LABOR MIGRATION AND SOCIO-ECONOMIC DEVELOPMENT: A CASE STUDY OF KENYA (2000-2010)

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A Research Project submitted in partial fulfillment of the Degree of Masters of Arts in International Studies
DECLARATION

I declare that this research project is my original work and has not been presented for a degree in any other university.

Sign: .................................................... Date: ....................................................

This research project has been submitted for examination with my approval as university supervisor

SUPERVISOR:

Sign: .................................................... Date: ....................................................
ACKNOWLEDGEMENTS

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TABLE OF CONTENTS

DECLARATION .......................................................... ii
TABLE OF CONTENTS ................................................... v
LIST OF TABLES .......................................................... viii
LIST OF FIGURES ......................................................... viii
LIST OF ACRONYMS .................................................... ix
ABSTRACT ................................................................. x
CHAPTER ONE ......................................................... 1
INTRODUCTION ......................................................... 1

1.0 Background to the Study ........................................... 1
1.1 Statement of the Research Problem ......................... 4
1.2 Objectives of the Study ........................................... 6
1.3 Justification of the Study ......................................... 6
1.4 Literature Review .................................................. 7

1.4.1 Migration Realities .............................................. 8
1.5 Theoretical Literature review ................................. 15

1.5.1 The neo-classical-functional approach .................. 15
1.5.2 Historical-Structural Theory ............................... 17
1.5.3 The Push-Pull Framework .................................... 20
1.6 Theoretical framework .......................................... 22
1.7 Hypotheses .......................................................... 24
1.8 Research Methodology ......................................... 24

1.8.1 Research Design ............................................... 25
1.8.2 Population ........................................................ 25
1.8.3 Research Instrument ......................................... 26
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DECLARATION</td>
<td>ii</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>v</td>
</tr>
<tr>
<td>LIST OF TABLES</td>
<td>vi</td>
</tr>
<tr>
<td>LIST OF FIGURES</td>
<td>viii</td>
</tr>
<tr>
<td>LIST OF ACRONYMS</td>
<td>ix</td>
</tr>
<tr>
<td>ABSTRACT</td>
<td>x</td>
</tr>
<tr>
<td>CHAPTER ONE</td>
<td>1</td>
</tr>
<tr>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>1.0 Background to the Study</td>
<td>1</td>
</tr>
<tr>
<td>1.1 Statement of the Research Problem</td>
<td>4</td>
</tr>
<tr>
<td>1.2 Objectives of the Study</td>
<td>6</td>
</tr>
<tr>
<td>1.3 Justification of the Study</td>
<td>6</td>
</tr>
<tr>
<td>1.4 Literature Review</td>
<td>7</td>
</tr>
<tr>
<td>1.4.1 Migration Realities</td>
<td>8</td>
</tr>
<tr>
<td>1.5 Theoretical Literature review</td>
<td>15</td>
</tr>
<tr>
<td>1.5.1 The neo-classical-functional approach</td>
<td>15</td>
</tr>
<tr>
<td>1.5.2 Historical-Structural Theory</td>
<td>17</td>
</tr>
<tr>
<td>1.5.3 The Push-Pull Framework</td>
<td>20</td>
</tr>
<tr>
<td>1.6 Theoretical framework</td>
<td>22</td>
</tr>
<tr>
<td>1.7 Hypotheses</td>
<td>24</td>
</tr>
<tr>
<td>1.8 Research Methodology</td>
<td>24</td>
</tr>
<tr>
<td>1.8.1 Research Design</td>
<td>25</td>
</tr>
<tr>
<td>1.8.2 Population</td>
<td>25</td>
</tr>
<tr>
<td>1.8.3 Research Instrument</td>
<td>26</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>1.8.5 Data Analysis Methods</td>
<td>26</td>
</tr>
<tr>
<td>1.9 Definition of Terms</td>
<td>26</td>
</tr>
<tr>
<td>1.10 Scope of the study</td>
<td>27</td>
</tr>
<tr>
<td>1.11 Limitations of the study</td>
<td>28</td>
</tr>
<tr>
<td>1.12 Chapter outline</td>
<td>28</td>
</tr>
<tr>
<td>CHAPTER TWO</td>
<td>30</td>
</tr>
<tr>
<td>INTERNATIONAL TRENDS IN LABOUR MIGRATION</td>
<td>30</td>
</tr>
<tr>
<td>2.1 Introduction</td>
<td>30</td>
</tr>
<tr>
<td>2.2 Labor migration in East Africa</td>
<td>33</td>
</tr>
<tr>
<td>2.3 Mobilizing the Diaspora</td>
<td>35</td>
</tr>
<tr>
<td>2.4 Linking Migration and Development Policies</td>
<td>36</td>
</tr>
<tr>
<td>2.5 Benefits of Labor Migration</td>
<td>39</td>
</tr>
<tr>
<td>2.6 Losses of labour migration</td>
<td>42</td>
</tr>
<tr>
<td>CHAPTER THREE</td>
<td>47</td>
</tr>
<tr>
<td>THE KENYAN EXPERIENCE</td>
<td>47</td>
</tr>
<tr>
<td>3.1 Migration in Kenya 2003-2010</td>
<td>49</td>
</tr>
<tr>
<td>3.2 Remittances in Kenya</td>
<td>51</td>
</tr>
<tr>
<td>3.2.1 Uses of remittances in Africa</td>
<td>56</td>
</tr>
<tr>
<td>3.2.2 Remittance Service providers (RSP)</td>
<td>57</td>
</tr>
<tr>
<td>3.2.3 Hawala: The Somali Community-Based Remittance System</td>
<td>58</td>
</tr>
<tr>
<td>CHAPTER FOUR</td>
<td>60</td>
</tr>
<tr>
<td>LEGAL AND INSTITUTIONAL FRAMEWORK</td>
<td>60</td>
</tr>
<tr>
<td>4.1 Introduction</td>
<td>60</td>
</tr>
<tr>
<td>2.6 Labour Migration Policies in the Philippines</td>
<td>62</td>
</tr>
<tr>
<td>4.2 Kenya’s Migration Law</td>
<td>63</td>
</tr>
<tr>
<td>4.3 Labor Migration Framework within the East African Community</td>
<td>70</td>
</tr>
</tbody>
</table>
4.4 Bilateral and Multilateral Arrangements

CHAPTER FIVE

IMPACT OF LABOUR MIGRATION AND SOCIO ECONOMIC DEVELOPMENT IN KENYA

5.1 Introduction

5.2 Effects of Labor Migration on Socio-Economic Development

5.4 Policy initiatives for labor migration to enhance socio-economic development

CHAPTER SIX

SUMMARY CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

6.2 Summary

REFERENCES

APPENDICES

APPENDIX 1

STRUCTURED INTERVIEW SCHEDULE

APPENDIX 2

MINISTRY OF LABOUR AND HUMAN RESOURCE DEVELOPMENT

APPENDIX 3

MINISTRY OF FOREIGN AFFAIRS

APPENDIX 4

MINISTRY OF IMMIGRATION AND REGISTRATION OF PERSONS

Appendix 5:

QUESTIONNAIRE FOR MIGRANTS AND RETURNEES
LIST OF TABLES

TABLE 3.1 Migration Stocks of Kenyans Abroad..........................................................50
Table 3.2: Monthly Remittance Inflows in Kenya (2004 to 2010 in US$ '000)...........55
Table 5.1: The Reasons for Migrations (SOURCE: SURVEY DATA; 2011).................75
Table 5.2: Source of Information................................................................................76
Table 5.3: Level of Competence.................................................................................78
Table 5.4: Payout Institutions....................................................................................79
Table 5.5: Remittance Service Provider.....................................................................80

LIST OF FIGURES

Figure 5.1: Perception on the Impact of Migration on Socio-Economic Development....82
Figure 5.2: Use Remittances for Socio-Economic Development.................................84
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labor Organization</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization on Migration</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>EC</td>
<td>European Community</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>EAC</td>
<td>East African Community</td>
</tr>
<tr>
<td>FDI</td>
<td>Foreign Direct Investment</td>
</tr>
<tr>
<td>GATS</td>
<td>General Agreement of Trade and Services</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>HDI</td>
<td>Human Development Index</td>
</tr>
<tr>
<td>ICT</td>
<td>Information and Communication Technology</td>
</tr>
<tr>
<td>KAPEA</td>
<td>Kenya Association of Private Employment Agencies</td>
</tr>
<tr>
<td>PRSP</td>
<td>Poverty Reduction Strategy Paper</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
<tr>
<td>CBK</td>
<td>Central Bank of Kenya</td>
</tr>
<tr>
<td>MOL</td>
<td>Ministry of Labour</td>
</tr>
<tr>
<td>IOs</td>
<td>International Organizations</td>
</tr>
<tr>
<td>POEA</td>
<td>Philippines Overseas Employment Agency</td>
</tr>
</tbody>
</table>
ABSTRACT

Kenya is a labour exporting country with a substantial share of GDP generated through remittances. Due to unemployment and underemployment Kenya has over the years focused on exporting labor export to the OECD countries, the Gulf Nations, Europe and America in order to cover up the employment deficit. Studies on labor migration in Kenya, in the past mainly focused on microeconomic processes particularly individual decision making behavior of migrants rather that the general economic and developmental benefit of migration. As a result, there is a considerable gap in knowledge on the trends and patterns of Kenyan labor migration as well as the policies that govern and regulate the same. This study exploits data spanning the years 2000 to 2010 to investigate the impact of labour migration on socio-economic development in Kenya over the past decade.

This study was carried out using multiple approaches of data collection. The study mainly relied on both primary and secondary sources. The sampling method used in this research was purposive sampling. The study also briefly discusses the policy environment governing labour migration in Kenya and provides policy recommendations for action. The findings of the study reveal that remittances from migration enabled migrants and their family members to invest in education, healthcare, real estate, agriculture and other private enterprises. Most importantly, the study concludes that, with proper policy and institutional framework migrants can contribute to the socio economic development of the country and reduce the negative effects associated with labour migration.
CHAPTER ONE

INTRODUCTION

1.0 Background to the Study

Labour migration has been associated with a courageous expression by individuals to overcome adversity and live better lives. Human migration both within and outside their state boundaries has increased exponentially leading to the current century being termed as the 'age of migration'. Moreover, advances in transport, easing migration regimes, global economic interconnection and activities induced by climate change, have led to rapid increase in the international movement of people. Consequently, over the years governments and international organizations have endeavoured to regulate labor migration for with the principal aim of ensuring that it benefits both the sending and the destination countries.

International efforts to regulate labour migration dates back to 1919 when the International Labour Organization (ILO) expressed the need to protect the interest of workers employed in countries other than their own. This mandate is articulated in the "Decent Work Agenda." The Decent Work Agenda consists of four strategic objectives. These strategic objectives are: The realization of standards and the fundamental principles and rights at work. The creation of greater opportunities for women and men to secure decent employment and income, Enhancing the coverage and effectiveness of social protection for all and strengthening tripartism and social dialogue. This was mainly geared towards enhancing social and economic security for migrant workers who were considered a vulnerable group of workers.

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On its part, the WTO (World Trade Organization) applies to labor as an internationally tradable service. Article 1:2 GATS provides for provision of service through movement of natural persons of a member in the territory of another WTO member. The service sectors covered under GATS include health professionals, construction workers, tour guides, accountants and software developers. However, recent migration trends indicate that labor migration has expanded whereby both skilled and non-skilled labourers move freely in search for employment beyond the national borders. The current situation does not restrict labor migration to the categories under GATS.

Efforts to synchronize labour migration in Africa started taking shape in the year 2006. This was mainly informed by the success stories of regulated labour migration in Asian countries such as the Philippines, Singapore, India, and Sri-Lanka and so on following regulated labor migration. The African Continent was alive to the fact that the increasing population and the diminishing job opportunities made labour migration inevitable hence there was need to regulate it rather than restrict it. As a result, the African Union adopted a Continental Migration Policy for Africa between 25th to 29th June 2006 in Banjul the Gambia. This migration policy framework document provides an integrated and comprehensive guideline on labor migration, border management, irregular migration, migration and development, migration and human rights, interstate cooperation and partnerships as well as other social ramifications of migration.

Subsequently, in November 22nd to 23rd 2006, there was a joint “Africa-EU Declaration” on migration and development. Ministers for Foreign Affairs, ministers responsible for development from Africa and EU states as well as AU and EC commissioners gathered in Tripoli where it was recognized that the fundamental causes of migration within and from Africa are poverty and

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3 Antonia Carzaniga; The GATS mode 4, and Pattern Commitments (Matoo and Carzaniga Eds. 2003)p.21
underdevelopment, aggravated by demographic and economic imbalances, unequal terms of global
trade, conflicts, environmental factors, poor governance, uneven impact of globalization and other
humanitarian disasters.\(^5\) The declaration emphasized that well-managed migration can promote
closer ties between countries of origin, transit and destination. This ministerial conference also
adopted the “Ouagadougou Action Plan” to combat trafficking in human beings, especially women
and children. This was based on the understanding that irregular migration trafficking through
trafficking had negative social effects on the migrants since they ended up doing dehumanizing jobs
such as prostitution. The Ouagadougou Action Plan sought to ensure that the process of labor
migration was humane and safe if the continent was to benefit from the process.

As much as there was consensus across the globe on the need to liberalize labor migration, it was
clear that many countries still placed barriers on labor migration for a number of reasons including
security and demographic concerns. The dilemma for many countries was whether to restrict
migration for national security or to open the frontiers and benefit from the evident returns of labor
migration. Consequently, the Human Development Index Report of UNDP ‘2009’ entitled;
“Overcoming barriers to facilitate human mobility and development” was published. This report
outlines the challenges that face labor migrants and suggests a number of policy issues
recommendations to regulate labor migration. The HDI report encourages countries to take up
policies that enable countries to open up their borders to labor migrants.

In addition, on 13th November 2009, there was an African group workshop on migration matters in
Geneva, whose main agenda was to underscore the cross cutting nature of migration and its
challenges to multilateral specialized agencies. The issues of concern included coherence in policy

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\(^5\) African Union & European Union; Joint Africa-EU declaration on Migration and Development. Tripoli (November: 2006)
making with regard to the migration and development nexus as well as the human rights challenges associated with labor migration. One major resolution arrived at during the workshop was the need for labour migration in Africa to be guided by clear policies.

At the regional level, the protocol on the establishment of the East African Community Common Market Part D on free movement of persons and labor provides for harmonization of mutual recognition of Academic and Professional qualifications in Article 11 and harmonization of Labor policies Laws and programmes in Article 12.\(^6\) The protocol recognizes labor as a key driver of the economy and emphasizes on the need to gradually open up the labor markets within the region. In Kenya, there are three instruments that regulate labor migration. The first one is Sessional Paper No.6 on Employment\(^7\) which provides guidelines for the management of foreign employment. The second one is the Sessional Paper on mainstreaming the Kenyan Diaspora in Development.\(^8\) Recently the Labor Institutions Act 2007 was enacted to regulate employment agencies.

1.1 Statement of the Research Problem

In Kenya, unemployment remains one of the major challenges. The 2009 population census estimated the population of Kenya to be 38 Million and it is projected that by 2020, the population will be at 52 Million. The active population aged 15-64 makes up 55.10% of the total population. As at 2009, the working population was a total of 17.47 Million.\(^9\) On the contrary, growth in income generating activities has not kept pace with the growth in the labour force. Other factors contributing to unemployment include declining level of investment, declining productivity and competitiveness as well as a weak incentive structure for the private sector. In any developing economy, the challenge of unemployment has far reaching implications in the standards of living as

\(^7\) Sessional Paper No.6 on Employment
\(^8\) Sessional Paper on “Mainstreaming the Kenyan Diaspora in Development.”
well as the quality of labour force and its productivity. Due to the surplus in the labour force and a saturated local labour market, Kenyans have in the recent past made deliberate decisions to improve their livelihood by seeking employment beyond the national frontiers.

Although labour migration is assumed to have implications in socio-economic development, most of the literature available reviews the two concepts in isolation yet there is a close symbiotic relationship between the two concepts. This is unfortunate since the developmental factors influencing migration decisions are likely to influence development outcomes in sending countries and communities. Generally, scholars have tended to separate developmental determinants and effects of migration from the general processes of social and economic change. There is a clear need to study relationship between labor migration and socio-economic development.

A further obstacle to understanding the dimensions of labour migration in Kenya, is lack of adequate data. Analyses of social and economic impact of emigration; requires accurate and detailed data and information which is currently not available in most African countries. Moreover, remittance data collection in Kenya is not a well developed process even though the Central Bank of Kenya requested banks and Forex Bureaus to collect remittance-flow data. Paucity of data therefore, would be necessary to enable African countries to evaluate and situate their positions and policies in the regional and global context of labour migration and development.

In addition, with the expanded meaning of security to include economic and social issues, there is an increasing need to study migration in the context of its socio-economic contribution and how it is bound to raise the living standards of the migrants and their dependants. Most of the literature on international labor migration is based on the experiences of Eastern, South Eastern Asia and Latin America. These studies highlight the benefits that have accrued from international labor mobility in
these regions. However, research on labor migration in the African context and Kenya specifically, remains scanty and this can be explained by fact that the continent started concentrating on labor migration and development issues much later compared to the Asian and Latin American countries. The aim of this research therefore is to fill the gap on literature in the area of labour migration, socio-economic development and remittances. The findings of this research will cast light on common misconceptions regarding labor migration with a key focus on Africa and more specifically on Kenya’s experience.

1.2 Objectives of the Study

The overall objective of this study is to look at the relationship between labor migration and socio-economic development with reference to Kenya. To achieve this objective the study had the following specific objectives:

i. To analyze labor migration and how it has contributed to socio-economic development in Kenya.

ii. To evaluate Kenya’s legal and policy framework on labor migration

iii. To recommend policy initiatives for labor migration to enhance socio-economic development in Kenya.

1.3 Justification of the Study

The nexus between migration and development is receiving renewed attention from policy makers and academics alike. For policy makers, the challenge is how to formulate policies and create institutions and structures that will lead to maximizing on the benefits of labor migration. On the other hand, scholars are making efforts to document labor migration, the trends and stocks in the context of socio-economic development. The labor force of a country plays an important role in
the development process. Particularly through the wages earned and how they are invested. The aim of this study is to add new insight on the existing literature and contribute to the policy framework for the management of labor migration in Kenya. This study also provides an increased appreciation for the adoption and use of best practices in management and regulation of labor migration.

