the population of 700 SMEs for this study, it was divided into eight (8) categories, including all major types of SMEs in Kesses division. These were then converted into sub samples depending on their sizes as described below:

Table 5: Sampling Using Stratified Random Sampling Technique

<u>SME Category</u>	<u>Size of category *</u>	<u>No. of SMEs to be selected</u>
General wholesalers	94	$94/700 \times 105 = 14$
Retail shops	180	$180/700 \times 105 = 27$
Food and beverage	293	$293/700 \times 105 = 44$
Wood workshops	47	$47/700 \times 105 = 7$
Petrol stations	7	$7/700 \times 105 = 1$
Hardwares	20	$20/700 \times 105 = 3$
Salons	59	$59/700 \times 105 = 9$
TOTALS	700	105

Source: Uasin Gishu District Trade Development Office's records.

**The sizes of categories are approximations.*

The sample for entrepreneur profiles was selected purposely from among the entrepreneurs already selected from each category of business. They were identified during the course of the study.

3.4 SAMPLE SIZE

The sample size of this study was 105 enterprises, representing about 15% of the total number of SMEs in Kesses Division. This sample size was considered because it would enable the researcher to interview all the SME owners in the sample within the scheduled time. At a rate of 10 enterprise owners/managers per day, and given the two weeks allocated for data collection, the researcher would have been able to interview all the 105 within 11 days. However, the researcher was able to interview only 74 enterprise owners and managers. Those who had not been interviewed (31 in number) at the end of the period just filled the questionnaires. Out of these (31), 23 were received back. There was also extra time allocated in the work plan to cater for any eventualities. The sample size was also affordable to the researcher in terms of the cost of preparing questionnaires and travel expenses.

3.5 METHODS AND TOOLS OF DATA COLLECTION

The research used both qualitative and quantitative techniques to collect primary and secondary data respectively. This is because the combination of both techniques provided the necessary data for the study. Being a survey, it was necessary to collect data from the field using primary techniques. For proper and accurate conclusions, it was necessary to use secondary data.

- Under primary techniques, the research employed entrepreneur profile interview guide and structured sample survey questionnaires.
- Under secondary quantitative techniques, the research used official records from the district registration officer's office.
- In the secondary qualitative techniques, the research employed the Internet and other available records.

The tools used for data collection were a sample survey questionnaire and an entrepreneur profile interview guide. A structured sample survey questionnaire was given to each of the enterprise owners/managers in the sample. The entrepreneur profile interview guides were used to collect information for construction of the profiles.

3.6 METHODS OF DATA ANALYSIS

The data collected from the field (raw data) was analyzed both quantitatively and qualitatively in order to arrive at conclusions. The quantitative analysis was done through the use of MS computer data processing, the MS Excel. Qualitative analysis was done using content analysis of the literature reviewed and by making the necessary inferences.

Entrepreneur profiles were constructed to provide a clear understanding of the effects (positive and negative) of the existing regulatory framework using the information from the entrepreneur profile interview guides. The error margins were established using statistical error analysis. The means used for collection of data was analyzed by establishing their reliability and validity. Testing the instruments (questionnaires) first before presenting them to the actual respondents did this. An instrument could be said to be reliable if for several repetitional tests, it yielded the same result. It could also be said to be valid if the results did not vary much with what was known or expected of the variables being measured (Singleton et al, 1988).

CHAPTER FOUR

4.0 SURVEY RESULTS AND FINDINGS

This section presents the survey results and findings mainly in the form of tables and pie charts. It also provides descriptive analysis of data based on questionnaire responses. Out of 105 entrepreneurs selected for the sample, 74 were interviewed and the remaining 31 were given questionnaires to fill, out of which 21 were received back. This brings the number of respondents to 95, making about 90% of the sample size. This is the percentage used for analysis.

4.1.1 Business Licensing by the Central Government

A higher percentage of enterprises in each category of business studied indicated they had been licensed by the Central Government. General Wholesale category, 92.5% of the shops are licensed. The remaining 5% said that they had either applied for licensing or were planning to apply or busy filling the necessary application forms.

The smallest percentage of licensed businesses belongs to the workshops category where 57% are licensed. Majority of those not licensed said they were planning to get licensed. For retail shops, 74% are licensed, food and beverage (85%), petrol stations (100%), hardwares (94%) and salons (54%). The fact that 100% of petrol stations appeared to be licensed came about because only one petrol station was selected in the sample. The selected station is licensed.

Table: 6 Proportion of Businesses Licensed by the Central Government According to Business Category

Types of Business	% of Licensed Businesses	Average Time Taken Between Application and Receipt of Licence (Days)	Average License Fees Paid (Ksh.)	Average Unofficial Amount Paid e.g. bribes, tips, etc. (Ksh.)
General Wholesalers	92.5	4	5,000.00	2,000.00
Retail Shops	74	3	1,200.00	500.00
Food and beverages	85	7	1,800.00	500.00
Workshops (metal and wood)	57	2	3,000.00	500.00
Petrol Station	100	7	5,000.00	2,000.00
Hardwares	94	2	1,500.00	300.00
Salons	54	2	800.00	----

Source: Survey data, 2004.

Margin of error = + /- 2%

The table above (table 5) summarizes information gathered on business licensing by the Central Government. With reference to categories, it can be seen that the average time taken by General wholesalers to acquire a licence is 4 days and the average licence fee is Kshs.5,000.00. This implies that an entrepreneur planning to run a wholesale shop must have an amount of Kshs.5,000.00 on average, depending on what the business deals in. For example, those who deal with animal feeds part with a lot of money in licence fees as opposed to those who deal in other goods. Many of these entrepreneurs (about 80%) felt that the fees were not reasonable and that they should be reduced. The average amount they proposed was Kshs.2,000.00, citing the hard economic times and general lack of (poor) business. Of the entrepreneurs who responded in this category (general wholesalers), 97% felt that the amount paid in fees reduced their operation capital. This is in the sense that some of the money earmarked for start-up capital was used to pay the licence fee. Given that the licences have to be renewed annually, this affects their annual turnover because they have to make a provision for the licence fees.

