

UNIVERSITY OF NAIROBI

DEPARTMENT OF POLITICAL SCIENCE AND PUBLIC ADMINISTRATION

MASTER OF ARTS IN INTERNATIONAL RELATIONS

**MIGRANTS SMUGGLING, HUMAN TRAFFICKING AND NATIONAL
SECURITY IN KENYA (2010 – 2016)**

BY

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REG: C50/74379/2014

**A Research Report Submitted in Partial Fulfillment of the Requirements for
the Award of a Masters of Arts degree in International Relations at the
Department of Political Science and Public Administration,
University of Nairobi.**

2017

DECLARATION

This research project paper is my original work and has not been submitted for examination in any other university.

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

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DR. M. KATUMANGA

ACKNOWLEDGEMENT

This project would not have been a success without the inspiration, commitment, hard work, skill and the continuous guidance of my supervisor Dr. Musambayi Katumanga. Thank you for always having time for me and guiding me whenever I sought your guidance. I really appreciate your commitment, scholarly guidance and informative contribution towards my project.

I am grateful too to all the lecturers in the Department of Political science and Public Administration of the University of Nairobi for their support whenever I approached them for assistance. I would like to appreciate more particularly Dr. Richard Bosire for his advice and input on the methodology of this project.

I would like to thank all my respondents and those who have contributed their knowledge and suggestions to make my project a success. I would like to thank the security agencies for their input and advice on a sensitive topic like this without compromising our national security. I salute you all. The magistrates and judges, prosecutors and immigration officers who have assisted me with valuable information despite their busy schedules, I thank you all. I also thank my bosses at my work place for their understanding and allowing me the time to complete my studies.

I thank my family for their patience in appreciating my project as they had to wait till late when I always came from the university working on my study. They had to bear with me in a long journey of course work and research with much of my time being away from home. Thank you for your patience and I love you all.

ABBREVIATIONS AND ACRONYMS

ACP	African, Caribbean and Pacific States
ATPU	Ant-Terrorism Police Unit
CPM	Common Market Protocol
GDP	Gross Domestic Product
ICE	Immigration and Customs Enforcement
ICMPD	International Centre for Migration Policy Development
IOM	International Organization for Migration
NACOSTI	National Commission for Science, Technology and Innovations
OHCHR	Office of the United Nations High Commissioner for Human Rights
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act
UASC	Unaccompanied and Separated Children
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
US	United States
USA	United States of America

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ABSTRACT

This study used a hybrid research design to achieve its objectives where quantitative and qualitative methods were employed. The study was conducted in Kenya. It specifically focused on three points of entry, transit and exit in Kenya namely Nairobi, Busia and Isiolo. The main objective of this study was to critically examine migrants smuggling, human trafficking, and the implications on national security in Kenya. The study used an integrated conceptual framework to achieve the objectives. The study looked at both primary and secondary data. Primary data was collected through administered questionnaires to stakeholders who handle smuggling and trafficking in persons issues who are immigration officers, prosecutors, judges and police officers. Respondents for this study were selected using purposive sampling technique. Four groups of respondents were selected who comprised immigration officers, prosecutors, police officers and judges while secondary data was obtained through reports prepared by international bodies like International Organization for Migration (IOM), United Nations High Commission for Refugees (UNHCR), UNODC, and reports by the immigration department and police officers. The data obtained was analyzed using qualitative and quantitative methods. Quantitative data was analyzed using descriptive statistics, which included frequencies and percentages. Statistical Package for Social Sciences (SPSS) was used as an aid in quantitative data analysis. Qualitative data was analyzed using content analysis. The study revealed that there are social, economic and political factors that explain migrants smuggling and human trafficking. The study adopted the widener Buzanian approach in analyzing security implications of migrant smuggling and human trafficking on national security by looking into the implications based on military, economic, societal, political and environmental broad based security issues. This study concluded that migrants smuggling and human trafficking negatively affect national security. There are policy options to curb the problem of migrants smuggling and human trafficking but their implementation needs to be more holistic and robust in a harmonized manner to achieve the goals intended.

CHAPTER ONE: INTRODUCTION

1.1 Background to the Study

The unlawful Trafficking of human persons is an international problem that has affected every country in every part of the world. The World report (2014) on trafficking of human persons notes that over 90% of member states domesticated legislations criminalizing human trafficking in accordance to the Protocol against trafficking crimes, women and children in particular. Contrary to expectations, commitment of states to convict criminals according to their domestic laws in line with the international protocols globally has not shown any significant improvement. As from 2010 to 2012, for instance, less than 10 convictions per year were reported by 40 per cent of member states. No single conviction was reported by 15 percent of 128 countries involved in the 2014 Global report. Trafficking flows are both intraregional and Trans-regional although most trans-regional flows were systematically observed in developed states that are located in North America, Europe as well as the Middle East. They are by and large victims from the developing nations that are located in the 'south'; particularly Eastern and Southern Asia regions as well as in the Sub-Saharan region of Africa. Statistics show that many victims are trafficked or smuggled from the less affluent countries to the developed countries where victims are attracted from different origins and continents, (Trafficking in Persons Report, 2014).

