

**ANALYSIS OF EAST AFRICAN COMMON MARKET PROTOCOL AND
IMMIGRATION: CASE STUDY KENYA**

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
**A Dissertation Submitted in Partial Fulfilment of the Requirement for the Degree of
Masters of Arts in Regional Integration**

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SEPTEMBER, 2019

DECLARATION

I Norah Masai Sikolia, declare that this research is my original work achieved through my personal reading and studying. It has never been submitted to any other College, University or any institution higher learning for award of any academic certificate. All sources have been cited in full and acknowledged.


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This research has been submitted for examination with our approval as Catholic University of Eastern Africa Supervisors.

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DEDICATION

I dedicate this research to my family whose support and inspiration has propelled me to great heights in life and to my fellow classmates at the Institute of Regional Integration and Development (IRID), Catholic University for their support throughout the program.

ACKNOWLEDGMENT

I give thanks to God for giving me strength, time, ability and finances to embark on this Research. I am greatly indebted to my lecturers who have guided me throughout my studies. Finally, I extend my gratitude to my supervisor's Dr Melchior Nsavyimana and Dr Johnson Mavole whose guidance and assistance in every part of the study has contributed a great deal in realizing the objective of the study.

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ABBREVIATIONS

AU – African Union

CMP – Common Market protocol

COMESA - Common Market for East and Southern Africa

EABC - East African Business Council

EAC – East African Community

EACMP -East African Common Market Protocol

ECOWAS - Economic Community of West African States

GCM- Global Compact for Migration

IGAD- Intergovernmental Authority on Development

IDP-Internally Displaced Persons

IOM-The United Nations Migration Agency

ICAO -International Civil Aviation Organisation

MPFA- Migration Policy Framework for Africa

NCM-National Coordination Mechanism on Migration

REC-Regional Economic Community

SDG- Sustainable Development Goals

UNRSIM -United Nations Recommendations on Statistics of International Migration

ABSTRACT

This study sought to analyse the East African Common Market Protocol (EACMP) and Immigration with a particular focus on Kenya. The centrality of EACMP on immigration process is vital in the actualizing its objective which is to accelerate economic development and foster social ties of the East African citizenry through the elimination of barriers to regional trade and movement of East African nationals. The establishment of the Protocol has seen citizens within the EAC travel across these states to *inter alia* search for employment, visit, seek for educational opportunities, and undertake business. As such Kenya has been seen as an important destination for immigrants from other countries especially from East African Community member states. On this premise this research has essentially sought to establish whether the EACMP has been a solution to immigration issues and whether the legal and policy frameworks regarding immigration in Kenya and East Africa at large are tailored towards realising the objectives of the EACMP. Additionally, factors for immigration, challenges faced and the potential impact on Kenya's immigration policies has been analysed. The research design used in this study was descriptive and explorative research. I used a questionnaire for the primary data collection where open ended questionnaire was used for the key respondent. The study site was Kenya. For the purpose of this study the target population was 14 respondents who include immigration official and experts in the immigration matters in Kenya.

CHAPTER ONE

INTRODUCTION

Shaw defines Immigration as the international movement of people into a destination country of which they are not natives or where they do not possess citizenship in order to settle or reside there, especially as permanent residents or naturalised citizens, or to take up employment as migrant worker or temporarily as a foreign worker (Shaw RP 1975.)

The current immigration situation in the East African Community is complex and includes various forms of migration depending on the type of immigrant. Immigrants are motivated to leave their countries of citizenship, or habitual residence, for a variety of reasons, including a lack of local access to resources, a desire for economic prosperity, to find or engage in paid work, to better their standard of living, family reunification among other things. This movement could be regular or irregular and attracts a various category of people such as flows of refugees, Internally Displaced Persons (IDP), asylum seekers among others as the case may be.

Irregular migrants are persons who, owing to illegal entry or expiry of their visa, lack legal status in transit or host country. They are people who infringe on a country's admission rules and any other person not authorized to remain in the host country. Human trafficking and smuggling are the most common forms of irregular migration. On the other hand, Regular immigrants are those who move within the regulatory norms of the sending, transit and receiving countries. Such people possess requisite documents i.e. passport, visas, work permits among other requirements and they cross at authorised border points.

This study focused both regular and irregular movement of persons within the East African Community States. It's worth noting that the EA CMP under Article 7 (1) guarantees free movement of persons who are citizens of EAC Partner States whether regular or irregular and as such it prudent to focus on both.

The EA CMP has played a central role in shaping immigration within the East African Community and this has been through the formation of the East African Common Market Protocol. This has resulted into formulation of policies, legal and legislative frameworks that regulates immigration.

Thus, this study has also shed light on the efficacy of the policies, legal and legislative frameworks in place within the EAC Partner states in the management of immigration issues.

The study has also analysed the push and pull factors for immigration within the EAC and the effect of such movements both to citizens and non-citizens of the receiving and sending states.

1.1 BACKGROUND OF THE STUDY

The concept of immigration and/or migration can be termed as one of the oldest human activity in the world. Borhing notes that it is human nature to migrate given naturally human beings are mobile (Bohning W.R. 1984, P 12-13,). Mobility rights were bestowed upon human beings by the creator and thus are inherent. The signing of the Westphalia Peace Treaty brought with it new challenges as to the movement of people (Westphalia peace Treaty, 1948). The introduction of boundaries to a greater extent hindered the free movement of people where many states introduced policy restrictions to limit free movement of migrants in and out of their territories

Migration touches on a multiplicity of economic, social and security aspects affecting our daily lives in an increasingly interconnected world. Migration as a term encompasses a wide variety of movements and situations involving people of all walks of life and backgrounds. More than ever before, migration touches all states and people in an era of deepening globalization. Migration is intertwined with geopolitics, trade and cultural exchange, and provides opportunities for States, businesses and communities to benefit enormously.

Migration has helped improve people's lives in both origin and destination countries and has offered opportunities for millions of people worldwide to forge safe and meaningful lives abroad. However, not all migration occurs in positive circumstances. Recent years have seen an increase in migration and displacement occurring due to conflict, persecution, environmental degradation and change, and a profound lack of human security and opportunity. While most international migration occurs legally, some of the greatest insecurities for migrants, and much of the public concern about immigration, is associated with irregular migration.

The United Nations Migration Agency (IOM) defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of the person's legal status; whether the movement is voluntary or involuntary; what the causes for the movement are; or what the length of the stay is.

On the other hand, Pieter Kok defines migration *as the movement of people over some distance or from one migration area to another and from one usual place of residence to another* (Kok,1998 p.199). Similarly, the United Nations Recommendations on Statistics of International +Migration (UNRSIM) *defines* an international migrant as any person who has changed his or her country of usual residence.

The concept of immigration has been defined by various scholars in different terms. Harris and Levey have taken immigration to refer to: *“entrance of a person into a new country for the purpose of establishing permanent residence”* (Harris, & Levey, 1975 P137). This definition compares very closely with the meaning expressed in *Longman English Larousse (1968) which equates the verb to immigrate with the definition: “to enter a country of which one is not a native, in order to live in it permanently or to bring a foreigner into a country for this purpose”*

The definition is similarly emulated by Shaw who *defines migration as the relative permanent movement of persons over a significant distance* (Shaw RP 1975 Bibliography No5). Today however, is defined as involving a change in place of abode which criterion has practically replaced the notion of permanence. Likewise, the criterion that the distance of the move should be significant has generally been replaced by the requirement that the boundary of a migration defining area must have been crossed before a move can be classified as migration.

Apart from the definitions provided by various scholars and those found in dictionaries, there exist various definitions of specific key migration related terms. There is no universally agreed definition of *migration* or *migrant*. However, several definitions are widely accepted and have been developed in different settings. Technical definitions, concepts and categories of migrants and migration are necessarily informed by geographic, legal, political, methodological, temporal and other factors. For example, there are numerous ways in which migration events can be defined, including in relation to place of birth, citizenship, place of

residence and duration of stay. This is important when it comes to quantifying and analyzing the effects of migration and migrants.

The above definitions notwithstanding, the scope of this work is not limited to particular time span. It covers both those who want to settle in Kenya permanently, those who want to transit through Kenya to other destinations and those who want to settle in Kenya temporarily. In this case my working definition is approximate very closely with those given by Horsley and The Reader's Digest Great Encyclopedic dictionary respectively: "*The movement of people into a foreign country in which they intend to settle*" or "*the act of coming as settler into a foreign country*" (Horsley, E.M.1977,P649). Additionally, I utilized the concept immigration to refer to the control of the entry of persons who seek to live either temporarily or permanently in Kenya which control is exercised with reference to public security and the economic interest of the Kenya citizens. From the definitions above we find that there are many types of immigration depending on the status of the immigrant.

Kenya receives immigrants from around the world as Temporary residents (e.g. visitors, students, researchers, and work permit holders), long-term residents (e.g. spouses of Kenyan residents or long-term business investors), and asylum seekers

Immigration in Kenya has been taking place since time immemorial. We find that ethnic communities in Kenya moved from one place to another to do trade and in such of greener pastures. Men within the Kenyan Communities could relocate from their rural home to go and work for colonial companies e.g. the Imperial British East African Companies and the Kenya-Uganda railways. By then it was governed by among others the Colonial Immigration Ordinance 1906. This ordinance provided for restrictions to be imposed on all those persons who wished to come to Kenya for permanent settlement. The intending immigrants were required to make cash deposits as financial security to cover their own possible repatriation out of Kenya should they be found undesirable.

The Immigration Ordinance 1906 contained a very close similarity to the current immigration practice in terms of financial security. The current practice requires an intending immigrant to carry a return air ticket and sufficient money for subsistence and accommodation commensurate with the number of days the immigrant wants to stay in Kenya. Thus, at the entry point-airports and border controls the immigrant fills in entry declaration form, returns it to an immigration officer, who, in due consideration of the aforesaid financial security,

among other immigration requirements, may either immigrate or declare the subject a prohibited immigrant.

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

Upon the formation of the first East African Community in 1967 through assent of a treaty between Uganda, Tanzania and Kenya, the process of movement of persons was significant to have kicked off in the EAC and formed one of the pillars of the East African treaty. (Kanyagonga J.B, 2010)

In 1977 the EAC disintegrated due to political differences between Kenya, Uganda and Tanzania who were the original member states; however, the three states made efforts and restored the EAC which was reborn in 1999, with the signing of the treaty that led to the establishment of the same. In July 2000 the Treaty entered into force and there after January 2001 formal launching of East African Community by the three Heads of states. However, in July 2007 Rwanda and Burundi acceded to the Treaty. Lately South Sudan joined too thereby making the EAC a six-member regional economic bloc.

In 2009 due to the need to widen cooperation among the EAC partner states in the economic and social fields, the partner states signed a Common Market Protocol. The Protocol which was operationalized in 2010 gave way for the free movement for goods, people and labour, services and capital. The protocol also gave people the right to reside or establish oneself or venture into business anywhere within the boundaries of the member states.

In his book, Akwen Gabriel's notes that due to the major problem of unemployment, poor state of health among others that has necessitated mass movement of people within EAC states and other parts of the world, Regional integration is actually a solution to the continental problems facing immigration (Akwen ,2011).

Immigration is closely related to Regional Integration in that through regional integration East African Community Member states have entered into various agreements that are geared toward ensuring free movement of people within the member states. A case in point is the Common Market Protocol. The scope of co-operation under the Common Market is wide as provided in Article 5 of the Protocol to apply to any activity undertaken in cooperation by the Partner States to achieve the free movement of goods, persons, labour, services and capital and to ensure the enjoyment of the rights of establishment and residence of their nationals within the Community. The Partner States agreed to eliminate tariff, non-tariff and technical barriers to trade; harmonise and mutually recognise standards and implemented a common trade policy for the Community; and ease cross-border movement of persons and adopt an integrated border management system.

1.2 STATEMENT OF THE PROBLEM

The UN declaration, under Article 13 introduced the right to move globally without restrictions, it states that everyone has the right to freedom of movement and residence within the boarder of each state and everyone has the right to leave any country, including his own, and to return to his country (The Universal Declaration of Human Rights, which was adopted by the UN General Assembly on 10th December 1948).

This provision has been domesticated in East African Community under the Common Market Protocol which provides to the effect that citizens of the community should enter the territory of another partner state without a visa; be able to move freely within the territory of that partner state; stay and exit the country without undue limitations. The Protocol provides for four freedoms which includes free movement of, goods people /persons, labour, services, and capital all stipulated under Articles 6,7,10,16 and 24 respectively. The Protocol similarly provides for right of establishment and residence under Article 13 and 14 respectively. This study therefore focuses on the right of establishment and residence and the free movement of persons which are in line with immigration.

The ratification of the Common Market Protocol has been vital to the EAC Partner States as it has enhanced the integration of the EAC region. The integration is geared towards dealing with immigration related issues within the region. The formation of these regional blocks has been seen as the only solution to deal with the African continental problems immigration being one of them (Akwen, 2011).

The EACMP has provided a foundation on which movement within the EAC Partner States has been more predictable and reliable through the removal of barriers that obstruct the freedom of movement of persons, capital, labour and other factors of production within the EAC Region.

According to Otieno Topister in his research “The impact of East Africa Community on Immigration policies, Kenya as a state has undergone a lot of changes both in form and content leading to new, open, liberal and progressive and less restrictive policies.

The same is witnessed by George Simiyu in his research “The role of immigration policies in promoting Regional Economic Integration, based on Goege, it’s worth noting that EAC Member States are yet to fully operationalise the provisions of the Protocol as some partner states still have in place stringent regulatory frameworks hampering free movement of persons within their States and most of the laws in the member states are not in line with Treaty for the establishment of East African Community and the East African Common Market Protocol hence has resulted into the following issues, Failure of the member states to implement the Treaty hence misinterpretation of our treaty as the immature of the European union, Rwanda has a bilateral agreement to work in Kenya and vice versa which is contrary to our treaty, most of the member states have refused to cede their sovereignty, Lack of the implementation of the treaty and the CMP which has in turn encouraged a lot of illegal trade ,lack of political will by the member states and lastly the reluctance by EAC states to fully open their borders could be attributed to different factors as analysed later in this study.

It is on this premise that this study takes cognizance of analyzing whether the Common Market Protocol has been a solution to immigration issues.

1.3 OBJECTIVE OF THE STUDY

1. To analyze the legal framework that govern immigration in East African Community and Kenya.
2. To analyze factors related to immigration issues in Kenya as an East African Member state.
3. To propose the possible strategy which can help for successful immigration policies management in Kenya

1.4 RESEARCH QUESTIONS

1. What are the legal frameworks that govern immigration in East African Community and Kenya?
2. What factors are related to immigration issues in Kenya as an East African Member State?
3. What is the effectiveness of immigration policies on migration management in Kenya and East Africa?