The past dominance of quantitative economics in labor migration debates has been replaced by the study of labor migration as a key element of the development process. Most reports and analysis in contemporary literature have dealt with labor migration from economic standpoints. However, there is a big gap between what is and what ought to be. The mix between academic studies and policy interventions remains highly hypothetical. Focus is on a global or international perspective at the expense of national and individual interests. This discourse therefore deepens the approach in understanding labor migration and socio-economic development by exploring the concept of remittances as an outcome of migration.

The recommendations from this study will be relevant to policy makers in the Ministries of Immigration and Labor as well as to other stakeholders in the labor migration process and more importantly to the migrants themselves. Moreover, the findings of this study are expected to fill the existing gap in the literature on labour migration with special focus on Kenya.

1.4 Literature Review

The literature that is reviewed in this section, includes publications from various economists and scholars, from government ministries and departments, reports from international organizations and other stakeholders that have programmatic interest in labor migration. This section reviews the
migration trends, realities, the concept of remittances and socio-economic development with a view to provide a broader understanding of labor migration.

1.4.1 Migration Realities

The debate on labor migration has invited both optimistic and pessimistic views. The first dimension of the migration debate revolves around the demographic effects of labor migration on the reduction of global economic inequality in developing countries many of which are labor abundant. On the other hand, labor migration from the developing to developed economies is viewed as a modern expression of imperialism, slavery and servitude. Those who belong to this school of thought see migrants as a vulnerable group of people at risk of exploitation.

David\textsuperscript{10} observes that labor migration is motivated and sustained by three major influences - demand-pull factors in destination countries, the supply-push factors in the countries of origin and the network factors that link the origin and the destination. Elsewhere, Roberts\textsuperscript{11} observes that international labor migration is now in the cutting edge of international development policy. He further observes that with the historical record of development aid provision so dismal and prospects of international trade effects on development appearing moribund, migration has elicited interest. He posits that; globalization and increasing trade liberalization has led to a wider circulation of labor. These trends have been characterized by greater integration of global markets for goods, services and capital across borders, while labor migration remains highly restricted due to the complex web of immigration laws and regulations coupled with policies that uphold the principle of state sovereignty. Vast improvements in ICT have also contributed in the interlinking of global markets resulting in outsourcing of virtual labor services. On the other hand, globalization

\textsuperscript{10} Massey David et al; Theories of International Migration: A Review and Appraisal: Population and Development Review, 19, 432

has led to widening disparities in employment opportunities, incomes, living standards and human security across the globe. As a result of these disparities there has been increasing pressure for migration within the globe. Robert outlines the impact of globalization, ICT and international trade on migration.

At country level, Roberts observes that, wherever the private sector is involved in recruitment, an increase in fraudulent and unscrupulous practices has been observed: for example, aborted migration despite payment in advance, use of irregular methods for unsuspecting prospective migrants, false promises of work and, in the worst cases, trafficking. The manipulation of prospective female migrants by recruitment agents is facilitated by the fact that the majority are semi-literate rural women with little or no knowledge of the migratory process. Raising awareness of these problems is now considered an important strategy to overcome this vulnerability and to enhance the decision-making capabilities of female migrants.

According to the United Nations, at the start of the 21st century, one out of every 35 person's world wide is an international immigrant: 2.9% of the world populations are migrants. From 1970 to 2005, the stock of international migrants in the world increased from 82 million to just over 190 million. In the same period, the volume of global exports expanded more than seven fold while foreign direct investment grew more than 100 times. The World Bank report (2006) estimates that 3% expansion of global migration could generate an increase in world incomes than a complete liberalization of all trade flows.

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12 Lucas Robert op.cit p.5  
13 Ibid  
According to Todaro, rich nations can adopt internal policies to mitigate the current world population problems by liberalizing international emigration of poor, unskilled workers and their families in Africa, Asia, Latin America to North America, Europe and Australia. He further postulates that, problems of underdevelopment and population pressure can be addressed through safe outlets for migrants from Less Developed Countries. Further, a report by the IOM,\textsuperscript{16} indicates that the profile of migrant workers varies from country to country, with some common characteristics. According to this report, migrants are largely unskilled workers. The report further postulates that there are growing numbers of women seeking to migrate for work in order to sustain the families they leave behind. For instance, official migration data for the Philippines and Sri Lanka, indicates that women migrants out number men, both in numbers and in rates of growth. A general analysis of the situation also reveals that push factors are mostly responsible for this situation, while pull factors tend to maintain the migratory process in these countries. In addition to the lack of employment opportunities, conditions such as displacement due to wars and natural disasters in combination with opportunities of work abroad with a promise of better wages have a considerable impact on the migration scenario.

The IOM report also indicates that migration does not occur in discrete steps, but is an ongoing process consisting of various stages: the pre-departure, arrival, post arrival, return and reintegration stages. Each of these stages has its own vulnerabilities and strategies for intervention, which require concise policy and institutional framework. The IOM defines "Pre-departure" as the period during which a migrant worker makes the decision to migrate, recruitment for work and pre-leaving. At initial stage, the migrant identifies the job, familiarizes with the contract, prepares travel documentation as well as notifying the families to be left behind. The "post-arrival" phase

\textsuperscript{16} IOM, Labour Migration in Asia; Protection of Migrant Workers Support Services and Enhancing Development Benefits (Switzerland, IOM, 2005) p.15.
relates to the period when a migrant worker arrives in the host country and begins to adjust to the new environment and work in the host country. This stage is characterized with uncertainty and culture shock for those who were not well prepared during the pre-departure stage. The “return” and the “reintegration” stages end the cycle of labour migration. A migrant worker returns to his or her own country (whether willingly, by deportment or at the end of the contract) and begins to readjust and re-assimilate into that country. At this point, the returnee, can choose to invest and live on savings earned abroad. Reintegration may in some cases be followed by “re-migration”. As each stage is linked to the other, it is important to address all relevant issues at the different stages.

According to Massey David, Migration is often a cycle, starting in the community, going into the pre-departure stage, then the journey, post-arrival, life abroad, the return home and reintegration into the local community. In addition, Massey categorises migrants into four distinct groups. The first category includes unskilled Laborers. These are workers with no special training and few specific skills. Examples of unskilled laborers are construction workers, sanitation and custodial workers, painters, factory assembly line workers, etc. These are blue collar workers. The second category is that of semi-skilled laborers who work under supervision, performing heavy and light manual labor work which requires less than journey-level skills, and use a variety of routine and common tools and equipment to carry out related work as required.

The third category is that of skilled. These are workers who have received specialized training for their jobs are considered to be skilled labor. They have developed and honed a special skill and may or may not be licensed or certified by the state. Examples of skilled laborers are: carpenters, plumbers, electricians, business executives and managers, artisans, accountants, police, mechanics, etc. These may be blue or white collar workers. The fourth category is that of professionals. This category includes the elite of the labor grades. The three primary groups of professionals are

17 Massey David et al; Op cit p.433
doctors, lawyers and teachers. These are white collar workers. Massey further notes that the foreign wage and conditions of employment for the same skills differ greatly from destination to destination.

According to Cornelius, labor from any country has the same motivation of maximizing benefits from migration and thus will choose the destination that promises the best employment terms. Thus, choosing a destination may mean choosing to invest in the skill that it demands. He however postulates that, African labour-exporting countries have not been able to choose the best skills and destinations. As a result, they responded in an optimal manner to the foreign employment opportunities which have emerged over the last three decades.

Socio-economic development forms the main agenda of most if not all the nations worldwide. Every nation, Kenya included aspires to improve the socio-economic status of its population and from time to time countries articulate this aspiration through periodic development plans. According to Charles Sawyer, no country inhabits an economic island. Its firms, industries, its commercial activities in goods and services, its technology, its standards of living and all other features of its economy are related to the economy of other countries. This relationship forms a complex flow of goods, services, capital, labor, and technology between countries. As the world economy becomes increasingly integrated, every country must come to terms with this increased interdependence. Over the last decades this interdependence has become a two way street. The flow of people and technology across borders has increased in frequency and volumes. Labour markets are the most important markets for most economies as this is where they find employment

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and earn their living. Elsewhere, Jane Kariara\textsuperscript{20} posits that, investment in human capital is an important path to development, more so in third world countries.

Some economists have attempted to estimate the gains that the world could enjoy by liberalizing migration. For example, in an early study using data from 1977, Bob Hamilton and John Whalley produce a range of estimates based on various assumptions about critical parameters, but all their estimates suggest that the potential gains are enormous. Many of their estimates indicate that the elimination of immigration restrictions could more than double the world's real income, and even their most conservative estimate indicates that the world's real income would rise by 13 percent.\textsuperscript{21}

They also find that liberalized migration would reduce global inequality by raising wages dramatically for the world's poorest workers. In a recent study applying the same assumptions to 1998 data, Jonathon Moses and Bjørn Letnes produce similar results, finding that "the estimated efficiency gains from liberalizing immigration controls have only increased over time" as a result of the increase in "wage inequalities over the past 20 years."\textsuperscript{22} These scholars tend to concur that liberalized labor migration is likely to translate to economic gain. John Stinglitz\textsuperscript{23} a Nobel Price Laureate in economics on his part suggested that the liberalization of labor migration from Developing countries to developed countries should be prioritized in Multilateral negotiations in the WTOs Doha round, and that development dividends in this area is taken seriously by all involved.

\textsuperscript{20} Jane-Kabubo Mariara; Poverty and Policy in Kenya ; Determinants of demand for schooling in Kenya (Nairobi: University of Nairobi 2006) p.13
\textsuperscript{22} Bob Hamilton & John Whalley, Efficiency and Distributional Implications of Global Restrictions on Labour Mobility, 14 J. DEV. ECON. 61 (1984). P.12
\textsuperscript{23} J. Stinglitz & A.Charlton; The Development Round of Trade Negotiations; in the Aftermath of Cancun. (London; Commonwealth Secretariat/initiative for policy dialogue, 2004) p.41
Although the economic effects of immigration on native workers and distributive justice among natives are often advanced as reasons to reduce immigration, these concerns do not provide a sound justification for restrictive immigration laws. Instead, the appropriate response to concerns about the distribution of income among natives is to increase the progressivity of the tax system. Protectionist immigration policies are not only likely to be relatively costly as an instrument for redistribution but also perverse from the standpoint of global justice. Thus, considerations of economic efficiency and distributive justice both militate in favor of liberalized immigration policies.

The oil boom in the Gulf States created a new demand for labor migration and export of manpower in Asia during the 1970s. Before this, in the 1950s and 1960s, undocumented employment of Pakistani’s already existed on a small scale, mostly in the UK and some gulf countries, but gained momentum in the early 1970s, opening a new chapter in the development of the country’s economy. The boom gave rise to a new era of massive construction and thousands of Pakistanis were able to find jobs overseas, mostly in the building industry. This resulted in increased foreign exchange flows to Pakistan, providing a valuable contribution to the overall development of the country.

A study by Sonia et al., 24 on migration and remittances household surveys in Sub-Saharan Africa found that Burkina Faso migration allowed for more full-time and part-time wage activities. In Nigeria, migration allowed a shift from unemployment to self-employment and wage employment. Moreover, migration appears to have various implications for women’s labor-market status in these countries and many other African countries. In Kenya the shift in labor-market status is significant

for unemployed, many of whom were able to find wage employment after migrating to Europe. America, the United Arab Emirates, and the Gulf and so on.

1.5 Theoretical Literature review

Over the twentieth century, several theoretical perspectives on migration have evolved. These theories attempt to link migration to socio-economic development. However, they have generally evolved in isolation from one another with notable differences in their level of analysis as well as paradigmatic and thematic orientation.

1.5.1 The neo-classical-functional approach

This theory is considered the oldest theory of international migration which attempted to explain migration with regard to economic development. The first scholarly contribution to migration consisted of two articles by the nineteenth century geographer Ravenstein; who formulated “laws of migration”. He saw migration as an inseparable part of development, and he asserted that the major causes of migration were economic. Migration patterns were further assumed to be influenced by factors such as distance and population densities\(^\text{25}\) This perspective, provides that, people are expected to move from low income to high income areas, and from densely to sparsely populated areas. The general notion that migration movements tend towards a certain spatial-economic equilibrium, has remained alive in the work of many demographers, geographers, and economists ever since\(^\text{26}\)

According to Bauer & Zimmermann, economic explanations have also dominated popular and scholarly thinking on migration. At the macro-level, neo-classical economic theory explains migration by geographical differences in the supply and demand for labor. The resulting differentials in wages cause workers to move from low-wage, labor-surplus regions to high-wage,
labor scarce regions. Migration will cause labor to become less scarce at the destination and scarcer at the sending end. In this case, capital is expected to move in the opposite direction. At the micro-level, neo-classical migration theory views migrants as individual, rational actors, who decide to move on the basis of a cost-benefit calculation. Assuming free choice and full access to information, they are expected to go where they can be the most productive, that is, are able to earn the highest wages. This capacity obviously depends on the specific skills a person possesses and the specific structure of labour markets.

Furthermore, Neo-classical migration theory is firmly entrenched in “developmentalist” modernization theory based on teleological views interpreting seeing development as a linear, universal process consisting of successive stages. Neo-Classical equilibrium approaches have explained migration as either a function of wage levels differentials, employment opportunities, or human safety, thereby understanding human mobility as a way of maximizing resources and minimizing risks. The potential gains in the form of higher wages should be balanced with factors such as the opportunity costs of migration, the costs of travel, (temporary) unemployment while moving and installation at the destination, and the psychological costs of migration. In fact, the costs and risks associated with, particularly international, migration explain why it is generally not the poorest who migrate and why social networks are so crucial in lowering the material and psychological thresholds to migration.

Elsewhere, Borjas postulated the idea of an international migration market, in which potential migrants base the choice of destination on individual, cost-benefit calculations. In economic theory, human capital has increasingly been recognized as a crucial factor in the process of economic development in modernizing societies. Moreover, the human capital theory assumes that

personal assets such as skills, education, and physical abilities are fundamental "capitals" that boost economic production. Human capital theory also enables to theoretically explain the selectivity of migration beyond explanations focusing only on costs.

Furthermore, Neo-classical migration economy has also been criticized for being a historical and Eurocentric theory. It is however evident that labor migration fulfils the same facilitating role in the 'modernization' of currently developing countries as it did in nineteenth and twentieth century Europe. Indeed, the structural conditions under which contemporary migration in and from developing countries takes place are rather different, although perhaps not fundamentally so. Historical structuralists have criticized neo-classical migration theory, stating that individuals do not have a free choice, because they are fundamentally constrained by structural forces. Rather than a matter of free choice, people are forced to move because traditional economic structures have been undermined as a result of their incorporation into the global political-economic system.

1.5.2 Historical-Structural Theory
A radically different interpretation of migration was provided as of the 1960s by the historical-structural paradigm on development, which has its intellectual roots in Marxist political economy and in world systems theory. Contemporary historical-structural theory emerged in response to functionalist (neo-classical) and developmentalist-modernizationist approaches towards development. Historical-structuralists postulate that economic and political power is unequally distributed among developed and underdeveloped countries, that people have unequal access to resources, and that capitalist expansion has the tendency to reinforce these inequalities. Instead of modernizing and gradually progressing towards economic development, underdeveloped countries are trapped by their disadvantaged position within the global geopolitical structure.

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29 Skeldon. Op Cit; p.101
30 Castles and Miller, Op Cit; p.25
As in most fields of social science, historical-structuralism dominated migration research in the 1970s and most of the 1980s. The 1973 oil crisis heralded a period of worldwide economic downturn, industrial restructuring and increasing unemployment. It was also thought that the great age of international migration had ended. This more or less coincided with a turning point in thinking on migration and development. As of the late 1960s, optimistic views on migration and development in sending areas were increasingly challenged due to the combined influence of a paradigm shift in social sciences toward (historical) structuralist views and an increasing number of empirical studies that often did not support optimistic views on migration and development.

An increasing number of academic studies seemed to support the hypothesis that migration sustains or even reinforces problems of underdevelopment instead of the reverse. These “migration pessimists” have argued that migration provokes the withdrawal of human capital and the breakdown of traditional, stable village communities and their economies. This would then lead to the development of passive, non-productive and remittance-dependent communities. Besides the “brain drain” a “brawn drain” the massive departure of young, able-bodied men and women from rural areas is typically blamed for causing a critical shortage of agricultural and other labour, depriving areas of their most valuable work force. Because it is generally not the poorest who migrate the most, migration and remittances were also believed to increase inequality in communities of origin. Migration pessimists have also argued that remittances were mainly spent on conspicuous consumption and “consumptive” investments (such as houses), and rarely invested in productive enterprises. Skepticism about the use of migrant remittances for productive investments became the common thread of the migration and development debate.besides weakening local
economies and increasing dependency, increased consumption and land purchases by migrants were also reported to provoke inflationary pressures and soaring land prices.

Also, in a socio cultural respect, the effects of migration and remittances were increasingly seen as detrimental. Exposure to the wealth of migrants was assumed to contribute to a change in rural tastes\(^3\)\(^4\)\(^5\) that would increase the demands for imported urban or foreign-produced goods and food. This would further reinforce the cycle of increasing dependency. Migration has often been held responsible for the loss of community solidarity and undermining the sociocultural integrity of migrant-sending communities. Moreover, the main “positive” effect of migration, the increase in family welfare for migrants and their families, was considered to be artificial and dangerous, because remittances were supposed to be an unstable and temporary source of revenue.

From this perspective, South-North migration was perceived as discouraging instead of encouraging the autonomous economic growth of migrant-sending countries. Such views conform to the historical-structuralist paradigm on development that perceives migration as one among many other expressions of the developing world’s increasing dependency on the global political-economic systems dominated by the powerful (Western) states. As a natural outgrowth of capitalist penetration, migration was seen as having ruined traditional peasant societies by undermining their economies and uprooting their populations. Historical-structuralism, perceive migration as a natural outgrowth of disruptions and dislocations that are intrinsic to the process of capitalist accumulation. They interpret migration as one of the many manifestations of capitalist penetration and the increasingly unequal terms of trade between developed and underdeveloped countries.\(^3\)\(^5\)

Structuralist approaches have focused attention on explicating migration in a global, capitalist context in which development is understood as a result of colonialism and neo-imperialism.