Migrants smuggling and trafficking have been among the most rapidly growing forms of transnational organized crimes due to recent world conditions that have created increased demand and supply for trafficked and smuggled persons. In the era of globalization, transnational criminals have exploited and utilized easier movement and flow of people and other contraband goods brought and facilitated by international integration. Migration flows are becoming uncontrollable, and with this, illicit trade hidden within the massive movement of people has emerged. Increased social, economic and demographic disparities drawing the line between the developing and the developed world brought by poverty, terrorism, and conflicts between and within states have further sustained supply for migrants smuggling and trafficking trade. This combined with feminization of poverty and marginalization of many communities have further

exacerbated migrants smuggling and trafficking trade with many migrants ready to be smuggled especially women (Shelley 2010, 2-3).

Migrants smuggling and trafficking are intertwined although are slightly different organized criminal activity. The key difference is that smuggled migrants normally consent and seal a deal with the perpetrator of the process, and their smuggling engagement ends once they arrive at their agreed point of arrival. But, trafficked persons are victims who have never given their free will or their initial will is disqualified by the means the perpetrator of the act has exploited to win control over the victim which may be as a result of deception, violence or any other exploited means to convince the victim into the process. Migrants smuggling and trafficking is established to be moneymaking market in Eastern Africa, due to the historical persistent political and economic turbulence in the Eastern African countries and their neighboring states (UNODC Report, November 2009).

The problem of trafficking and smuggling of migrants has prompted global action through United Nations formulation of global protocols. The UN Convention against Crimes of organized nature, for instance, was agreed upon on 15th November 2000 and operationalized on September 23rd 2003. To supplement the Convention, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Women and Children in particular, also known as the “Palermo Protocol” was passed, (IOM, 2008). This is an indication that irregular migration and particularly migrants smuggling and human trafficking is attracting global attention whereby states are taking collective security responsibility because of shared ideas and interests to safe guard their national, regional and international security interests.

According to UNODC 2009 report, despite positive progress towards sustainable development over the years, the Eastern Africa has also experienced economic turbulence, worrying poverty index and wide gap between rich and poor, and perennial threat of escalating conflict, violence and human insecurity which have threatened the region progress and provided an incubation for the migrants smuggling and trafficking trade to flourish.

Kenya is within this larger Eastern Africa region and shares borders with countries that have experienced protracted conflict that has further led to displacement of population and economic crisis from the affected countries. The population from these countries particularly Ethiopia and Somalia are being smuggled and or trafficked into Kenya as a destination or transit. This trend has raised serious security concerns in the backdrop of spate of terrorist attacks, proliferation of small arms and explosives experienced in the country.

The governments in the Eastern Africa region have made efforts to develop and implement policies and legislation mechanisms to mitigate the matter including subscribing to international instruments like Palermo protocols and the United Nations Convention Against Transnational Organized Crime (UNTOC) also known as the protocol against the smuggling of migrants by land, sea and air which have further been domesticated to tame the menace.

Although Kenya is party to these international instruments and enacted counter trafficking in persons legislations in 2010, it has continued to be a source, transit and destination of smuggled and trafficked migrants. For example, according to a local daily newspaper, reports indicate that, there is evidence to prove that the country is a transit point for large numbers of smuggled and trafficked migrants from Somalia, Eritrea and Ethiopia trying to make their way to countries they see can improve their lives like Europe or South Africa, (Daily Nation, August 24, 2015). The prospect of better economic and security living conditions elsewhere, particularly in the developed countries of Western Europe, is most frequently one of the motivating factors for trafficking in persons and migrants smuggling, as many people desire to move closer to areas that they think present them with better and increased opportunities.

Difficulties in combating migrants smuggling and trafficking in persons has been attributed to many and diverse factors among them lack of proper knowledge of existing legal framework, failure to implement existing legal mechanisms, poor and trivialized international cooperation, corruption and compromise, and lack of awareness and ignorance among the population on the vice. Migrants smuggling and trafficking networks are organized and ruthless and use complex modus operandi in their illegal

trade. Emerging transnational organized crime groups are now operating regionally and exploit porous borders and dysfunctional and weak state institutions to carry out their organized criminal activities uninterrupted. They have used territories without strong institutional control especially conflict prone areas where situation is always vulnerable and volatile. They also capitalize on the fact that legal controls are state-based by exploiting differences and penetrating in legal norms and procedures among jurisdictions (The Brown Journal of World Affairs, 2005).

1.2 Statement of the Problem

In a bid to fulfill its international obligation to combat migrants smuggling, human trafficking and international organized crimes, Kenya ratified the United Nations Convention against Transnational Organized Crime on 16th June 2004 (UNODC, 2004). Kenya is also a state party to the supplementary Palermo protocols that supplement the United Nations Convention against Transnational Organized Crime (UNODC, 2016; OHCHR, 2016). The protocols require all state parties to cooperate in prevention, suppression and punishment of persons engaged in trafficking. Kenya has also signed the protocol against Smuggling of Migrants by Land, Sea and Air on the 5th January, 2005.). Kenya domesticated these instruments through legislations such as Counter Trafficking in Persons Act 2010, the Prevention of Terrorist Act 2012 and the New Security Amendments Act 2014. Despite these efforts, Kenya is still a source, transit and destination of smuggled and trafficked migrants (US State Department TIP Report, 2014).

In August 2015, for instance, eighty Ethiopian migrants were arrested while on board a police lorry in Meru County (Daily Nation, August 18, 2015). On 9th march 2016, in yet another incident, 23 Ethiopian immigrants were arrested while hiding in a house in Kahawa West within Nairobi County (Daily Nation, March 9, 2016).