1.5 JUSTIFICATION OF THE STUDY

The greatest percentages of immigrants in Kenya originate from EAC Partner States and the rest from other African Countries. Immigrants are attracted to Kenya for a number of reasons and these include: Kenya's strategic location as a regional hub in East African region which allows foreign workers engaged in business or working with United Nations agencies, international charities or NGOs to conduct their activities. The economic development in Kenya has attracted temporary and permanent immigrants to Nairobi which is the largest urban center in East Africa, as well as offering opportunities in industries and factories, in the expanding services and technology Centre, and in the improving markets as well as access to social services.

These varied pull factors have led to an evolving foreign and foreign-born population in Kenya comprised of those who have immigrated for employment and education as well as forced migrants including refugees and asylum-seekers from neighboring countries. In regard to education majority of foreign students are found at Catholic University of Eastern Africa, United States International University, Strathmore University and the University of Nairobi.

In regard to refugees and asylum seekers the United Nations High Commission for Refugees data indicates that Kenya hosts one of the largest refugee populations in Africa. There are two main refugee camps: i.e. Kakuma refugee camp and Dadaab refugee camp, which is a complex of five camps and is the largest refugee camp in the world as well as one of the oldest. As of 31 March 2015, the estimated population of Dadaab and Kakuma refugee camps is 351,446 and 181,821 respectively (UNHCR, 2015, 11April, 2019) The population of the Dadaab camps has decreased in recent years, from a peak of 463,427 in 2011.

In view of the foregoing reasons this study is justified on grounds that the information gathered in Kenya in regard to the topic is a true reflection of the other EAC partner states. We note that Kenya having ratified the EACMP as well as entered into various treaties is committed foster regional development within EAC Partner States through the implementation of the provisions of the EACMP in regard to movements of persons within its borders. This is evident by the creation of both legal and institutional frameworks as well as migration policies that are in line with the spirit of the EACMP. Thus an analysis of this is vital in order to deduce the challenges incurred as far as immigration is concerned and in effect propose possible policy recommendations.

1.6 SIGNIFICANCE OF THE STUDY/ SCOPE OF THE STUDY

The findings of the study are significance to Kenya, East African region, and other stakeholders because it will help in understanding the impact of the East African Common Market Protocol on immigration aspect and tackle the challenges faced in relation to the same and thus formulate strategies to enhance regional integration to boost immigration within and outside Kenya. Scholars, students and researchers may also find the study helpful to identify furthers areas of research, built on the findings of this research.

This study is limited to the analysis of East African Common Market Protocol and its effect on immigration in East Africa with Kenya being the focus country. This is in regard to the provision that provides for the free movement of person, capital, labor and services.

The legal and policy framework pertaining immigration within EAC Partner States has also been analyzed and the factors, together with challenges facing immigration.

The participants of this study comprised of officials from the State Department of Immigration, Ministry of East African Affairs, Ministry of Foreign Affairs, East African Civil Society Organizations Forum (EACSOF), Xavier Project (child refugee NGO) and scholars from the Catholic University of Eastern Africa. Majority of participants herein save for few were well conversant with EACM Protocol and immigration related issues.

Kenya being the hub of East Africa Region in terms of development is best suited to be the focus nation of study owing to its strategic position within East Africa. The study has endeavored to unearth the influence of the Common Market Protocol and its regulations on immigration policy in regard to free movement of persons and the right of establishment and

the right of residence as provided for by the Protocol. This study is restricted to the selected sample population in the study.

1.7 LIMITATION AND DELIMITATION OF THE STUDY.

Limitation of the study is the reason I chose Kenya and not any other area or state as my area of study. The following are some of the reason that I chose Kenya; First is time factor. In east African community Kenya is actually considers to be at the central hence easy to be located thus the time I had could allow be to collect required data without delay as compared if I could have chosen another state. Another thing is that being a Kenyan citizen it was easy for me to locate the targeted area /department of data collection hence making my work easier.

Apart from that the World Banks Migration and remittances Facebook estimated Kenya's diaspora population at 45700 in 2010 and at 47500 in 2013(W.B, migration and Remittances Facebook 2016).This is actually after the East African common market protocol had come .The population has increased due to increase of immigrants .When you compare Kenya and other East African states statistics from the World Bank shows that Kenya handles more immigrants as compared to other East A African Member states hence giving me basis to be limited to Kenya as my key area of study.

However, the delimitations of the study are the shortcomings encountered during the carrying out of the research. Even though the information in regard to EACMP is readily available I encountered a number of challenges to get the required information and data at various institutions/organizations due to a number of reasons. For instance, at the State Department of Immigration, I was directed to do a handwritten request letter in order to be allocation a respondent and this is despites having explained my intention and produced all the relevant identification documents including the University introductory letter and the research permit issued by the National Commission for Science, Technology & Innovation. I was allocated 5 respondents from this Department two week later, even though they cooperated to give me information they were reluctant to give me the data in regard to the number of passports issued, foreign nationals registered and work permit issued in the year 2017 and 2018 with excuse such information can only be release d with authority of the Director with special request. However, I managed to get the information from the International Organization for Immigration (IOM) website.

At Ministry of East African Community (Nairobi), it took more than 3 two day get a respondent. The person I was referred to was not ready to give me the required information but rather directed me to a second person whom I was forced to wait for over 6 hours till late evening where he gave the information but not exhaustively as he was running late.

On the other hand, at Xavier Project (Child refugee NGO) it was difficult to meet the Child Education Officer who being student at Catholic University was very busy. However, I managed to get him during lunch hour and he volunteered the information for only one hour and advised me to look for more information online.

The respondents at the East African Civil Society Organizations Forum (EACSOF) were very cooperative only that I was asked to do a write up as to why they should give me information in regard to my study. Finally, I did not get any response from the East African Community Headquarters in Arusha despite having communicated to them vide skype and email. No person was allocated to me from this end.

1.8 SITE DESCRIPTION

This study was carried out in Kenya -- Nairobi where most immigrants drawn from the East African Community states are resettled and majority of government institutions are located. Places visited include; the Ministry of East African Community & Regional Development, Ministry Foreign Affairs, State Department of Immigration, Border Control and Registration of Persons which are located with the Nairobi's central business district. Similarly, I visited East African Civil Society Organizations Forum (EACSOF) and Xavier Project (child refugee NGO) both located at Westland's area and Adam Arcade Nairobi respectively. Additionally, I got relevant information in regard to this study from Scholars and experts well vast with regional integration and immigration issues from the Catholic University of East Africa,

At the Ministry of East Africa Community & Regional Development I sought audience with an officer from the Department of East African Community since they oversee all matters in regard to East Africa community. At the State Department of Immigration, Border Control and Registration of Persons I interviewed 5 officers from the Directorate of Immigration and Registration of Persons, reason being that they are directly involved in immigration

management, boarder control, issuance of permits, passes and visas and this was relevant to the objective of this study.

Finally, At the East African Civil Society Organizations Forum (EACSOF) and Xavier Project I managed to interview the Executive Director and Child Education Officer respectively.

CHAPTER TWO

LITERATURE REVIEW

INTRODUCTION

This chapter presents the review of literature related to the study. These include review of information as espoused by different scholars and from various legislations in regard to East African Common Market Protocol and immigration within EAC Partner States with a focus on Kenya. This chapter has *inter alia* explored; theories related to immigration and EACMP and the relevance of these theories to the movement of persons within the EAC. Also captured in this chapter are migration policies and governance, legal and institutional frameworks on migration, international treaties and conventions relevant to immigration in Kenya and East Africa. All this is in line with the aims and objectives of the study.

2.1 THEORETICAL FRAMEWORK

This study has utilized the regional integration theories and immigration theories in discussing the EA CMP and immigration. This has been done with reference to different theorists for instance Stanley Hoffmann, Andrew Moravcsik, Ernst B. Haas just to mention but a few. These theories in one way discuss the rationale for regional integration which gave birth to the establishment of the EACMP and also shed light on the rationale behind immigration across the globe EAC inclusive.

2.2 REGIONAL INTEGRATION THEORIES

Regional integration theory seeks to explain the establishment and development of regional international organizations. It is worthy noting that most of these theories of integration had been developed to explain European Integration in the 1950s and 1960s, where states wholly or partially in Europe came together to form a Regional Economic Bloc for *inter alia* economic, social and political interests. These theories as developed by different theorists include but not limited to functionalism, transnationalism, interdependence, neo-functionalism, federalism inter-governmental/ liberal inter-governmental.

Later at the verge of globalization so many states of the world from Africa, Asia and Latin America have come up with several various regional associations and just like Europe engineered by economic, social and political interests e.g. the West African Economic and Monetary Union (UEMOA) in 1994, the Association of Southeast Asian Nations (ASEAN) together with China, Japan, and Korea (ASEAN+3) in 1997, the Economic and Monetary Community of Central Africa (CEMAC) in 1998, the Eurozone in 1999, the East African Community (EAC) in 2000, the Union of South American Nations (Unsure) in 2008, and the Pacific Alliance in 2011.

However, the above Regional Integrations Blocs notwithstanding this study is based on the integration of the East African Community with a particular focus on Kenya and the effect of such integration to immigration within the member states.

This study utilised the intergovernmentism theory of regional integration that was proposed by Stanley Hoffmann and refined by Andrew Moravcsik in the 1990s in which he stated that states and National Governments are the primary actor in the integration process (Moravcsik, A.M. 1992).

Stanley Hoffmann who proposed the intergovernmentalism theory is an American Social Science born Cleveland in 1959. Stanley studied at the Boston Conservatory which is currently known as the new England Conservatory of music and Brandies University. While Andrew Maitland Moravcsik who is the founder of the Intergovernmentalism refined the theory in 1990-1992. Moravcsik was born in 1957. He is Professor of political and director of the European Union program at University.

Intergovernmental hypothesise that the development of regional integration is determined by states' interests and the outcomes of regional bloc bargaining. Integration only takes place if there is a permanent excess of gains and losses for nation-states. It is thus viewed as strengthening the nation-state since it takes place according to its 'rules' (Hoffmann 1966, 1982; Millward 1992).

While for intergovernmental governments are the paramount actors, the role of supranational institutions is downplayed. Governments only transfer sovereignty to institutions where potential joint gains are large, but efforts to secure compliance by other governments through decentralised means are likely to be ineffective (Moravcsik 1998: 9). Supranational

institutions are denied any significant independent entrepreneurship and are subject to amendment by member governments.

In his liberal intergovernmentalism account (LI, Moravcsik 1993, 1998) has developed the intergovernmentalism approach. He departed from 'classic' (also referred to as 'realist') intergovernmentalism which sees national interests arising in the context of the state's perception of its relative position in the states system. Instead, Moravcsik views national preferences arising in the context provided by the domestic politics of the state. Preferences emerge from dynamic political processes in the domestic polity.

However, the primary source of integration lies in the interests of the states themselves and the relative power each brings to the bargaining table. Hence, further integration is possible, when (the most powerful) member states see their interest best served through such undertaking. In terms of European foreign policy, 'classic' intergovernmental have been very sceptical concerning the prospect of integration because this policy area was considered 'high politics', i.e. close to the heart of national sovereignty (Hoffmann 1966: 882).

Liberal intergovernmentalism suggests that sector-specific welfare interests of dominant interest groups determine member governments' utility function in terms of cooperation/integration. In terms of foreign policy, this utility function is difficult to ascertain given the lesser involvement of influential (economic) interest groups (Moravcsik 1998: P28-30). As a result, the original Liberal intergovernmentalism thesis has been somewhat modified. Subsequently, it has been argued that in areas where economic/welfare interests are not substantially affected, member governments tend to favour further integration when they do not have (credible) unilateral alternatives for action (Moravcsik 1998; Moravcsik and Nicolaidis 1999).

Intergovernmentalism emphasises the role of the nation state in the integration process, and argues that the nation state cannot become obsolete due to integration. Alan Milward, an intergovernmentalist writer, argued that the national governments of the member states were the primary actors in the process of integration, and rather than being weakened by it they became strengthened by the process. This is because in some policy areas it is in the member states' interest to pool sovereignty.

The intergovernmentalism theory was relevant to this study in that, the East African Community member states established the East African Common Market Protocol by which member states i.e. Kenya, Uganda Tanzania, Rwanda ,Burundi and South Sudan are under commitment to *inter alia* domestic legislations that provides for the free movement of goods, the free movement of persons; the free movement of labour; the right of establishment and the right of residence, the free movement of services; and the free movement of capital all in accordance with the provisions of Articles 76 and 104 of the Treaty. Additionally, the member's states are also committed not to introduce new restrictions, and to eliminate existing ones. For goods, all partner states are required to remove internal tariffs, implement a common external tariff, and remove non-tariff barriers to trade, among other commitments. This in turn confirms that the east African states have shown efforts to be the main actor in the EAC integration process.

However, this theory is refuted by another regional integration theorist Ernst B. Haas, by the neofunctionalism theory he argues that contrary to the intergovernmentalism theory, states are not the only important actors on the international scene. Ernst Haas is an Austrian-born photojournalist who was influential for his innovation in colour photography. He claims that supranational institutions and non-state actors, such as interest groups and political parties, are the real driving force behind integration efforts (Haas, Ernst. B,2004,1958, 18 March 2019).

Regional integration is about getting things moving freely across the whole of Africa. This means getting goods to move more easily across borders; transport, energy and telecommunications to connect more people across more boundaries; people to move more freely across frontiers, and capital and production to move and grow beyond national limits.

2.3 IMMIGRATION THEORIES

There are a number of theories in the literature related to migration. Therefore, researchers tend to classify migration theories according to various factors such as the origin of such theories, migration patterns, relevant disciplines, and application of such theories in the present context. (Hammar, Brochmann, Tamas and Faist 1997) attempt to classify theories by using levels of migration. As per (Hammar et al. 1997) and (Faist 2000), migration theories are divided into three main categories as micro-level, macro-level and mecro-level of migration. Micro-level theories consider migration decisions from an individual's

perspective, i.e. a person's desires and expectations. Macro-level theories consider migration decisions from an aggregate point of view, i.e. the economic structure of the country. Meso-level is where migration decisions lie in between the two former theories, i.e. family bonds, social networks, peer groups and isolated minority communities (Hammar, T., Brochmann, G., Tamas, K., & Faist, T. 1997).

Migration theories are useful as they provide theoretical guidance to understand the movement of people in a wider perspective. This may be related to economic, social, legal, political, cultural, ethnic or other phenomena. Theories on migration provide scientific knowledge on international migration, and bring to light systematic and specific regularities related to migration and the relationships between them. The migration theories include; - Neo-classical Theory, Dual Labor Market Theory, Migration System Theory, Institutional Theory, Cumulative Causation Theory.

2.3.1 Neo-classical Theory

The following authors are the founders of the Neo-classic theory and these are as follows: Arango, 2000; Lewis, 1954; Todaro, 1976; Van Naerssen, Spaan, & Zoomers, 2008. Lewis was born on 29th of November 1898 and he died on 22 of November 1963. Lewis went to Oxford University. On the other hand Michael Paul Todaro was born on 14th May 1942. He is an American economist and a pioneer in the field of development economics. He earned a PHD in economics from Yale University in 1968.