\(^3\) Lipton; op cit.
\(^4\) Massey ibid p36.
1.5.3 The Push-Pull Framework

Both neo-classical functionalist and historical-structural theories of migration generally fail to explain why some people in a certain country or region migrate and others do not. Similarly, these theories do not give clear insight into why people tend to migrate between particular places in a spatially clustered, concentrated and typically non-random fashion. It can therefore be useful to look at some of the spatial models developed by mainly geographers and demographers. Lee revised Ravenstein’s 19th century ‘laws on migration’ and proposed a new analytical framework for migration. In his view, the decision to migrate is determined by the following factors: factors associated with the area of origin; factors associated with the area of destination; as well as other intervening obstacles such as distance, physical barriers, immigration laws, labor laws and so on. In addition, personal factors greatly influence the trends and magnitude of migration. Personal factors include; level of education, availability of a suitable job, financial ability to obtain the necessary fees including agency fees, documentation and airfare. He further argued that migration tends to take place within well-defined “streams”, from specific places at the origin to specific places at the destination, not only because opportunities tend to be highly localized but also because the flow of knowledge back from destination facilitates the passage for later migrants.

Lee also stated that migration is selective with respect to the individual characteristics of migrants because people respond differently to “plus” and “minus” factors at origins and destinations and have different abilities to cope with the intervening variables. Therefore, migrants are rarely representative of their community of origin. This is consistent with the neo-classical perspective which explains migration selectivity by individual differences in human capital endowments and the discriminating aspects of costs and risks associated with migration.

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The push-pull model is basically an individual choice and equilibrium model, and is, therefore, largely analogous to neo-classical micro models. This model has gained enormous popularity in the migration literature and has become the dominant migration model. Most researchers who have applied the push-pull framework have assumed that various environmental, demographic, and economic factors determine migration decisions. Proponents of this theory posit that population growth causing a Malthusian pressure on natural and agricultural resources, and pushes people out of their countries of origin. Secondly, economic conditions such as higher wages lure people into cities and industrialized countries.

According to McDowell and Haan another weakness of this model is that push and pull factors are generally mirrored in each other. For example, the argument that migrants are lured to big cities or to foreign countries because of the high wage ‘pull’, is implicitly or explicitly made in relation to an apparent low wage ‘push’ at the sending end. In fact, the differences in the relative scarcity of labour can be aptly expressed in one single variable, that is, wage differentials. Push and pull factors then turn out to be two sides of the same coin: together they provide the perception of difference between “here” and “there”, and therefore have limited heuristic value.

Finally, push-pull models are also not able to explain return migration and the simultaneous occurrence of emigration and immigration from and to the same locality or area, nor do they pay attention to the impacts of migration, and the way it may alter the structural contexts both at the destination and origin. In other words, the push-pull model is a static model focusing on external

38 McDowell C. De Haan: Migration and Sustainable Livelihoods: A critical review of literature(Sussex: Institute of Development Studies,1997)p67
factors that “cause” migration that is unable to analytically situate migration as an integral part of broader transformation processes, and therefore seems of limited analytical use.

1.6 Theoretical framework

Migration Systems Theory

Mabogunje\(^{39}\) the founder of migration systems theory, defined a migration system as a set of places linked by flows and counterblows of people, goods, services, and information, which tend to facilitate further exchange, including migration, between the places. Borrowing from general systems theory, he focused on the role of information flows and feedback mechanisms in shaping migration systems. He stressed the importance of feedback mechanisms, through which information about the migrants’ reception and progress at the destination is transmitted back to the place of origin. Favourable information would then encourage further migration and lead to situations of almost organized migratory flows. Mabogunje focused his analysis within the African continent.

The fundamental assumption of this theory is that migration alters the social, cultural, economic, and institutional conditions at both the sending and receiving ends; that is, the entire developmental space within which migration processes operate. Migration systems theory further stresses that migration not only affects and is affected by the direct social environment of migrants, but restructures the entire societal and developmental context of the concrete spaces in which migration takes place, both at the receiving and sending end.

The migration systems theory draws a two-way, reciprocal and dynamic link between migration and development, and therefore seems particularly relevant for elaborating a theoretical framework.

\(^{39}\) Mabogunje, A.L(1970); Systems Approach to a Theory of Migration. Geographical analysis 2:1-18
which puts migration in a broader development perspective. Portes and Böröcz and Kritz et al.\textsuperscript{40} extended this to international migration. International migration systems consist of different countries that exchange relatively large numbers of migrants, and are also characterized by feedback mechanisms that connect the movement of people between particular countries, areas, and even cities to the concomitant flows of goods, capital, remittances, ideas, and information. Migration systems link people, families, and communities over space in what is nowadays referred to as transnational communities. The end result is a set of relatively stable exchanges yielding an identifiable geographical structure that persists across space and time\textsuperscript{41} This theory can already explain why, once a migration system has developed, it tends to operate relatively independently of government policy intervention.

Moreover, the Migration system theory adds to that, besides the existence of very specialized migration systems at the micro-level, it is possible to identify several international migration systems at the macro-global level, in which particular regions in the developing world have specialized in migration to particular regions in the developed world. Examples are the North American migration system which links Mexico and Central American countries to the US and Canada and Euro-Mediterranean migration system, which links North African countries and Turkey to the European Union.\textsuperscript{42} As such, this theory links the relationship between source and host country. This school of thought attempts to explain why people move to certain regions and not others. It further explains the fact that the initial circumstances at both the receiving and sending end are modified by the migration process implies that the causes and consequences of migration should not be studied separately, but as part of the same system and processes. For example,

\textsuperscript{40} Kritz, M.M et al; \textit{International Migration System: A global Approach} (Oxford, Clarendon Press, 1992)p34
\textsuperscript{41} Mabogunje; Op cit: p12
\textsuperscript{42} Kritz; Op cit
remittances sent back to family members could alter the social and economic context in the areas of origin and encourage subsequent migration.

This study will use this theory in analysis because apart from being one of the most recent theories, its level of analysis with regard to labor migration and development is wider than that of the classical theories discussed earlier.

1.7 Hypotheses

i. Increased labor migration enhances socio-economic development in Kenya

ii. The existence of elaborate legal and policy framework on labor migration enhances socio-economic development in Kenya

iii. The increased training of manpower in Kenya contributes to migration hence increased socio-economic development in Kenya.

1.8 Research Methodology

A research design refers to the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to the research purpose with economy in the procedure\(^3\). In addition Kothari\(^4\) observed that research design is a blueprint which facilitates the smooth sailing of the various research operations, thereby making research as efficient as possible hence yielding maximum information with minimal expenditure of effort, time and money.

This section sets out various stages that will be followed in completing the study. The following sub-sections include; research design, target population, sampling design, data collection

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\(^3\) Babbie, E. (2002). *Survey research methods* (2nd ed.). Belmont: Wodsworth

instruments, data collection procedures and finally data analysis.

1.8.1 Research Design
The researcher preferred to apply the descriptive study that would take a cross-sectional survey design aimed at determining the relationship between labor migration and socio-economic development with reference to Kenya. According to Moore, et al., (1986), a descriptive study is concerned with finding out the what, where and how of a phenomenon and a cross-sectional survey design was chosen since in cross-sectional surveys, data is collected at one point in time from a sample selected to represent a larger population.

1.8.2 Population
The target population of study was the Government Ministry of Labor and Human Resource development, Ministry of Foreign Affairs and the Ministry of Immigration and Registration of Persons. The study involved 190 respondents who were obtained by purposive sampling of the target population. This showed a minimum of 30 respondents from each ministry. They were broken down into (30) questionnaires to respondents from the Ministry of Immigration and Registration of persons, (30) Ministry of Labour and Human Resource Development, (30) Ministry of Foreign Affairs. A further (100) questionnaires were administered to migrant returnees. In addition to the questionnaires, structured interviews were carried out to provide an in-depth understanding of the concept of labour migration and socio-economic development. A total of 10 interviews were carried out, targeting (9) senior government officials and (2) officials from the IOM (International Organization for Migration. The sample for the structured interviews was limited by the availability of the officials to be interviewed and the time frame allocated for the field study.
1.8.3 Research Instrument
The data was gathered through questionnaires administered to the respondents. Questionnaires guaranteed confidentiality, therefore, respondents acted without any fear or embarrassment. Questionnaires have advantages over some other research instruments like interviews in that they are cheap, do not require as much effort from the questioner as compared to verbal or telephone surveys, and often have standardized answers that make it simple to compile data. Another advantage is that, unlike an interviewer, whose personal appearance, mood or conduct may influence the results of an interview, the researcher might not be present when questionnaire is being filled-in (Burns, 2000). The use of questionnaires therefore guaranteed objectivity in the findings of the study.

1.8.5 Data Analysis Methods
The data was analyzed by use of descriptive statistics for quantitative data. Descriptive statistics comprised of the use of percentages (relative frequency) and mean. Quantitative data was presented in form of tables, bar graphs and pie charts, flow charts for easier interpretation. The charts and tables were then explained and analyzed in a descriptive manner. Secondary data was analysed through comparative methods in order to reach logical and practicable recommendation drawn from best practices globally.

1.9 Definition of Terms

"Labor migration" refers to the movement of a person who from the country of origin to work or stay in a foreign country. Labor migration may be temporary or permanent depending on the nature and terms of employment of the host country.45

A migrant worker as a “person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national.”

“Irregular migrants” These are people who unlawfully enter and stay or work in a foreign country and may be expelled or charged in the host country for unlawful presence. An irregular migrant is an alien who enters a country at the wrong time or the wrong place, eludes official examination, obtains entry by fraud or uses fraudulent documentation.

“Remittances” Remittances can be categorized into two; the first form is the monetary remittances while the second form is the social remittances. Monetary remittances refer to a portion of migrant workers’ earnings sent back from the country of employment to the country of origin. On the other hand social remittances include ideas, practices and identities from receiving to sending country communities. These are likely to transform the way of life of the families left behind.

“Socio-economic development” refers to the general improvement of the living standards as a result of higher income generated by the active population.

1.10 Scope of the study

Migration and development are wide topics to cover because they contain other political and social dimensions. The focus of this research was limited to labor migration in Kenya between 2000 and 2010. Moreover, the research did not dwell so much on other areas of migration such as border
management and security issues although reference is made where necessary. The study mainly focuses on the supply side of labor migration, particularly on the Kenyan experience. The study focused on officials from the relevant government ministries and returnees with at least 10 years working experience in the respective Ministries.

1.11 Limitations of the study

One of the limitations of this study is in regard to collection of primary data. Due to the nature of data collected some respondents were reluctant to answer some questions. In response the researcher worked at winning the confidence of the respondents by assuring them of confidentiality. Another challenge encountered was obtaining data on informal remittances and irregular migration since these remain largely undocumented and could have both direct and indirect impact on socio-economic issues.

1.12 Chapter outline

The rest of this study is organized in the following chapters.

Chapter 2: INTERNATIONAL TRENDS IN LABOUR MIGRATION

This chapter examines the debates on labour migration. It delves in detail giving international trends in labour migration, while analyzing the benefits and loses of labour migration.

Chapter 3: THE KENYAN SITUATION

This chapter critically examines the concept of remittances and the role of remittance in socio-economic development

Chapter 4: REMITTANCES

This chapter sheds light on the Kenyan experience on labour migration. It examines the legal and policy framework in Kenya. It also identifies the policy and legislative gaps in the regulation of labour migration in Kenya
Chapter 5: THE IMPACT OF REMITTANCES IN SOCIO-ECONOMIC DEVELOPMENT IN KENYA.

This chapter discusses the impact of labor migration in Kenya analyzing the data collected in relationship with the objectives and the hypotheses.

Chapter 6: SUMMARY, CONCLUSION AND RECOMMENDATIONS

This chapter provides a brief summary on the subject, it contains a conclusion of the discourse and recommendations arising from the study.
CHAPTER TWO

INTERNATIONAL TRENDS IN LABOUR MIGRATION

2.1 Introduction

Migration is currently at the center of debates between the mainly poor sending countries and the richer receiving nations. While the industrialized countries are promoting easier flows of capital, goods and services, they are at the same time restricting the movement of labour, which comes mainly from developing countries. Across Western Europe, liberal immigration policies came to a halt in the 1970s. More recently, hostility towards immigrants seems to be growing again and immigration is increasingly seen as having negative consequences for the host country. Africa, which in the global context is a sending region, therefore finds that her migrants face severe restrictions in movement to North America and Europe, sometimes on the basis of unfounded cultural dilution or national security concerns. The shift towards more restrictive immigration policies is being accompanied by discrimination against immigrants, which is usually in the form of “equal pay for equal work, but unequal work”.

Moreover, globalization, involving rapid technological change and intense market competition, has escalated economic or labor migration and created an enormous pool of migrant workers. This also includes, the millions of undocumented migrants, many of them desperate and vulnerable and open to abuse and exploitation. The availability of millions of potential workers satisfies employers’ demands for a mobile and highly flexible workforce. Although some educated, qualified migrants fill skilled jobs in, for example, healthcare and engineering, the great majority enter low-skilled, or

unskilled, jobs in areas such as catering and domestic services, where work is low-paid and often temporary.52.

The major receiving regions for African labour migrants are OECD countries and the Gulf states, where rapid economic growth and a shortage of labour creates labour markets for migrants from the northern and eastern parts of Africa in particular. International legal frameworks on migration are designed for various objectives such as protecting the human rights of migrant workers and their families, or restricting immigration. Although immigration is helping to mitigate the effects of falling and aging populations in Western Europe, legal and policy responses to the immigration of Africans is a contentious issue. In Europe, the decision to allow or restrict migrants within the European Union are still the responsibility of individual states.

The legal admissions policies of developed countries are highly selective, and certain personal traits such as education, skills, wealth, and family connections are also essential in assuring success, or even putting a person in a position to be a realistic candidate for entry. For many aspiring migrants who cannot meet the legal requirements, a reasonable expectation of economic improvement is therefore enough to promote movement. Given that immigration policies remain under the responsibility of individual countries, national immigration policies determine the stocks and patterns of migration. In addition, border controls reduce the applicability of standard economic models by impeding the free circulation of labour as a factor of production, and consequently, preventing the development of international migration to its fullest potential.53 This has also been compounded by the fact that most European nations and American states seem to have preference for skilled labour although many end up doing work that is of a lower cadre than expected. For

example nurses being relegated to homes for the aged for basic care. This leads to the argument of 'brain waste' rather than 'brain gain'.

Prior to the 1990s, there was little international coordination and cooperation regarding the formulation and application of national migration and asylum laws and policies. Since then, however, progress in multilateral cooperation on migration has been tremendous. Within the European Union, for example, migration and asylum matters progressively entered the agenda during the 1990s. Schengen agreement, which includes some of the EU as well as non-EU countries, represents a new level of collaboration on border control. In Africa, the momentum on regulation of labour migration has picked although at a slower pace even though most African countries fall in the category of sending nations.

Migration from the southern to the northern hemisphere is at least matched by migration between countries in the global south, notably Africa, and between countries in Eastern Europe and those in the West. Over the last decade South Africa has received an influx of migrants from various parts of the sub-Saharan region, including Ghana, Mali, Nigeria, Senegal, Kenya, Uganda, and Zaire. However, the xenophobic reaction that followed this influx, led to a drastic reduction of migrant inflows in South Africa. The improving economies of Botswana, Gabon and Namibia also draw in internal migrants who view them as an attractive alternative to Europe and the United States. Similarly, the break up of the Soviet Union and the enlargement of the European Union has facilitated movement between countries. As a result, workers from Hungary, Poland and the Ukraine migrate to seek employment in Western Europe, Canada and the United States.

Ratification of Conventions on Migrant Labour

Labour migration is regulated by a number of international instruments. Kenya has ratified the two ILO Conventions (97 and 143) on migration. However, it has not ratified the UN Convention on the Protection of the Rights of Migrant Workers and the Members of Their Family. Uganda has ratified Convention 143 of the ILO and the UN Convention. Tanzania has a long way to go because neither the ILO nor the UN Conventions have been ratified. Zanzibar which is part of Tanzania has ratified Convention 97. In countries where some conventions have been ratified domestication is still a problem due to national laws not having been reformed to allow enforcement.33

2.2 Labor migration in East Africa

East Africa has a long history of labour migration between and within countries to plantations (cotton and coffee in Uganda), mines (DRC and Uganda) and with the seasons (pastoralist communities in Uganda, Tanzania and Kenya). In the post-colonial era, there has also been substantial forced displacement, and increasing rural-urban migration within countries for employment or to earn a livelihood.56

The lack of reliable estimates of the numbers of East Africans living abroad, their economic contribution to East African countries, and the effect of their exodus on availability of skilled professionals in sectors such as health and education, may explain why international migration flows appear low across the region.

Ethiopia

In Ethiopia, interesting information on the relationship between migration and poverty is available from DFID-funded work on livelihoods. This has shown that the poor migrate more than the better

55 IOM REPORT; Flora Mndeme Mudonda. Migration Legislation in East Africa. (Geneva, 2006) p17
56 ibid
off, in order to supplement income from the land, and repay or avoid incurring debts. Although permanent or semi-permanent migration were seen by most families as an option of last resort, temporary seasonal migrations were often actively encouraged as a right of passage for young men. However, it is those with some assets, rather than none, who were found most able to migrate. Migration may affect the poor, but the impact of migration on poverty is more difficult to determine. Thus, although migration plays a central role in the livelihoods of rural households and communities, rich and poor, it was found that migration may increase inequality. It is however important to note that following the civil conflict in Ethiopia and Eritrea, the country has a large number of its population in the diaspora either as refugees or migrant workers. On the negative side, Ethiopians have been victims of human trafficking being moved by agents down South and Europe through the Kenyan border of Moyale. In this case, Kenya is seen as a transit point of Human traffickers.57

Somalia

In Somalia, it is international migration that has received most attention, not least because of the collapse of the state, and with it virtually all social science research within the country. Somalis have moved in large numbers to Europe and North America, and in the US at least, census data shows that Somalis are less educated than any other African nationality, and indeed the only African country of origin where educational levels are below the US national average. However, interestingly, Somali international migrants have remitted quite large sums to the country even in the absence of a formal banking system.58

57 Ministry of Immigration Report.
2.6 Other African Countries

According to Sander and Maimbos study in 2003, unrecorded remittance flows in Africa are higher than recorded/formal transfers. In Sudan for instance, informal remittances make up 85% of the total remittance receipts. In Ghana, the situation is the same as reported by the Bank of Ghana. In Comoros, the informal remittances account for 80% of the total remittances. In South Africa and Kenya, the formal and informal remittances systems exist side by side. In other African countries there are further examples of innovative formal and informal mechanisms to transfer remittances, including the use of bus and courier companies. Another innovative semi-formal system, although not actually money transfers system which has sprung up in Uganda and Tanzania, is the transfer of pre-paid airtime on mobile phones to relatives (with the pin code being passed around). This saves the relatives money in buying airtime and allows them to use it for other expenses.