For entrepreneurs planning to run a retail shop, the government requires an average of Ksh.1,200.00 in license fees and the applicants have to wait for an average of 3 days before they can get a license. The respondents felt that the amount was reasonable since it translated into about a hundred shillings (on average) per month, were 65%. In the food and beverage category, an entrepreneur requires an average of Ksh.1, 800.00 and may wait for up to seven days before receipt of the license. In the workshops category, one has to wait for up to two days before receiving a license after paying Ksh.3, 000.00. For a petrol station, an entrepreneur will not only pay Ksh.5, 000.00, but will also wait for up to seven days to receive the licence. For hardwares and salons, one pays Ksh.1, 500.00 and Ksh. 800.00 respectively and have to wait for an average of 2 days to receive the licence. For each category, the average amount of unofficial money paid (e.g. bribes, tips) range from Ksh.300.00 to ksh.2,000.00. Entrepreneurs in all categories admitted to have paid at least some money in the form of unofficial levies.

4.1.2 Local Authority Business Licensing

Almost all categories of business in Kesses division have a high percentage of local authority licensed enterprises. General wholesalers category have 100% of licensed shops. The same applies to food and beverage, petrol stations and hardwares. Retail shops and workshops are 98% and 96% licensed respectively. The least licensed are salons who have only 51% of the enterprises licensed. The average time to wait between application and receipt of licence is 1 to 3 days in all business categories. The license fees range from an average of Kshs.1,500.00 to Kshs.3,000.00. The unofficial money paid to officials was not recorded in other categories except in food and beverages, which indicated to have paid an average of Kshs.300.00.

Table:7 *Businesses Licensed by the Local Authorities According to Business Category*

Type of Business	% of Licensed Businesses	Av. Time Taken Between Application & Receipt of License (Days)	Av. Licence Fees Paid (Ksh.)	Av. Unofficial Money Paid to Officials (Ksh.)
General wholesalers	100	1	2,500.00	-
Retail Shops	98	1	1,500.00	-
Foods and beverages	100	2	1,500.00	300
Workshop (metal & wood)	96	1	2,000.00	-
Petrol station	100	3	3,000.00	-
Hardwares	100	1	2,500.00	-
Salons	51	1	1,500.00	-

Source: Survey data, 2004.

Margin of error = + /- 2%

4.1.3 Business Name Registration According to Category

Most businesses in almost all categories in Kesses division have not been registered as per the Name Registration Act. The highest percentage of businesses registered are those in the general wholesaler category, who have 60%. Although the data collected shows that 100% of petrol stations are registered, not all businesses in this category may be registered. For Retail shops, only 4% are registered, hardware shops (5%), food and beverage (0%), salons (0%) and workshops (10%). The amount of licence fees paid ranged from Kshs.1,000.00 to kshs.2,500.00. The average unofficial money paid ranged from Kshs.200.00 to kshs.1,000.00. The average time taken between application and receipt of the licence is 1.5 months.

Table:8 Registered Businesses According to Category

Type of Business	% of Registered Businesses	Average Time Taken Between Application and Registration (months)	Average Fees Paid (Ksh.)	Average Unofficial Money Paid to Officials (Ksh.)
General wholesalers	60	1 ½	1,500.00	500.00
Retail Shops	4	1	1,500.00	200.00
Foods and beverage	0	-	-	-
Workshops (metal and wood)	10	2	1,000.00	500.00
Petrol Station	100	2	2,500.00	1,000.00
Hardwares	50	2	1,500.00	500.00
Salons	0	-	-	-

Source: Survey data, 2004.

Margin of error = + /- 2%

4.1.4 EFFECT OF REGULATORY FRAMEWORKS ON BUSINESS

ESTABLISHMENT

About 5% respondents (5 out of 95) felt that regulations and procedures affect business establishment negatively. Some of them felt that regulatory frameworks hinder acquisition of start-up capital. They explained that it was hard for unregistered businesses to acquire a loan. Therefore, the requirement for registration in itself hinders other start-up aspects of the business. About 2% felt that regulations affect negatively acquisition of information concerning necessary procedures, in that they do not specify for example necessary documents for registration and about 7% considered regulations as affecting negatively the acquisition of premises, for example in businesses such as petrol stations. None (0%) saw the regulations as affecting acquisition of basic infrastructure in any way.

The respondents who felt that regulatory frameworks affected business establishment positively were 19%. About 72% of them saw capital formation as being affected positively. They explained this by saying that one can use licenses to solicit for funds for start-up capital. Many lenders consider only licensed enterprises. It can be seen from the table below that the remainders in each aspect of business are a significant figure (above 90%) except in the capital formation. This shows that regulations do not affect (either positively or negatively) most aspects of business establishment, as far as entrepreneurs

in Kesses Division are concerned. The following table (Table 9) summarizes the information above.

Table: 9 How Regulatory Frameworks Affect Business Establishment

Aspect of Business	Proportion of Entrepreneurs who Felt Positive Effect (%)	Proportion of Entrepreneurs who Felt Negative Effect (%)	Remainders (%)
Acquisition of start-up information	0	2	98
Capital formation	72	10	18
Acquisition of premises	0	7	93
Acquisition of basic infrastructure (phone, taxes, etc.)	5	5	90

Source: Survey data, 2004.

Margin of error = +/- 2%

4.1.5 EFFECTS OF REGULATORY FRAMEWORKS ON BUSINESS GROWTH

Out of the respondents interviewed with respect to regulations and business growth, 53% felt that regulations had a positive effect on growth and 9% felt there was a negative effect. The remainder felt that there was either no effect or were not sure. Since the questions were asked according to different aspects of business, responses varied and therefore the total percentage as above is the average. The following table summarizes the information: -

Table: 10 Effects of Regulatory Frameworks on Business Growth.