The oldest and best-known theory of international migration is Neo-classical Theory. It explains the impact of labour migration on economic development (Arango, 2000; Lewis, 1954; Todaro, 1976; van Naerssen, Spaan, & Zoomers, 2008). According to this theory and its extensions, the cause for international migration is the geographical imbalance between demand and supply of labour.

In regions where the supply of labour is elastic, but the labour is paid low wages and their marginal productivity is low, workers tend to migrate to a high-wage country (Massey et al., 1993). As a result of this trend, remittances generation has become a powerful incentive for labour-sending countries to encourage out-migration. In addition, migration contributes to the

labour-receiving country's economy by fostering production, and the remittances-receiving country could ideally reduce its income inequality and wage differentials (Prakash, 2009).

However, the implicit idea behind this theory is that the elimination of wage differentials would end labour movements and labour migration would reach its minimum. Harris and Todaro have pointed out facts which are supportive of this argument. They emphasize that the decision to migrate is heavily influenced by job opportunities available to the migrant at the initial stage and expected income differentials (Harry and Tadaro,1970).

Another major assumption made under the Neo-classical explanation is that the international flow of labour primarily happens in labour markets and that other markets do not have a key role to play with regard to international migration (Massey et al., 1993). When these assumptions are considered, it could be argued that the Neo-classical approach is optimistic about the impacts of migration on labour-sending counties due to high expectations of reduced poverty, unemployment and overpopulation. Further, Constant and Massey have fostered an assumption of Neo-classical perspective where the immigrant would not return to the home country as long as h/she benefits from wages, education and prestige in the host country (Constant and Massey, 2002).

This would typically lead to wages of the unskilled labour force being reduced in the host country due to migration, and producers there would employ more unskilled labour than skilled labour, and capital-intensive production. Then again, this depends on the scale of migration and minimum wage regulations. According to empirical evidence, there is not much proof that there is a significant decline in local employment along with a considerable reduction in wages as a result of migration. If anything, the human capital of migrants is the deciding factor that contributes to the growth of migrants (Fried burg and Hunt 1995).

According to the Neo-classical Theory, it is further assumed that labour market rules and controls could regulate international migration of both sending and receiving countries (Massey, Durand, & Malone 2005). This assumption appears to be true in the present context, since many regulations are in place that effectively control the export of labour. One of the best examples is the restriction imposed by the government of Sri Lanka on mothers who have children below the age of 5 years to accept overseas jobs in the capacity of housemaids.

In most developing countries, the first migration is not necessarily voluntary. Many factors like poverty, civil conflicts, and restraining state policies play an important role (UNESCAP, 2007). Thus, the assumptions of the Neo-classical approach could be challenged particularly in the context of developing countries.

Though the household conditions are not very favorable and greener pastures available abroad, non-migrants may sometimes stay at home for socio-cultural reasons such as hierarchical power relations within the family, kinship systems, and gender. Females may stay at home because gender norms prescribe that leaving the family behind is inappropriate, while males may be forced to stay behind to fulfill a perceived security function in the household. Also, parents might decide against out-migration in the interest of their children's education, security, mental health, etc.

2.3.2 Institutional Theory

The founder of this theory is Massey who is also known as Douglas Steven Massey. Massey was born in 1952 in Olympia, Washington, United State. He is an American sociologist. He identified this theory in the year 1993.

With the origin of international migration, a number of institutions and organizations were set up to capitalize on the imbalance between the employers of labour-receiving countries and potential migrants of labour-sending countries. There is a considerable mismatch between the large number of people seeking employment opportunities in industrialized countries and the limited immigrant visas available in these countries (Massey et al., 1993).

As a result, many profit-seeking as well as not-for-profit organizations have been established in order to address issues of migrants and employers. Most not-for-profit organizations place emphasis on the humanitarian aspect of the migrants, while profit-seeking organizations along with private entrepreneurs facilitate the crossing of borders, counterfeiting legal and travel documents, arranging marriages between migrants and legal residents/ citizens of the destination country, and providing credit facilities at high rates in exchange for fees (Massey et al., 1993).

As profit-seeking organizations often engage in illegal behaviour, most not-for-profit organizations provide relief to the affected migrants by means of counselling, social services, legal advice, awareness on immigration laws etc. The Institutional Theory is important

especially in today's context in order to create a more favourable and a strong policy framework for both labour-sending and receiving countries (Massey, Goldring, L., & Durand, J. 1994)

2.3.3 Migration System Theory

The core assumption behind this theory is that migration contributes to change the economic, social, cultural and institutional conditions in both the receiving and sending country. De Haas has identified that the Network theory is closely affiliated to the Migration System Theory (De Haas, 2010a). Further, the focus of the System approach is both on the macro and micro linkages of places linked to the migration process (Fawcett & Arnold, 1987; Kritz, Lim, & Zlotnik, 1992). Micro level factors include kinship and friendship systems, while macro level factors focus on economy, dominance, political systems, national policies of immigration, and cultural and social systems. Unlike other models, the Migration System Theory emphasizes on the mutual link between migration and development (De Haas, 2010a).

Therefore, this theory is relevant for developing a theoretical framework that considers migration in a broader development perspective. Not only economic development, but migration also supports social development. For instance, remittances sent back to family members could alter the social and economic context of labour-sending countries. Hence, it could be argued that migration has the ability to influence socio-economic development of the country of origin and encourage subsequent migration both at macro and micro levels.

2.4 MIGRATION GOVERNANCE AND RELATED POLICIES

2.4.1 History of Kenya Migration Policy

Kenya's immigration system can be traced back to the colonial period. When the British colonial administration took over from the IBEA Company, it had the colonial interest at heart setting stage for an influence on the way immigration policies were to be framed. For instance, the industries in the larger British Commonwealth needed both cheap labour and materials.

To achieve these objectives, the colonial government enacted the Native Authority Ordinance of 1912 and the Native Registration Act of 1915 which controlled movement of natives and foreigners ensuring availability of cheap labour.

The objectives of the native authority ordinance were at variance with those of the native registration Act 1915. While the former was meant to ensure and promote entry of white settlers in Kenya and their subsequent settlement while controlling entry of Indians on the other end, the later was meant to restrict movement of Natives (Africans) from moving to urban centers thus ensuring cheap labour to white settlers in their farms and denying them the opportunity to be enlightened by urbanization. At the time, it was assumed that the Indian Coolies who had constructed the Kenya / Uganda Railway would have business interest which needed to be regulated.

In the subsequent years, the country's Immigration policy framework was to be shaped by both internal and external factors. For instance, in 1950 when most countries were delinking immigration from the mainstream police service, the colonial administration also carved immigration from the Criminal Investigation Department creating an independent civilian oriented immigration department from the police.

This action was motivated by the emergent of facilitative, open and people-oriented immigration practice as opposed to securitized, restrictive immigration under the tighter control of uniformed police. This had an impact on the immigration laws and policies to be enacted as well as its impact on the human resource. Immigration became a professional engagement with specialized officers in immigration affairs thus allowing them to appreciate the new developments and challenges in immigration practice globally and nationally.

The personnel in immigration also increased significantly given the need to fill more positions. With increased personnel came the need to ensure Kenya's borders are well guarded thus more border control posts were opened to control entry of persons in Kenya and accommodate the increased staff. The skills possessed by the officers also changed from purely uniformed skills where security is the driver to more soft people with diplomatic approach to immigration control. Amendments to the Native Authority Ordinance were made culminating in tighter immigration laws in 1962 and 1964.

These tighter laws restricted entry of persons into Kenya, where all foreigners are required to declare their purpose of visit and give a contact address or person(host) in Kenya.

The laws enabled the controlling of residence with a bias to white settlers and Indians. Issuance of travel documents is another area of restriction where few Africans would be given travel documents and allowed to visit specific countries ideologically.

The Immigration Act Cap 172 laws of Kenya, was a result of the various amendments that the Immigration function had witnessed prior to independence in 1963. Independence Kenya, and the repealed Immigration Act, the country has not been an island of its own in as far as immigration policy is concerned.

2.4.2 East Africa Migration Policies

In an era of rapid globalisation, human migration has reached unprecedented levels and is a defining feature of our times. Throughout its history, East Africa has experienced migratory movements, both voluntary and forced, which have contributed to its contemporary demographic landscape. Over the last decades, deteriorating political, socio-economic and environmental conditions, as well as armed conflict, insecurity, environmental degradation and poverty in some East African states, have been significant root causes of mass migration and forced displacement.

In light of the challenges posed by migration and its ramifications (socio-economic, political etc.), The East African member states have developed policies to which are aimed at managing immigration issues within and outside their states. These policies are in line with the decision arrived at by the Organisation of African Union Council of Ministers during the 74th Ordinary Session of July 2001, which called for African states to develop migration policy framework in light of the development potential and challenges posed by migration (OAU Council of Ministers 74th Ordinary session 2001).

In view of the above an International Migration Policy Conference for East Africa, the Horn of Africa and the Great Lakes Region, was held in Nairobi, Kenya in May 2002, and brought together 170 high, senior and middle level government officials from Burundi, Djibouti, Democratic Republic of Congo, Eritrea, Ethiopia, Kenya, Rwanda, Sudan, Uganda, Tanzania and Yemen.

The conference identified a series of migration and forced displacement issues of interest and concern which included forced displacement (refugee protection and asylum; regional processing of secondary migratory movements; IDP access and assistance; mobility and

human security; protracted displacement situations; migration, forced displacement and conflict resolution; crisis prevention and conflict resolution; and media sensitization to issues of displacement and media as a tool for awareness raising)

Similarly the conference looked at the management of labour migration (maximizing remittances; pre-departure training; bilateral agreements to avoid double taxation; monitoring circular migration; brain drain; registration and supervision of foreign employment agencies; ensuring migrant workers' rights at home and abroad; integration and re-integration; strengthening co-operation with African diaspora; matching labour needs and demand; and facilitating exchange of knowledge, skills and resources);

Lastly, they looked at establishment of a Strategic Framework for an Integrated Policy on Migration on the African Continent (including partnerships between African countries and the EU; and inter- State dialogue and co-operation concerning return, readmission and re-integration). All this was to guide the States in the formulation of immigration policies to gab the aforementioned challenges.

2.5 LEGAL AND INSTITUTIONAL FRAMEWORKS ON MIGRATION IN KENYA.

For the purposes of enhancing immigration in accordance with the spirit of regional integration as spelt out in the Common Market protocol, Kenya has put in place various legal and institutional frameworks to govern immigration as discussed hereunder;

2.5.1 Immigration Legislations

(a) The Constitution of Kenya 2010

The constitution of Kenya under section 39 provides for freedom of movement and residence.it provides to the effect that every person has the right to freedom of movement, the right to leave Kenya and the right to enter, remain in and reside anywhere in Kenya.

(b) Kenya Citizenship and Immigration Act.

The Kenya Citizenship and Immigration Act (KCI ACT) No 12 of 2011 came into force to regulate matters relating to citizenship and the issuance of travel and immigration documents. This act amended the previous regulations being the Kenya Citizenship Act, the Immigration Act and the Aliens' Restriction Act

The Act in Section 4 provides for a director who is in charge of matters relating to citizenship and immigration and whose functions are not only advising the Cabinet Secretary on matters relating to issuing, granting and revoking citizenship but also in charge of the issue of passport, travel documents, in charge of border control and management, regulates and controls issues on residency and provides services related to travel into Kenya in mission offices and in other countries

Section 33 outlines the crimes which if a person is suspected to have committed prior to their entry into Kenya, and they have not received pardon, they are not allowed to enter into Kenya. They include human trafficking, smuggling, trafficking narcotics and controlled substances, crimes related to patents, copyright, intellectual property rights, cybercrimes, piracy, crimes offending public morality, a fugitive of justice, sexual crimes among others. Section 34 further empowers the cabinet secretary to remove from Kenya any persons unlawfully in Kenya.

The main issue addressed by this act relates to obtaining Kenyan citizenship, travel documents, matters concerning entry and exit into and from Kenya as well the procedures followed and the crimes that one may be convicted of if found guilty of non-compliance.

(c)The Kenya Citizenship and Immigration Regulations 2012

The regulations lay out and details the procedure to be followed including but not limited to the forms to be filled for each application and the fees to be paid in each case.

(d) Kenya Citizens and Foreign Nationals Management Service Act, 2011

The Act provides for the creation and maintenance of a national population register to record identification and registration information for all Kenyans and resident foreign nationals; includes asylum seekers and refugees as defined in the Refugee Act.

The Act similarly governs the administration of laws relating to births, deaths, marriages, identity and travel documentation, immigration matters and related matters

(e) Refugee Act, 2006 (revised 2012)

The Act provides for the recognition, protection and management of refugees. It issues special protection for refugees and asylum seekers with disabilities, trauma. It also accelerates asylum in medical emergencies.

The Act similarly stipulates that refugee camps and transit centers must be maintained in an environmentally sound manner. It's applicable to a particular vulnerable group of migrants that is asylum seekers and refugees.

2.5.2 Immigration Institutions

As stated earlier, immigration issues in Kenya are handled by the State Department for Immigration, Boarder Control and Registration of Persons which is under the Ministry of Interior and Coordination of National Government. It has various departments with functions as highlighted hereunder;

(a) Immigration Service Department

The control of entry and residence of foreigners into this country dates back to the introduction of what was called the Immigration Restriction Ordinance of 1906. This Ordinance restricted the influx of foreigners especially Indians, coming to the then Kenya Colony and Protectorate upon completion of the Kenya - Uganda Railway (KUR). The Immigration Ordinance of 1st August 1948 formed the basis of the present-day Department of Immigration, which was curved from the Police Department in 1950. Other Acts of Parliament to control entry of foreigners were enacted in 1964 and 1967. Currently, Citizenship and Immigration matters are governed by the Constitution of Kenya, 2010 and the Citizenship and Immigration Act of 2011.

(b) Civil Registration Department (CRD)

Registration of births and deaths was introduced for the first time in Kenya (then East African Protectorate) in 1904 However, in 1928; Parliament enacted the Births and Deaths Registration Act (Cap 149) to provide for compulsory notification and registration of births and deaths in Kenya.

At that time, the Act provided for compulsory registration of births and deaths of Europeans, Americans and Indians throughout Kenya. Civil Registration Department became a fully pledged department in 1989 responsible for births and deaths occurring in Kenya

(c) National Registration Bureau (NRB)

The National Registration Bureau became a fully pledged department in 1978 It was mandated through the Registration of Persons Act (Cap.107) Laws of Kenya to identify, register and issue Identity cards to all Kenyan citizens both male and female who had attained the age of sixteen (16) years and above.