2.3 Mobilizing the Diaspora

Governments are realizing the potential role that migrants can play in development. This is mainly in terms of remittances, knowledge sharing and technology transfer. As such countries such as Brazil, Colombia, Costa Rica, the Dominican republic, Ecuador, el-Salvador, Mexico, panama, Peru and Uruguay passed new laws on dual citizenship. This was with a view to encourage long term and long distance linkages with the emigrants. Temporary or virtual return programmes also offer considerable promise. This is mainly with a view to challenge the idea of brain drain and brain waste. The Taiwanese government for instance, has chosen to focus less on attracting investment by nationals living abroad and instead encouraged visiting diaspora to share their knowledge. The government invites scientists, professionals and highly skilled politicians to participate in seminars.

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59 Sanders and Maimbo, 2003
teach in Tawanese universities or network with government officials and investors. This way during the short term development assignments they are able to transfer skills and knowledge.

2.4 Linking Migration and Development Policies

Since the relation between migration and development is most concretely manifested at the individual, household and community levels, the scope for specific polices to increase the development potential of migration is limited by definition. The most effective policies therefore seem to be to improve the legal position of migrants, as well as to improve the general social and political-economic circumstances in the sending countries. If the investment climate and legal security show structural improvements, migrants are far more likely to remain actively involved, to invest, and to travel and return to sending countries. Remittances play a crucial, potentially positive role in development. Nevertheless, “migration is no panacea for development”⁶⁰ Although remittances enable people to invest, the extent to which they will do so in practice crucially depends on the general development conditions in the sending countries. In addition, legal security for migrants in both the sending and receiving countries seems a necessary condition for releasing the developmental potential of migration. The much celebrated micro-level at which remittances are transferred is not only their strength, but also their main weakness, since this also implies that individual migrants are generally not able to remove general development constraints. Thus, migration is by no means a substitute for good governance by migrant-sending countries. Although the room for specific policies to release the development potential of migration is limited by definition, governments and development agencies can play a role in increasing the positive impact of migration on development in sending countries.

Firstly, they can try to reduce the transaction costs of remittances. Banks, specialized money transfer agencies, such as Western Union, and informal middlemen often make high profits on remittances. Secondly, remittances can be encouraged through exempting remittances from taxation, as had been the case in the Netherlands until recently. In the recent past, many governments and banks in sending countries have successfully attempted to attract remittances through special fiscal policies, the establishment of foreign bank branches and giving migrants the opportunity to open foreign currency accounts. Furthermore, the governments of both receiving and sending countries can provide material and immaterial support to the numerous self-help organisations that migrants have established with the aim of promoting development or establishing development projects in sending countries. For instance, as part of its Program for the Attention of Mexican Communities Abroad, the Mexican government has successfully implemented two-for-one and three-for-one programmes that match funds for every dollar raised by so called Home Town Associations for approved public infrastructure projects in Mexico. These Home Town Associations similarly receive financial and technical support from the Mexican government through its consular offices. Nevertheless, as long as the general development context in sending countries does not substantially improve, the effects of such policies should not be overestimated.

In evaluating the policies pursued by most migrant receiving countries, two major incoherencies appear. Firstly, there is a potential discrepancy between the aim of development agencies to help the poorest people and the poorest countries on the one hand, and the aim of creating a link between migration and development policies, because migrants are generally not the poorest members of communities and most migrants do not come from the poorest countries. A second, more fundamental discrepancy exists between the restrictive immigration policies of migrant-receiving countries and their wish to stimulate circular and return migration. Immigration policies appear to

be the principal tool through which migrant-receiving countries can significantly affect the development contribution of migration in sending countries.

However, creating an effective and more positive link between the traditionally separated areas of migration and development policies requires breaking through the seventh and last migration myth, which is that migration policies are able to largely control or stop migration. This is not the case. Although policies do have a distinct influence on the character and volume of migration, the goals of restrictive immigration policies as pursued by most Western states are generally unrealistic, and therefore tend to have counterproductive results. The erroneous point of departure seems that effective migration-control is equal to zero migration Bhagwati\textsuperscript{62} recently argued that, paradoxically, “the ability to control migration has shrunk as the desire to do so has increased. Borders are largely beyond control and little can be done to really cut down on immigration”. A higher-than present level of migration control seems almost impossible without drastically curtailing civil and human rights in a way at odds with enlightenment values and the open nature of modern, democratic societies and capitalist economies. “Total” migration control is not even possible in totalitarian states like Saudi Arabia and the former Soviet Union.\textsuperscript{63} Moreover, experience has repeatedly taught that migration movements, once set in motion, tend to gain their own momentum over time, mainly through the establishment of transnational networks, and have therefore become notoriously difficult for governments to control\textsuperscript{64}. Migration networks tend to facilitate continuing labor, family and undocumented migration over formally closed borders. Immigration therefore often correlates more strongly with economic growth than with immigration policies.

From the foregoing it is clear that although specific policies can enhance the development potential of migration through facilitating and encouraging remittance transfers and investments, the key to more coherent migration and development policies seems to lie in encouraging circular migration through a far more liberal approach towards labor migration of both low and highly skilled workers where a real demand exists. Although highly restrictive policies give in to and actually encourage unrealistic public fears of being submerged by tidal waves of immigrants, they testify to a rather poor understanding of the developmental root causes of migration.

2.5 Benefits of Labor Migration

Migrant workers benefit host countries in a number of ways. The overall economic impact of all migrant workers to the UK for example suggests that they make a positive net contribution of around £2.5 billion to the public accounts. A 2004 ILO study showed that, in the absence of this contribution, UK public services would have to be cut or taxes would have to be raised. The same can be said about other European countries that are characterized by an aging population. Moreover, Migrant workers bring skills, qualifications and youthful enthusiasm to an otherwise ageing working population. Government statistics for 2003 show that 21 per cent of migrant workers hold higher education qualifications, compared with 17 per cent of UK born. The statistics also show that 45 per cent of migrant workers in the UK were working as employers, managers and professionals, compared to 39 per cent of UK workers.\(^{55}\) The sectors included administration, education, health and financial services. Unfortunately, most migrant workers, including a number who are highly qualified, take on low paid, insecure work in areas like catering and domestic services, which local people find unattractive and are therefore unwilling to fill. With migrants eager to undertake this work, firms and the economy grow as productivity increases and inflationary pressures reduce.

\(^{55}\) ILO report(2004)
Migrant workers also add large levels of entrepreneurship and self employment, thereby creating new jobs for. This can act as a spur to local people to start their own business, giving further impetus to economic growth. As migrant workers are also consumers, demand for goods and services increases, which in turn leads to additional demand for more labour, thereby increasing opportunity for all. Continuous growth can result from this due to the younger age profile of migrant workers, providing that they are able and willing to stay long-term, rather than return home once they become financially secure.

In addition, education and health care are two sectors that have experienced the benefits of increased labour migration in recent years. A number of education authorities in the Europe hire migrant workers directly from abroad to address the shortage of teaching staff. School teacher work programmes, for example, recruit Jamaican teachers for inner city schools in London. Higher education also benefits, with 12.5 per cent of academic and research staff made up of non-British nationals. Information technology (IT) is a critical support tool in education and in IT as a whole migrant workers account for 17 percent of highly skilled workers.\(^6\)\(^6\)\(^6\) Overall, migrant workers bring intellect and expertise to education. Their contribution is invaluable.

Within the health care sector migrant workers occupy positions that, left to local recruitment, would be hard to fill in terms of specialist skills or geographical areas. Overseas-qualified doctors account for 51 per cent of the increase in the number of doctors working in NHS hospitals. In cent years more than 25,000 work permits have been issued annually to workers in health and medical services. And if we include those who enter by other routes – asylum, family reunion – the effect is that almost one in three doctors, one in six dentists, and one in 10 nurses in the UK were trained


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overseas. An inadequate number of UK trained doctors and nurses is a major cause of the increase in overseas recruitment.

Since 1997 there has been an aggregate total of more than 80,000 overseas nurses admitted to the UK register. The British Medical Association (BMA) has called on the UK to achieve self-sufficiency in their health care workforces, rather than rely on developing countries to make up the shortage. But being able to draw on a ready supply of foreign workers has saved the NHS time and money and enabled it to expand to meet performance targets without having to wait for domestic workers to be educated and trained.

Sending countries also benefit from labor migration. Although many economic migrants work in relatively low-paid jobs they regularly send money home to their families and relatives. However, it is difficult to estimate the scale of these remittances to sending countries because of the often informal manner in which they are returned, but there is little doubt that they contribute to the national income of the countries involved, and act as a stimulus to longer-term economic growth. Remittances are more likely to occur where migrants intend to return home to families they leave behind, rather than where migration is permanent. These remittances equal, and in some cases exceed, official development aid in many countries.

It is believed that in 2004 the equivalent of as much as 150 billion US dollars was remitted globally with, for example, Mexico receiving 16 billion, India 9.9 billion and Philippines 8.5 billion dollars. Remittances play an important role in smaller and island nations, where they can be equivalent to between 20 and 40 per cent of Gross Domestic Product. Sub-Saharan Africa on the other hand receives the lowest level of remittances, amounting to just 1.5 per cent of total global remittances.

In general doubts remain about the value of remittances for economic development because of uncertainties about how they are used, but the scale of the sums involved suggests a major positive impact. Evidence suggests that income generation in micro-economies in developing countries can have a negative impact as prices inflate. This creates further hardship locally and may offset the benefits to the national economy.

Migrant workers who return home bring experience and knowledge from working in another country. This benefits the home country as a whole by adding to its pool of talented workers, particularly where the skills are relevant to the needs of the home economy and the migrant workers are willing to use them upon return. It also benefits the individual worker who will have developed through contact with people possessing a range of human, intellectual and professional skills. Access to educational and language courses in the host country should open up opportunities for career promotion at home and assist the personal development of each worker. This ‘brain gain’ is experienced especially in the major growing economies of China and India.

2.6 Losses of labour migration

There are huge implications for sending countries as a result of out-migration, the most crucial of which are the loss of expertise and skills. This brain drain is particularly acute in developing countries, especially where the move abroad is permanent. Public services, such as health, education and social services, are losing large numbers of skilled workers to migration. Structural changes and decreasing investment in the public sector has increased the pressure on public sector workers to migrate, as shown by trends in the health and education sectors.
According to the International Organisation for Migration, South Africa claims to have spent 1 billion US dollars educating health workers who migrated – the equivalent of one-third of all development aid received between 1994 and 2000. In the Caribbean, Jamaica has suffered a great loss of educators and teachers. Between 2000 and 2002, Jamaica’s Ministry of Education estimate that around 2,000 teachers left to take up temporary posts abroad. While Jamaica has trained increasing numbers of teachers in recent years, the proportion of fully qualified teachers has fallen. Throughout the 1990s the total share of fully qualified, trained teachers declined by 11 per cent. Migration from developing countries is not only a loss of skilled health care workers and teachers, it is also a loss of educational investment.

Health care sectors in developing countries suffer dramatically from the loss of skilled workers. Countries like the UK can offer relatively high incomes and exert a pull factor on countries where wages and conditions are unattractive. It should not be assumed however that health care workers, including doctors, nurses, health care assistants, only move abroad for financial reasons. Many do so for reasons of professional development. Whatever the reason, high levels of out-migration put a severe strain on human and financial resources, which results in a struggle to provide basic services, such as health. It is estimated that between 30 and 50 per cent of health graduates leave South Africa for the USA and UK each year, two-thirds of Jamaican nurses left permanently in the 1990s, and in 1999 Ghana lost more nurses than it trained.

In sub Saharan Africa healthcare systems are badly affected, with 24 of the 47 countries having only one medical school; while 11 have no medical school at all. In Ghana, 40 per cent of health districts have, at the most, two doctors to serve the entire population, while some districts have none.

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69 Ibid
at all. Life expectancy in many African countries is low. The UN Millennium Development Goals include a two-thirds reduction in child mortality under five by 2015. To meet this Africa needs one million extra health care workers. Significantly, the Millennium Development Goals recognize that a sound health care system is critical to the economic development of developing countries.

The effects of the brain drain are acutely felt by families, as well as local and national economies. Many qualified professional health staff that migrate to the UK and elsewhere often leave their family behind. This can and does lead to a break up of the family unit. Those left behind bear the burden of greater workloads, low incomes, inadequate supervision, lack of career progression and, generally, sub-standard equipment in basic, key services. This is particularly true for women migrant workers who are stereotyped into the low-paid, "reproductive work", such as cleaning and domestic services, caring and healthcare. Women’s work is largely undervalued and the burden is doubled in the case of women migrant workers who have the responsibility as breadwinners and carers for their families.  

In the increasing “feminisation of migration”, where more women are migrating for work, families are separated and children suffer the most. These are high social costs that are not considered in measuring the benefits of migration. The loss of education and health care professionals produces serious deficiencies in the services provided to local communities and, crucially, in the capacity of developing countries to make progress with educational and health development. Even where resources are targeted to increase the numbers of skilled education and health workers, better pay and working conditions in developed countries relative to the situation in developing countries, remain strong push and pull factors in migration.

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The impact of the global economic recession on labor migration and remittances

The onset of the global economic recession in 2008, led to a serious slowdown in world economic growth and to considerable job losses. However, the extent to which this affected migrant workers, depended upon the destination country and the sector of employment. This is mainly because not all countries witnessed the same level of slow-down in growth. During the recession the sectors that were mainly affected included construction, manufacturing, hotels and restaurants. However, healthcare, agriculture, domestic services and education did not experience massive job losses. In the United States, Ireland, Spain and the UAE, job losses were particularly high in the construction sector. In Malaysia, South Korea and Japan, manufacturing was hardest hit. On the contrary, healthcare and education in the United States, experienced high growth. Due to the severe economic growth experienced, there were fewer employment opportunities between 2008 and 2009. The shrinking employment opportunities and job losses pushed migrants to take on temporary and informal employment leading others to fall into irregular status hence increasing their vulnerability.

For the sending countries such as India, the Philippines, Kenya and Tajikistan, migration stocks increased during the financial crisis regardless of the evidently shrinking demand for foreign labour. This is mainly due to the push-pull factors as well as the motivation from personal migration networks. Migrants also developed coping mechanisms such as looking for jobs in other economic sectors while some returned to their countries of origin to take part in reintegration and requalification measures. The need to recover public expenditures involved in educating migrants, dealing with impacts of skilled migration, protecting citizens from illegal traffickers, recruitment agencies and labor contractors. Philippines has developed a model programme to which limits private recruiter fees to one month of wages paid that is the Limit the power of recruitment agencies.
Kenya as a labour exporting country participated actively in the global scene and competes with many other sending countries in the job markets abroad. The next chapter examines the Kenyan experience on labor migration and the role of remittances in socio-economic development.
CHAPTER THREE

THE KENYAN EXPERIENCE

Throughout the 1950s, 1960s, and 1970s Kenyans were engaged predominantly in circular migration in search of higher education and advanced training abroad, which was then later applied to nation-building through employment in Kenya. In the 1980s and 1990s, this trend shifted to a one-way mass exodus due to the political, physical, and economic stability of foreign lands. The economic desperation of the late 1980s and 1990s, as well as violent politically motivated ethnic conflicts around the 1992 and 1997 general elections, catalyzed the massive departure of doctors, lawyers, university lecturers, and other highly skilled professionals to Western Europe and countries such as South Africa, Botswana, Uganda, Australia, Canada, and the United States. For instance, the number of Kenyan citizens in Germany was only 576 in 1980, but had doubled to 1,222 by 1990 and distended to more than 5,200 by the end of 2001; a figure which has been increasing annually.

Due to demographic pressures, societal dissatisfaction and unemployment, many Kenyans also began pursuing opportunities in low-skilled positions as bus drivers, domestic servants, cruise ship attendants, and security guards in Gulf countries such as Saudi Arabia, Qatar, and Bahrain. Kenyan high school and elementary school teachers were recruited throughout the 1990s to fulfil shortages in places such as the Comoros Islands, Seychelles, Rwanda, Burundi, and the Congo and Botswana.

According to the Human Development Index report of 2009, international migration for Kenya had an annual growth rate of 5.8% annually between 1960-2007. International emigration of Kenya was represented as follows: 41.5% to African countries, 4.2% to Asian countries, 37.9% to Europe, 0.2% to Latin America, 14.4% to America, and 1.8% to Oceania. World Bank in a study on estimates of remittances flows launched jointly with Central Bank of Kenya observed that remittances to Sub-Saharan Africa exceed Sh1.68 trillion ($21 billion). Remittance flows represent a significant share of gross domestic product (GDP) for Kenya and many African countries. Statistics from the Central Bank of Kenya show that total remittances to Kenya for the first seven months of 2010 stood at Sh28 billion ($350.9 million), up from Sh27.4 billion ($342.3) million in the same period in 2009.

According to a recent review of international migration from Kenya in 2001, there were 47,000 Kenyan nationals in the US, 20,600 in Canada and 15,000 in the UK. In the 1980s and 1990s, this appears increasingly to reflect permanent, rather than circular migration, due to the political and economic instability in Kenya. Many workers also travelled to the Gulf States, and also interestingly to Rwanda, Burundi and the Congo in search of low skilled employment during the 1990s. There was also recruitment of Kenyan teachers to countries as diverse as the Comoros Islands, Seychelles, Rwanda, Burundi and the Congo. In contrast, there are few accurate statistics about internal migration. Census material on migration is not available since the last published census in 1989, and there has been little analysis of this. It seems likely that areas around Nairobi and Mombasa and the coast, as well as areas of commercial farming, are net areas of immigration, whilst there continues to be net out-migration from much of Western and Northern Kenya. Kenya

72 Jevans Nyabiage, Saturday Nation 30th October 2010 'Diaspora remittance is now Kenya's top forex earner'

73 www.unhcr.ch
also hosts refugees from the surrounding countries, and acts as a transit point for resettlement to third countries such as the US. In 2002, Kenya hosted just over 230,000 refugees and asylum seekers from neighbouring countries, notably Somalia and Sudan. There are also significant numbers of IDPs in Kenya. The reasons for displacement are complex, but are linked to

3.1 Migration in Kenya 2003-2010

In 2003, in his inaugural speech, President Kibaki asked Kenyans in Diaspora who had been hounded by repressive policies to come back home and join in national building. Today, Kenya is a bona fide participant in international migration as a source and final destination country of migrants. Kenya also serves as a crucial transit location where refugees from conflicts in Sudan, Rwanda, Somalia, and Burundi have been processed for resettlement in Europe, Sweden, Australia and North America.