Aspect of Business	Proportion of Entrepreneurs who Felt Positive Effect (%)	Proportion of Entrepreneurs who Felt Negative Effect (%)	Remainders (%)
Service provision category	48	26	26
Turnover rates	53	7	40
Net profit	67	18	15
Working capital	72	0	28
Fixed assets	0	0	100
Business opportunities	81	2	17

Source: Survey data, 2004.

Margin of error = +/- 2%

In the service provision category, 48% felt there was a positive effect. This implies that 48% of the respondents felt that regulatory frameworks affected service provision positively. Some pointed out the fact that once an enterprise is registered, it can deal in goods and services without fear of arrest by government revenue authorities. A registered enterprise is given a personal identification number (PIN) hence they can remit income tax and value added tax and thus their services are not limited. They can also always improve on their capacity to do business (offering goods and services) without fear of breaking the laws as stipulated in the Government Revenue Act. Nearly 26% of the respondents indicated that regulatory frameworks affected service provision negatively. The reasons given for this ranged from financial repercussions to motivational problems.

The entrepreneurs who indicated that regulatory frameworks affect turnover rates positively were 53%. About 7% considered the effect as negative. Some of those who considered it positive or beneficial felt that since they could work without fear of arrest by the authorities, they could have a higher turnover. Others said that since regulations brought order hence fair competition, everybody in the field could make good sales. Good sales have a direct positive impact on turnover rates. The 7% who said the effect was negative, felt that the regulations were punitive in nature and had a direct impact on capital. This is because the money used for the licence fees, transport to and from registration and/ or licensing offices, bribes and other unnecessary expenses affected the working capital negatively, i.e. reduced it. This translated into dismal performance in sales hence dismal turnover rates.

The respondents who indicated that regulations affected net profit negatively were 18%, working capital (0%), fixed assets (0%) and business opportunities (2%). Most of them felt that the expenses involved in acquisition and renewal of licenses must have a negative bearing on these aspects of business growth. The respondents who felt that regulations affected net profit and business opportunities positively were 67% and 81% respectively. They explained this by pointing out that net profit and opportunities increased with compliance of regulations. Regulations also ensured a fair playing ground

as well as freedom from unfair competition. All these contribute positively to the growth of the business in terms of more profit and more opportunities.

4.1.6 EFFECTS OF REGULATORY FRAMEWORKS ON BUSINESS COMPETITIVENESS

Some of the respondents (about 41% or 39 out of 95 respondents) indicated that regulations affect positively the aspects of business competitiveness. The respondents who felt that regulations benefited cost reduction strategies, in terms of compliance, utilization of time business and personal goals, risk minimization strategies and implementation of new infrastructural changes were 81%, 90%, 22%, 20% and 34% respectively. They all felt that compliance to regulations and procedures provided freedom for performance without undue disturbance. It is only when one doesn't comply that they are punished hence they do not perform to their expectations.

The respondents who considered the effect as negative were 34%. About 14% of these respondents felt that regulatory frameworks hindered cost reduction strategies since it was a cost on its own. Regulations have costs whether an entrepreneur complies or not and thus they are an unnecessary cost. Around 42% of the respondents considered regulations as hindering proper and maximum utilization of time since, for example, when one has not complied, they have to close from time to time. No respondent considered regulatory frameworks as affecting customer care and relations.

On goals (both business and personal goals), 18% of the respondents felt that regulatory frameworks had a negative effect. They felt that regulations dictated what and where to do business and thus for a new business there is always a new licence. On achievement of these goals, some felt that one might not achieve them due to unnecessary rules outlined in the regulatory frameworks.

There were 32% and 62% of respondents who felt that regulations and procedures hindered risk minimization strategies and implementation of new infrastructural changes respectively. There were no clear explanations to these but many pointed at the fact that there was a lot of risk in not complying with regulations since authorities could take punitive actions.

The following table (Table 11) summarizes the information above.

Table: 11 Effects of Regulatory Framework on Business Competitiveness

Level of Effect	Proportion of Entrepreneurs Considering Positive Effect (%)	Proportion of Entrepreneurs Considering Negative Effect (%)	Remainders (%)
Cost reduction strategies	81	14	5
Utilization of time	50	42	8
Customer care and relations	0	0	100
Business and personal goals	22	18	60
Risk minimization strategies	20	32	48
Implementation of new infrastructural changes	34	62	4

Source: Survey data, 2004.

Margin of error = + /- 2%

4.1.7 MAIN PROBLEMS DUE TO NON-COMPLIANCE WITH REGULATIONS AND PROCEDURES

The major problems facing entrepreneurs in Kesses division due to non-compliance with business regulations and procedures are closure of businesses, eviction from premises, confiscation of goods, destruction of property, bribery of officials and arrests. About 66% of the respondents indicated that they had experienced one or more of the problems mentioned above. Around 87% of these respondents said business closure at one time or another had negatively affected them. Nearly 52% of these felt that the problem affected their business a great deal, in that they had not been able to recover since the last time their business was closed. All of them said they decided to comply with regulations as the only solution to the problem.

The respondents who claimed to have experienced eviction from their premises were 76%. They indicated that besides looking for proper premises, they also decided to comply with all the other regulations. About 2% claimed they had initially decided to move out of business, but later on reconsidered their decision. Almost 23% of the total respondents said their goods had been confiscated at one time or another. However, they claim, the problem is not very common. There were about 81% who claimed that their property had been destroyed and they had to deal with the big losses by finding more

capital. Almost 97% of the respondents indicated that they had bribed licensing officials at one time or another. There was no clear solution to the problem since amounts varied. Nearly 29% of them claimed to have been arrested. The majority, over 90% of them indicated that they had considered compliance as the only solution to the problem. The following table summarizes the information.