It is during this transition that the book form of the identity card was replaced with a card (first Generation Identity Card) which was enclosed in a plastic envelope and heat laminated. Also, in 1980 the age of registration and issuance of identity cards was raised from 16 years to 18 years and above. In 1995 second generation identity card system was launched which is still in use to date.

(d) Integrated Population Registration System Department (IPRS)

The Integrated Population Registration Service was established in 2008 with the mandate of fully implementing and managing the Integrated Population Registration System (IPRS). This is a government endeavor to create a national population register as single source of personal information of all Kenyan citizens and registered foreigners' resident in Kenya.

(e) Department of Refugee Affairs (DRA)

Before Kenya independence, there was no law recognizing refugees in Kenya. However, after independence the government set up a secretariat under the then Ministry of Home Affairs which steadily increased refugees documentation, registration and settlement programmes in urban centers. From the 1990s the country experienced an influx emanating from Somalia, Ethiopia, Rwanda, Congo and Sudan. The influx soared the numbers to more than 500,000 people spread in various camps and reception centers across the country. Currently, there are two camps in Kakuma and Dadaab hosting more than 550,000 people. In the year 2006 Parliament enacted Refugee Act to address refugee affairs. This thereafter led to the creation of Refugee Affairs department.

The East African Community Common Market Protocol attempts to establish a legal framework for the free movement of goods; the free movement of persons; the free movement of labour; the free movement of services; the free movement of capital; the right of establishment; and the right of residence. In Kenya immigration is governed by the State Department for Immigration, Border Control and Registration of Persons that falls under the Ministry of Interior and Coordination of National Government.

The key objective is to accelerate the economic growth and development of the Partner States through the attainment of these freedoms. Within the broad scope of the Common Market Protocol, there are a number of provisions that deal directly and indirectly with the movement of EAC citizens within the EAC Common market.

These include provisions on the free movements of labour, persons and services as well as provisions on the right of establishment and residence.

2.6 OTHER STATE AGENCIES CONTRIBUTING TO MIGRATION GOVERNANCE

(a) Kenya National Bureau of Statistics

This is the semi-autonomous government agency mandated to be the national custodian of data relating to population and elements of sectoral programmes in the country. Sources of data range from censuses to surveys to routine data from administrative structures. KNBS holds migration data from successive decennial censuses carried out in the four decades (1969–2009).

(b) National Council for Population and Development

The NCPD is the national policy and programme coordinating body for Kenya's population programme. Its latest input is Sessional Paper No. 3 of 2012: Population Policy for National Development and was adopted after consultative processes. In implementing its action plan, the (NCPD) has positioned itself well to address county-specific population issues, among them migration Republic of Kenya, 2012.

(c) Youth Enterprise Development Fund

Initiatives in youth empowerment in Kenya include the Youth Employment Development Fund and the Youth Employment Scheme Abroad. While the fund endeavors to enhance the capacity of youth to engage in entrepreneurship, the scheme tries to place youth in gainful employment overseas. These are the two pillars of the fund, which has been tasked to address youth unemployment, notable by linking youth to international work opportunities

(d) Ministry of Foreign Affairs and International Trade

With the growing significance of and attention paid to the Kenyan diaspora, the Directorate of Diaspora Affairs of the Ministry of Foreign Affairs and International Trade plays a crucial role in migration in the context of international relations and global interests. Included in its role are the following; Oversight of families of Kenyans experiencing certain difficulties; Obtention of death certificates, autopsy reports and other official documents pertaining to deceased Kenyans and forwarding the same to family members; Authentication of documents being sent for use in foreign countries; Supervision of the National Diaspora Policy; and Monitoring and evaluation (where necessary) of the impact and implications of the Dual Citizenship Act 2011.

To highlight the importance of remittances in diaspora affairs, a separate African Institute for Remittances has been established within the African Union Commission and based in Nairobi (African Union, 2014). This Institute will assist all Member States, remittance senders and recipients, to manage remittances for the benefit of development. It will work on providing technical assistance to Government institutions, training and capacity-building programmes, studying remittance flows within Africa, conducting policy research and dialogue on remittances for development in African countries, developing content, technology platforms and partnerships between African central banks and remittance service providers, and disseminating data on good practices through annual reports, workshops and other events for stakeholders contributing to the region's development and policy agenda.

On 28 November 2014, the African Union Commission and the Kenyan Government ratified the hosting agreement for the African Institute of Remittances and officially launched the Institute at the Kenya School of Monetary studies where the same institute will be hosted. The Ministry also has the capacity to provide advice on migration issues for the World Trade Organization, including the Doha Mode 4, which deals with migration of 'natural persons'

for services. Over the years, Kenya has emigrants in the Middle East and the developed North in the absence of a national policy guarding against their interests.

The Directorate of Diaspora Affairs Republic of Kenya is in charge of engaging with the diaspora to participate in the development of the country (Republic of Kenya, 2018b). It has setup an online diaspora portal so that Kenyans in the diaspora can register online to access information on investment opportunities as well as provide details of their location, occupation and other additional details that can help the ministry in terms of determining the skills and expertise available from their diaspora.

The Directorate of Diaspora Affairs is also home to a unit on diaspora issues and a liaison officer in charge of coordination with Parliament and the devolved Government. Focal points sensitize other State entities and highlight the investment opportunities of the diaspora.

(e) Ministry of Labour and Social Protection

This ministry has a database system and unit, originally established with support from IOM, to register migrant workers. The Ministry handles labour issues as well as social security and services to Kenyans. Its role includes the following: Promotion of harmonious industrial relations in the country in consultation with bodies such as the Kenya Federation of Employers and the Central Organization of Trade Unions that handle affairs of employers and workers respectively; and Ensuring compliance with labour laws, international labour standards and codes of practice as well as review of labour standards and domestication of international conventions and domestication of international conventions.

The ministry advises on labour migration within the country, regionally and internationally and its determinants and impact at the respective levels, as well as on the migrants and those dependent on their welfare. Social security of migrant labour in the form of pension/gratuity as well as portability of social security measures is an important area of concern in labour migration. The ministry has worked closely with IOM on the Migration for Development in Africa programme and other strands of project-tied short-term return migration given the large number of Kenyan experts and professionals in the diaspora.

(f) Ministry of Commerce, Tourism and East African Affairs

This ministry implements the council's decisions and oversees implementation of programmes and policies to best realize regional integration. It promotes public/private sector participation in the East African region, creates awareness on regional integration matters, and implements directives of the summit and the council of ministers. The ministry covers cross-cutting issues including education, gender, health, social development, sports and culture, labour and migration, cross-border mobility, trade, and women's protection.

It recognizes that the free movement agreement has not been harmonized across countries, and there is room for progress to be made in the future to develop a system for the free movement of East Africans within the EAC.

With the Protocol on the Establishment of the East African Community Common Market adopted by the EAC partner States in November 2010 and further developments on the EAC Monetary Union and subsequently the East African Federation, this ministry is expected to provide the latest statistics and chart future prospects regarding Kenya in the EAC as well as other regional economic communities; the latter include COMESA and IGAD.

(g) Ministry of Agriculture, Livestock and Fisheries

This ministry deals with three forms of basic livelihoods for the vast majority of Kenyans. Agriculture remains the mainstay of the country's economy and the basis of subsistence of both individuals and households.

Migration interrelates with agriculture by reducing farm labour in out-migration and increasing it in in-migration nodes of commercial farming. Kenya's rural-rural migration has thrived for decades within the framework of this model.

While some commercial farming areas are devoted to crop husbandry, others rely on livestock farming and still others on both. In Kenya's arid and semi-arid lands, nomadic pastoralists move in search of pastures and water for their livestock, yet lack a policy response to their needs. In effect, pastoralists in Kenya range both within and across national borders with no overarching policy to govern these internal and cross-border movements. With regards to fisheries, as both internal and international migration occur in the fishing

industry, the limited knowledge and respect of national boundaries will remain an important focus requiring special attention on policies to regulate migration in the fisheries.

(h) Ministry of Transport and Infrastructure

The ministry deals with all manner of transport networks (by road, railway and air) and infrastructure such as energy, ICT and so on that often stimulate and sustain migration. For instance, infrastructure in urban areas that is superior to that in rural settings in the country may act as a pull factor. International migration is sustained by air transport, which has grown immensely within Kenya and between Kenya and countries in different world regions.

(i) Central Bank of Kenya

The Central Bank of Kenya has been keeping records on Kenyan diaspora remittances to the country. It has the knowledge of how remittances compare with overseas development assistance and foreign development investment and especially the impact of remittances at macro and microeconomic levels in the country.

(j) Ministry of Environment, Water and Natural Resources

This ministry has a portfolio that underlines environmental and natural resource perspectives of migration in Kenya. It can provide useful information on migration and the environment, nomadic pastoralism and migration streams already noticeable or destined for natural resource-endowed areas in the country.

(k) Ministry of Health

The mission of the Ministry of Health is to build the highest standard of health for all persons living in Kenya through sustainable client-centered health services to eliminate communicable diseases, reduce violence and injuries, provide essential health care, minimize exposure to health risks and strengthen collaboration with other sectors. The provision of services for non-Kenyans remains inadequate to date. The Ministry held the first Kenya National Consultation on Migration Health in May 2011 in Mombasa; with the second national consultation on migration health held in 2014 to highlight the Government's willingness to strengthen migration health in Kenya, in support of Millennium Development Goals 4, 5 and 6 of universal access to health services for migrants. The National Consultation on Migration Health found key areas to be addressed by the Ministry notably to

improve the level of information on health issues faced by migrants, data collection tools, equitable access to health care, and to address the “lack of migrant sensitive and inclusive legislation, policies and programmes that promote migrant health.”

The Ministry of Health has improved its capability to sustain its nursing workforce given out-migration trends. The nursing sector in Kenya has been flagship sector for out-migration, with a significant percentage of Kenyan nurses opting for migration in search of better livelihoods. These numbers are now reducing – this has been attributed to the changes made within the health sector, with the aim to retain its work force, by offering better pay and terms and conditions of employment (IOM, 2011b:11).

(1) African Development Bank

The African Development Bank is committed to sustainable economic development and social progress contributing to poverty reduction in Kenya and is committed to the objectives set under the (SDGs), throughout which migration and displacement are mainstreamed.

The bank has in recent years released working papers and economic briefs on Kenya’s migration trends, patterns and determinants, including trends around Kenyans abroad.

2.7 INTERNATIONAL TREATIES AND CONVENTIONS RELEVANT TO MIGRATION

2.7.1 Migration Treaties Not Signed and/or Ratified by Kenya

Notably the Government of Kenya has to date neither signed nor ratified several key pieces of legislature relating to migration, including:

(a) Convention on the Rights of All Migrant Workers and Members of Their Families (1990)

This recognizes the vulnerabilities of migrant workers and promotes humane and lawful working conditions based on the need for workers’ protection abroad. It sets out to adjust legal standards, ensure the rule of law and combat exploitation or mistreatment of migrant workers and their families at all points during the migration cycle (departure, transit and arrival). Nonetheless, by the year 2018, this Convention has been ratified by 79 States out of 154 States, while 33 have not taken any action. In 2010, a letter from the Respect Migrants’

Rights: Ratify the Migrant Workers Convention steering committee was sent to the President of Kenya to urge ratification (United Nations, 2010). The network includes UN agencies – OHCHR, ILO, UNESCO, IOM; international organizations; and civil society organizations – International Federation for Human Rights, Amnesty International, International Trade Unions Confederation, International Catholic Migration Commission, Human Rights Watch, and Migrant Forum in Asia, Migrants Rights International, Public Services International and World Council of Churches.

(b) United Nations Convention Relating to The Status of Stateless Persons (1954)

This has not been ratified by the Government of Kenya (Yash Pal Ghai, 2016). The 1954 Convention recognizes the right of stateless persons to education, housing, and access to courts, and employment, among others. Article 27 requires States to issue identity documents to stateless persons, and Article 28 requires States to issue travel documents unless there are compelling reasons for national security or public order. Stateless persons are to be given the same treatment as non-citizens in access to employment, housing and basic services. Article 31, which prohibits the expulsion of stateless persons (unless deemed a threat to security and public order) and Article 32, which requires of States to facilitate, assimilate and naturalize stateless persons, were seen as problematic. Such articles are considered to impinge on sovereign rights. Kenya counts one of the largest populations of stateless persons in the world, including the Nubian population.

(c) ILO Indigenous and Tribal Peoples Convention (C169 – 1989)

This has been ratified by 20 countries (ILO). It identifies the rights of indigenous and tribal peoples. Tribal peoples are defined by their traditional life styles, culture and way of life different from other segments of the national population and have their own social organization and traditional customs and laws. Indigenous peoples have the additional characteristic of having been living in historical continuity in a certain area (ILO, 1989).

2.7.2 Migration Treaties Signed and/or Ratified by Kenya

The Government of Kenya has signed the following agreements which impact on migration issues

(a) UN Refugee Convention (1951) and its Protocol (1967)

This was adopted under the revised Kenyan Constitution of 2010 and the Government is committed to integrate the convention into its national laws.

(b) Declaration on the elimination of violence against women

This defines violence as “any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life.” Forced displacement has been recognized as being likely to result in such violence, pointing to an urgent need for domestic international instruments such as (CEDAW) to come into practice in Kenya. (CEDAW) refers to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). It is an international treaty adopted in 1979 by the United Nations General Assembly; and it is described as an international bill of rights for women that was instituted on 3 September 1981 and has since been ratified by 189 States.

(c) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

This protects individuals from forced repatriation to hostile environments. Article 3 defends the principle of non-refoulement based on substantial grounds for believing that return and repatriation would face an individual to torture and violations of human rights.

(d) United Nations agencies and international organizations

Nairobi is home to the United Nations headquarters in Africa, established by the General Assembly in 1996. There are more than 25 UN agencies operating in Kenya. The United Nations Office at Nairobi is home to the worldwide headquarters of UNEP and UN-Habitat and is home to the Regional Offices of other UN agencies listed below. Migration is mainstreamed in these agencies with migration-related roles and responsibilities detailed in this section.

(e) United Nations Country Team

The (UNCT) ensures coordination between UN agencies, as part of the Resident Coordinator system, to ensure delivery of results in support of the Government's development agenda. The (UNCT) meets on a monthly basis, led by the Resident Coordinator and his/her office. The Kenya(UNCT) is composed of agencies whose mandates touch on migration issues, including(IOM), UN Office for the Coordination of Humanitarian Affairs, (UNHCR), UN Human Settlements Programme, World Food Programme, World Health Organization, (UNICEF), (UNAIDS), and UN-Women, as well as another agencies part of UN Office in Nairobi.

(f) United Nations Office for the Coordination of Humanitarian Affairs

Although coordination of humanitarian response rests with the Government of Kenya at both national and county levels, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) chairs the monthly meetings of the Kenya Humanitarian Forum. At the district level, (OCHA) supports the work of District Commissioners chairing the District Steering Groups and District Disaster Management Committees. Although the UN Cluster System is not present in Kenya, the Government-led sectoral approach is supported by global Cluster lead agencies, such as (UNHCR), (IOM), (UNICEF) and (WFP), among others.