Migration outwards in search of opportunities abroad by Kenyans of all ages today and in the near future seems to be one possible outlet for some of the country's population and unemployment pressures. Moreover, lack of employment opportunities and unattractive wage levels are among the factors that have led to high migrations from Kenya. It is estimated that 1.1% of the Kenyan population lives abroad with the preferred destination being the United Kingdom, United States of America, Tanzania, Uganda, Canada and Germany. Migration of skilled individuals from Kenya is a prominent feature of the migration pattern in Kenya. Generally the migration stocks of Kenyans abroad can be summarized as follows.

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74 See; Mwai Kibaki (2002) “Inaugural Speech to the People of Kenya”.
75 World Bank; Bilateral Estimates of Migrant Stock; 2007a
TABLE 3.1 Migration Stocks of Kenyans Abroad

Source: www.remittances.kenya.org

<table>
<thead>
<tr>
<th>DESTINATION</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH AMERICA</td>
<td>52%</td>
</tr>
<tr>
<td>EUROPE</td>
<td>26%</td>
</tr>
<tr>
<td>MIDDLE EAST</td>
<td>17%</td>
</tr>
<tr>
<td>OTHER AFRICAN COUNTRIES</td>
<td>5%</td>
</tr>
</tbody>
</table>

According to the World Bank, the emigration rate of tertiary educated people is 26%. Recent studies indicate that Kenyans living abroad, sent back home USD 1.6 Billion\(^76\) in remittances in the year 2009 representing 4.9% of GDP. This was an increase of almost 400% as compared to 1999 when Kenya received 432 Million.\(^77\) In view of the increased acknowledgement of the importance of migration, the Government of Kenya has set out to develop an appropriate regulatory framework that safeguards labor migrants while maximizing on the economic returns of labor migration. Furthermore, the government of Kenya seeks to combat trafficking in persons and irregular migration from Kenya. In addition, the government is developing mechanisms to facilitate the return of highly skilled Diaspora so that they can actively participate in national building.

However, one of the major challenges that migrants face is the cost of migration. These costs include; airfare, passport, visa, insurance, medical checks and payment of recruitment agencies. The second challenge they face is exploitation by recruitment agencies and foreign employers. Some of the migrants to the middle East especially female workers are subjected to discriminatory


\(^77\) World Bank 2010, Remittances Data Inflow
wages, frequent salary cuts, verbal abuse, sexual abuse, flogging and restricted mobility. The Government of Kenya frequently receives complaints from Kenyan nationals working abroad. Media and human rights officials have on frequent occasions reported on human rights abuses meted on Kenyan nationals working abroad. These abuses include confiscation of passports and other travel documents, inhumane living conditions, breach of contracts as well as delays in issuance and renewal of work permits.

3.2 Remittances in Kenya

In Kenya, remittances have increased overtime. This trend is likely to continue as Kenyans seek for job opportunities in different countries within Africa and in other continents. Migrants whether send remittances back home for different reasons. Some do it for self development while others do it for the benefit of families left behind. The first reason can be termed as the ‘portfolio’ approach while the second is the ‘altruism’ approach. The portfolio approach sees remittances as a self interest controlled effort by the migrant to transfer capital and diversify savings. On the other hand, the altruistic approach sees remittances as a transaction that benefits the family left behind by the migrant without any demand on the remitter by the receiver. At times migrants are expected to repay through remittances informal loans obtained through education, as well as the cost of migration such as ticketing and documentation.

Remittances are likely to affect the economy regardless of whether they are sent with the intention of portfolio investment or altruistic help or support. Capital for portfolio investment may increase the economic activity since investments are done with the intention to make profits and increase productivity. Some of the challenges on remittances involve; Lack of accurate and timely information; Regulatory framework restrictions; Poor market competition; and Lack of payments points in rural areas.

IMF. 2005, p.78.
Labour migration from the South to the more developed North, has become a global phenomenon and the role of remittances in the economic development of these nations is well documented in a several contemporary studies. The remarkable renaissance in the interest in remittances by scholars can be attributed to the potential source of development. Remittances are described as a portion of international migrant workers earnings sent back from the country of employment to the country of origin where the remittent is not compensated by a counter-stream of goods and services. The interest in remittances has undoubtedly been triggered by a striking increase in remittance flows. Remittances sent back to developing countries rose from $31.1 Billion in 1990 to $76.8 Billion in 2000 to $167.0 in 2005. Statistics from central bank show that total remittances to Kenya for the first seven months of 2010 stood at Sh28 billion ($350.9 million), up from Sh27.4 billion ($342.3) million in the same period last year.

Remittances from north-South labour migration have received much attention in the migration literature. The potential development role of remittances remains a subject that preoccupies public policy and research. Remittances are a substantive yardstick for macro-level benefits in sending countries. Various figures indicate that the flow of migrant remittances from sending to receiving countries is continuously growing. Micro-studies in countries such as Pakistan and Bangladesh have shown that only around half of the remittances are transferred through official channels, with the rest sent through different unofficial methods. Consequently the actual value of remittances is likely to be at least double the officially recorded figures.

79 Knerr B: Labor migration from developing countries (Kassel: Kassel University Press; 1996)p.44
80 Ibid p.45
81 Jevans Nyabiage op. cit
82 Sorensen N.N; The Development Dimension of Migrant Remittances. IOM working paper No. 1, June 2004, Department of Migration Policy Research and Communications, Geneva. P.6
Significant increases in remittances sent home by migrant workers in the recent years and the accelerated pace at which it is growing has infused renewed interest in understanding remittance flows and their related dimensions.\textsuperscript{83} International organizations, such as ILO, IOM, IMF, World Bank and ADB, are increasingly emphasizing migrants' remittances as a tool to promote development. When compared with foreign direct investment (FDI) in developing countries, the value of remittances is more than 50\% of the total flow. Labor flows from developing countries and the counter-flow of remittances have increased significantly over the last two decades, coinciding with the era of globalization. In some ways, they have now come to occupy the centre stage of development discourse – both as important drivers of the globalization process and as one of its more important consequences.\textsuperscript{84} International remittances to developing countries offer a critical source of support in times of crisis. They are also an important source of foreign exchange. Some evidence points to substantial education and housing spending out of remittance receipts.\textsuperscript{85} Long term dependence upon the strategy of exporting labor in return for remittance inflows may be costly by it eventually pays off.

One of the main arguments for remittances is the multiplier effect whereby the benefits from the migrant workers are amplified in the home economy. Skeldon considers other ways of leveraging remittances. These include; capturing a share of the flow of remittances through duties and levies. This has been successful in Korea. The second one is through financial instruments on remittances; through attracting remittances into formal banking deposits which can give migrant families better interest rates, improve the domestic banking sector and the national balance of payments. Another

\textsuperscript{83} IOM; \textit{Labour Migration in Asia}. (Switzerland. IOM, 2005)p.319  
\textsuperscript{84} Phillip Martin; \textit{Sustainable Migration Policy in a Globalizing World}. ILO. Geneva, 2003. p.52  

53
way is to offer families with remittance bonds and foreign currency accounts. Thirdly is through channeling individual migrant labour earnings.

This can be achieved by creating incentives for more direct productive investment of remittances. Remittances put in micro-finance associations or credit unions could be expected to have more of a local pro-poor development impact. This way direct 'trickle-down’ effect will be evident in the economy. Finally, through migrants sending “Government Outreach to Migrant Collectives” as practiced in Latin America through Home Town Associations (HTAs). For instance, in Mexico participative remittances have been institutionalized in some countries for example the Tres Por Uno (Three in One) programme. In this case, migrants with saving or entrepreneurial plans use their money to finance projects in their country of origin. Macharia observes that remittances play a vital role in alleviating the liquidity constraint that would otherwise prevent the state and households from investing in important areas like children’s education and construction. As a result, households are able to maintain consistent levels of spending which perpetuate growth in Key economic sectors. Macharia goes further and contends that remittances act as a de facto social safety net for many Kenyan households whose non-migrant members are unable to secure regular wage employment.

The Central Bank of Kenya conducts a survey on remittances every month based on information collected from formal channels such as commercial banks and other permitted international remittance service providers in Kenya such as the Western Union. The World Bank estimates that 2.6 million Kenyans receive an average of $105 (Sh8.490) at least seven times a year, giving a total estimate of $1.9 billion (Sh153.3 billion. The study involved 2,423 recipients, 35 percent of whom

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88 ibid
said they received money from their relatives in USA; 25 percent from Europe, 12 percent from Asia and the Middle East and the remainder from Africa. The lowering of communication costs in the country which makes it easier for Kenyans to communicate with those in the Diaspora has played a major role in facilitating the remittance process, the study further discovered.

Remittance inflows in April 2011 amounted to US$ 70.1 million, which was 15 percent above the cumulative 12 month average through April 2011 and 33 percent above the flow in April 2010.

Table 3.2: Monthly Remittance Inflows in Kenya (2004 to 2010 in USS '000)

<table>
<thead>
<tr>
<th>Year</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>25,154</td>
<td>28,564</td>
<td>31,506</td>
<td>40,930</td>
<td>53,925</td>
<td>39,535</td>
<td>45,117</td>
</tr>
<tr>
<td>February</td>
<td>27,676</td>
<td>26,056</td>
<td>30,283</td>
<td>39,533</td>
<td>50,382</td>
<td>53,353</td>
<td>46,423</td>
</tr>
<tr>
<td>March</td>
<td>29,944</td>
<td>31,219</td>
<td>36,354</td>
<td>48,562</td>
<td>59,344</td>
<td>55,361</td>
<td>52,309</td>
</tr>
<tr>
<td>April</td>
<td>27,773</td>
<td>29,216</td>
<td>35,369</td>
<td>38,251</td>
<td>67,872</td>
<td>48,117</td>
<td>52,679</td>
</tr>
<tr>
<td>May</td>
<td>26,931</td>
<td>32,358</td>
<td>42,427</td>
<td>41,163</td>
<td>48,538</td>
<td>49,180</td>
<td>51,172</td>
</tr>
<tr>
<td>June</td>
<td>30,047</td>
<td>34,360</td>
<td>35,667</td>
<td>48,643</td>
<td>49,490</td>
<td>46,347</td>
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<tr>
<td>July</td>
<td>33,187</td>
<td>29,133</td>
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<td>August</td>
<td>28,894</td>
<td>31,759</td>
<td>30,587</td>
<td>58,803</td>
<td>43,388</td>
<td>55,947</td>
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<tr>
<td>September</td>
<td>28,894</td>
<td>31,616</td>
<td>28,841</td>
<td>60,575</td>
<td>48,953</td>
<td>53,347</td>
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<tr>
<td>October</td>
<td>25,223</td>
<td>33,037</td>
<td>29,633</td>
<td>46,848</td>
<td>61,113</td>
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<td>November</td>
<td>25,473</td>
<td>34,282</td>
<td>31,403</td>
<td>55,564</td>
<td>43,970</td>
<td>48,231</td>
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<tr>
<td>December</td>
<td>29,130</td>
<td>40,557</td>
<td>34,459</td>
<td>41,421</td>
<td>40,129</td>
<td>56,329</td>
<td>65,617</td>
</tr>
<tr>
<td>Annual Total</td>
<td>338,326</td>
<td>382,153</td>
<td>407,593</td>
<td>573,643</td>
<td>611,241</td>
<td>609,156</td>
<td>641,943</td>
</tr>
</tbody>
</table>


The increase in remittances reflects economic recovery in source markets, and a favorable domestic economic environment. The source markets for remittances have on average maintained the same shares with North America contributing 56 percent and Europe 26 percent of total remittances to
Kenya in April 2011, compared with an average of 52 percent and 30 percent respectively in April 2010. In both March 2011, and April, the remittances were above US $ 70 million. This pick up in remittances seem to reflect the momentum of economic activities in the country that provides investment opportunities for the Diaspora.

3.2.1 Uses of remittances in Africa

Remittances flowing into developing countries are attracting increasing attention because of their rising volume and their impact on recipient countries. In 2005, they totaled $188 billion—twice the amount of official assistance developing countries received. Moreover, there is evidence that such flows are underreported. Indeed, remittances through informal channels could add at least 50 percent to global recorded flows. Most of the reported flows go to regions other than sub-Saharan Africa (SSA), but SSA has still been part of the overall rising global trend. Between 2000 and 2005, remittances to the region increased by more than 55 percent, to nearly $7 billion, whereas they increased for developing countries as a group by 81 percent.

Studies relying on household data from different countries in SSA yield some insights into how remittances are used. At their core, remittances are private intrafamily or intracommunity income transfers that directly address the single most relevant challenge for SSA countries: poverty. Their long-term development potential is determined by what is left over after basic consumption needs are met.

Data from household surveys reveal that households receiving international remittances from OECD countries have been making productive investments in land, housing, businesses, farm improvements, agricultural equipment, and so on (36 percent in Burkina Faso, 55 percent in Kenya, 57 percent in Nigeria, 15 percent in Senegal, and 20 percent in Uganda). Households receiving transfers from other African countries are also investing a significant share in business activities,
housing, and other investments in Kenya (47 percent), Nigeria (40 percent), Uganda (19.3 percent), and Burkina Faso (19.0 percent).

3.2.2 Remittance Service providers (RSP)
The importance of remittances in Kenya is evidenced by the numerous money transfer institutions in both formal and informal sectors and the rapid increases in both international and local remittances. The domestic money transfer system has received a boost with electronic money transfer services provided by mobile telephone service providers. Besides the formal money transfers, there are also the informal channels through person to person conveyance, informal arrangements with public transporters especially bus companies among other channels.

This section examines the money transfer services in Kenya, covering the type and scope of services offered; the networking arrangements; the competitive factors affecting the RSPs; and the opportunities to further improve remittance services. The coming of technology has made transfer of remittances easier, cheaper and faster. These developments have included the expansion of M-PESA services and the entry of Zain in 2009. Mobile-phone money transfer service M-PESA which entered the domestic remittance market in 2007—has become the most popular mode of money transfer in the domestic market. This branchless banking service was developed for mobile telecom company Vodafone and is now the largest mobile-phone money transfer operator in Africa. M-PESA offers domestic money transfer services in Kenya and is currently working with Western Union to kick off cross-border money transfer services. This has led to relief from service gaps, inefficiencies, and unmet demand, especially among low-income groups and micro- and small-business community members. Similarly, most rural residents were being served by the informal sector. Few of them enjoyed formal banking services. The entrance of M-PESA and ZAP has

revolutionized the domestic and international money transfer markets. These new entrants have partnered with Banks based on complementary functions.

The Central Bank of Kenya defines the limits on single transactions for banks and foreign exchange bureaus and also indicates the threshold amounts for reporting to the bank. The formal RSPs must also report suspicious situations, such as attempts to split large transfers to stay within the threshold.

In addition, the Central Bank also asks banks and foreign exchange bureaus to require identification of the senders and recipients. The RSPs, lies squarely with the Central Bank of Kenya. Another method of money transfer is the Hawala.

3.2.3 Hawala: The Somali Community-Based Remittance System

The indigenous Somali community-based money transfer system started many years ago, but it expanded in the 1980s after many Somalis fled to seek asylum in other countries. Until recently, with the introduction of Muslim banks, the Somali community opposed traditional banking because Islamic law prohibits the payment or acceptance of interest. Hawala offers the advantages of convenience (operating in close proximity to the Muslim community); trust (embedded in the Muslim belief that people do not steal); and unregulated, tax-free status. Anyone can send money through the hawala system, and the business in Kenya is thriving—especially in the Eastleigh suburb of Nairobi, where about 90 percent of the residents are of Somali origin. The major hawala agencies include Dahabshiil (goldmine), Barowaaqo, Frontier, AMAL Express and Al-Barakat.

Because government laws and regulations govern the formal remittance industry, the Somali money transfer dealers have opened currency exchanges as front offices to conduct legal money transactions; behind the scenes, however, a lot of money transfers use the community-based systems. Thus currency exchanges then operate as central points for other small hawala agencies. They communicate by radio (in the remote parts of northeastern Africa and Somalia), fax, mobile
phones, e-mail, and the Internet. Most of the *hawala* agencies have different branches in different parts of the world and, in the case of money transfer; the person in charge of the agency on the other end is authorized to pay the recipient. The sending agency calls the receiving agency and provides the recipient's transaction number and telephone number and the amount being transferred. The receiving agent calls the recipient and tells him or her where to collect the money. The recipient must produce identification; however, a third party may receive money on behalf of the recipient if there is a witness, especially an elder. The sender pays the fee, which depends on the amount of money sent. For every US$100 sent, the sender must pay US$6 as commission. As the amount increases, the average commission rate decreases. The recipient is paid in Kenya shillings (K Sh), the local currency. These businesses are usually located near large Somali populations. Remittances are paid in cash, in total confidence, and there is no complex documentation. Although not regulated by the CBK, these system has seen large amounts of remittances flow into the country hence need to be regulated for the purpose of statistics.

The agency owner keeps a simple ledger, and customer service is adequate. If a remittance is issued with fake currencies, Somalis resolve the issue by traditional means, resolving disputes internally to keep the matter from leaking out to the authorities. These agencies compete among themselves. At the moment, several of them are mushrooming in number because the business is so lucrative.
CHAPTER FOUR

LEGAL AND INSTITUTIONAL FRAMEWORK

4.1 Introduction

Migration policies can be defined as those government interventions that regulate the arrival or departure of foreigners according to their nationality, purpose of their arrival and duration of their stay. The migration policies include those governing emigration, migration, seasonal migration and refugees. This section discusses the labour migration policy and regulatory framework in Kenya. It also reviews the migration policies of selected countries including Sri Lanka, India and the Phillipines.