The animation and mutation of illegal migration as a security concern became apparent with state acknowledgement of an estimated 300 Al-Shabaab militants including foreign terrorist fighters presence in Boni forest (Onsarigo, 2015). This is in addition to a spate of terrorist attacks experienced in the country said to have been caused by terrorists that have crossed into the state from Somalia. The BBC's news report for instance, has

revealed that one of the suspected attackers of the Kenyan Westgate mall was a 23-year-old Somalia-born Norwegian national whose family fled to Norway in the 1990s, but returned to Somalia in 2009 where he allegedly joined the Somalia based terror group Al-Shabaab (BBC, October 18, 2013).

It is against this background that this study seeks to answer the questions: Why has Kenya remained as a source, transit and destination of migrants smuggling and human trafficking despite existing legal instruments? What are the security implications of migrants smuggling and human trafficking? How can the problem of migrants smuggling and human trafficking be contained?

1.3 Objectives

The main objective of this study is to critically examine and analyze migrants smuggling and human trafficking and their implications on Kenya's national security.

More specifically, the study aims to:

- i. Examine and analyze factors underlying migrants smuggling and human trafficking in Kenya;
- ii. Examine and analyze security implications of migrants smuggling and human trafficking in Kenya;
- iii. Proffer policy options to contain migrants smuggling and human trafficking in Kenya.

1.4 Justification of the Study

Kenya is a state party to the Palermo protocols that supplement the United Nations Convention against Transnational Organized Crime (UNODC, 2004). The protocols require all state parties to be cooperative in preventing, suppressing as well as punishing trafficking in persons. Kenya has signed the protocol Against Smuggling of Migrants by Land, Sea and Air on 5th January 2005 and signed the United Nations Convention against Transnational Organized Crime (UNCTOC) on 16th June 2004. Kenya domesticated international instruments through legislations such as the Counter

Trafficking in Persons Act 2010 (Government of Kenya, 2010), the Prevention of Terrorism Act 2012 (Government of Kenya, 2012) and the Security Laws amendment Act 2014 (Government of Kenya, 2014).

Two observations can be deduced concerning the enactment of laws and the extent of migrants smuggling and human trafficking in Kenya. First, despite the enactment and domestication of legislations the problem of migrants smuggling and human trafficking is still thriving in Kenya. Apparently, enactment of laws alone is not a guarantee for interdicting migrants smuggling and human trafficking. Of interest is the need to determine the factors underlying the continuity. This is what our study seeks to do, by responding to the question why Kenya remains a source, transit and final destination of smuggling activities.

These international instruments and the domestic legal mechanisms are to some extent inconsistent and contradictory. Article 5 of the Protocol against the Smuggling of Migrants by land, sea and air, for instance, gives smuggled migrants immunity from becoming liable to criminal prosecutions but contrary to this, domestic laws have been used to victimize the smuggled and trafficked migrants. This perhaps has been bolstered by provisions of Article 6(4), which provides that nothing in the Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

The two articles of the protocol create a contradiction between international and domestic laws. In Kenya, for instance, in section 53(1) (j) of Citizenship and Immigration Act of 2011, a person who unlawfully enters or is unlawfully present in Kenya commits an offence. This inconsistency and discrepancy of international protocols and domestic laws give Kenya, which is a State Party a leeway to prosecute victims of migrants smuggling. Section 3(5) of the Counter-Trafficking in Persons Act of 2010 prescribes severe penalties against traffickers of persons. Despite this Act, prescribing severe penalties against traffickers of persons, migrants smuggling and human trafficking are still persistent. This implies that there are underlying factors on the issue of migrants smuggling and human trafficking in Kenya.

This may be as a result of the foregoing legislations that only address the demand side of migrants smuggling and human trafficking i.e. migrants who are victims of smuggling and trafficking networks. They do not address the supply side of migrants smuggling and human trafficking that reduce the cost of smuggling and trafficking in persons into Kenya hence increasing its attractiveness to smuggling and trafficking perpetrators. Our study seeks to respond to this. It also goes further by interesting itself in security implications of smuggling activities.

According to the African Union common position protocol (2006), two policies on migration were adopted, this included the common protocol on migration and development, secondly the migration policy framework for African states. The two protocols recommended five strategies of dealing with the crimes of human migration, namely; incorporation of the UN policy on migration to domestic laws, adopting a common stand on regional countermeasures to this vice, promotion of regional consultations between African states, enhancement of joint regional patrols at the boarder points, adopting the comprehensive information system concerning smuggling activities so as to effectively monitor and tackle the vice from all its networks.

This was to enable states to come up with a standard operating procedure in dealing with this nature of crimes. However, these policies have not realized effective migrants smuggling and human trafficking control mechanisms. We are not only interested in explaining this gap, but also seeking to understand in security threats facing the victims. More critical, we anticipate alternative region centric policy options that can enhance inter-state security cooperation to contain this. Our policy justification is predicated on the foregoing.

Some Scholars who discuss migrants smuggling and human trafficking include inter alia; Collier (2013), Onuoha (2013), Shelley (2010) and Saunders (2010). Collier (2013) talks about structure enclaves that pull, attract and sustain a Diaspora. In this, social distance decay emerges whereby hostility is created between host community and immigrants and tension at national level. These scholarship does not explain the underlying security and insecurity threats, what for instance, explains these threats despite several measures? What is it about state institutions that encourage this smuggling

notwithstanding the threats? Our study not only seeks to respond to this but to also proffer policy options in seeking to respond to questions what are the security implications of migrants smuggling and human trafficking.