(g) United Nations High Commissioner for Refugees

The United Nations Refugee Agency has entered in a strategic partnership with the Government of Kenya to support and strengthen response capacity for both local and national institutions, in search of durable solutions for refugees and other displaced populations. (UNHCR) has an up-to-date database on refugee inflows and stock as well as information on management of refugee camps in the country, resettlement figures, and asylum seekers in Kenya. Refugee Status Determination in Kenya works closely with the Government of Kenya to pass on all refugee status determination responsibilities. The Act on the refugee status determination and its subsidiary legislation require that anyone who wishes to remain in Kenya as a refugee must appear before the Department for Refugee Affairs and petition for recognition as such. The legality of the manner in which the person entered Kenya is immaterial to the eligibility to petition for refugee status. The Kenyan Department for Refugee Affairs under the Ministry of Immigration and Registration of Persons has the overall responsibility for all administration, coordination and management of refugee matters.

(h) United Nations Population Fund

The United Nations Population Fund (UNFPA) handles population dynamics (fertility, mortality and migration) that determine population change, structure and distribution. (UNFPA) has been funding successive population censuses over the last four decades (1969–2009) from execution of enumeration of population to analysis of the data collected and dissemination of the results generated.

UNFPA is a development agency supporting Kenya Vision 2030 in line with the United Nations Development Assistance Framework to contribute to progress towards achieving the Millennium Development Goals and the International Conference on Population and Development. Its publications include the 2013 Kenya Population Situation Analysis Report, which provides an overview of population dynamics and development, as well as urbanization, internal migration, and international migration figures and trends.

(i) United Nations Environment Programme

The United Nations Environment Programme (UNEP) provides key input on migration-environment-development inter-linkages in Kenya. Its programme areas cover migration and environmental changes, including climate change, disasters and conflicts, ecosystem management, and environmental governance. UNEP collaborates with other UN agencies and the Government of Kenya to work towards the rehabilitation of Dadaab camps and surrounding refugee areas.

(j) United Nations Human Settlements Programme

UN-Habitat is responsible for the promotion of socially and environmentally sustainable human settlements, rural and urban alike, and the achievement of adequate shelter for all. In urban areas, with fragile ecosystems and rapidly increasing urban populations attributed partly to migration, UN-Habitat provides support to urban planning and the rehabilitation of infrastructure and services to ensure livable urban settlements.

In Kenya, UN-Habitat focuses on strategic advisory input to the Government of Kenya on urban planning and leads the flagship slum-upgrading project. Activities include the preparation of a master plan with the Ministry of Land and Housing in areas highly impacted

by displacement (as a result of post-election violence or as a result of man-made displacement).

(k) United Nations Office on Drugs and Crimes

UNODC partners with the Government of Kenya to assist capacity-building in areas related to drug, crime and terrorism challenges that threaten to impede development goals in the country. Two United Nations protocols – the Human Trafficking Protocol of 2000 and the Migrant Smuggling Protocol also of 2000 in which Kenya has been a State Party – will be analyzed to determine the extent of domestication, implementation and efficacy in Kenya.

(l) UN-WOMEN

UN-Women supports the Government of Kenya in safeguarding and implementing standards on the Convention on the Elimination of All Forms of Discrimination against Women to ensure not just that gender equality is a basic human right, but also that it provides socioeconomic benefits to Kenyan society. Given the reported risks of gender-based violence among refugee and displaced communities, notably in urban areas, UN-Women's role alongside other United Nations agencies remains essential in Kenya.

(m) International Organization for Migration

IOM is committed to the principle that humane and orderly migration benefits migrants and society. In Kenya,(IOM) aims to: Contribute to mitigation of and resilience to climate change and environmental degradation in arid and semi-arid lands; Promote effective human rights-based approaches to the management of mixed migration flows to, from, and across Kenya; Contribute to safety and security along Kenya's borders; Contribute towards enhances human security through peacebuilding and conflict prevention in northern Kenya and Rift Valley; Contribute to emergency preparedness and response; Support migrants' equitable access to health care in Kenya; an Contribute to Kenya's development through effective management of labour migration.

(n) World Bank Group

The World Bank Group has demonstrated significant involvement in migration from the perspective of migrant remittances and foreign development investment. In Kenya, the World Bank supports the Government's Vision 2013 for sustainable growth, inequality reduction

and resource management. The World Bank maintains up-to-date World Development Indicators such as gender, education and development statistics and indicators referred to throughout this report.

2.8 THE EAST AFRICAN COMMUNITY AND THE COMMON MARKET PROTOCOL

The East African Community and the Common Market Protocol has really played a significant role in enhancing regional integration process which in turn has had a greater impact and influence on the free movement of people in Kenya and East Africa region. As such it is prudent to have a look at them.

2.8.1 The East African Community (EAC)

The East African Community (EAC) is the regional intergovernmental organization of the Republic of Burundi, Rwanda, Kenya, Uganda and Tanzania and presently South Sudan. Together, the six East African countries cover an area of 1.85 million square kilometers and have a population of over 126 million who share a common history, language, culture and infrastructure. These advantages provide the partner states with a unique framework for regional cooperation and integration.

The vision of the EAC is a prosperous, competitive, secure, stable and politically united East Africa while its mission is to widen and deepen economic, political, social and cultural integration in order to improve the quality of life of the people in the region through increased competitiveness, value added production, trade and investment (EAC Brochure P.1).

The East African Community is one of the leading regional economic organisations in sub-Saharan Africa. While sharing common features such as location, high population growth and large levels of poverty, these countries present diverse profiles in terms of economic organisation growth, political frameworks and territorial organisation.

An analysis of the East African Community as a regional bloc is important to my study since it has enhanced formal integration and movement of people in Kenya and East Africa region since its creation in 1967. The signing of the Treaty of Cooperation between Tanzania, Kenya and Uganda laid the first formal platform for migration in the region.

It's worth noting that the original East Africa Community disintegrated in 1977 and it was not until 1999 that the Treaty of the East African Community later extended to include Burundi and Rwanda in 2007 and later South Sudan.

2.8.2 The Common Market Protocol (CMP)

The Protocol on the Establishment of the East African Community (EAC) Common Market entered into force on 1 July 2010, following ratification by all the five Partner States: Burundi, Kenya, Rwanda, Tanzania and Uganda. The establishment of the East African Community Common Market is in line with the provisions of the EAC Treaty. It provides for "Four Freedoms," namely the free movement of goods; labour; services; and capital, which will significantly boost trade and investments and make the region more productive and prosperous.

The Common Market represents the second stage of the regional integration process (as defined by the Treaty for the Establishment of the East African Community), following the Customs Union, which became fully-fledged in January 2010. The Common Market Protocol is a significant step towards the achievement of the next milestones in the integration process namely the Monetary Union and the EAC Political Federation

The scope of co-operation under the Common Market is wide as provided in Article 5 of the Protocol to apply to any activity undertaken in cooperation by the Partner States to achieve the free movement of goods, persons, labour, services and capital and to ensure the enjoyment of the rights of establishment and residence of their nationals within the Community. The Partner States agreed to eliminate tariff, non-tariff and technical barriers to trade; harmonise and mutually recognize standards and implement a common trade policy for the Community; and ease cross-border movement of persons and adopt an integrated border management system.

This protocol is very vital to immigration in that it has provided for free movement of persons which entails the abolition of any discrimination based on nationality. It includes the right to enter the territory of a Partner State without a visa; the right to move freely within the territory of a Partner State; the right to stay in the territory of a Partner State; the right to exit without restrictions; and the right to full protection by the laws of a Partner State. However,

the enjoyment of the rights shall be subject to limitations justified on grounds of public policy, public security or public health. A Partner State imposing such limitation shall be obliged to notify the other Partner States accordingly. The movement of refugees within the Community shall be governed by the relevant international conventions.

CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY

INTRODUCTION

This chapter discusses the research methodology employed and provides a general framework for the research. The chapter presents details of the research design, target population, sample and sampling procedures, description of research instruments, validity and reliability of instruments, data collection procedures, data analysis techniques and ethical considerations that was employed while conducting the study. All this was in line with the objectives of the study.

3.1 RESEARCH METHOD

The research method employed in this research is qualitative research method which is also known as explorative or descriptive survey. Qualitative research method is defined as a market research method that focuses on obtaining data through open-ended and conversational communication¹ Qualitative research is used to gain an understanding of underlying reasons, opinions, and motive. It uncovers trends in thought and opinion and dive deeper into the problem. Mugenda and Mugenda notes that descriptive research is most applicable where the study seeks to give a report on how things are (Mugenda and Mugenda,2003). Therefore, this research design had the ability to produce information about aspects of immigration and the EACMP regard that will interest policy makers and researchers.

This type of research was preferred due to its trustworthiness, credibility, accountability and consistency. Denzin and Lincoln, notes that in qualitative research the objective stance is obsolete, the researcher is the instrument, and ‘subjects’ become ‘participants’ who may contribute to data interpretation and analysis (Denzin and Lincoln, 1998, P1-34)

This type of methods has been employed by various authors and/or researches for instance Mr. Kipkoech Ruto in his research project titled Challenges and Prospects of East African Community Regional Integration Process University of Nairobi, Institute of Diplomacy and

¹ <https://www.questionpro.com/blog/qualitative-research-methods/>

international studies (Kipkoech Ruto 2001-2009) where he collected data by both secondary and primary source where he caught information in regard to his topic from academic papers, book, internet sources and also held one on one interviews with knowledgeable persons and also used questionnaires to get information.

3.2 RESEARCH DESIGN

Ogula describes a research design as a plan, structure and strategy of investigation to obtain answers to research questions and control variance (Ogula, P.A.2005). Additionally, a study design is the plan of action the researcher adopts for answering the research questions and it sets up the framework for study or is the blueprint of the researcher (Kerlinger, F.N. 1973). This study adopted a survey research design. This design as defined by Orodho is a method of collecting information by interviewing or administering a questionnaire to a sample of individuals (Orodho, A.J.2003). Masola, Jaeger in his book notes that the main feature of survey research design is to describe specific characteristics of a large group of persons, objects or institutions, through questionnaires (Jaeger, R.M.1998). The design will be used because of its descriptive nature as it assisted the researcher in collecting data from members of the sample for the purpose of estimating the population parameters.

3.3 TARGET POPULATION

According to Ogula, a population refers to any group of institutions, people or objects that have common characteristics (Ogula,2005). The target population for this study was a body of professionals who were versed with immigration and EACMP and also had expert and knowledge on East African Community partner states.

As per the 2009 Census Kenya has an approximate population of 38 million people with the capital Nairobi hosting approximately 6.54 million people². With this kind of population, it was impractical and cumbersome for me to collect data from this entire population and as such I based my research in Nairobi Kenya and my target population was officials and/or civil servants from the State Department of Immigration, East Africa Civil Society Organization Forum (EACSOFF), Ministry of East African Community, Francis Xavier Project. Additionally, I endeavored to get information from Scholars/experts on and Scholars and experts on immigration and EACMP from the Catholic University of Eastern Africa.

² <http://www.wordpopulationreview.com/countries/kenya-population/> retrieved on 16th March 2019

During the study I established that the department of East African Community at the Ministry of East African Community & Regional Development has 208 employees. I had targeted to interview 2 persons in this department. However, I managed to interview only 1 respondent.

On the other hand, the Directorate of Immigration and Registration of Persons at the State Department of Immigration, Border Control and Registration of Persons has a total of 1,800 employees. In this department I had targeted 5 respondents of which I managed to interview all them.

At the East Africa Civil Society Organization Forum (EACSOFF) I established that there are 12 employees. At this organization I had targeted to I review 2 respondents. However, I managed to meet 1 respondent, the director as the other employees were held up with work in and outside the country.

The Francis Xavier Project (Child refugee NGO) has 20 employees at the department of education. Here I had targeted to interview 2 employees. However, I managed to get 1 respondent. Finally, at the catholic university of eastern Africa, Nairobi I had targeted 5 respondents. However, I managed to interview 3 students.

The above analysis I summarized in the table 3.1 below

Table 3.1: Shows the target population and sample size

Target/Specific Respondent	Target Sample	Sample Size	Respondents Reached
Department of East African Community	17	2	1
Department of Education, Francis Xavier Project)	20	2	2
Directorate of Immigration And Registration of Persons	30	5	5
East African Civil Society Organization (EACSOFF)	12	2	1
Scholars/Experts from Catholic University of Eastern Africa, -Nairobi	5	3	2
Total		14	11

3.4 SAMPLE AND SAMPLING TECHNIQUES

A sample is a smaller group or sub-group obtained from the accessible population (Mugenda and Mugenda, 1999). This subgroup is carefully selected so as to be representative of the whole population with the relevant characteristics. Each member or case in the sample is referred to as subject, respondent or interviewees. Sampling is a procedure, process or technique of choosing a sub-group from a population to participate in the study (Ogula, 2005). It is the process of selecting a number of individuals for a study in such a way that the individuals selected represent the large group from which they were selected. The study applied both random sampling procedures to obtain the respondents for questionnaires.

The sample frame of the study includes a representative sample of the individuals living in the informal settlement. According to Borg and Gall at least 30% of the total population is sufficient representative of a given population (Borg, W.R.&Gall, M.D,2003, 5th Ed). Thus, 30% of the accessible population was enough for the sample size.

I used specific people as highlighted in the table 3.2 below:

Table 3.2 Shows the Target Sample and Specific Respondents

Target Sample	Specific Respondents	Sample Size
Ministry of East African Community & Regional Development	Officers from the department of East African Community	2
Francis Xavier	Education Officers for refugees children	2
State Department of Immigration, Border Control and Registration of Persons	Officers from Directorate of Immigration and Registration of Persons	5
East African Civil Society Organization	Employees of the Organization	2
Scholars/experts on EAC integration matters)	Lectures and/or staff of Catholic University of Eastern Africa, Nairobi	3
Total		14

According to John Voyce you can even have only two interviews and carry on your research without a problem which is contrary to Abdulrazzak Charbaji who does not agree with John Voyce, according to him a researcher needs to have variation for a set of observation which requires a bigger number in order to satisfy the basic for qualitative research.

However, Imelda T Coyne in her journal quotes (Patton, 1990) by saying that there are no specific rules when determining an appropriate sample size in a qualitative research. According to this author sample size can be determined by the time allocated, resources available and study objectives. Sample size in a qualitative research doesn't work quite in the same way it actually depends on how complex an analysis you are trying to solve (Coyne I.T. 1997 P 26,623-630).

In view of this and basing on my analysis of the target population above the selected sample size was enough representation of the entire population as far as this study is concerned.

3.5 METHODS AND INSTRUMENTS OF DATA COLLECTION

Both primary and secondary data was used to answer the questions under this study. For primary data, self-administered questionnaire designed in line with the objective was used. For Secondary data, I depicted required information from previous publications, journals Magazine, periodical reports and internet.