Labor migration policy in Sri Lanka

The elaboration of the national labour migration policy is topical and timely for several reasons. There have been important economic, social and political developments since the mid-1980s when the basic institutional, legal and regulatory framework for overseas employment was developed. These relate to impact of globalization trends on the economy, rapid growth of migrant numbers with associated vulnerability, protection and welfare issues, increasing feminization of migration, social implications of migration and Sri Lanka's commitment to international instruments pertaining to migrant workers. Sri Lanka ratified the International Convention on the Protection of the Rights of All Migrant Workers and Their Families in 1995. It has now ratified all core Conventions of the ILO, and also endorsed the ILO Multilateral Framework on Labour Migration as a solid foundation for elaboration of the national policy. The Government's Ten Year Horizon Development
Framework (2006-2016) and the National Plan of Action for Decent Work have recognized the importance of labour migration for the economy.

Sri Lanka has also joined global initiatives for promoting migration and development linkages. It was in this context that my Ministry decided to develop the national labour migration policy with technical assistance from the International Labour Office. The National Labour Migration Policy elaborated here is a considered response to the above developments, representing a unique and pioneering initiative for the South Asian region. It articulates State commitment to ensuring a labour migration process that adheres to principles of good governance and rights and responsibilities enshrined in international instruments to advance opportunities for all men and women to engage in migration for decent and productive employment in conditions of freedom, dignity, security and equity. The policy document has been generated through an extensive consultative process among all concerned stakeholders - relevant government ministries and agencies, employers' and workers' organizations, migrant associations, civil society and concerned international agencies. The National Policy sets forth the Government's policy commitments and elaborates on challenges and policy responses identified by all stakeholders in the consultative process. The Policy further contains a detailed work plan addressing important policy challenges and issues that have emerged.

Labor migration in India

Studies on migration have been very few in India because, historically speaking: migration has never been considered an important demographic issue due to the small volume of internal migration relative to the total size of the population; However, these small-scale internal migrations within the sub-continent were replaced by large-scale external migration when the partition in 1947 created India and Pakistan. Withdrawal of the British from India and the partition
were associated with a massive transfer of population estimated at 14.5 million between the short span of 1947–51. Immediately after the partition, about 5 million Hindus and Sikhs left Pakistan for India and about 6 million Muslims moved into Pakistan from India. As this politically-triggered exchange created very serious and long-term problems of refugee settlement and integration, the prospects of intra-south Asian migration to and from India gradually became more and more limited after independence.

In contrast, voluntary migration, attributed mainly to economic and social factors, although modest compared to that related to political cause, continues and seems to be on the rise. The principal flows have been the following: Immigration to Britain, which was a traditionally favoured destination for temporary migration and, later attracted permanent settlers representing various social strata; the three traditional settlement countries, Australia, Canada, and the USA became more attractive destinations once their highly selective immigration policies were modified. These developed countries, later joined by the UK and other EU countries attracted the highly skilled workers from India; and a new destination, that rapidly gained popularity, has been the Middle East. The oil-rich countries mainly attracted semi-skilled and unskilled labour on a temporary circulating basis. Some south-east countries like Malaysia became such destination later on.

2.6 Labour Migration Policies in the Philippines

The labour export strategy in the philipine government and its institutional government is seen as the role model. This is mainly in terms of the social security measure put in place. For instance in 2008, President Gloria Aroyo put in place an executive order to the POEA to identify the Code green Areas with high demand for labour migration and initiate bilateral labor migration agreements with these countries. (Phillipines government Census; March, Manila) additionally a Filipino expatriate support programme was formed. Moreover, help desks for return migrants were
established in all regions of the country to assist them in finding new jobs. The public sector response initiatives cater for the migrant from the pre-departure stage to the re-integration stage.

4.2 Kenya's Migration Law

Generally, immigration in Kenya is regulated by the Immigration Act Cap 173 of 1967, the Alien Restriction act of 1977 (revised 1985), the Kenya Immigration Border Procedures Manual of 2006 and the Refugee Act of 2006. Immigration procedures in Kenya are mainly informed by the need to provide a delicate balance between facilitation and control in the sense that irregular migration through human trafficking must be well managed. The immigration act attempts to ensure that migration is voluntary and that any person willing to travel must be in possession of a valid travel document.

Passports are used to facilitate international travel and provide evidence of a migrant’s citizenship as well as other biodata details such as names, age, place of birth as well as the validity of the travel document. The Immigration Act of Kenya of 1967 defines a passport as a travel document issued by an authority recognized by the Government of Kenya. The Kenyan Government issues three kinds of passports; the Diplomatic Passport, the regular passport (A series (32 pages) B series (48 pages), C series (64 pages)) and the East African passport. Any Kenyan citizen who applies for a passport must prove citizenship through the national Identity Card, Birth Certificate and the reason for travel, qualifies to obtain a national passport. In 2003, the department of Immigration developed a service charter which alongside with the performance contracts sought to reduce bureaucracy in issuance of travel documents, visas and permits. As a result the long and tedious processes experiences were scrapped reducing the period to ten working days for issuance of passports. In the same spirit the working hours were increased to 13 hours from the regular 8 hours.

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91 Immigration Act of 1967, Section 2(1)
to speed up processing and accommodate the working applicants. In addition, the government has
decentralised issuance of passports to save the applicants the cost of obtaining documents. Other
major towns issuing travel documents include Mombasa, Eldoret, Kisumu, Embu, Nakuru and Garissa.

The Immigration Act Cap 173 has provisions for the regulation of foreigners intending to work in
Kenya however; it does not provide a regulatory framework to govern outward migration. This is
mainly because at the time the Act was established it was not envisioned that the country would at
one time experience demographic pressure and require Kenyans to move abroad and work to earn
livelihoods. On the contrary after independence, the main pre-occupation of the government was to
formulate laws that would Kenyanise the jobs held by the foreigners; Hence the Kenyanization
policy of 1964; which required foreigners to handover to Kenyan understudies after a stipulated
period. This policy also calls for identification of the labour market demands and filling up the
gaps. It also calls for provisions for Kenyans to understudy expatriates with a view of taking over
these jobs in the long run. To implement this policy, the immigration department carries out regular
phase-out meetings with the management of various companies to assess the number of expatriates
against the local employees and the efforts being made by the companies to ‘kenyanize’ the jobs.
This policy also provides that the three top management positions be held by foreigners for
investing companies. These include the directors and the financial controller. To ensure this is
implemented, ‘Form 22’ is filled by applicants of work permits.92

Another reason why the Immigration Act is focused on inward migration of labour is because at
independence it was thought that there was need to encourage expatriates to fill up positions where
local expertise was lacking. However, with the increase of education opportunities and with the
return of Kenyans who went to study abroad, most of the skills are locally available and the current

92 Immigration Act Cap. 173
The dilemma is how to deal with the ever-increasing skilled population. Upon this realisation, the department of Immigration is in the process of developing a Kenya National Migration Policy which was launched in May 2009 at the Laico Regency by the Minister for Immigration and Registration of persons. This policy is expected to encompass both the emigration and immigration realities and provide a comprehensive framework on how to govern the two for the benefit of the country.

The Ministry of Foreign Affairs has embraced 'Diapora diplomacy' in order to encourage the Diaspora to participate in national issues key among the economic development. Migrants from Kenya working abroad are expected to register with the Kenya Missions abroad as soon as they enter the host country giving full details of their place of work and residence and any changes within the period of residence should be updated as soon as possible. On arrival the embassy or high commission officials are expected to brief the nationals on the basic laws of the host country.

The mission is expected to protect nationals from the exploitation, servitude and other forms of suffering in line with the provisions of the Vienna Convention on Diplomatic Relations of 1969 on the role of the mission. However, due to lack of adequate pre-departure information, most of the migrants do not register and as a result they are exploited by employers abroad only for the missions to learn about it when the situation is worse at times when a migrant dies under such conditions.

In addition, the Ministry of Foreign Affairs has an international jobs desk which constantly informs Kenyans on the job opportunities abroad and provides pre-departure information with regard to the countries where employment is available. However, not many Kenyans approach the ministry of foreign affairs on these opportunities and instead rely on information from overseas job agencies. Moreover, migrants are expected to get pre-departure, arrival and integration information from the Vienna Convention on Diplomatic Relations of 1969.
Ministry of Foreign Affairs. Pre-departure information includes knowledge about the cost, benefits and risks of the job and labor migration, standards and certification required, expected attitudes and practices as well as pre-flight and flight requirements. Although overseas recruitment agencies may have these details, it is important that a migrant gets in touch with the Ministry of foreign affairs or the diplomatic mission for clarification.

Migrants are also expected to get post arrival information from the diplomatic mission abroad. This information includes support on mechanisms of remittances and maintenance of communication as well as access to decent and humane working conditions and where to report ones incase human rights are violated. However, many Kenyans depend on recruitment agencies to provide this information such that once they reach their destination; they work at the whims of the employer. Some are even locked in the house; the passports confiscated and can only communicate home through the employer. As a result, the embassy learns of the predicaments of the migrant when the conditions worsen and sometimes upon the death of a migrant. Most Kenyan migrants however, blame the government for not giving them pre-departure information hence they fall prey to brokers and agencies who readily give information.

The CBK is mandated to collect data on remittance inflows, analyze the cost of remitting funds, monitor the use of technology in money transfer, disseminate information on remittances to stakeholders for policy formulation and develop legal and regulatory frameworks for regulating money remittances. In addition, Central Bank continues together with stakeholders to develop remittance platforms and recipient projects like Diaspora bonds. In this regard, the Central Bank collects, collates and publishes inward remittance data on the CBK Website.

More specifically, outward labor migration in Kenya is regulated by the Labour Institutions Act 2007 Section 55 to 60. Section 55 provides for the registration of employment agencies, section 59
enlists the offences under the Act. Section 60 part 7 provides for the regulation of Employment agencies. The MOL is charged with the responsibility of attesting foreign labour contract. On application for registration as an employment agency at the Registrar of Societies office, applicants are supposed to obtain a letter of no objection from the MOL. In order to obtain this clearance, the agency has to provide annual returns on the which demonstrates that it is an active agency, they are also inspected to ensure that they have the required facilities including a valid lease agreement. The lease agreement is a measure to prevent agencies that open up, collect money from the migrants and close down soon after. The accreditation certificate is issued for one year and may be renewed if the agency provides convincing returns. The accredited agencies are the posted on the MOL website for migrants to access. The agency also needs to have the power of attorney from the employer. The MOL collaborates with KAPEA a private agencies association which gives information on the agencies engaged in irregular labour migration or is unregistered.

The ministry also collaborates with the police and the National Security Intelligence Services for investigation, arrests and prosecution of those who violate the labor laws. The MOL however, does not send labor attaches to foreign missions abroad hence the responsibility of handling labor migration issues is left to the desk officers at the foreign mission who have insufficient knowledge on labor issues.

The Government of Kenya through the Ministry of Labor and Human Resource Development in collaboration with social partners and stakeholders as well as international agencies such as the International Organization for Migration (IOM), recognized that it should initiate a process of developing and adopting a National Labor Migration Policy in consonance with evolving practice in other parts of the world and in coherence and synergy with the existing labor and migration laws.
The government of Kenya has undergone three phases of efforts toward the development of this policy. Phase I prior to 1988 was mainly restricted to the provisions of the Employment Act Cap 226 and the Immigration Act Cap 173. The government took a more proactive role through key agencies in Phase II which was between the period of 1988-2000. The third phase was in the 2000's following the “Cruise ship” infamy and increased media reporting on the rights abuse of Kenyan workers living in foreign countries. More actors got involved including the Ministry of Foreign Affairs, Central Bank of Kenya, Ministry of Planning and National Development and international agencies. Among the challenges faced by the first two phases included, limited capacity of the government to coordinate the process, bureaucratic impediments, legislative gaps and contradictions and a weak human resource system.

The development of a National Labor Migration Policy was premised on the need to effectively protect migrants and harness the benefits of an organized labor migration process in such a way that it would be beneficial to the migrant workers, their dependants, the origin and host countries. The key intentions of the policy framework, is for the labor migration policy to be consistent with the National Development Plan, to be comprehensive, to be transparent, to be consistent with the national migration policy, international norms and good practices, be in consonance with the international ‘decent work agenda’ and more importantly be in tandem with the aspirations of the ‘Vision 2030’. The main objectives of the draft policy include; promotion of good governance of labor migration; protect migrant workers by promoting their welfare and that of the families left behind and finally, optimizing the benefits of labor migration on development while mitigating its adverse impacts.

Draft Kenyas National Labor Migration Policy (Unpublished)

*Draft indicated by the sponsored return of former economic migrants (from Sri Lanka to India)*
On its part, the IOM in Kenya, implemented a workshop in collaboration with the MOL on the "Establishment of a Labor Migration Unit at the Ministry of Labor & Human Resource Development & Creation of Tools for the Assessment of Dynamics of Labor Migration of Kenya and the Kenyan Diaspora". Which sought to enhance the Ministry's capacity to regulate labor migration through development of a holistic approach? A three day workshop was held on July 13th-15th 2010 at the Laico Regency as a means of training all the relevant stakeholders on the labor migration process on the world's best practices and the roles they play as individual agencies. The workshop provided an opportunity for the MOL and its partners to better understand what is required in the regulation of a cohesive labor migration process.

The majority of cases handled by Kenyan authorities relate to individuals employed as semi-skilled and non skilled workers in the Middle East and some parts of Europe. The government of Kenya through the Ministry of foreign affairs attends to distress calls, facilitates voluntary repatriation of Kenyans and intervenes on behalf of Kenyans with labour authorities and employers to settle disputes and seek redress to human rights abuses.

Chapter 4 of the Constitution of Kenya provides for The Bill of Rights which informs the framework for social, economic and cultural policies. Article 25(a) provides for freedom from torture, cruel, inhuman and degrading treatment. Article 25(b) provides for freedom from slavery or servitude. Article 27(4) provides for equality and freedom from discrimination any ground including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, conscience, belief, dress, language, or birth. Article 30(1)(2) provides for freedom from slavery, servitude and forced labour. Article 39(2) states that every person has the right to leave Kenya.
4.3 Labor Migration Framework within the East African Community

Migration has come to the top of the political and social agenda across all of Africa. In recent years, regional integration initiatives have made considerable progress in development of frameworks, legislation, and mechanisms for increased economic and social integration among concerned states. At the continental level, the African Union and the Economic Commission for Africa have both taken up the challenges of exploring greater labour mobility across the region.

Since labour circulation is recognized as an integral part of the regional integration and development process in the East Africa Community Treaty, the EAC governments and social partners recognized the need to establish, modernize and improve their laws, policies, practices and administrative structures on migration. In the year 2004, the governments of Uganda, Tanzania and Kenya in conjunction with the IOM, developed a roadmap for the development of a labor migration management programme for Kenya, Uganda and Tanzania. This roadmap provided guideposts on the participants that would initiate successful programs towards developing a harmonized labor migration policy that would enable the region to benefit from labor migration.

In November 2009 the East African Community adopted the protocol on the Establishment of the East African Community Common Market. This protocol provides for free movement of persons in part D Article 7. Each partner state shall ensure non-discrimination of the citizens of other partner states based on their nationalities. The citizens of the partner states are free to move without requirement to obtain visas and exit the territory of the partner state without restrictions. However, the free movement does not exempt the citizens of the partner states from prosecution or extradition. The protocol also provides for a standard identification system and establishes a valid common standard travel document. With the signing of the protocol it is envisaged that migration

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95 See the Protocol on the Establishment of the East African Community Common Market, p.12
96 Ibid, p13
within the East African Community will increase thus enhancing socio-economic development. But the question is will it really enhance migration? What benefits will accrue from such arrangements? What are the envisaged challenges? This study attempts to answer these questions.

Article 10 provides for free movement of workers within the partner states. This article entitles workers to apply for employment and accept offers for employment, stay in the territory for the purpose of employment, facilitate admission for dependants of workers. The partner states shall also encourage the exchange of young workers among partner states under article 10 sub-articles 8; which encouraged exchange of skills and technology. To facilitate this, under Article 11, the protocol provides for harmonization and mutual recognition of academic and professional qualifications including licenses and certifications granted in other partner states. The protocol also provides for harmonization for curricula, examinations, standards and accreditation of educational and training institutions. The protocol also provides of labor laws, policies and programmes under Article 12.

The East African Community also provides for Establishment of Residence under part E Article 13. This provides workers with an opportunity to establish themselves in terms of investment in the partner states. In the same protocol, regulation 6 provides for the procedure of acquiring work permits. It provides for the applications to be supported by a valid common standard travel document. For workers seeking employment not exceeding 90 days they shall obtain a special pass for the purpose of employment. The wishing to work for a longer period a work permit shall be issued within 30 days of application for an initial 2 years which may be renewed upon

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97 Ibid.p14
98 Ibid.p17
reapplication. For the sake of records, the employer shall furnish the authorities of the partner states with annual return of the workers. Regulations. 7, 8, 9 and 10 provide for denial of work permit, cancellation of work permit, employment of spouse and child and expulsion of workers. Regulation 13 provides for equal treatment in employment of workers within the partner states. In addition regulation 14 provides for monitoring of the labor market whereby from time to time the secretariat shall from time to time develop a labor market inventory that will guide employment within the region.

4.4 Bilateral and Multilateral Arrangements


Kenya has also had bilateral agreements with Rwanda and Botswana leading to migration of Kenyans in the teaching and medical professions moving freely to work in these countries. Recently, Kenya signed an agreement with Saudi Arabia on labour migration where both the skilled

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99 The East African Community Common Market (Free Movement of Workers Regulations) EAC, Arusha, Tanzania 2009; p5
and non-skilled migrants are being prepared to migrate to Saudi Arabia. The first batch of 400 migrants left in September 2010 while another 2000 is expected to leave in April 2011.\textsuperscript{100}

Although specific policies can enhance the development potential of migration through facilitating and encouraging remittance transfers and investments, the key to more coherent migration and development policies seems to lie in encouraging circular migration through a far more liberal approach towards labour migration of both low and highly skilled workers where a real demand exists. Although highly restrictive policies give in to and actually encourage unrealistic public fears of being submerged by tidal waves of immigrants, they testify to a rather poor understanding of the developmental root causes of migration. Legal and policy framework should be enhanced to maximize on the socio-economic returns from labour migration.
CHAPTER FIVE

IMPACT OF LABOUR MIGRATION AND SOCIO ECONOMIC DEVELOPMENT IN KENYA

5.1 Introduction

This chapter presents the interpretation and presentation of the findings. The purpose of the study was to examine the relationship between labor migration and socio-economic development with reference to Kenya. Specifically, the study sought to analyze labor migration and how it has contributed to socio-economic development in Kenya evaluating the country’s legal framework on labor migration and eventually recommending on policy initiatives to enhance the development. Respondents were drawn from the Government Ministry of Labor and Human Resource development, Ministry of Foreign Affairs and the Ministry of Immigration and Registration of Persons. The researcher interviewed 190 respondents comprising of 30 respondents from each of the three ministries and 100 migrants who returned back to the country (Kenya). The findings are reported using frequency tables and percentages.