Saunders (2010) developed the concept of ‘arrival city’ which he refers to as that part of the already established city where migrants first settle when they move away from their village. These parts of the city serve as springboard for migrants to jump to the more affluent neighborhoods. The arrival city provides opportunities for social mobility. In Saunders’ (2010) perspective, ‘arrival cities’ are good and should be encouraged, defended and extended. While Saunders vividly explains to us the importance that accrues from migrant arrivals and the subsequent ‘Arrival Cities’ that emerge from their arrival and further proposes that Arrival Cities should be encouraged, defended and extended, but while Saunders (2010) focus on immigrants, this study examines internal institutional vulnerabilities. This way, it seeks to find options of addressing the same to secure both state and the victims. In so doing, we seek to contribute to knowledge on securitization.

Sorensen (2012) examined trafficking and smuggling in a migration–development nexus lens. She argued that policy makers have attempted to make migration work for development in the global South while those in global North have advocated for legitimizing stricter border controls and migration management. Sorensen (2012) argued that interests of the governments in the global North have dominated in the agenda setting and shaped policy debates on migration. However, the interests of the migrants do not inform migration policy. This dichotomy of global South and global North in examining migration policy by Sorensen (2012) makes it easy to understand the phenomenon but unfortunately entrenches exclusion of factors that enable migrants smuggling and human trafficking to thrive in the first place and the security implications thereof. This study grapples with this weakness, it essentially focuses on development of alternative perspectives of understanding this problem, besides proffering research based policy options. Our academic justification finds rationale in the above.

1.5 Scope and Limitations of The study

This study was conducted in Kenya and specifically focused on three points of entry, transit and exit for migrants. These included Nairobi (Jomo Kenyatta International Airport-JKIA), Busia and Isiolo. This study interviewed immigration officers, prosecutors, judges and police officers (Anti-terrorism Police Unit) in these three areas. Migrant smugglers and human traffickers use air, land and sea to conduct their business. Nairobi therefore being the capital city of Kenya and a location to the biggest and busiest airport (Jomo Kenyatta International Airport) in the Republic is likely to be a source and transit hub hence the focus in this study. Busia is a busy border point within the region where international and regional trade thrives. It is a point of entry and exit for many migrants to South Africa or Europe.

In Isiolo, there have been several interceptions of illegal migrants. Most of the migrants happen to be of similar ethnic background or closely related to the locals hence making it hard for the security apparatus to distinguish them. In addition, much of the focus has been on North Eastern to Nairobi routes making the migrants, smugglers and traffickers change routes to avoid interceptions. In addition, Isiolo is a point of convergence for victims smuggled and trafficked from Ethiopia and Somalia hence difficult to avoid its security barriers. It is also the base of the Anti-Terrorism police officers who are involved in interviewing of all foreigners arrested within the whole eastern region. There had also been police reports of youth disappearing from Isiolo and travelling to Somalia to join Alshabaab, particularly Isiolo Boys High School.

This study covered the period between 2010 and 2016, the choice of this period is informed by the fact that, it was 2010 when Kenya domesticated and enacted the Counter Trafficking in Persons Act of 2010 to combat migrants smuggling and human trafficking. Due to time and financial constrains this study did not cover all points of entries and exits but concentrated on more specifically Nairobi, Busia and Isiolo.

The researcher encountered challenges in data collection where the targeted respondents felt uneasy to discuss matters considered security sensitive as smuggling and trafficking networks. The researcher explained the aim of the study and assured respondents of their anonymity to allay their fears. The researcher also encountered

challenges in obtaining information from government officials dealing with migration. To overcome this challenge, the researcher sought research permit from the National Commission for Science, Technology and Innovations (NACOSTI). Interviews were booked in advance to ensure that government officials are not inconvenienced in their work.

1.6 Definition of Concepts

Migrants Smuggling: In this study, the definition of migrant smuggling is derived from article 3(a) of the protocol against the smuggling of migrants. It refers to it as the illegal procurement for the purposes of obtaining, whether direct or indirect, financial or material benefits of a person to another country, which he is not a national or a citizen for that matter. The adaption of this definition is informed by the fact that, it includes wide range of reasons for smuggling that include direct or indirect for financial or material benefits by illegally procuring a person into a country he is not a citizen or a national. This definition is silent about what the smuggled person is intending to do in the country the individual is smuggled into. This is discussed in chapter four as a security implication in this study.

Human Trafficking: In this study, definition of trafficking will be based on article 3(a) of the Protocol of Preventing, Suppressing and Punishing Trafficking of Persons Especially Women and Children. In this context, trafficking means the recruiting, transporting, transferring, harboring or receipting of persons by force, deceit or position of vulnerability for the purpose of exploitation. The strength of this definition is its wide and all-inclusive approach that criminalizes different manner of involvements that include recruiting, transporting, transferring, harboring or receiving of persons. It further qualifies deceit and position of vulnerability for exploitation as not justifiable instance in human trafficking.