According to Owen questionnaire administration is viable since it has the potential of reaching out to a large number of respondents within a short time, it gives the respondents adequate time to respond to the items, it offers a sense of security (confidentiality) to the respondent and lastly it is objective method since no bias resulting from the personal characteristics as in an interview (Owens, L.K.2002, 16th March 2019)

Owen further notes that in questionnaire administration, the researcher sets the questions in areas of interest to the research; the questionnaires are then distributed to the respondents. The respondents are given a time period of one hour to respond to the questions and thereafter the questionnaires are collected. Additionally, researcher assists some of the respondents whenever necessary to answer the questions by either explaining further a question that the respondent will not have understood and also assists in responding to any questions regarding the research that the respondent had.

In this study I employed open-ended questionnaire in collecting data. To get the required information I framed the questions in a way that they began with the general questions, on matters that are general to the research problem then ventured into the specifications of the study.

3.6 DATA ANALYSIS

Data analysis is the process whereby the researcher interprets the data collected. I endeavored to first check the information given on the questionnaires. I confirmed the completeness and correctness of the information that was given and I employed content analysis was used to analyze the opinion of my respondents.

This is a qualitative technique of data analysis where I obtained detailed information about a given phenomenon under study and attempted to establish the trend of association from the information gathered. The qualitative data generated from open ended questions was categorized in themes in accordance with research objectives and reported in narrative form along with quantitative presentation.

3.7 VALIDITY AND RELIABILITY OF RESEARCH INSTRUMENTS

3.7.1 Validity

Validity refers to the degree to which evidence and theory support the interpretation of test scores entailed by use of tests. The validity of instrument is the extent to which it does measure what it is supposed to measure. Validity is the accuracy and meaningfulness of inferences, which are based on the research results. It is the degree to which results obtained from the analysis of the data actually represent the variables of the study. In this study the research instrument was validated in terms of content and face validity. The content related technique measured the degree to which the questions items reflected the specific areas covered. (Mugenda and Mugenda, 1999)

3.7.2 Reliability

Reliability is the ability of a research instrument to consistently measure characteristics of interest over time. It is the degree to which a research instrument yields consistent results or data after repeated trials.

If a researcher administers a test to a subject twice and gets the same score on the second administration as the first test, then there is reliability of the instrument (Mugenda and Mugenda, 1999).

Reliability is concerned with consistency, dependability or stability of a test (Nachmias and Nachmias, F, 1996). In this study the researcher measured the reliability of the questionnaire to determine its consistency in testing what they intended to measure. The test re-test technique was used to estimate the reliability of the instruments. This involved administering the same test twice to the same group of respondents who were identified for this purpose.

3.8 DATA COLLECTION PROCEDURE

Prior to the commencement of data collection, I made use of all the necessary documents, including an introduction letter from the University, research Permit from the National Commission for Science and Technology and Innovation (NACOSTI) to ensure that I got audience from all my respondents.

I personally distributed the questionnaires to the sampled individuals but before that I communicated with them in advance to ensure that I fitted into their program. The use questionnaires eased the process of data collection as all the selected respondents were reached in time. During the distribution of the instruments, the purpose of the research was explained to the respondent.

3.9 ETHICAL CONSIDERATION

I conducted the study according to the accepted norms and regulations of research. For instance, information from respondents was obtained only through their informed consent. I sought to protect the confidentiality, social and psychological well-being of all the people approached to give relevant information to this study. Additionally, I assured the respondents that the information collected was purposely for study and not be attributed to one person

I explained to the respondents about the research and that the study was for academic purposes only. It made it clear to the respondents that that the participation was voluntary and that they were free to decline or withdraw any time during the research period. The respondents were not coerced into participating in the study. The participants had informed

consent to make the choice to participate or not. Their privacy was guaranteed by strict standard of anonymity

CHAPTER FOUR

DATA PRESENTATION AND ANALYSIS

INTRODUCTION

This chapter presents data and discusses the research findings. The first part analyses the factors for immigration within East African Community Partner States, the second part has looked at the effect of the EACMP on immigration and the challenges facing immigration in Kenya and EAC. The discussion in this chapter is solely in line with the information gathered from the various respondents and through my own observations. All this is in line with the general objective of the study and with reference to Kenya's migration profile.

4.1 EAST AFRICAN MIGRATION IN KENYA

There are various factors contributing to immigration and population movements within the East African Community. Majority of the respondents indicated that these factors can be categorized into push or pull factors. Push factors are numerous domestic forces that encourage individuals to leave their own country to another country. On the other hand, pull factors in foreign countries can also influence their migratory destination. These determinants can be broadly divided into social, political, economic and ecological factors.

Officials from the State Department Immigration indicated to me that various identification documents are acceptable to facilitate the movement of persons within the East African Community and these include; national identification cards, temporary permits and border passes. However, they noted that citizens travelling within the Common Market for Eastern and Southern Africa do not need passports. And this is in conformity with Article 7 (2) (a) of the EACMP which provides to the effect that citizens of EAC Partner States should be allowed entry into this state without visa. However, this provision as per the respondents has not been fully operationalized as many people still apply for visa to facilitate their movements due to fear of being barred as some countries are still stringent.

Table 4.1 hereunder highlights the categories of visas granted by the government of Kenya.

Table 4.1: Visas granted by the Government of Kenya

Type of Visa	Purpose
Ordinary	Issued to persons whose nationalities require visas to enter Kenya for visits or residence; single or multiple entries.
Transit	Issued for periods not exceeding 3 days to persons whose nationalities require visas to enter Kenya and who intend to transit through Kenya to a different destination.
Diplomatic	Issued to holders of diplomatic passports on official duty.
Courtesy/official	Issued to persons holding official or service passports and to passport holders who are not entitled to a Diplomatic visa but where it is considered to be desirable on the grounds of international courtesy.

Source: State Department Immigration as stipulated under the Kenya Citizenship and Immigration Regulations, 2012.

Table 4.2 below shows the trend in the number of passports issued, foreign nationals registered, and work permits granted during the period 2014 to 2017. The number of such documents issued is reflection of the number of persons travelling both to and from the country. During the years 2014 and 2015, there was a decline in the number of passports issued from 183,042 to 151,589, respectively. However, there was an upsurge in the following year 2016 (156,040) followed with a drop in the year 2017 (136,990). Nonetheless, there has been an increase in the number of foreign nationals registered, during the years 2014 to 2016, with a decline in the year 2017 as follows: 22,326 (2014); 25,091 (2015); 37,033 (2016), and; 29,318 (2017), respectively

Table 4.2: Number of passports issued, foreign nationals registered and work permits issued,

Category	2014	2015	2016	2017 (unpublished)
Passports issued	183,042	151,589	156,040	136, 990
Foreign nationals registered ^a	22,326	25,091	37,033	29,318
Work permits issued ^b	10,540	7,683	5,851	8,366
Work permits renewed	10,532	11,125	9,547	10,551

Source: Norah as per the information from republic of Kenya (2014 b,2015,2016a and 2017a

Note “a” Means the same as aliens registered in previous reports;” b” Means the same as “entry permits” in previous reports

It is worth comparing the above analysis with the trend in the previous years of 2009 before the East Africa Common Market Protocol came into being and 2010 to 2013 when the protocol came into force following ratification by the five partner states. During the years 2009 to 2012 there was an increase in the number of passports issued from 153,266 to 171,169 respectively. However, the same greatly reduced to 148,940 in the year 2013. In regard to foreign nationals registered, in 2009 the number was 18,751 this reduced to 17,944 in 2010. However, there was an increase in the year 2011 to 2012 from 19,034 to 23,490 respectively but reduced in 2013 with 21,920. The same is highlighted in Table 4.3 below.

Table 4.3: Number of passports issued, foreign nationals registered, and work permits issued, 2009–2013

Category	2009	2010	2011	2012	2013
Passports Issued	153,266	167,528	168,324	171,169	148,940
Foreign Nationals Registered	18,751	17,944	19,034	23,490	21,920
Work Permits Issued	11,096	18,862	21,383	11,360	10,411
Work Permits Renewed	5,953	20,521	23,498	8,636	9,315

Source: KNBS, 2014. Note: Page 257. Data was provided by the Department of Immigration.

The rebirth of the East African Community in 1999 as indicated by one of the respondents from the State Department of Immigration is the reason behind the steady increase of immigrants within the EAC partner states. The legal, legislative and policy frameworks put in place by the Partner's States in line with the East African Community Common Market Protocol to allow free movement of goods; free movement of persons; free movement of labour; free movement of services; free movement of capital; the right of establishment; and the right of residence has been a factor.

4.2 SOCIO-POLITICAL FACTORS

Majority of my respondents affirmed that movement of persons within East African Community has been due to social-political push factors, this has been ignited by the ethnic, religious and cultural persecutions. As a result, most people have found their way in Kenya as refugee or asylum seekers.

According Mr. Justin Abumba a Child Education Officer at Xavier Project an NGO based in Nairobi dealing child refugees in Africa, most children found their way to Kenya due to political instability in their countries and also due to social factors as most children they work for have are a product of child prostitution, forced early marriages, child soldiers and many

other reasons. I established that most children at this facility are from Southern Sudan and Democratic Republic of Congo. Very few are from northern Uganda.

Data from the United Nations High Commission for Refugees (UNHCR,2018) indicate as at January 2018 there was approximately 488,415 refugees and asylum seekers drawn from Eastern Africa and the Horn of Africa. And this involves people who have suffered civil strife and wars during the last three decades and majority have rushed to Kenya and Tanzania due to the political stability enjoyed by this state.

Table 4.4: Refugees and asylum seekers in Kenya, 2016

	2016				
	Total	Alinjugur	Dadaab	Kakuma	Nairobi
Refugees/asylum seekers	494,863	95,979	176,785	154,947	67,152
Registration	41,329	194	212	26,604	14,414
Refugee status determination					
Applied	18,119	258	539	5,816	11,506
Recognized	5,155	83	137	4,227	708
Rejected	16	0	0	13	3
Pending					
Resettlement submissions	52,601				
Resettlement departures	2,817				

Source: UNHCR, 2018

In the year 2016, the total number of refugees and asylum seekers in Kenya was 494,863, while in the year 2017 it dropped marginally to 488,415 (Table 4.5 and Table 4.6). However, a comparative analysis by camps shows that in Dadaab there was an increase from 176,785 to 238,152 during the years 2016 and 2017, respectively.

Table 4.5: Refugees and asylum seekers in Kenya, 2017

	2017				
	Total	Alinjugur	Dadaab	Kakuma	Nairobi
Refugees/asylum seekers	488,415		238,152	185,154	65,109
Registration	37,185		282	23,288	13,615
Refugee status determination					
Applied	19,542		460	9,087	9,995
Recognized	1,202		0	127	1,075
Rejected	0		0	0	0
Pending	56,514		1,599	25,837	29,078
Resettlement submissions	44,633				
Resettlement departures	32,965				

Source; UNHRC Kenya 2018

Equally, in Kakuma camp the number increased from 154,947 in the year 2016 to 185,154 in the year 2017. Conversely, in Nairobi, the numbers dropped from 67,152 in the year 2016 to 65,109 in the year 2017; However, the data for Alinjugur camp in the year 2017 was missing, but in 2016 the total number of refugees and asylum seekers was 95,979.

Table 4.5(b): Refugees and asylum seekers stock by main location in Kenya, 2016–2017

Year/location	2016	2017
Dadaab	176,785	238,152
Alinjugur	95,979	
Kakuma	154,947	185,154
Nairobi	67,152	65,109
Total	494,863	488,415

Source; UNHRC Kenya 2018

4.3 ECONOMIC FACTORS

Economic Factors, which include labour standards, level of unemployment among others has greatly contributed to movement of persons in the East African Community. Officials from the Ministry of East African Community, Nairobi indicated that the unstable economic conditions within the EAC Partner States East African Community has been unstable thus motivating the movement of persons from state to state within EAC depending on which has a better economy.

According to one of the respondent from the Ministry of East African Community & Regional Development Kenya hosts about 70% of foreigners who are in Kenya most on formal and informal employment. They similarly noted that most Tanzania and Ugandan nationals have opened business in Kamukunji, Kigomba while East Leigh estate of Nairobi is flooded with Somali business people. This is trend is attributed the prospect of higher wages, better employment opportunities and, often, a desire to escape the domestic social and political situation of their home country. This is in line with Article 10 of the EACMP which provides to the effect that Partner States shall ensure non-discrimination of the workers of the other Partner States, based on their nationalities, in relation to employment, remuneration and other conditions of work and employment.

Records indicate that in the year 2014 Kenya received 7,100 business visitors from Uganda and this moved up to 9,400 and 9,600 in 2015 and 2016 respectively. On the other hand, business visitors from Tanzania in the year 2014 were 4,800 in 2014, This reduced to 4,400 in 2015 and increased to 5,100 in the year 2016. The same is summarized in Table 4.6 below

Table 4.6: Business visitors by country of residence, 2014-2016

Country/region of residence	2014('000)	2015 ('000)	2016 ('000)
Uganda	7.1	9.4	9.6
Unite Republic of Tanzania	4.8	4.4	5.0

Source: Republic of Kenya (2014b, 2015 and 2016a)

The protocol entitles a worker to *inter alia* apply for employment and accept offers of employment made; move freely within the territories of the Partner States for the purpose of employment; conclude contracts and take up employment in accordance with the contracts, national laws and administrative actions, without any discrimination and to stay in the territory of a Partner State for the purpose of employment in accordance with the national laws and administrative procedures governing the employment of workers of that Partner State.

4.4 MIGRATION AND EDUCATION

The strategic location of Kenya, coupled with stability, sound education system and host to a number of reputable organizations, has continued to attract education migration. Officials from the State Department of Immigration indicated that the Department has continued to support the transfer of knowledge and skills through issuance of student internship and research passes to foreign nationals who come to Kenya for studies or research purposes and that they have done this in collaboration with the Ministry of Education and other educational institutions. This is in line with the National Migration Draft Policy 2018, which requires the Ministry of Education and other stakeholders to initiate mechanisms that attracts foreign students to take up study opportunities in Kenya. On the other hand, it's in compliance with Article 102 of the Treaty for the Establishment of the East African community which requires

that partner states should undertake concerted measures to foster cooperation in education and training within the Community.

The researcher established from the immigration officials that to qualify for a student pass, the student must be admitted in an approved training establishment of the host state. In addition, the student is expected to provide a confirmation of sponsorship for the training and where the student is a child (under the age of 18 years), the identification of the guardian to be responsible for the child while the child is in the host Partner State. A student's pass is to be issued, subject to terms and conditions, for a period not exceeding one year and shall be renewable, annually, for the duration of the study.