Table: 12 Main Problems Faced by Entrepreneurs due to Non-Compliance with Regulations and Procedures

Problem Faced	Proportion of Entrepreneurs who have Faced the Problem (%)	Remainders (%)
Closure of business	87	13
Eviction from premises	76	24
Confiscation of goods	23	77
Destination of property	81	19
Bribery of officials	97	3
Arrests	29	71

Source: Survey data, 2004.

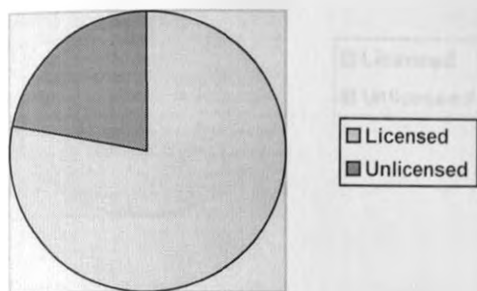
Margin of error = +/-2%

4.2.0 SUMMARY

From the information analysed in the previous paragraphs, a summary can be made. This part will employ use of pie charts and graphs to give a summary of what has been analysed earlier in this chapter.

Firstly, it can be noted that 78% (the mean or average percentage) of the enterprises in Kesses division are licensed by the Central Government. This can be broken down as follows: 92.5% (of the 78%) of general wholesalers are licensed, 74% of retail shops, 85% of food and beverages outlets, 57% of workshops, 100% of petrol stations, 94% of hardwares and 54% of salons. The remaining 22% represent the unlicensed businesses.

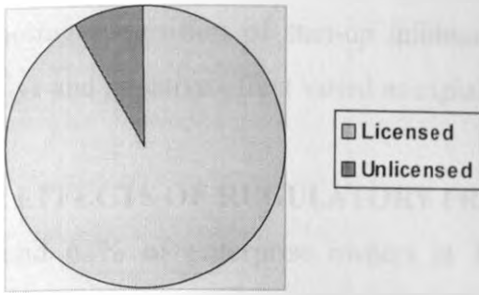
The pie chart below shows the proportion of licensed business to the unlicensed by the central government.



The average number of days taken before a license is received from the day of application is 4 days. General wholesalers (4 days), retail shops (3 days), food and beverage (7 days), workshops (2 days), petrol stations (7 days), hardwares (2 days) and salons (2 days).

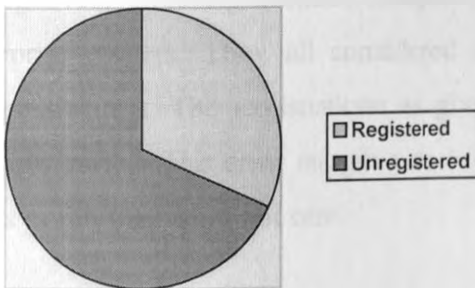
The average amount paid in form of license fees is Kshs.2,600.00. General wholesalers Kshs.5,000.00, retail shops Kshs.1,200.00, food and beverages Kshs.1,800.00, workshops Kshs.3,000.00, petrol stations Kshs.5,000.00, hardwares Kshs.1,500.00 and salons Kshs.800.00

Secondly, the local authority licenses 92% of enterprises in Kesses division. This represents the average percentage when all categories of business are considered. General wholesalers have 100%, retail shops 98%, food and beverages 100%, workshops 96%, petrol station 100%, hardwares 100% and salons 51%. The average amount of days taken between application and receipt of licenses are 1-½ days. The average amount of money paid for the licenses is Kshs.2,070.00. The average amount of money paid as bribes or tips is Kshs.40.00. The following pie chart summarizes this information.



Pie chart showing licensed and unlicensed businesses by the local authority.

Thirdly, it can also be summarised that on average, 32% of businesses are registered in Kesses division. The average amount of time taken between application and receipt of the registration certificate is 2 months. The average amount of money paid for registration is Kshs.1,140.00. The average unofficial money paid to officials is Kshs.385.00. The following pie chart is used to summarise the information.



4.2.1 EFFECT OF REGULATIONS AND PROCEDURE ON BUSINESS ESTABLISHMENT

As discussed earlier, it can be concluded that 23% of enterprise owners in Kesses division (all categories) felt regulatory frameworks affected business establishment. The other 77% were either not sure or felt there was no effect. The effect was positive to 18% and negative to 5% of the respondents. Those who saw negative effect indicated regulatory frameworks as hindering the acquisition of start-up capital, start-up

information and premises. Those who see positive effect indicated the frameworks as promoting acquisition of start-up information and premises. The explanations to both positive and negative effect varied as explained earlier. The error margin was +/-2%.

4.2.2 EFFECTS OF REGULATORY FRAMEWORKS ON BUSINESS GROWTH

Around 62% of enterprise owners in Kesses division, felt regulatory frameworks affected business growth. About 53% felt there was a positive effect whereas 9% felt there was a negative effect. The percentage above is an average value and includes all categories of business taken into consideration in the study. The error margin is +/-2%. The reasons for either hinder or positive effect (promotion) varied as discussed earlier.

4.2.3 EFFECTS OF REGULATORY FRAMEWORK ON BUSINESS COMPETITIVENESS

About 41% of respondents indicated that regulatory frameworks affected business competitiveness positively. Of these 34% considered regulatory frameworks as hindering or negatively effecting business competitiveness. All these made a 62% on average of enterprise owners. They all considered regulatory frameworks as affecting business competitiveness. The explanations as given earlier, basing on the different aspects of business varied. The error margin was +/-2%. The remaining percentage either saw no effect or felt they were not sure.