National Security: Refers to the national defense and foreign relations and economic interests of a country (Romm 1993). According to Romm, national security refers to emerging issues that threaten the standards of living of the people or hampers the state in conducting its affairs within its territory through policymaking and policy execution. This study adopted this definition as it broadly defines the concept to include threats and

economic interests of a country. It defines national security in the context of other global problems other than the traditional national security in the military security discourse. The weakness of this definition is its exclusion of other important referent objects like environmental and societal security issues that affect the people of a nation. This gap is filled by addressing the environmental and societal security implications through the thinking of the widener Barry Buzan security approach used in this study.

1.7 Literature Review

This section focuses on migrants smuggling and human trafficking at different levels; globally, regionally and in Kenya. It examines the international and domestic instruments to combat smuggling and trafficking of migrants. It also focuses on factors underlying migrants smuggling and trafficking; migrants smuggling and trafficking as a security threat; and policy options to contain migrants smuggling and human trafficking.

1.7.1 Migrants Smuggling and Human Trafficking: The Global Perspective

Internationally, migrants smuggling and human trafficking have been shown to pose security challenges as illegal aliens travel with the migrants to commit criminal acts or even perpetrate terror in their destination countries. Schulkin (2012) observed that in the United States of America, there are an estimated 10.5 million illegal immigrants. In 2011, total deportations in the US were reported as 391,953 of which 188,382 of the total deportees were identified as criminal migrants. This is approximately 48% of the total deportees. As Schulkin (2012) noted, considerable percentage of deported criminals had been previously deported at least once before showing the complexity and revolving door of illegal migration. At least 46% of those deported in 2011 had illegally sneaked into and returned to the United States. The figures imply that illegal migrants pose security challenges to their destination countries. ICE reports have shown that from 2008 to 2012, approximately 4,000 migrant criminals were released to roam freely in the streets of USA each year due to lack of cooperation, unwillingness to accept their own nationals or reluctance of receiving countries and legal limitations on detention in the US (Schulkin, 2012).

Schulkin (2012) lamented that the Revolving Door policy is hampered by the frequent reports of the capture of illegal immigrants within the US territory showing that the US territorial boundaries are not properly secured. This is in addition to the many reported criminal acts. This scenario is not conducive for the US future because it poses a challenge to the US to deal with global security issues such as Terrorism. While rightly acknowledging the problem of revolving door policy, he has not provided a comprehensive framework for addressing the problem.

The available Information on migrants smuggling internationally is uncompleted, inadequate as well as scattered. The strategies used for smuggling usually involve different routes. This therefore means that the smuggled human beings are taken through different routes and discover new routes to challenge state apparatus in different continents, suffocate and bribe state officials and use fraudulent documents to cross borders. Due to the sophistication of these crimes and the complicated routes they use, there is a great need for an international policy response, which is extremely comprehensive and well informed that will be able to effectively deal with this crime. It should be noted that there is very little knowledge about the modes of operations of these illegal human smugglers that have the temerity of doing the vice through international borders. These have therefore greatly affected the efforts of dealing with these crimes. (UNODC, 2010).

In order to deal with this type of crime, the UNODC called for meeting of experts in Vienna in 2009. The aim of this meeting was to deepen the knowledge and understanding of the emerging trends of this crime more specifically smuggling through air with an objective of preventing these crimes in future. The other objective was to look at the law that relate to these crimes as well as the challenges of enforcing those laws with a view of tightening those laws, knowledge gaps, and how UNODC as well as how other global actors can assist in enhancing the capability of all states in the world to effectively deal with these crimes.

The Expert Group Meeting in Vienna yielded a Migrant Smuggling Protocol. It recognized that in order to effectively prevent as well as combat illegal smuggling of migrants, strict punishment for the perpetrators must be put in place and the victims of

this crime must be given sufficient protection and assistance .In addition to these, the activities of all the fighters of human smuggling must be integrated in order to win the war. However, this Migrant Smuggling Protocol did not address the contradictions that exist between international and domestic instruments of dealing with these vice.

Rietig and Villegas (2015) observed that migrants from El Salvador, Guatemala and Honduras are deported from Mexico and the United States of America but end up coming back to those countries. They termed this phenomenon as a revolving door of migration, deportation, and remigration. For many deportees, the conditions upon arrival are worse than those that compelled them to leave in the first place. The deportees and their families may be in crippling debt after having paid smugglers, and many return to communities that are even less safe than when they left thus a significant number opts to be smuggled again to Mexico and the United States of America. To stop the revolving door phenomenon, Rietig and Villegas (2015) advocate for reception and reintegration services for the deportees. While prioritizing the interests of the migrants, this approach has a weakness in that it does not appreciate the role of all the stakeholders involved in a complex smuggling and trafficking in persons' network. A focus on deportees only does not prevent smugglers and traffickers to recruit other migrants from the concerned countries, as there are many underlying factors that could be fuelling migrants flow.

De Haas (2015) takes away the focus on smugglers in smuggling and trafficking in persons and emphasized on the existing framework to deal with migrants' problem in Europe. He critiques what he terms as a political approach where migrants deaths lead to calls for intensified fight against people smuggling which yield more anti-smuggling measures. These measures lead to smuggling under more dangerous conditions hence more migrants' deaths and the vicious circle continues. De Haas argued that resources used for border control by various countries especially in Europe have not stopped asylum seekers and migrants from crossing borders. Instead, they have diverted migration to other crossing points, made migrants more dependent on smuggling, and increased the costs and risks of crossing borders.