Tertiary institutions such as the University of Nairobi, United States International University of Africa, Africa Nazarene University, Maxwell University, Catholic University as well as Daystar University are popular choices among foreign students. On the other hand, the study established that a great number of Kenyans are flocking to Uganda for study purposes and this is due to the fact that education in Uganda is cheap as compared to Kenya. Additionally, disruption of education in in Uganda is not common like in Kenya where institutions are prone to strikes. Most Kenya are enrolled at Makerere University, Uganda Christian University and Kampala International University.

Lastly a respondent from the Ministry of Foreign Affairs pointed out that development in form of rising incomes, increasing education and infrastructure connections has shaped the conditions that that has increased people's aspirations and capabilities to migrate.

Improved infrastructure, cheaper transport, the rapid diffusion of telecommunication techniques such as mobile phones, and improved education have seen most Ugandan and Tanzanians coming to Nairobi. An official at the immigration Department noted that as long as people's changing lifestyle preferences and increasing material expectations cannot be met locally, then governments should prepare for more migrants flocking to towns and cities.

4.5 EFFECTS OF EAST AFRICA COMMON MARKET PROTOCOL ON IMMIGRATION

EA CMP has had a very tremendous effect on immigration within East Africa Community. In line with its agenda of closer integration and the elimination of barriers for the benefit of citizens much has been done to ensure the free movement of persons and goods within the EAC Partner States.

4.5.1 EFFECT ON POPULATION

This study established that the overall migration has had a great effect in regard to the population of people in Kenya. Information procured from the State Department of Immigration reveal that there is a decline to the overall population trend due to out-migration despite an increase in birth rates as well as immigration. As of 1 January 2018, the population of Kenya was estimated to be 49,167,382 people (UN DESA, 2018). This was an increase of 2.65 per cent (1,269,299 people) compared to population of 47,898,083 the year before (UN DESA, 2018).

In 2017, the natural increase was positive, as the number of births exceeded the number of deaths by 1,280,316 but due to emigration, the population of Kenya declined by 11,017 people). An official from the State Department of Immigration indicated that the decrease was due to the number of people who leave Kenya to settle permanently in other countries (emigrants) being higher than the number of non-citizens who move into Kenya in order to settle as either permanent or temporary residents (immigrants).

The United Nations estimates, the vital demographic statistics for 2018 are shown in Table 4.7, the population distribution in Table 4.8 and key demographic characteristics in Table 4.9.

Table 4.7: Demographic vital statistics, 2018

Demographic vital events	Demographic outcomes
Births	4,773 live births average per day (198.86 in an hour)
Deaths	1,172 deaths average per day (48.83 in an hour)
Migration	-31 emigrants average per day (-1.29 in an hour)

Source: UN DESA, 2018.

Table 4.8: Population distribution in Kenya by age and sex, 2018

Age	Male	Female	Total	
			Absolute	Per cent
Under 15	10,452,002	10,299,092	20,751,094	42.2
15-64	13,616,415	27,096,636	27,096,636	55.1
65+	595,417	1,319,653	1,319,653	2.7

Source: UN DESA, 2018.

Table 4.9: Key demographic characteristics for Kenya’s population in 2017

Demographic characteristics	Indicators
Births	1,697,029
Deaths	416,713
Natural increase	1,280,316 people
Migration	Net migration: -11,017 people

Source: UN DESA, 2018.

According to table 4.8 it’s clear that people under the age of 15 and above migrates a lot by 55.1 % Followed by those under age 15 by 42& and lastly age 65 which is 2.7&. This is because under the age of 15-65 are the group of people who are considered to be productive as compared to the age of 65 which is the age of retirement and most of them wants just to rest and at 15 are considered to be still young. That’s why according to this table the people under the age bracket of 15-64 moves at a high rate.

4.5.2 IMPROVED INFRASTRUCTURE

EA CMP has contributed to improved infrastructure which in turn has enhanced free movement of people. For instance, in 2013 during the first Northern Corridor infrastructure summit in Uganda the East Africa head of states conceived the idea of a high-speed standard gauge railway linking the three countries of Kenya, Rwanda and Uganda.

Convinced of the benefits of the high-speed train, South Sudan acceded to the agreement in May 2014 to extend the line to Juba. Kenya has completed its initial phase of the project linking Mombasa to Nairobi, and has embarked on the second phase from Nairobi to Naivasha, the subsequent phases from Naivasha to Kisumu and then to Malaba at the Ugandan border has stalled due to funding constraints.

An official from the Ministry of Foreign Affairs indicated that good infrastructure has contributed a lot to the movement of people. When you compare number of people before the infrastructures were put in place and after putting in place, the population has greatly

increased. Infrastructural development has created more job opportunities among the citizen of EAC Partner States hence improved economy.

4.5.3 ISSUANCE OF DIGITAL PASSPORTS

Through EA CMP the East African member states of Kenya, Uganda, Tanzania, Rwanda and Burundi launched an East-African e-passport. Kenya launched the passport in September 2017, while Tanzania launched in February 2018. Uganda, Rwanda and Burundi are yet to roll out the e-passport, but have reported various stages of progress.

The e-passport also known as the biometric passport — complies with guidelines set by the International Civil Aviation Organisation (ICAO), making it admissible globally. The East African e-passport is aimed to increase trade between the East African Countries over the coming years.

An official at the State Department Immigration noted that the e passport is vital to free movement of people they will enhance faster clearance at points of entry and exit. It is highly secure, hence avoids passport reproduction and tampering. It will also provide travellers benefits such as use of automated border clearance.

The government of Kenya issued a dead line of 31st August, 2019 for all its citizen to surrender the old generation and be issued with the e passport. One of my respondents at the Immigration Department noted that so far, the government has issued almost 800,000 ahead of the 31st August, 2019 deadline and the number was expected to increase as on average 4000 applicants are served daily across the country at various immigration centres.

However, one of the responded from the ministry of East African Community and Regional development revealed that there was arrangement of Northern Corridor Integration project whereby the use of National Identification Card was introduced as traveling document between Kenya and Uganda. This has increased immigration within the two states hence increasing the population of immigrants in general.

4.5.4 LAUNCH OF ONE STOP BORDER POSTS

The East Africa legislation assembly and through the consent of the East Africa head of states enacted the East African Community One Stop Border Posts Act, 2016 and the East African Community One Stop Border Post Regulations 2017. The aim of the One Stop Border Post Programme (OBSP) was to reduce transit cost and border movement activities within the east Africa region.

One of the respondents at the State Department of Immigration said that the One-Stop Border Post is a welcome departure from the Two-Stop Border Post model characterised by tonnes of paperwork, lengthy clearance transactions, and duplication of exit/entry procedures that cause delays and increase the cost of doing business. He further noted that this is far better from the traditional border practice, where an importer, exporter or a traveller needed to obtain exit clearance from one side of the border before moving over to the other side for entry clearance. These crossing procedures depicted a glaring disconnect among EAC member countries in clearance of cargo.

The OSBP concept has alleviated the situation by improving border crossing speed and efficiency thus reducing barriers to trade and improving business competitiveness. The major reason for establishing OSBPs along transport corridors is to expedite the movement of goods and people, and to reduce transport costs across national boundaries

The table 4.10 below shows the East African countries and their borders.

Table 4.10 shows the East African countries and their borders.

COUNTRY	BORDER POINT
Kenya - Uganda	Busia and Malaba
Kenya - Tanzania	Namanga and Holili
Tanzania - Uganda border:	Mutukula
Tanzania - Burundi	Kigoma
Tanzania - Rwanda	Rusumo
Rwanda - Burundi	Akanyaru
Rwanda - Uganda	Gatuna / Katuna
South Sudan - Uganda	border: Busia
South Sudan -	Kenya border

Source: Department of Immigration

4.5.5 REGIONAL INTEGRATION AND EA CMP

Regional integration entails states or nations coming together to form regional blocs aimed at fostering development. Through the spirit of regional integration, the EAC Partner States came together and established the EACMP that has really managed migration issues within the EAC.

EA CMP has enabled the EAC Partner States review various laws related to work permit to ensure free movement of labour. In accordance with Regulation 6(7) of the EAC Common Market (Free Movement of Workers) Regulations, the Competent Authorities in Partner States issue work permits to East Africans wishing to work within the Partner States within thirty days from the date of application.

The work permits may be issued for an initial period up to two years and may be renewed upon application. At the same time, Partner States' citizens are granted the first privilege in case they are competing for the same positions with nationals from outside the EAC region. The Partner States are also in the process of amending their laws to ease issuance of work permits to EAC citizens

4.6 IMMIGRATION CHALLENGES IN KENYA

Despite the role played by regional integration on immigration, the researcher established that there are various challenges affecting the free movement of people that need to be addressed. For instance, a visit at the State Department Immigration headquarters revealed that Kenyans and other foreigners who seek services at the Department go through a lot of tussles in order to be served.

The introduction of the online application or the e citizen digital platform although welcome, the same has not served any purpose. An official at the Immigration Department revealed that it should take at least 10 working days for one to be issued with a first passport once the application form has been physically submitted at the Immigration offices. For all other application types, it should take at least five working days. This is after the applicant has done the application online and made the necessary payments.

However, I observed that most applicants go through physical, mental and emotional drain waiting for their travelling documents to be processed as they are forced to wait for many months. An interview with one of the applicants revealed that one has to part with at least Sh2,500 to secure the release of their documents, even after paying the requisite fees. She added that those who cannot read between the lines make endless visits to the counters. The research further established there are a group of cons who often take advantage of the situation and often solicit money from applicants with the promise of helping them get their passports faster. Despite the long delays, majority of the applicants manage to obtain their passports in the end.

Another challenge noted at the Immigration Department is the frequent misplacement of applications forms by the immigration officials. This fact was acknowledged the Immigration Officials who were quick to note that the Department is formulating solutions.

I also established that the Immigration Department is overwhelmed with the mass application for passports and as such the workers overpowered by the workload. It was noted that applicants arrive at Nyayo House as early as 4 am and only about 600 applicants are attended to per day prompting the rest to opt for the next day.

4.7 CHALLENGES IN THE CONTEXT EAC PARTNER STATES

In the context of East Africa Community, Kenya, Uganda, Tanzania, Rwanda, Burundi and South Sudan still faces many challenges as far as immigration is concerned and this includes; immense corruption at immigration offices, insecure, porous, unmanned and difficult terrain on and along borders resulting in difficult, ineffective control of entry and exit of persons, inadequate legislative and policy framework and weak enforcement of existing regulations.

One of the responded also confirmed to me that in Kenya, Refugees do not have equal access to socio-economic opportunities such as livelihood and education. They face a lot of challenges for instance in getting work permit, business license and they are forced to pay extra amount in order to get the services, I.e. pay extra amount of school fees in the learning institutions or even pay to get the business license.

Apart from that the respondent from Francis Xavier project of the refugee's children confirmed that it is very difficult for the refugee's children to be Accommodated or facilitated in schools since they are discriminated in away because of not being Kenyan citizen and

another thing is fast priority is always given to Kenyans. Apart from that most of the refugees / Immigrants have found the situation more complex because in most cases those who come in Kenya either have the same skills as those Kenyan and therefore not needed or do not have skills at all thus making it difficult to accommodate the immigrants or the refugees.

According to one of the respondent from Francis Xavier most of the immigrants or refugees who are in Kenya finds it very difficult to get government job or be allowed to work in Kenya. This is because the government has put in place changes that cannot allow them to work.

Another challenge is the issue of Visa. Scholars i.e. at The University of Catholic experience a lot of challenges since they are issued with visa which allows them to stay in the country only for three months after which they have to either go back to their respective country or look for another one. An official from the Catholic University noted that the duration given to them is actually very short that's inconveniencing them.

4.7.1 POROUS BORDERS

Porous borders have been a great challenge to immigration management within the EAC Partner States. According to one of the respondent at the Ministry of East African Community and Development and Mr. Masheti Masinjila the Executive Director, East African Civil Society Organization's Forum (EACSOFF) porous have led to security threat such as terrorism, cybercrimes, conflicts resource based etc. They added that this has led to the influx of irregular migrants.

The Executive director at the EACSOFF, revealed that most of the partner states within East African Community (EAC) have failed to fully implement the provision of the Treaty and the Common Market Protocol which has also resulted to some challenges generally, for instance states like Kenya and Rwanda have gone ahead to make bilateral agreement on the issue of work permit living out the other states, lack of full implementation of the treaty and the protocol has also encouraged a lot of illegal trade.

4.8 IMPORTANCE OF THE LEGAL/ DOCUMENTS/POLICIES THAT GOVERN IMMIGRATION IN KENYA

I discovered from 80% of the respondents that there are various legal documents and /or statutes that govern immigration in Kenya and the member states of East African Community and this includes; the Constitution of Kenya 2010, Refugees Act 2006, Security Laws Amendment Act, 2014, Border Operational Manual, One Stop Border Post Act 2016, Kenya Citizenship And Foreign Management Act, Gazette notices and regular circulars that changes time it time, diaspora policies 2015, draft migration policies in Kenya though they are still working on it, MOU i.e. Kenya Uganda and Rwanda have entered the coalition of the willing, Standard operating procedures ,EAC treaty of 2009, EAC Common market protocol of 2010, executive orders mostly from the president and lastly implied policies.

According to respondents from the State department of Immigration, border control and registration of persons and ministry of East African Community & Regional Development, these documents can be accessed through websites miniseries, the ministry resource centres, and government printers and lastly government bodies. From the respondent it's actually an open access to the documents.

The policies are mandated to play the following roles: maintenance of security, safeguarding of the interest of the Kenyan states and other states, transfer of skills while at the same time encourage investment and reduce poverty. The Kenyan policies are designed to align themselves with the provisions of the East African Common Market Protocol.

The following are however some of the relevant of the above documents on immigration in Kenya, according to 70% of the respondent the above policies have played a significant role in ensuring that Kenya has immigration that is orderly. For instance, the policies have ensured security in refugee camps and by doing so has enabled the refugees to contribute a lot on the economy of the state.

Apart from that migration policies have also promoted tourism in the country of Kenya. According to three of my respondent, Kenya and other East African partner states apart from Tanzania supports the aspect of tourism 100%. The respondents said that the policies have harmonised laws concerning tourism that opening more opportunities of tourists. It's clear

that the tourist spends money in hotel accommodation transport services, food and other social amenities that have positive bearing on social- economic development of the state of Kenya with the other neighbouring states.

According to one of the respondent from state department of immigration, border control and registration of person, Migration is viewed as appositive factor that has led to eradication of inequality and lead to a better distribution of the advantage of globalization. For instance, the common Market Protocol being one among the policies used by Kenya highlighted the principles under article 3 as follows; Transparency, on-discrimination of other partner states on ground of nationality and equal treatment to national of other partner sates. The same has also been stipulated under article 6 and 7 of the Treaty. The respondent at nyayo house revealed to me that most of those immigrants who comes to Kenya are always treated very well without any discrimination as compared to before the Common market came into existence.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

This chapter presents the summary of the study, conclusions drawn from the findings and recommendations for further studies

5.2 SUMMARY OF THE FINDINGS

Migration is of considerable importance to Kenya and East Africa Community at large especially in advancing regional integration within the EAC regional bloc. Migration policies in East Africa have for a long time been associated with movement of people, labor and capital from one sovereign state to another. The policies have a great impact and influence on integration both at social level, political level and in economic spheres. This research has examined, the role played by regional integration on immigration. This has been done with focus on migration Policies in East Africa and how they influence regional economic growth and development.