CHAPTER FIVE

5.0 ENTREPRENEUR PROFILES

This section provides profiles of enterprise owners in the site of study. The information used to construct these profiles was collected through use of entrepreneur profile interview guides. The profiles are organized around the Research Objectives. There is also one profile of one entrepreneur who has succeeded through non-compliance with government regulations and procedures. All these were done in order to provide a clearer picture of the effects of government regulatory frameworks on enterprises in the area of study. The profiles are arranged according to:

1. Enterprise establishment
 - (a) Positive effect
 - (b) Negative effect
2. Enterprise growth
 - (a) Positive effect
 - (b) Negative effect
3. Business competitiveness
 - (a) Positive effect
 - (b) Negative effect
4. Non compliance and business success

5.1 Business Establishment.

(a) Positive effect due to compliance with Government regulations.

Ben – Butchery Owner

With an annual income of about Kshs.1.4 million, Ben considers his business, located at Stage shopping centre, a success. Started three years ago, the business has been able to withstand stiff competition given the many other butcheries in the area. Besides competition, animal markets have never been any better since. The prices have only increased without ever stopping. But the owner is happy that the number of regular customers has improved over time.

At the age of twenty-two and single, Ben is happy since his father, Philip, has assisted him always both morally and financially. Having been able to employ two people, he is happy that he could provide employment, and a livelihood to other people.

The fact that he does only this business currently has assisted him to do it to his best. But he also does farming as an additional source of income. With his secondary school education, Ben is able to manage this business and the farming.

He decided to venture into business when he could not secure a place at any institution to learn a course in business administration. He had always wanted to do a business and when this opportunity came, he did not let it go.

He was able to carry on with the business because he took his time to look for the necessary licences before venturing. He obtained the Ministry of Health Licence, which is given after inspection of premises. Without this licence, the other licences both local authority and central government licences cannot be obtained. The public health personnel cannot inspect the meat, implying that no one will put the stamp on the meat.

On top of scaring the customers away, lack of the stamp on the meat is a police case.

Although the butchery is licensed by both the government and the local authority, as above, its name is not registered. Ben says that he may consider registering it soon. He points out that he chose to license the business to avoid hiding when the local authority inspection team arrives. He realized that if he did so (hiding) several times, the business would collapse. He feels that he was able to start the business because he had money for the licenses and the starting capital.

In this type of business, there must be money for renting a butchery, money for paying for the slaughterhouse services and money to buy the bull for slaughter. If one removes a small amount of this money for other activities like acquisition of licenses he may lack money for the above mentioned. Ben feels he managed because he had extra money. He has been able to remain in the business despite stiff competition and the need to renew licences every year. This is because he feels he has learnt how to treat his customers by remaining open always and offering good prices. For renewal of licenses he considers it a

small problem because the amount of money, as compared to the period of one year, is very small.

He feels that certain regulations in the regulatory frameworks are not necessary, for example the one requiring butcheries to have toilet facilities. Though he has a small eatery behind the building for roasted and boiled meat, he feels the requirement is not very necessary. He maintains that it should only apply to hotels and other food dealers. He has no kind words for the local authority because besides what he sees as unnecessary high levies, the problem is compounded by their shoddy or lack of service to the ratepayers. On the central government, he feels that theirs is necessary for it streamlines the businesses and gives the entrepreneurs an opportunity to be trusted by their customers (said this without much elaboration). The Public Health Act, to him, is necessary so that people can be served good meat in hygienic places to avoid breakout of diseases. He concedes meat is very sensitive when it comes to spread of intestinal infections and diseases.

The entrepreneur has only one recommendation, and is to the effect that the government should assist butchers to acquire modern facilities so as they can run their business without much problems. He cites the fact that they depend on illiterate abattoir owners for the slaughter of the animals, and sometimes much time is wasted on an activity, which would only last a few minutes if modern machines were available.

(b) Negative effect due to compliance with Government Regulations

Bornes– Hotel Owner

When Bornes was retrenched from the Civil Service in 1999, she was given Kshs.40,000.00 as her terminal benefits. Having gotten used to a monthly salary, however small it was, it became hard for her to adjust and the business idea came up. Having assisted her mother one time at a small café, which was catering for a road construction company, she felt she had some sort of experience.

Upon getting some premises fit for a catering unit, Borness started looking for the necessary licences. The local authority-licensing unit required the Ministry of Health permit before they could licence. The same was the case with the trade licencing office. Before she could be given the permit by the Public Health authorities she was required to among other things, have her premises inspected. The inspection team was not satisfied with the condition pertaining to the premises. First, the floor needed to be repaired, second the kitchen needed to be fitted with extra lights, the toilet needed to be renovated. All this meant a lot of money.

To meet the requirements of the public health authorities, Borness used Kshs.12, 000/= out of her initial capital of Kshs.40, 000/=. This was on agreement with the owner of the premises that she wouldn't pay rent for some time. Borness was now required to pay Kshs.1,500/= for the permit, which she did. But the permit took two months to be prepared, and was only prepared when she "oiled" the palms of the officials. The 'oiling' cost five hundred shillings. Upon receipt of the permit, Borness started to look for the other licences. It took her only three days to acquire the licences. But her problems were now just beginning. When it came to finding the people to assist her in the hotel, she needed at least three people for cooking and serving the customers.

The people to work in a hotel must undergo a mandatory medical check up. This meant Borness had to pay the fare and medical fees for the prospective employees. Two of them had traces of typhoid causing organisms in their blood samples. This meant disqualification. Another five cases of the same and Borness felt like quitting the business. By the time she was about to start the business, Borness did not have enough money for the supplies. Being new in the business not known by the suppliers, none offered her any supplies on credit. Borness decided to postpone the opening of the business to look for more money. Compounded by lack of any source of money, the quest for more money proved futile. That put in the last nail in the business's coffin. Borness has never recovered her money nor started any other business. She now relies on her small garden where she plants kales.