De Haas (2015) notes that coastlines and international borders are usually difficult to be sealed. This gives the migrants the leeway of establishing other new routes. In addition to these, Smuggling is viewed as an economic activity in most areas to many people. For instance, the smugglers themselves as well as the residents along the smuggling towns who harbor them benefit from this organized crime. In order to stop these emerging trends other economic ventures or opportunities should be availed to the residents of these towns, these economic ventures may include activities such as creation of new employment opportunities, attraction of investors, facilitating the small and medium enterprises (SMEs) as well as supporting the existing private sector in job creation. However, the best deterrence is to improve on the standards of living in the states of origin so that these crimes can be dealt with from the source.

The United States is one of the developed countries that have put immense resources to combat smuggling and trafficking in persons. However, based on reported cases of deportation and deportees re-migrating to the country shows there are underlying factors of illegal immigration and smuggling. Migrant Smuggling Protocol, for instance, advocates for protection of migrants while as domestic policies in some countries view migrants as a security threat hence victimize them in the name of fighting terrorism. This failure to address contradictions will imply that underlying factors, security implications and policy options available to address the problem of smuggling and trafficking in persons are synthesized in a haphazard manner hence yielding no comprehensive framework to address the issue.

Inequality is one of the underlying factors that catalyze migrants flow from least developed countries to developing or developed countries. As long as this disparity exists, reception and reintegration services for the deportees will only give a lip service to the problem of smuggling and trafficking in persons. Additionally, security implications could influence the measures that different countries take in combating smuggling and trafficking in persons. These circumstances will inform the policy options that the stakeholders have in addressing the problem. The approach of dealing with the problem by Rietig and Villegas (2015) has not therefore taken into account other underlying factors influencing smuggling and trafficking in persons, security implications and the

policy options available to stakeholders addressing this problem. While De Haas has aptly diagnosed the problem of immigration, he has not offered feasible solutions to address smuggling and trafficking in persons. His opposition of militarization and increased control of borders imply that he does not appreciate the security implications of migrants and loopholes that could be used by terrorists to spread terror.

Smuggling and trafficking in persons have been regarded as criminal issues. However, they may be caused by the high rates of poverty and the desire of having a better livelihood by everybody. Smuggling can be regarded as an international crime which is transboundary, however in other states is just regarded as ordinary crime while in other states its viewed to be more of a stigma. This is very common in west Africa whereby free movement of persons across the state boundaries is a common phenomenon and in areas where pastoralist communities are dominant.in this regions both the smugglers and the victims do not see anything wrong with these instead they look at themselves as nation builders in that they assist humanity through shipping them to the lands of plenty and better standards of living. This means that smuggling and migration in west African states is at the core of economic inequalities and disparities, there exists poor standards of living because of the high costs of living for the majority of the citizens in the west African states. Therefore criminalizing smuggling of human persons is necessary in these areas. Nevertheless, they must be reinforced by economic policy measures that are geared towards addressing the causes of these vices.

1.7.2 Migrants Smuggling in the East and Horn of Africa Region

The immigrants' challenges in the Horn of African region has continued for a number of decades, making the horn of African region to be one of the top migrant generating areas both in Africa and the entire world. The number of Migrants in the horn of African region has gone up in a more factor rates in comparison with other African regions. Bariagaber (1999) argued that the increasing migrants are attributed to conflict in the region. The existing conflict situation in Ethiopia, the origin of most African migrants can be attributed to three major causes, namely; Oppression of certain ethnic communities by different regimes, the push for secession of Eritrea and the Orgaden question, which is claimed by Somalia as part of its territory. Although Bariagaber

appreciates the causes of the increased migrants in the region, he does not elaborate the underlying factors that enable their movements and the security implications of their presence in the transit and destination countries. This study addresses this lacuna by grappling with the underlying factors and the consequence of this on national security.

A UNHCR report estimates that victims of illegal migration in the horn of African region was over 25,000 individuals, it is at that point in time that an industry that performs this business was reported to have netted profits worth \$622million in terms of ransoms that were paid. Another report by the Human rights watch advances that between the years of 2013 and 2015 between 5,000-10,000 casualties occurred. These two reports are further backed up by the national assembly of the European Union which contends that kidnaps are so common in Sudan where the victims are shipped through Egypt all the way to Sinai where they are tortured and others are killed amidst other heinous crimes. Majority of the captives in the Middle East originate from the West African states. The UNODC report 2010 estimates that between 65,000-12000 individuals from West African states migrate illegally to the Middle East states annually. While the foregoing point to threats to victims they do not discuss threats to states. Our study examines this as part of our second question.

In North African countries comprising of Algeria, Egypt, Libya, Morocco and Tunisia, a total of 1,368,000 illegal immigrants were reported to be living in the countries illegally (UNODC, 2009). Statistics show that Kenya and Ethiopia registered 421,789 and 247,934 migrants respectively as of July 31, 2015. Additionally, as of 31 March 2015, Yemen registered 246,648 migrants. Uganda had registered 29,053 migrants by 28 February 2015. Djibouti had registered 11,931 migrants by 30 June 2015 while Egypt registered 7,365 migrants by January 1, 2015. Eritrea had registered, 2,802 as of May 1, 2015 while Tanzania had registered 154 migrants by May 31, 2015 (UNHCR Report, 2015).