5.2 Effects of Labor Migration on Socio-Economic Development

This section is based on the reasons for migration, the source of information on labour opportunities, the competence requirement as well as the returnees’ attitude towards the labour migration on socio-economic development.

This study sought to investigate the reason why any of the respondents migrated to another country. The findings of this case are as tabulated below.
It is clear that from the finding shown above, most of the respondents said that the main reason as to why they migrated to the abroad country was to work outside the country as indicated by 48%. Another 30% of the respondents indicated that they needed to have their studies to the foreign country. 14% and 6% of the respondents said that they just went into the abroad country for a visit and holiday reasons respectively. Only 2% of the respondents had their own personal reasons as to why they migrated away from the country. This implies that, unemployment which increases the dependency burden of households wage. As far as Kenya is concerned, the increase in terms of
labour migration specifically to more developed economies is closely related to the search for employment and better lifestyle\textsuperscript{101}.

**Source of Information**

The study sought to find out how the respondents knew about the opportunity to migrate away from home country. The main sources of information provided by the researcher were the government, employment agencies, internet, friends and any other. The findings are as tabulated below.

**Table 5.2: Source of Information**

**SOURCE: SURVEY DATA; 2011**

<table>
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<th>Source</th>
<th>Frequency</th>
<th>Percent</th>
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</thead>
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<tr>
<td>Government</td>
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<td>15</td>
</tr>
<tr>
<td>Employment agency</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Internet</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>Friends</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Others</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

The findings shown above imply that internet is the main source of information as indicated by 45% of the respondents. 20% of the respondents said that they acquired the information from friends, 15% of them indicated that they knew about the opportunity through the government. 12% of the respondents knew they could work out of the home country through the employment agencies while only 8% said that they acquired the information from other means. This implies that internet is an important source of information for migrants regarding employment opportunities. The respondents added than, the source of information from government agency is generally not reliable since it is limited in details\textsuperscript{102}. The main reason fewer people accessed information through the government was limited access to government information.

Level of Competence

The study also needed to gather the information about the percentage of people who migrated into the abroad country. This specifically focused on the level of competence of the labour migrants.

Table 5.3: Level of Competence

<table>
<thead>
<tr>
<th>Level of competence</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Skilled</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Semi-Skilled</td>
<td>55</td>
<td>55</td>
</tr>
<tr>
<td>Non-Skilled</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

**SOURCE: SURVEY DATA; 2011**

The findings given in the table above show that the highest number of people sent from the home country were semi-skilled as indicated with 55% while 30% of the respondents indicated that they...
were skilled. Only 15% of the respondents said they did not have any skills on the jobs they went for in the abroad country. The non-skilled labourers included domestic workers and construction workers as well as caregivers. The data collected implies that most of the Kenyans who migrate to other countries are semi-skilled. Another implication that, as labour market information is becoming a global service through the internet, it attracts both the skilled and semi-skilled workers to access the employment opportunities\(^\text{103}\). Globalization, in turn, is raising a host of new challenges and problems in areas of national authorities that are concerned or connected with international migration. Kenya is facing various demands of a market-oriented economy. One such demand is that citizens compete for jobs in employment on the basis of their skills and work experience or their own ingenuity. At present, it has been argued whether the present education and vocational system at all levels is relevant to the basic needs of the labour market in terms of the practical application of the knowledge and skills acquired through education and training\(^\text{104}\).

**Remittance and Social Economic Development**

The researcher needed to assess institutions that are used as remittance pay out points. The outcome was distributed as follows:-

**Table 5.4: Payout Institutions**

<table>
<thead>
<tr>
<th>Pay-out institutions</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank</td>
<td>67</td>
<td>67</td>
</tr>
<tr>
<td>Post office</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Mpesa</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Others</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>


\(^\text{104}\) Walter Rodney, Kapepwa Tambila, Laurent Sago, Migrant Labour in Tanzania during the colonial Period
From the above table, banks are the most used as remittance pay out points with 67%, the post offices are moderately used as well as the M-Pesa points with 25% and 7% representing other unspecified institutions. The researcher also needed to find out the most applied money transfer outlets. The table below shows the response from the findings of the study.

**Table 5.5: Remittance Service Provider**

<table>
<thead>
<tr>
<th>Service</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Union</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>Money Gram</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Hawala</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>Coinstar</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Others</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
According to the findings shown in the table above Western Union is the most used outlet with 43% as compared to the Coinstar, Hawala, Money Gram and others with 24%, 22%, 10% and 1% respectively. The findings shown in the table above were accompanied the question on whether there is efficiency in Kenya Transfer system and the majority with 64% agreed that it is efficient.

The study further sought to measure the perception of the respondents with regard to socio-economic development. This question was put to various senior government officials. The responses were as demonstrated on the chart below.
Figure 5.1: Perception on the Impact of Migration on Socio-Economic Development

Source: Survey Data, 2011

On the perception of the respondents regarding the effects of labour migration (70%) of the respondents indicated that labor migration had an impact on socio-economic development. Another 20% felt that labour migration had a great impact, while 10% thought that labour migration had very little impact on socio-economic development.

Findings in this study are congruent with the current trend in many countries in the world and Africa, the issue of international migration is now taking on greater significance in Kenya. Different issues have emerged on international migration and most of these issues have some theoretical significant as well as important policy implications. The study has revealed that, socio-economic development emerges through labour migration where returnees use their savings to open businesses and employ people hence creating employment for the jobless. In addition, the returnees come back home with new technology in most cases more advanced that the technology available hence aiding largely in technology transfer. It was noted that with the new constitution

having a provision for dual citizenship, there is likely to be more returnees with the hope that they will not meet the investment challenges experienced by foreigners such as work permit fees and other licences required.

The study also established that remittances sent from abroad are used in varied ways by the migrants and recipients. The respondents further observed that remittances from migration enabled migrants and their family members to invest in food, education, healthcare, agriculture and other private enterprises. Income from remittances has also expanded the real estate industry with most of the income invested in rental facilities, apartments and homes. The findings show that 70% of the respondents also observed that labor migrant households often tend to have a higher propensity to invest than non-migrant households. This is mainly because remittances do not only benefit the migrants but also the dependants they leave behind. Although most of the literature reviewed tends to suggest that labor migrations leads to dependency, in Kenya experience indicates that migration does not necessarily lead to passive dependency on remittances, but also leads to increased economic activities and wealth creation.

The transfers of remittances are universally seen as one positive outcome of emigration. On a global level, remittances have increased considerably over the last years and the increase is owed to remittances sent to the developing countries. India, in an attempt to increase these monetary flows, has set up various deposit schemes which allows Indians living abroad to deposit their money in “repatriable accounts” which offer higher interest rates than accounts for the general public. However, Khadria (2002) reports that these schemes have been expensive for India as non-resident Indians appear to have borrowed in Europe at low interest rates. Investment by expatriates may be considered as a particular form of remittances. Khadria (2002) reported that, the Indian

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106 Azam, F.-I. (1991), "Labour Migration from East Africa: Trends, Impacts and Implications", 12 (3), 53-7

107 Clark and Drinkwater, 2001
government has made efforts to urge citizens living abroad to invest in India in remittance-backed bonds. This is a strategy that African governments can adopt.

Figure 5.2: Use Remittances for Socio-Economic Development

![Bar chart showing the use of remittances](image-url)

**SOURCE: FIELD DATA, 2011**

From the findings as shown by figure 5.2 above, 55% of the remittances were used on housing this included commercial and residential housing mainly in the outskirts of Nairobi, 15% were used for schooling mainly tertiary and higher education, 10% were used for food, and 10% were used for health care services, 5% on sanitation and 5% on other uses not indicated in this study.

The respondents praised the use of modern technology in the transfer of remittances noting that it was much easier to transfer money. They also noted that due to competition, the transfer rates were lower and cheaper. It also emerged that non-skilled labourers were not very positive on the developmental impact of labor migration. Most of whom had returned from the Middle East as
domestic workers, drivers, labourers and constructors complained of culture shock, unfavourable climate, low pay and abusive working conditions. To this category of returnees, migration was a measure of last resort and did not have much impact on their socio-economic status. One respondent a domestic worker noted that one cannot save much from the 800 Riyals they are paid once they migrate.

Despite the positive impact of labour migration outlined above, the respondents observed that general developmental constraints, such as poor infrastructure, corruption, red tape, lack of macro-economic stability, the absence of appropriate public policies (schooling, health care, land, reform etc.), market failures, limited access to international markets due to trade barriers, as well as absence of legal security have played a constraining role on remittance transfers as a result preventing migrant households from taking the risk of investing socially and financially in their countries of origin.

In this study, 70% of the respondents said that migration of skilled and well-educated professionals has impacted significantly on various sectors of the Kenyan economy. However, the respondents noted that the departure of professionals, such as medical doctors and nurses, engineers and university professors has created critical skills' gaps and adversely impact on the quality and delivery of vital services to the public. In addition the respondents noted that the departure of such professionals increases the pressure on those left behind to deliver quality services.

This view is also highlighted in the report of the GCIM: the report postulates that "In many countries in Sub-Saharan Africa, for example, the departure of essential workers has seriously impeded the delivery of health services to local populations, especially those living in remote rural areas. If this trend continues unabated it is likely to undermine the progress that has to be made in

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achieving the health related objectives of the Millennium Development Goals.” It was revealed that although a lot of resources are spent to train medical professionals once they migrate, the returns are not as much leading to ‘brain drain’. The study also revealed the economic recession did not affect labor migration from Kenya since most Kenyans migrate to America and the UK to work in the healthcare and domestic services sectors which were not greatly affected by the recession. Those who moved to the OECD the Middle East and the US for domestic services managed to retain their jobs because these sectors were not highly affected.

5.4 Policy initiatives for labor migration to enhance socio-economic development

The second objective of this study was to evaluate Kenya’s policy environment. In order to analyze the Kenyan migration policy, the study undertook a comparative analysis of the labour migration policies mainly referring to selected countries within Africa and Asia; these regions are predominantly labour sending. From the literature reviewed, the study identified four main migration stages that need policy attention. The findings of the study, demonstrated that migration occurs in phases that need adequate consideration when formulating and implementing policies. The figure below outlines the policy requirements for each stage of migration.

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The study found out that the labour migration regulations in Kenya lack a holistic understanding of the labor migration process. Policies for the pre-departure stage include, regulation of employment agencies and issuance of travel documents. Further, the study revealed that the government regulated the employment agencies under the umbrella of KAPEA. The ministry is also charged with the responsibility of inspecting and renewing the licences of the employment agencies. However, some agencies were still operating without accreditation and were actively involved in
irregular migration and human trafficking. At the pre-departure stage, the migrants also require pre-departure training. This mainly comes after the recruitment process is finalized. At this stage the migrants are armed with information on the cost of migration, the benefits, the risks, conditions of the contract, culture and expected attitudes. In Kenya, this is mainly done by the Ministry of Youth affairs, KAPEA and the IOM. However, 60% of the respondents did not have pre-departure training before migrating. This therefore means that only 40% of the migrants leave the country without adequate information on their countries of destination and their prospective jobs and placements. These findings also suggest that the pre-departure training is not accessed by all the migrants. Lack of pre-departure training exposed some of the applicants to cultural and social shock. For instance, a mason going to work in Qatar, was not warned of the high temperatures and that fasting was compulsory during the month of Ramadhan. The worker had to leave his place of employment six months after migrating. Another worker who migrated to work as a physiotherapist in Saudi Arabia, was made to pay the agent half of the salary for six months which was not part of the contract signed on departure. The findings also revealed that the migrants do not register with the foreign missions abroad on arrival and as a result, are unable to access timely assistance when need arises.

On the part of documentation, the government has made efforts to reduce the cost, time and bureaucracy previously experienced when obtaining travel documents and other related documents. The findings indicated that the migration process was made easier by making the process of obtaining travel documents cheaper and accessible. Passport Control offices have been decentralized to other towns such as Embu, Nakuru, Eldoret and Mombasa to reduce the travel costs for would-be migrants. In addition in Nairobi, working hours have been increased by four hours to shorten the period it takes to obtain a travel document.
The second and third phases of migration are the arrival and post-arrival stages respectively. These stages mainly involve remittance transmission, investment and saving, decent working conditions and humane treatment, psycho-social and legal support in case of problems as well as communication channels with families left behind. About 60% of the returnees interviewed felt that the labour migration regulations in Kenya did not adequately address the plight of Kenyans working abroad. One such respondent noted “once you are out there you are left to hustle on your own. The Government does not come to your rescue, while the recruitment agent does not respond to your complaints.” Nevertheless, another 40% felt that the government was addressing labour migration issues adequately, especially when it came to formal remittance transfer channels. These respondents generally felt that the channels enabled quick and efficient transfer of remittances. In addition, the respondents lauded the advent of mobile phone money transfer technology such as MPESA which facilitated both direct and indirect transfer of remittances. The research further revealed that the commercial presence of banks and MFIs in the rural areas encouraged the flow of remittances. The respondents also noted that improvement in telecommunication network and internet access enabled them to constantly communicate with families left behind hence maintaining the social bond. Increased number of players in the telecommunication industry led to lower calling rates due to competition.

The respondents also complained of lack of social protection by the government. Among the complaints received from returnees and those willing to migrate for the purpose of work involve malpractice by the recruitment agencies. These include: charging high fees to send workers abroad, causing undue delays, not sending workers abroad at all, misplacing documents such as passports, certificates and identity cards, misusing the documents of workers such as photo substitution of passports or allowing imposters to travel on passports that don’t belong to them, not providing contracts for signature and other pre-departure information and disappearing after collecting money.
from an emigrant. They felt that the policies did not adequately address this issue, mainly because the Ministry of labour lacks prosecutorial powers over unscrupulous recruitment agencies. A comparative analysis indicates that, the Filipino the Government endeavours to facilitate and regulate the movement of workers in conformity with the national interests. The Filipino Government seeks to protect its citizens overseas by securing the best possible terms and conditions for employment. The philipines Overseas Employment Agency (POEA) is charged with this responsibility. In Pakistan, the legal framework safeguards the rights of overseas workers and regulates the activities of overseas employment promoters or recruiting agencies. The government of Pakistan operates a strict criterion of granting licenses to private recruiting agents and overseas employment promoters. Among the requirements for clearance include police clearance, verification of character and certificated on financial soundness. The applicants past record is also checked. The activities of these agencies are closely monitored to ensure they maintain a clean record. The agencies are also rewarded annually with incentives to boost export of manpower through legal channels. Malpractice by these agencies is punishable by payment of fines, suspension and cancellation of licenses. In addition, in Pakistan, a migrant has clear channels of complaining. The migrant complains to a community welfare attaché, who the approaches the employer to find out the facts, the employer is then referred to the host government, if the matter is not settled, the embassy advises the migrant to approach local court and blacklists the employment agency. This way, the migrant feels protected by the Pakistani government. The migrants invest, in the real estate, farming and other enterprises.

While working in foreign countries, the migrants transmit remittances for different uses and invest the surplus. The study further established that the Central Bank of Kenya has a regulatory framework to provide safe and expeditious transfer of money. Since the CBK monitors the

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111 Labour Migration in Asia; p81.
remittance trends in Kenya, it is also charged with the responsibility of regulating the transaction cost for formal remittances. However, the biggest challenge for the CBK is to monitor and document proceeds from irregular migration and the resultant informal remittances which form a considerable percentage of the total remittances transferred. The data collated by the CBK, the remittance flows have been steadily increased over the past decade. However, the Kenyan government does not give the migrant workers tax-holidays/breaks as an incentive on invest.

The final stage of labour migration is return and re-integration. The study, administered 100 questionnaires to the migrants and returnees. When asked to comment briefly on the government policy on labour migration and remittances, 60% of the migrants felt that more could be done to improve the working conditions of the migrants and raise remittance flows. The return and re-integration stage of migration is crucial since it involves development of financial stability through investment of the earnings, access to credit and technical services and reintegration into the community. The Kenya government has addressed this through the Kenya constitutions provision of dual citizenship. The guarantee to retain citizenship even after on migrates will act as an inventive to labour migration and incentives. This is mainly because migrants who acquire foreign nationalities will not be required to renounce their Kenyan nationality. This will enable the migrants to benefit from the rights of both countries.

The study found out that there is much enthusiasm in Kenya to pursue and develop its labor migration policy. However, this is hindered by lack of general understanding of the nature and principles of migration. According to ILO, most labor administrations, are weak and isolated and have very little impact on the social fabric of the country.

112 Law on domicile and nationality, Kenya
"Labour administration...still occupied secondary places in the hierarchy of priorities, even if it was recognized that proper functioning of the labor market was a decisive factor in economic success and budgetary priorities in developing countries."114

In Sri Lanka for instance, the policy document was generated through a consultative process among all concerned stakeholders in order to gain a full understanding of the migration realities and underline the necessary policy responses. As a result, labour migration regulation in Sri Lanka has been successful.

The study further sought to establish the policy initiatives for labor migration that would enhance socio-economic development. In order to answer this question; the researcher asked Senior Ministry officials in the Ministry of Immigration, MOL and Foreign affairs to give their opinion and recommendations on the labour migration regulatory framework in Kenya. Among the responses obtained from the respondents were: - the need to protect migrant workers, the need for an independent and autonomous body to address labour migration concerns, the need for a coherent and inclusive policy, the need to mobilize the diaspora to invest back home as well as the need for adequate and timely data on migration stocks and remittance flows.