The research established that the provisions of the EAC Treaty for the free movement of goods; the free movement of persons; the free movement of labor; the right of establishment; the right of residence; the free movement of services; and the free movement of capital has really contributed to migration of people within the EAC member states. Even though the implementation of migration policies has facilitated movement of people in East Africa, there are many challenges that remain and these includes; immense corruption at immigration offices, insecure, porous, unmanned and difficult terrain on and along borders resulting in difficult, ineffective control of entry and exit of persons, inadequate legislative and policy framework and weak enforcement of existing regulations Thus, there is need to create a mechanism for promoting migration issues which could act as a catalyst for economic development in the region and at the continental level.

5.3 CONCLUSION

The findings of this study not only serve as an eye opener to the challenges of immigration but also bring in the aspect of both national and regional policies and laws in East African Community and Kenya in particular.

Indeed, the EAC Partner States of Burundi, Kenya, Rwanda, Tanzania and Uganda have taken integration to a deeper level. With the Common Market Protocol in place, free movement of persons (labour, workers and services providers) as well as rights of residence and establishment has been guaranteed. It is important to note that, currently migration issues in general and free movement of people in particular has improved despite existing legislative policy challenges.

Lack of full sensitization and involvement of the citizenry in the Integration project was found missing. While carrying out my research found out that the integration was brought to the people as a product and not as a new way of life. Citizens within the East African communities are actually not well informed about the integration matters. It was good to allow the citizens of East African Community be sensitizing on both integration and immigration changes and its benefits after the introduction of the East African Common Market Protocol and the treaty too.

Again, on a final note, it also important to note that, the East African Community has promoting labour migration for development as we have migration of skilled workforce across the EAC States and this has harnessed the benefits in areas with gaps.

As far as the Common Market is concerned, it is important to note that; While the Common Market protocol grants broad rights relating to the free movement of persons and workers and the rights of establishment and residence, the regulations and schedules for their implementation ensure that the movement of persons under the protocol will still be controlled (for justified reasons). There are also inbuilt safeguard mechanisms that a Partner state can adopt in controlling the impact of the provisions.

5.4 RECOMMENDATIONS

With the deepening of EAC's regional integration and the appreciation of ensuring free movement of people, the migration issues in the region are becoming much better and smoother more than ever before. Nevertheless, a number of policy options may be considered to ensure that the great expectations are truly realized. The following recommendations deserve due attention and consideration;

There is need to Facilitate labour mobility in regional integration: As recognized in the Treaty establishing the East African Community, freedom of labour to move geographically, transfer jobs and change employers is essential to ensure the most productive use of labour, including both skilled and less-skilled migrants.

The challenge today is to provide the implementing mechanisms for more optimal allocation of labour in the larger labour market of this regional economic cooperation area. It of course also requires harmonization of labour law and social security provisions. Again, the Common Market Protocol's implementation is expected to further improve the situation.

Further there should be smoothening of movements in the EAC: It is important to note the encouraging level of integration that the EAC has reached at. In this light, further smoothening of movements in the EAC should be a continued till the time people are able to move in the region using national identity cards. The process of ensuring that the EAC population gets access to an EAC Passport should be expedited.

There should be established and informed and transparent labour migration system: Such a system would be set up to respond to legitimate, measured labour needs, taking into account domestic concerns as well. Closer collaboration will be required between the immigration and labour departments, with use of reliable labour market assessments conducted in consultation with the social partners in identifying and responding to current and emerging needs for workers. Reduction in exploitation, trafficking and smuggling of migrants can only be achieved through a comprehensive migration policy.

Enforcement of labour standards in all sectors of activity is vital: This is important to prevent exploitation of migrants and to discourage irregular employment. This involves enactment of clear national minimum standards for protection of workers, national and migrant, in employment, where those do not exist. ILO Conventions on such aspects as occupational

safety and health, against forced labour, and on discrimination provide minimum international norms for national legislation. A necessary complement is monitoring and inspection in such areas as agriculture, domestic work and other sectors of ‘irregular’ employment, in particular to identify and prevent exploitation of children and to detect and stop forced labour, as well as to uphold minimal decent work conditions.

Preventing discrimination and xenophobia is also key as far as regional integration and migration is concerned: The recent Conferences against Racism and Xenophobia as well as relevant debates have recognized discrimination and xenophobia as one of the major social and political challenge of our time. In this regard, the EAC Partner States must ensure that citizens moving within the region are all treated based on the principle of equality and non-discrimination.

The East Africa Community Member States should commit to better management of free movement of people with a focus on mainstreaming migration in development planning and implementation targeting vulnerable groups including women, children, older persons and persons with disabilities. The emphasis is to harness the catalytic role of migration in development such as when traders’ cross borders and either establish themselves or engage in circular movements. The development approach should include support to diversify economies and industrialize.

The States should ensure that development financing and support mechanisms should be grassroots based in order to raise capacity of devolved governments to create diverse livelihoods opportunities. Additionally, East Africa Community Member States should ease restriction on cross border procedures and acquisition of travel documents to discourage the use of traffickers, smugglings and other exploitative practices by labour recruiting agencies targeting those seeking work opportunities in countries such as the Gulf States.

There should be facilitation of safe, orderly and regular migration with a special focus on places with crises or conflict by enhancing institutional capacity to handle the entire value chain of migration from sound policy formulation touching on various aspects of migration including labour migration, prevention of conflict, implementation of sustainable development programs and putting into place adequate mechanisms for monitoring, early warning, research and monitoring and evaluation.

There is also need for the EAC states to review the existing immigration policies at country level where necessary especially countries that attract labour migrants. This review will not only reduce the chances of migrants becoming undocumented and working with the risk of being deported, but will also endeavour to respect international obligations such as the United Nations 2030 Agenda Sustainable Development Goals (SDGs) through its Members States.

It is worth noting that the United Nations 2030 Agenda Sustainable Development Goals (SDGs)It aims to create conditions for sustainable, inclusive and sustainable economic growth, shared prosperity and decent work for all, importantly identifies migrants as vulnerable people who must be empowered and whose needs are reflected in the Agenda to end poverty in all its forms everywhere, protect labour rights and promotions of safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment with special attention on forced and child labour.

5.5 RECOMMENDATION FOR FURTHER STUDY

I recommend that further study be carried out to analyse the effectiveness of Treaty for the establishment of the East African Community and the Common Market Protocol on the EAC member states, if the national laws work hand in hand with the CMP and the treaty for the establishment of the East African Community or they contradict, and lastly the relationship between regional integration and immigration. This study focused on the relevant of the East African Common Market protocol on immigration as an aspect. It would be useful to carry out the same type of research across the East African Community member states and even beyond in order to see whether the same results will occur.

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Peace of Westphalia, European settlements of 1648, which brought to an end the Eighty Years' War between Spain and the Dutch and the German phase of the War. A number of countries in the world received territories or were confirmed in their sovereignty over territories

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APPENDIX I: INTERVIEW GUIDE

CATHOLIC UNIVERSITY

INSTITUTE OF REGIONAL INTERGRATION AND DEVELOPMENT (IRID)

SAMPLE QUESTIONNAIRE ON THE CRITICAL ANALYSIS OF REGIONAL INTEGRATION ON IMMIGRATION WITHIN EAST AFRICAN COMMUNITY MEMBER STATES (CASE STUDY KENYA)

INTRODUCTION

My name is Norah Masai Sikolia, Reg No. 1026844 from the Institute for Regional Integration and Development (IRID), at the Catholic University of Eastern African, Nairobi. I am conducting a research on critical analysis of regional integration on immigration in East African Community Member States (Case study Kenya). The objective of the research is to *inter alia* analyze the legal and legislative framework that govern immigration in East African Community and Kenya, analyze factors and challenges related to immigration issues in Kenya and to propose the strategy which can help for successful immigration policies management in Kenya. All information collected will not be attributed to one person but will be compiled together. I will appreciate if you volunteered for the success of this research. Thanks in advance for your participation.

SECTION A: BACKGROUND INFORMATION OF RESPONDENTS

Name: _____

Organization/Ministry: _____

Position: _____

Nationality _____

CATEGORIES OF RESPONDENTS

PART A: MINISTRY OF EAST AFRICAN COMMUNITY & REGIONAL DEVELOPMENT

1. What are the legal documents and/or statutes that govern immigration in your ministry and how many?
2. Apart from the legal documents, do you have any policies or regulations in regard to immigration?
3. How can one access the documents in (1) above?
4. In your view how has these policies, regulations and legislations been effective in managing immigration?
5. Do you face any challenges in regard to the implementation of these policies, laws and regulations governing immigration?
6. How has regional integration been effective in the management of immigration?
7. In your view what do you think are the motivating factors behind immigration?

PART B: STATE DEPARTMENT OF IMMIGRATION, BORDER CONTROL AND REGISTRATION OF PERSONS

1. What are the legal documents and/or statutes that govern immigration in your ministry and how many?
2. Apart from the legal documents, do you have any policies or regulations in regard to immigration?
3. How can one access the documents in (1) above?
4. In your view how has these policies, regulations and legislations been effective in managing immigration?
5. Do you face any challenges in regard to the implementation of these policies, laws and regulations on immigration?
6. How has regional integration been effective in the management of immigration?
7. In your view what do you think are the motivating factors behind immigration?

**PART C: SCHOLARS/EXPERTS ON EAST AFRICAN COMMUNITY
INTERGRATION MATTERS-CATHOLIC UNIVERSITY**

1. What are the legal documents and/or statutes that govern immigration in Kenya and other East African Community Member states?
2. Apart from the legal documents, are there any policies or regulations in regard to immigration?
3. How can one access the documents in (1) above?
4. In your view how has these policies, regulations and legislations been effective in managing immigration?
5. Are there any challenges in regard to the implementation of these policies, laws and regulations on immigration?
6. How has regional integration been effective in the management of immigration?
7. In your view what do you think are the motivating factors behind immigration?

PART D: EAST AFRICAN COMMUNITY HEADQUARTERS-ARUSHA

1. What are the legal documents and/or statutes that govern immigration in East African Community Member States?
2. Apart from the legal documents, are there any policies or regulations in regard to immigration?
3. How can one access the documents in (1) above?
4. In your view how has these policies, regulations and legislations been effective in managing immigration?
5. Do you face any challenges in regard to the implementation of these policies, laws and regulations governing immigration?
6. How has regional integration been effective in the management of immigration?
7. In your view what do you think are the motivating factors behind immigration?

PART E: EAST AFRICAN CIVIL SOCIETY ORGANISATIONS' FORUM (EACSOFF)

1. What are the legal documents and/or statutes that govern immigration in Kenya and other East Africa Community Member States?
2. Apart from the legal documents, are there any policies or regulations in regard to immigration?
3. How can one access the documents in (1) above?
4. In your view how has these policies, regulations and legislations been effective in managing immigration?
5. Do you see any challenges in regard to the implementation of these policies, laws and regulations on immigration?
6. How has regional integration been effective in the management of immigration?
7. In your view what do you think are the motivating factors behind immigration?

APPENDIX: II RESEARCH AUTHORIZATION LETTER FROM NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION



**NATIONAL COMMISSION FOR SCIENCE,
TECHNOLOGY AND INNOVATION**

Telephone: +254-20-2213471,
2241349,3310571,2219420
Fax: +254-20-318245,318249
Email: dg@nacosti.go.ke
Website : www.nacosti.go.ke
When replying please quote

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

Ref. No. **NACOSTI/P/18/30719/26153**

Date: **9th May 2019**

Norah Masai Sikolia
Catholic University of Eastern Africa
P.O. Box 62157-00200
NAIROBI.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on "*A critical analysis of regional integration on immigration within East Africa Community (case study Kenya).*" I am pleased to inform you that you have been authorized to undertake research in **Nairobi County** for the period ending **29th October, 2019.**

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

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

**DR. STEPHEN K. KIBIRU. PhD.
FOR: DIRECTOR-GENERAL/CEO**

Copy to:



The County Commissioner
Nairobi County.



The County Director of Education
Nairobi County.



**COUNTY COMMISSIONER
NAIROBI COUNTY
P. O. Box 30124-00100, NBI
TEL: 341666**

APPENDIX III: NACOSTI CERTIFICATE

<p>THIS IS TO CERTIFY THAT:</p> <p>MS. NORAH MASAI SIKOLIA</p> <p>of CATHOLIC UNIVERSITY OF EASTERN AFRICA , 45123-100 Nairobi ,has been permitted to conduct research in Nairobi County</p> <p>on the topic: A CRITICAL ANALYSIS OF REGIONAL INTEGRATION ON IMMIGRATION WITHIN EAST AFRICA COMMUNITY (CASE STUDY KENYA)</p> <p>for the period ending: 29th October,2019.</p> <p>.....</p> <p>Applicant's Signature</p>	<p>Permit No. : NACOSTI/P/18/30719/26153</p> <p>Date Of Issue : 9th May,2019</p> <p>Fee Received :Ksh 1000</p> <div style="text-align: center;">  </div> <p style="text-align: center;">  Director General National Commission for Science, Technology & Innovation </p>
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<p>THE SCIENCE, TECHNOLOGY AND INNOVATION ACT, 2013</p> <p>The Grant of Research Licenses is guided by the Science, Technology and Innovation (Research Licensing) Regulations, 2014.</p> <p>CONDITIONS</p> <ol style="list-style-type: none"> 1. The License is valid for the proposed research, location and specified period. 2. The License and any rights thereunder are non-transferable. 3. The Licensee shall inform the County Governor before commencement of the research. 4. Excavation, filming and collection of specimens are subject to further necessary clearance from relevant Government Agencies. 5. The License does not give authority to transfer research materials. 6. NACOSTI may monitor and evaluate the licensed research project. 7. The Licensee shall submit one hard copy and upload a soft copy of their final report within one year of completion of the research. 8. NACOSTI reserves the right to modify the conditions of the License including cancellation without prior notice. <p>National Commission for Science, Technology and innovation P.O. Box 30623 - 00100, Nairobi, Kenya TEL: 020 400 7000, 0713 788787, 0735 404245 Email: dg@nacosti.go.ke, registry@nacosti.go.ke Website: www.nacosti.go.ke</p>	<div style="text-align: center;">  REPUBLIC OF KENYA <hr style="width: 50%; margin: auto;"/>  National Commission for Science, Technology and Innovation RESEARCH LICENSE Serial No.A 24593 CONDITIONS: see back page </div>
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