According to Thabit (2014), the horn of African region is characterized by civil wars and it experiences a lot of volatility. This scenario explains why illegal migrations to other states are ever on the increase. Most of the migrants from this region are either refugees, victims of human smuggling, asylum seekers, as well as economic migrants.

These migrants are either searching for safety and protection or looking for greener pastures. Although Thabit explains some push and pull factors for people to be smuggled and trafficked he does not appreciate the fact that these people can as well be used as terrorist suicide bombers and recruited into terrorism organizations for terrorism purpose. This study is interested in this gap.

(UNHCR report 2013) noted that the children who are victims of human trafficking usually suffer from accompaniment as well as separation from their parents. This is a worst form of psychological torture to these children. These criminal groups take advantage of peoples miserable lives of desiring to escape persecution and conflictual areas to exploit on them. While the Eastern African Community adopted a Common Market Protocol (CPM) in 2010 to guarantee the free movement of goods, persons, labor, services and capital (Ivan & Sara, 2015), this protocol does not address a regional approach to combating the problem of migrants smuggling and trafficking in persons, neither does it attempt a response to state-centric threats, migrants smuggling and human trafficking possess.

Conflict and inequality therefore create an environment for source of migrants. They can therefore be considered to be among the underlying factors of illegal immigration and smuggling. The various reports illustrate that human smuggling and trafficking in persons have security implications. Although human smuggling and trafficking in persons thrive in an environment of insecurity, the phenomenon also propagates further insecurity. There are many reasons that causes migrants flow, they could be economic reasons, persecutions and insecurity that make some sections of the populations vulnerable especially women and children. Smugglers and traffickers networks take the advantage of this situation to advance their business. These networks have worked to adapt or evade laws to transact their business.

1.7.3 International and Domestic Instruments on Smuggling and Trafficking

There exist domestic and international instruments that have been put in place to address in combating migrant smuggling. Kenya is a state party to these instruments. The protocol against smuggling of migrants by Land, Sea and Air was adopted on 15

November 2000 but entered into force on 28 January 2004 (UNODC, 2010). It supplements the United Nations Convention against Transnational Organized Crimes (UNTOC). According to UNODC which is the custodian of this instrument, it is the only global treaty aimed at preventing and combating the smuggling of migrants, protecting the rights of the smuggled migrants and promoting cooperation between states (UNODC, 2011). UNTOC is an international legal instrument that provides obligation and guidelines to state parties in the fight against crimes that are transnational in nature which migrant smuggling and human trafficking are part of.

The African protocols against smuggling of human persons supplements the UNs protocol against smuggling of human persons either by air, sea and land. This activity has been criminalized under international law. The international law defines this crime as process of procuring or contracting people's movement to other states that are not theirs for the purposes of obtaining money or material benefits whether directly or indirectly. This practice has been prohibited by Article 6 of the UN protocol. The victims of these heinous crimes have been protected by Article 5 of the UN protocol, (UNODC 2011).

According to the ACP observatory on migration report in 2011, it noted that the declaration made in Rome committed the developed states to assist developing states in the promotion of sustainable development as a sure way of eradicating the vice of human smuggling. The declaration aimed at ensuring there is a good diplomatic relations between states of origin with those states in transit and the destination states. This means that once the capacities of African states are improved, people's standards of living in Africa will also improve and illegal migrations to Europe will stop. In addition to the above visions, the declaration also vowed to tighten the migration laws to limit the illegal migrations. While at the same time encouraging regional mobility of persons, goods and services for the purposes of genuine trade.

In order to fulfill its international obligation as a state party, Kenya has domesticated and enacted counter trafficking in person's legislation through legislation by the national assembly. Since Kenya has domesticated all the UN conventions and protocols that it has signed to be part of its national laws. Kenya is therefore supposed to assist the UN in combating this crimes against women and children head on (Government

of Kenya report 2012). Despite domesticating and enacting these legislations, Kenya remains to be a state which produces these criminals and where victims comes from, it's also the country where victims pass through on their way to other states and it's also the country where victims actually end up being smuggled to. Migrants smuggling as it is placed in Tier 2 by the United States Department report on human trafficking. Therefore, this is a sure sign that although Kenya seems to be putting in some efforts in combating this vice, it is actually not doing enough to fully eliminate these crimes in its territory.

The practice of smuggling of human persons is so widespread in the horn of Africa. The victims are then shipped to other parts of the world such as Europe, Middle East and in North American states. This has not only affected their states of origin, but it has also affected the regional states and the African continent wholesomely. Most of the states that are worst hit by this menace are Ethiopia, Eritrea, Somalia, and Sudan. These states have witnessed a huge number of migrants who are either refugees or seeking for an asylum. They are faced with a number of challenges in their miserable journeys such as deaths, torture which is systemized, extortion, and being taken hostage all these being perpetrated by the smugglers. Some of these victims are abducted from inside their refugee camps.

1.7.4 Migrants Smuggling in Kenya

Migrants smuggling is a global problem that affects many countries either as a source, transit or destination country. If left unchecked, it can lead to strained relations amongst neighboring states due to blame game. According to an exploratory study by UNODC in 2009, it was observed that despite experiencing sustainable development over the years, Eastern Africa has also experienced economic crisis. This has been characterized by extreme poverty and inequality, which continues threat of escalating violence and human insecurity. This situation have threatened Eastern Africa progress and provided a fertile ground for migrants smuggling and trafficking in persons to flourish (UNODC, 2009). This is informed by this study's focus in addressing factors underlying migrants smuggling and human trafficking by unpacking enabling factors that underpin the problem to thrive in Kenya.