In addition, the interviewees stressed the need for effective links between the government and the private sector. This is mainly with a view to provide incentives for investment. This is also in line with the international migration management calls for sound national government capacity to plan, development and manage migration related strategies. Partnership between the government and the Private sector is likely to generate growth in the socio-economic sector since the remittances are mainly invested in the private sector.

114 Lecuyer Normand; Ibid.
The study further found out that there is no coordination on the implementation of legal and policy framework that guide the issue of labour migration in country. For instance, while the Ministry of Labour is in the process of formulation a national labour migration policy, the Ministry of Immigration is in the process of formulating a national migration policy. Although both efforts are commendable, they are both stakeholders in the labor migration. In the end, implementation of these policies separately by the ministries might pose a serious challenge. In addition, the financial resources used in the processes, the human resources and manpower hours involved in the formulation of these twin policies is immeasurable. As a result, both Ministries will end up being engaged in cutthroat competition which in the end lead to little or no gain from labour migration.

Arguing from the context of understanding Kenya’s labour migration concerns, respondents pointed out that the IOM should be working closely with the Ministry of Labour and Human Resource Development, by providing technical assistance to enhance the Ministry’s capacity to facilitate and regulate labour migration, particularly in the Department of Human Resources Management and Employment. The respondents further notably lauded the adoption of e-government as a means of capturing data and sharing information on labour migration. The ministry of labour officials recognized the role played by the IOM in the regulation of labour migration in Kenya. For instance, since 2009, the IOM has assisted the MOL with the following:- to develop its website for the National Employment Bureau, which is the Department responsible for Labour Migration; provide the Ministry with a server that will assist to manage the website database; develop databases for skills inventory, Diaspora profiles, labour market information from employers and private employment agencies’ interface with the Department; develop a draft labour migration policy and established a Labour Migration Unit at the National Employment Bureau.
From the study it was notable that, population movements from Kenya have been characterized by high flows of qualified nationals as well as irregular migration towards the developed countries. However, many Kenyans seeking employment abroad have become victims of human trafficking and smuggling and often find themselves being exploited by unscrupulous employers due to lack of information and government support to ensure genuine and fair employment. Although Kenya has ratified the 2000, Protocol to prevent, suppress and punishing trafficking in persons, most unregistered agencies still engage in trafficking of persons.

The field study further revealed that the draft Kenya National Labour Migration Policy is not in tandem with the East African Protocol on the Common Market. The Labour Migration Policy needs to have a broad framework that encompasses the vision of the EAC on Labour mobility. In Nigeria for instance, has a comprehensive labor migration policy based on the realization that labor migration was the key to obtaining economic integration and advancement across the Economic Community of West African States (ECOWAS). Nigeria which is a member state participated in elaborating and implementing the ECOWAS protocols for free circulation, establishment and employment of citizens of member countries throughout the community. As a result, the Nigerian National Labor Migration policy was formulated to fit into the larger vision of the community. The same cannot be said about the Kenyan draft policy. The policy is independent to the East African Protocol on the Common Market provisions which is likely to pose implementation challenges once the draft policy is ratified and adopted. Whereas the EAC provides guidelines for migration and labor and migration management in the same protocol, the Ministry of Labor and the Ministry of Immigration and Registration of Persons in Kenya are pursuing separate paths in trying to attain policies which may in the end be incoherent and difficult to implement in the context of the EAC. The Nigerian policy also provides for a long term vision for the role of labor migration in the economy. It also provides for better governance and regulation of labor migration based on a
consultative process with social partners and civil society. The policy provides for opportunities for men and women to engage in decent work in line with the 'decent work agenda of the ILO. The policy also seeks to promote human rights of migrant workers and the families they leave behind. Most importantly, it seeks to mainstream labor migration issues into national development plans. This policy provides a legislative foundation, regulatory framework and institutional framework to manage labor migration. From this analysis it is evident that labour migration management in the Nigerian context is coherent and well articulated in a single document. The document has also incorporated the global, continental and regional perspective of labor migration.

The Ethiopian labor migration policy is articulated in the country's foreign policy. The country provides for free labor movement of its citizens mainly to European countries. The country allows the migrants to invest back home and provides tax exemptions to migrants with such aspirations. This has encouraged most of the migrants to invest largely back home. In Kenya, labour migration is not part of the foreign policy. The Ministry of Foreign Affairs only comes in when the migrants are reported by the media to be in distress.

A comparative analysis of the selected, indicated that countries like Sri-lanka and Philippines had elaborate legal and institutional frameworks that protect migrant workers in terms of the contracts and protection from unscrupulous recruitment agencies. In the Philippines for instance, the POEA restricts the agencies to one month salary of the migrant hence the migrant is not exploited. The formulation of these policies is done through consultative processes where all the stakeholders are involved. The policies of Sri Lanka and Philippines, take into consideration the full cycle of labour migration.
6.1 Introduction

The central question about labour migration is whether there should be more or less of it as well as the policy options that maximize on its benefits while mitigating the negative impacts. This study analyzed the Kenyan situation over the past decade. Most importantly, the study delved into the development impact of remittances in Kenya. In addition, the study reviewed Kenya’s legal and institutional structure on labour migration in comparison with selected countries. The analysis revealed a number of constraints and challenges with regard to labour migration in Kenya. Therefore, the question that needs to be answered is; how can Kenya respond to the challenge of developing a comprehensive set of norms and standards to make labour migration more orderly and productive while maintaining a balance in the interests of all stakeholders while protecting the rights of labour migrants? This chapter is divided into three; Summary, Conclusion and Recommendations.

6.2 Summary

This study sought to find out how labour migration has contributed to socio-economic development in Kenya between 2000 -2010. The main objectives of this study were to analyze labor migration and how it has contributed to socio-economic development in Kenya, evaluate Kenya’s legal and policy framework on labor migration and to recommend policy initiatives for labor migration Kenya. The study employed both primary and secondary sources of data and came up with a number of findings. From the findings, most of the respondents migrated in search of employment.
as indicated by 48% of the respondents. 30% of the respondents migrated to study abroad. About
14% and 6% of the respondents went abroad for visit and holiday reasons respectively. Of the 48%
that migrated, 55% were semi-skilled while the rest fall within the semi-skilled and skilled
category. The study further enquired on the source of information on the job opportunities. 45% of
the information about the opportunity is acquired through internet while friends provide 20% of the
information. Another 15% of the respondents learnt of the job opportunities through various
government sources while 12% from employment agencies.

The study further sought to establish the means used to transmit official remittances. Most of the
remittances are sent via the banks 67% while 25% of the remittances sent through Remittance
Service Providers (RSPs). A small percentage comprising 7% of the remittances are sent via M-
Pesa. Moreover, 64% of the respondents agree that Kenya’s Remittance Transfer system is
efficient. The main uses of the remittances include:- education, social functions, real estate,
farming, health care purposes and loan repayment.

The study further, found out that institutional framework in Kenya that deals with the issues of
migration are underdeveloped in comparison to the situation in the Philippines, India and Sri-Lanka.
This is mainly because the policies in Kenya do not cater for the full-cycle of migration. However,
the findings show that there are efforts by the government to formulate a comprehensive ‘diaspora
policy’. These legislative and institutional shortcomings and their negative consequences have
hindered effective management of labor migration thus impacting on socio-economic development
of the country.

Furthermore, vast improvements in ICT have also contributed in the interlinking of global markets
resulting into public access to information regarding job opportunities. In the same vein, the advent
of technology has increased the volumes of formal remittances. Moreover, electronic money
transfer methods such as MPESA coupled with a heavy commercial presence of both local and international banks has reduced the cost of accessing remittances by communities and families left behind.

6.3 Conclusions

Migration can be a vital strategy for households and families seeking to diversify and improve their livelihoods, especially in developing countries. Flows of remittances have the potential to improve well-being, stimulate economic growth and reduce poverty, directly and indirectly. Labour migration in Kenya is a natural response to unemployment. Most Kenyans migrate as they seek better livelihoods in other countries. The migration patterns are influenced by groups such that people migrate to regions where demand from Kenyan labour is high and where many other Kenyans have worked before such as the United States and the United Kingdom.

From the literature reviewed and the data collected by the Central Bank of Kenya, increase in the volumes of remittances over the years reveals the impact it has on the GDP and more importantly on the households left behind by migrant workers. This indicates a positive correlation on the variables of labour migration and socio-economic development as posed by the first hypotheses of the study.

The prime responsibility for ensuring basic rights while abroad lies with host governments. The Kenyan government provides support in terms of advising about migrants' rights and responsibilities through migrant resource centers and pre-departure orientation sessions conducted by the Ministry of Youth Affairs in collaboration with the Ministry of Labour and the IOM on what to expect while abroad. Consular services in foreign missions abroad play an important part in providing a channel for complaints and possible recourse, while bilateral agreements can establish key principles on job matching, job opportunities and employment contracts. However, a collective
and coordinated effort by stakeholders to raise standards is more likely to be effective than isolated and sectoral efforts. This confirms the second hypotheses that the existence of an elaborate legal and institutional framework on labour migration leads to socio-economic development. The third hypotheses is disproved by the fact that most of those who migrate are not necessarily skilled.

Labour migrants from Kenya experience various challenges such as poorly negotiated contracts, social injustices, high costs of transmission of remittances among others. In order to benefit from the pay-offs of labour migration, there needs to be a bold vision and institutional mechanisms that will result into large gains to development and improve the welfare of migrants. In addition, migration policies must be included as an integral part of the five year national development plans and in the long-term, the Vision 2030. More importantly, the policies need to focus on the entire cycle of migration right from to the pre-departure state to the reintegration stage.

6.4 Recommendations

This study demonstrates the complexities that interplay between labour migration and socio-economic development. Further, labour and migration issues separately elicit social and political sentiments that need to be well balanced in order to formulate desirable and feasible policies that will translate into the best practices. Given the shortcomings revealed in this study with regard to the Kenyan experience, the study makes the following policy recommendations:-

1) The government and other stakeholders should build human and institutional capacity for maximizing the benefits of labour migration such as remittances and technology transfer and minimizing perceived disadvantages especially abuse of migrant workers rights. What is required, however, is a long-term policy that is aimed at establishing Kenya’s links with the Kenyan diaspora for sustainable socio-economic development in the country. Development
concerns can be protected through better regulation of employment agencies and provide regulations for ethical recruitment of workers.

2) The government should promote advocacy and awareness on the positive contributions of migrants to sending and receiving countries. Through open days, workshops and publications the government can give would-be migrants an opportunity to learn of the best and the worst experiences and impacts of labour migrations, so that migrants are able to make informed decisions.

3) Labour migration policies should be interfaced with other development policies such as education, foreign relations, trade, and investment. This way, the policies are likely to be more coherent and easier to implement. In addition, the policies should intermesh with the broader socio-economic and development frameworks.

4) Social protection measures for migrant workers need to be strengthened and arrangements made for portability of social security contributions.

5) The government should support bi-lateral and multi-lateral agreements between sending and receiving countries as channels of enhancing the contribution of labour migration to national development. This way, contracts and terms of employment are clear to both the migrants, the sending country and the receiving country.

6) There is need to capture share of remittances for development purposes. This can be done through taxation of emigrants, duties and levies on remittance transfers. However, this should be carefully so that it does not act as a dis-incentive to migrate.

7) Stimulating transfers through formal channels. The formal channels include remittance bonds, foreign currency accounts, premium interest rate accounts, enabling transfers through MFIs, promoting financial literacy (banking and unbanked) as well as increasing domestic bank presence.
8) Stimulating investment of remittances through tax breaks on imported capital goods, training programmes, SME schemes.

9) Protecting migrant workers both male and female from abuse and exploitation. The social costs of abuse include illness and death. These can be avoided by ensuring migrant is regular and that migrants do not fall into the hands of traffickers and smugglers.

10) Finally, there is need to improve on the quality of data on this subject. This is because without adequate and timely data on labour migration, policies and strategies for diaspora and migrant networks to contribute to socio-economic development may end up being unrealistic and undesirable.
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The Nation

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http://www.centralbank/go.ke/forex/diaspora_remitance.aspx. 25<sup>th</sup> July 2010

www.immigration.go.ke

www.labour.go.ke
Dear Respondent,

On behalf of the Institute of Diplomacy and International studies JACKLINE NANGAVO, thank you for taking your time to discuss with us issues and themes related to labor migration and development. We highly appreciate your cooperation.

Name of the interviewee (Optional)

Organization/Ministry:

Position:

Date of Interview:

1. What is your opinion on the trend of labor migration in Kenya?

2. How often do you interact with migrants in your daily activities?

3. Do migrants contribute to development in Kenya?

4. What are the specific policies and legislative framework that govern labor migration in Kenya?

5. In your opinion which challenges does the labor migration process encounter?

6. What policy recommendations do you give?

7. Do you have any other comment?
APPENDIX 2

MINISTRY OF LABOUR AND HUMAN RESOURCE DEVELOPMENT

1. What is the Government’s Policy on Labour and its migration (Briefly)

2. What are the Acts of Parliament that deal with Labour Migration in Kenya?
   a. 
   b. 
   c. 

3. In your opinion do you this the regulatory framework on labor migration is sufficient?
   YES
   NO

4. If NO in Q3 why? If YES in Q3 How?

5. Which challenges do migrants face?

6. In what way has the country benefited from labour migration?
   a. List briefly the benefits – go to 7
   b. No benefits – go to 8 and 9

7. Has the Government been able to secure the rights of its citizens working outside the borders?
a) Yes (List the steps it has taken) .................................................................

b) Somehow (State what is still left to be done) ..............................................

c) No (Mention the gaps) ................................................................................

What is the approximate contribution to the economy’s GDP from labour migration in the country?

Rating from the amount of contribution how do you rate their participation in nation building? Please rate.

a) Very little

b) Significant

c) Great

Kindly give your general opinion on the trends and policies governing labor migration in Kenya.

THANK YOU
APPENDIX 3

MINISTRY OF FOREIGN AFFAIRS

1. State your general role in the area of labour Migration
2. The Ministry of Foreign Affairs has been pursuing ‘Diaspora Diplomacy’. Why?
3. Please list the international treaties dealing with the migration of labour.
4. Does Kenya have any bilateral agreements with other States on labor Migration? If Yes; Which ones?
5. How do the embassies and high commissions ensure that migrant workers are protected in host countries?
6. Do you think the country has enough mechanisms and structures to reap any benefits of labour migration
   a) Yes. Go to 6
   b) No. Go to 7
7. (i) What are the policies in place?
    (ii) Who implements these policies?
8. What has caused the deficiency in labor migration regulatory framework?
9. Briefly state your general opinion on labour migration

THANK YOU
APPENDIX 4

MINISTRY OF IMMIGRATION AND REGISTRATION OF PERSONS

1. In what ways and practices is your Ministry approaching the aspects on Labour Migration
2. What are the Immigration laws concerning labour migration
3. Has your Ministry been able to efficiently facilitate the movement of labour into the country?
4. What are the restrictions to labour movement?
5. What is the Immigration policy on technology transfer and how effective has it been?
6. Does the country have any agreements on issuance of work permits and visas with other countries?
7. Is the investment environment in Kenya good enough to create employment in Kenya?
8. How does the department of immigration regulate migrants coming to work in Kenya?
9. In your opinion; are there sufficient policies to regulate immigration and emigration?
10. If YES in Q9; which ones?
11. If NO in Q9; Why?
12. Give your general opinion on Labour Migration.
Appendix 5:

QUESTIONNAIRE FOR MIGRANTS AND RETURNEES

SECTION I (Screening the respondents)

NAME:

OCCUPATION:

LEVEL OF EDUCATION:

1. Did you travel out of the country within the last 10 years?

   YES □
   NO □

2. Which country did you travel to............................................

3. For how long did you travel? ..............................................

4. What reason did you travel?

   a) Study
   b) Work (Proceed to question SECTION II)
   c) Visit
   d) Holiday
SECTION 11 (Labour Migration)

5. Why did you migrate from Kenya to go and work abroad?
   a) Unemployment
   b) For greener pastures
   c) Others (specify)

6. How did you learn of the employment opportunity abroad?

<table>
<thead>
<tr>
<th>Government</th>
<th>SPECIFY..........................</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment agencies</td>
<td>SPECIFY..........................</td>
</tr>
<tr>
<td>Internet</td>
<td>SPECIFY..........................</td>
</tr>
<tr>
<td>Friends</td>
<td>SPECIFY..........................</td>
</tr>
<tr>
<td>Others (Specify)</td>
<td></td>
</tr>
</tbody>
</table>

5. Which kind of work did you migrate to engage in?

<table>
<thead>
<tr>
<th>Skilled</th>
<th>SPECIFY..........................</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semi-skilled</td>
<td>SPECIFY..........................</td>
</tr>
<tr>
<td>Non-skilled</td>
<td>SPECIFY..........................</td>
</tr>
<tr>
<td>Others</td>
<td>SPECIFY..........................</td>
</tr>
</tbody>
</table>

6. Were you accorded any pre-departure training before you left?

   YES □ (specify by who?)

   NO  □

7. Did you understand the terms of your contract ahead of departure?
8. Approximately how much were you paid per annum?....................

SECTION III (Remittances)

9. Did you send any money back home in form of remittances?

YES □ (Proceed to q.10)
NO □

10. By what means did you send the remittances?

<table>
<thead>
<tr>
<th>REMITTANCE PROVIDER</th>
<th>SERVICE</th>
<th>CHARGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>WESTERN UNION</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BANKS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>COINSTAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOREX BUREAUS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MONEY GRAM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MPESA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SOMALI HAWALAS (SPECIFY)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHERS (SPECIFY)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11. In your opinion, do you think the Remittance Transfer system in Kenya is efficient?
YES □
NO □ (Proceed to q. 12)

12. Why do you say so?........................................................................................................

13. How were the remittances utilized?

<table>
<thead>
<tr>
<th>BASIC EDUCATION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>HIGHER EDUCATION</td>
<td></td>
</tr>
<tr>
<td>HEALTH CARE</td>
<td></td>
</tr>
<tr>
<td>REAL ESTATE</td>
<td></td>
</tr>
<tr>
<td>LOAN REPAYMENT</td>
<td></td>
</tr>
<tr>
<td>FARMING</td>
<td></td>
</tr>
<tr>
<td>SOCIAL FUNCTIONS</td>
<td></td>
</tr>
<tr>
<td>OTHER (SPECIFY)</td>
<td></td>
</tr>
</tbody>
</table>

14. Briefly comment on the Government policy on labour migration and remittances.