5.2 Business Growth

(a) Positive effect due to compliance with the Regulations

Shadrack – Retail Shop Owner

Having gone to business for what he considers to earn a living, the thirty-year-old single entrepreneur feels he is at the middle-income level. The name of his shop – Freelance General Shop – was derived from his former job as a freelance journalist's assistant. He had never ventured into business prior to this. He went up to secondary school level.

The annual turnover of his business is Kshs.2.8 million. There is only one employee who is assisting the shop-owner. Started ten-years ago, the owner feels the business has been successful. The only main challenge over the years is stiff competition. The main success he identifies is the expansion of the business, having started from a temporary building, before moving to permanent premises after buying and building on a plot within the central business district at Cheboiywo centre.

Apart from the business, the entrepreneur also does farming as a supplementary income generating activity. This has enabled him to adjust when faced with financial problems. Due to the stiff competition in the business and price variations, the entrepreneur claims to have experienced hard times on several occasions. He has been able to cope with the problems by adjusting price from time to time and offering quality services to the customers.

Shadrack's shop is licensed by both the government and the local authorities. He says he chose to get the licenses to avoid problems or clashes with the authorities. He managed to start his business because he had extra money apart from the starting capital. The extra money was for traveling to and from Eldoret (where the offices of the trade licencing officer and local authorities are) and acquisition of the licenses. He also paid some money to the official to 'speed up' the processing of his forms. He feels that if he had no extra money he could have been forced to use part of his capital and it could have been hard for him to start the business.

The business has also managed to grow beside stiff competition because Shadrack has learnt how to fight competition. This he has done by improving the services, ensuring that the shop is always open to avoid inconveniencing the customers and ensuring good customer care and relations. He notes that it is important to acquire the necessary licenses to avoid clashes with the authorities who may take punitive action. When such action is taken, he is not the only one who suffers due to lack of income, but his business will also suffer due to inconveniences to customers which in itself hurts the competitiveness of the business.

He feels that the regulatory frameworks are necessary to avoid unfair competition, wrangles and lawlessness in the business fraternity. He recommends that the government reviews the Regulatory frameworks in order to remove unnecessary regulations, for example the clause that forces entrepreneurs to disclose their income. Without elaborating, he feels the government should regulate the prices of certain commodities to avoid unnecessary competition. In conclusion, he feels a lot needs to be done before enterprise owners can give the government a clean bill of health.

(b) Negative effect due to non-compliance with the Regulations

Charles – Former Hardware Owner

When he completed school in 1993, Charles ventured directly into business a few months later in 1994. He chose hardware business because as an entrepreneur, he had identified a business opportunity in his area and did not want to let it go. There was no hardware shop anywhere near Koisagaat and its environs including Lessos, and he felt it was a good initiative to set up one.

With an annual turnover of Kshs.3.2 million, Charles's business had all reasons to grow and that is exactly what happened. As of 1995, the business had expanded from selling 20 bags of cement and 3 bundles of iron sheets per week to dealing with more than 150 bags and 15 bundles per fortnight. May be, the rapid expansion of the business brought about

false feeling of achievement because soon, Charles started opening his business and closing at any time he felt. He did not consider the inconveniences caused to customers. Compounded by the problem of lack of a bank within the vicinity, many customers shifted to buying their goods in Eldoret or Kapsabet towns. Hardware materials require a lot of money and customers withdraw from the banks and spend directly. This is more convenient than walking around with a lot of money.

Though his business was licenced by the government, soon, Charles did not bother about renewing the licences. For a business of such a magnitude it was a shame that he could not afford to pay for the local authority licences and had to close when word went round that the inspection team was around. Many customers were also lost in the process. Another mistake is that Charles wrote the name of the business and included the word 'Limited' though it was not registered. This caused him a lot of problems when the Value Added Tax (VAT) people came visiting. When he was asked to produce his Pin Number he did not have any. He then applied for the Pin Number and registered for VAT without knowing that he was already paying VAT through his suppliers. It meant a double remittance of VAT, which contributed in a way to the collapse of his business. By November 1995, the business could be described as dead barely two years since it started.

Another factor, which contributed to the collapse of the business, was overspending which implied use of working capital on other activities. This also became unbearable for the business. There were also many debtors who could only be described as bad since they had no intention of repaying. The business finally closed in January 1996 when the landlord could not bear unpaid rent any longer and decided to place a padlock on top of the other padlocks.

Charles is now a farmer planting some maize for subsistence and selling the surplus. He also keeps three dairy cows. His wife, who distributes it to small food outlets in the neighbourhood, sells the milk. About business, Charles plans to start another one but not very soon.

5.3 Business Competitiveness.

(a) Positive effect due to compliance with the Regulations

David – Hotel Owner

Born 40 years ago, David started his hotel business four years ago. The main reason for venturing into business was due to his being retrenched from the civil service. Married with two children, he considers himself a middle class income earner. He has no other occupation, other than the business. He studied up to secondary school level and sat for his O-levels.

The business, Peacock Hotel, offers catering services to the Moi University Community. It is located at the main bus-stage near the University's administration block. The annual turnover of this business is Kshs.336, 000.00 per annum. As a catering enterprise, David considers this a lot of money. He has seven employees, three in the kitchen and four serving the customers. The business is licensed by the local authority, the government and ministry of health. He renews all the licenses every year. He was unable to start the business on time and had to delay for around two months because he did not have the money for licenses. He needed extra money to hire cooks and other workers. He has been able to sustain his business despite stiff competition by offering better prices and good services. He renews his licences on time and ensures high hygienic conditions to avoid the ministry of health licences being revoked.

David feels that the regulations are necessary so that high hygienic standards are maintained for better public health. Regulations also ensure fair competition because all players in the field must attain a certain standard before they can be licensed. He feels the money paid in fees is not much but average.

According to David, the business is a success since he has been able to move from a non-formal building to his new building on a plot he bought with the proceeds from the business. The main challenges facing his business are competition from other hotels, which number more than five within a small radius.

The main successes of his business include the fact that the business has expanded from temporary to permanent premises. He bought the plot, which also doubles as his home and as explained earlier, from the proceeds of the business. The business has no financiers and the fact that it stands firm, is a success on its own, he believes. David solves any problems facing the business for example competition, by offering high standards of services, quality food and good customer care and relations.

(b) Negative effect due to compliance with the Regulations

John – Soft Drink Distributor

Five years ago, John ventured into Soft Drink Distribution Business. At 26 years of age and single, Silas considered this a noble idea. The business would, according to his business plan, have an annual turnover of Kshs.2.01 million. For this kind of business, one has to sign a contract with the drinks supplier. John had opted to deal with goods from the Coca Cola Company. But the company cannot enter into a contract if the business is unlicensed. Therefore, John decided to look for the necessary licences. He started with the trade licensing office. The licence took two weeks to acquire and only after John gave lunch to the official.

By the time John got the licence, or so he claims, two other people had already gotten the licences and signed contracts with the company of his choice. This meant that he was going to face more competition. When John went to the local authorities for a licence, the officials said he could not obtain a licence without one from the health authorities since he was going to deal with food products. This meant a journey to the public health authorities. It was not a problem to obtain this licence and took only three days. Having acquired all the documents, he went to the company to sign the contract. By this time he had used a lot of money, something he had not envisioned. This dealt a great blow to his capital base. He had to borrow extra money to meet the minimum required by the company in order to be given the right to deal with their products.

When he finally started the business, he realized that the business was very seasonal and there was almost no business during the rainy season. But the main problem was that he

Sosten would use another person's name and national identification card to sell his cattle. With assistance from some willing villagers whom he had paid some money, he would travel through darkness with the animals to avoid being asked to produce the letter and licences. When he reached the market, he gave some money to the clerks as a bribe to register his cattle without the production of the necessary documents. Sosten did not comply with the regulations but he went on to become very successful in the business. He had started with only 3 head of cattle, but was dealing with almost a hundred by the time he decided to drop the business activity. He does not divulge much on the decision to leave business but only says he had acquired what he wanted. He now plants tens of hectares of maize and wheat on his father's remaining farm near Chuiyat center. Uasin Gishu district.

CONCLUSIONS AND RECOMMENDATIONS

From the study, it can safely be concluded that regulatory frameworks affect business establishment, growth and competitiveness of enterprises in Kesses division more positively than negatively. From the summary, it can be seen that 18% of respondents considered positive effect on business establishment, 53% on business growth and 41% on business competitiveness. This is as opposed to 5% who felt negative effect on business establishment, 7% on business growth and 21% on business competitiveness. The average percentage for positive effect is 37% and for negative effect 12%. This shows that generally the regulations affect business more positively than negatively in the area of study.

The other important conclusion is that some of the enterprise owners in Kesses division have considered compliance as the solution to most problems hindering the running and development of businesses. This can be supported by the fact that the enterprises, which have complied, tend to have more annual turnovers than those who have not complied. The average annual turnover for licensed businesses was Ksh. 800,000 and for the unlicensed Ksh. 580,000. It may also be supported by the fact that more enterprise owners (67%) have chosen to comply in the Division as opposed to 33% who have not complied.

Lastly, as can be seen from the entrepreneur profiles, more rural entrepreneurs have succeeded while complying although a few may have failed while complying. Some have also succeeded while not complying and many others have failed for not complying. This shows the nature of effects which the regulatory frameworks can have on enterprises. The frameworks are not always favourable and may depend on the ingenuity of the individual entrepreneurs for either success or failure. All these can explain the reason why some rural-based enterprises have demonstrated some ability to get started, grow, compete and even survive longer than some urban-based SMEs, despite the somehow unfavourable nature of the government regulatory frameworks in place.

Based on the above conclusions, this study recommends that regulatory frameworks currently in place in Kenya should be made to provide order in the Small and Medium Enterprise sector without being a hindrance to its development in any way. The regulatory frameworks should not only provide a structure for operations but should also be seen to be friendly. This will ensure that the enterprises are able to direct their strategies by minimization of unnecessary costs and optimal use of time without undue interference from authorities either through the regulatory frameworks or other means.

Given that both compliance and non-compliance have costs, there is need to reduce the costs of compliance. Compliance should not lead to failure in business as can be seen in the survey results and entrepreneur profiles. The government should ensure that the regulatory frameworks are more favourable so that more entrepreneurs will be willing to comply. As exemplified by the entrepreneurs in Kesses Division, there is more success in compliance than in non-compliance and if the regulations are more favourable than they are currently, more entrepreneurs would readily be willing to comply.

To achieve the above, it is recommended that the government and local authorities should be strict only in the sense that the law is followed, to achieve order in the sector, while ensuring that the necessary licences and documents are affordable. The offices for issuance of licences should be decentralized so that all people can get them easily without unnecessary transport costs. This can be done if possible, at least, at the Divisional administrative level. More officials should be posted to the centers so set up so that less time is taken to process the documents. The government should also ensure discipline among its officers to rid out corruption.

Lastly, entrepreneurs and potential business enterprise owners should be encouraged to abide by the law, since they stand to benefit in so doing, but only if the government regulatory frameworks in place are more favourable.

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APPENDICES

APPENDIX 1: SAMPLE SURVEY QUESTIONNAIRE

APPENDIX 2: ENTREPRENEUR PROFILE INTERVIEW GUIDE

APPENDIX 1: SAMPLE SURVEY QUESTIONNAIRE

STUDY TITLE: THE IMPACT OF REGULATORY FRAMEWORKS ON BUSINESS IN KENYA: A SURVEY OF RURAL SMEs IN KESSES DIVISION, UASIN GISHU DISTRICT

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(Please tick wherever appropriate)

1. Name.....
2. Age..... years
3. Sex Male Female
4. Type of business.....
5. Years of being in the business..... years
6. Position/status of respondent (e.g. owner, owner/manager, manager etc)

Business's legal status

7. Is the business licensed by the government (central)? Yes No
If yes, when was it licensed (date of acquiring license).....
(If not licensed go to question 11)
8. Procedures for acquiring a central government licence
 - (a) Did you apply for the licence? Yes No
 - (b) If yes, how long did it take before you received the licence?..... (Months, days)
 - (c) How do you consider the time taken between application for and receipt of the licence?
Reasonable
Unreasonable
 - (d) (i) If the time taken is unreasonable, what time do you think is reasonable: _____ (months, weeks, days, hours).
(ii) Give reasons for your answer above:

 - (e) Did the time taken affect the startup (establishment) procedures of your business?
Yes No
 - (f) If yes, what did you do? _____ Were any fees required?
Yes No
 - (g) If yes, how much? Kshs. _____
 - (h) How do you rate the amount above?
Reasonable
Unreasonable
 - (i)(i) If the amount is unreasonable, what amount do you think is reasonable? Kshs _____
(ii) Give reasons for your answer above:

 - (j) Did the amount paid affect your start-up (operational) capital?
Yes No
 - (k) If yes what did you do? _____
 - (l) Did you pay any other charges apart from the official charges?
Yes No
 - (m) (i) If yes, how do you classify them?
Token (tip to the officials) Bribes
(ii) Give reasons for your answer _____ Did you experience any problems while applying for the licence?

Yes No

(n) If yes, what were the problems

- i. _____
- ii. _____
- iii. _____

(o) How did you go about solving the problems in (o) above?

- i. _____
- ii. _____
- iii. _____

(p) What do you recommend should be done about the problems in (p) above?

(q) Are you required to renew your licence? Yes No

(r) If yes, how often _____ (e.g. Annually, perennially)

(s) Does the renewal affect the running of your business? Yes No

Give reason for either answer: _____

9. Procedures for acquiring a Local Authority Licence

(a) Did you apply for the licence Yes No

(b) If yes, how long did it take before you received the licence? _____
Months, days)

(c) Were any fees required? Yes No

(d) If yes, how much _____ kshs.

(e) Did you experience any problems while applying for the licence?

Yes No

(f) If yes, what were the problems?

- i. _____
- ii. _____
- iii. _____

(g) How did you go about solving the problems above?

- i. _____
- ii. _____
- iii. _____

10. Business Registration

(a) Is your business registered? Yes No

If it is not registered, go to question (f)

(b) If it is registered, when was it registered? _____

(c) How long did it take to register it? _____ days

(d) With whom are you registered

A.G. Chambers

Social Services

Others (specify) _____

(e) Were any fees required? Yes No

(f) If yes, how much Kshs. _____

(g) Did this amount affect your running/operational capital

Yes No

(h) If yes, how? (Give reasons) _____

(i) Why did you consider it necessary to register? (Give reasons) _____

(j) Have you experienced any problems from the Registration Authorities? Yes No

(k) If yes, what are the problems?

- i. _____
- ii. _____
- iii. _____
- iv. _____

(I) How did you go about solving the problems above?

- i. _____
- ii. _____
- iii. _____
- iv. _____

11.

(a) If the business is not licenced as in (7) above, do you have any reasons? Yes No

(b) If yes, what are the reasons _____

(c) Have you experienced any problems due to your business being unlicensed? Yes No

(d) If yes, what are the problems? _____

(e) Have the problems above affected the running of your enterprise? Yes No

(f) If yes, how? (Give reasons) _____

12. Do you consider government regulatory frameworks (e.g. licensing, Name registration) as affecting business growth? Yes No (If no go to question B)

(A) If yes, and according to you:

(a) How do these frameworks affect stock or service provision capacity? _____

(b) How do they affect the turnover rates? _____

(c) In what ways are they affecting the net profit? _____

(d) What is their effect on the working capital? _____

(e) What is their bearing on fixed assets (e.g. land, premises, infrastructure)? _____

(f) How are they affecting new business opportunities? _____

(B) If no, why do you think so? _____

13. Do you think the government regulatory frameworks affect business competitiveness? Yes No (If no, go to question B)

(A) If yes, and according to you:

(a) How do these frameworks affect cost reduction strategies? _____

(b) What is their bearing on utilization of time? _____

(c) How do they affect customer care and relations? _____

(d) In what ways are they affecting business and personal goals? _____

(e) How are they affecting risk minimization strategies? _____

(f) In what ways are they affecting implementation of new infrastructural changes (e.g. in technology) when there are any? _____

(B) If no, why do you think so? _____

APPENDIX 2: ENTREPRENEUR PROFILE INTERVIEW GUIDE

PERSONAL CHARACTERISTICS

1. Name: _____
2. Sex: Male Female
3. Age: _____ years
4. Marital status: Single Married Widowed Separated/Divorced
5. Occupation (other than the business): _____
6. Level of income: Low income Middle-income High income
7. Education: Primary Secondary Tertiary None

If tertiary: go to question below)

Qualification: _____
Area of specialization: _____

Business Enterprise Characteristics

- Name of business: _____
Type of business: _____
Other business apart from this (if any): _____
Earlier business (if any): _____
Annual turnover of this (current) business: _____
Number of employees: _____
Age of the business: _____ (years, months, days)
Business rating: Successful Not successful
Main challenges (if any): _____
Main successes (if any): _____
Do you have any financiers? Yes No
If yes, name them: _____

DISCUSSION QUESTIONS

- (i) What made you venture into business?
- (ii) What are your other income generating activities?
- (iii) Give us a history of your business since it started to date.
- (iv) Have you achieved any benefits from the business?
- (v) What are the major problems facing your business?
- (vi) How do you go about solving the problems above?