The United Nations obligates state parties to cooperate in combating migrants smuggling and trafficking in persons. To this end, the UN has developed an international legal instrument known as the Protocol against Smuggling of migrants by Land, Sea and Air that supplements the United Nations Convention against Transnational Organized Crimes. One of the state party obligations is the domestication and implementation of the migrant smuggling protocol. The US Department of State recognizes Kenya as a source, transit and destination country and has been placing it on Tier 2 in its annual Trafficking in Persons Reports. This means that the government does “not yet fully comply with laid standards but is making significant efforts” to do so (US Department of State, 2014). The problem of migrant smuggling in Kenya is of serious concern since the borderlines between Kenya and the source countries of concern (Ethiopia, Eritrea and Somalia) are highly porous (IOM, 2015).

The increasing phenomenon of mixed and irregular migration from the East and Horn of Africa and the Great Lakes Regions has become cause for concern among the affected states, international organizations and other stakeholders. As of 2012, the East and Horn of Africa regions had recorded the highest number of refugees globally. The movements, which have become more complex in recent years, involve groups such as asylum-seekers, refugees and irregular migrants (IOM, 2013). ICMPD (2008) attributes the huge number of immigrants to Kenya’s strategic geographical location and cultural ties. Majority of the migrants migrate due to political instability in their countries among other reasons. In addition, climate change and environmental degradation, armed conflict, and political, economic and food crises account for both legal and illegal movements across borders in these regions. This movement is now of concern due to insecurity that comes with such movements and overcrowding in refugee camps. Insecurity and congestion may create a fertile ground for migrants smuggling and trafficking in persons.

UNODC report of 2011 notes that Nairobi city is regarded as a regional hub for trade, and smuggling of human persons is part of that trade. It is in Nairobi city that most smugglers obtain forged travel documents. They are always on their way to South Africa and other states in the world. For instance in 2011, police nabbed illegal migrants of the

Ethiopian origin in Kajiado town, they were on their way to South Africa through Tanzania.

1.7.5 Security Implications of Migrants Smuggling and Human Trafficking

Globalization has enabled organized criminals, new means and ways to profit from their cross-border business (Balaam & Dillman, 2011). Well-intentioned attempts and efforts by governments to stop the supply of illicit products sometimes cause more harm than good. Balaam and Dillman (2011) argue that international cooperation against transnational organized crime is hard and challenging to sustain and often ineffective. They argue the threats to national security, social wellbeing and legal commerce tend to keep growing and becoming complex per the day.

Human trafficking and migrants smuggling is just another name for slavery or the current means of enslaving others, (Balaam & Dillman, 2011). It is assumed that, it is only that the practice is nowadays regulated or checked by both international law and conventions, internationalization of politics through globalization, national constitutions as well as the existence of human rights advocacy groups. However, the illicit practices have mutated into new forms but they remain pure forms of slavery. This is because today there are so many illicit transactions done by organized crime syndicates, the difference between ancient times and today's slavery is that today it has been given new name as and in some parts of it has been legalized (Balaam & Dillman, 2011). Their argument is important in understanding how illegal movement of people has mutated over time and the existence of many legal mechanisms that have not contained the vice. This study takes a closer look and analysis of the underlying factors that sustain the problem and their implication thereof.

(Shelley, 2010) explains that it's not all perpetrators of this crimes have the intentions of making money, however some perpetrators join this crime in order to get funds for financing of terrorist groups, rebel groups among others. Some maybe trading on human beings so as to get suicide bombers out of the smuggled human beings in order to advance on their activities. According to Shelley (2010), supply and demand have created opportunities and a flourishing business for smugglers and traffickers. Traffickers choose to trade in humans because of its unique vulnerabilities, low-startup costs,

existing enabling networks, minimal risks, high profits and large demand. While this study appreciates Shelley's securitization of human trafficking and her thought on the likelihood of some perpetrators having intentions of joining this criminal syndicates to engineer crimes like terrorism, this study investigates the possibility of this likelihood by looking closely into the security implications of migrants smuggling and human trafficking and the enabling factors in the first place; in the Kenyan context in this case.

Reifano (2015) argued that migration was perceived as a resilience strategy for vulnerable populations existing across the continent. The movement of people across national borders has accelerated due to many underlying factors and not only partly due to a robust demand for immigrant labour in advanced industrial economies but can also be attributed to wide and growing economic and demographic disparities and improved communication systems (Cornelius, 2004). While Cornelius argument may be valid, it focuses more on economic nexus facilitated by globalization, whereas this study will build on this argument to find out the existence of other factors that facilitate and sustain the problem of migrants smuggling and human trafficking to persist. As a result of this trend, states have resolved to strengthening border control and imposing visa requirements. Consequently, illegal migrants have turned to criminals in smuggling and trafficking networks for safe passage across borders (Schloenhardt, 2002).

Schloenhardt's take concurs with that of De Haas (2015) that, state strict policies on border control and visa requirements have further pushed illegal migrants to trafficking and smuggling networks for facilitation, this allows this study to further grapple with what other policy options can be proposed to contain the problem, particularly in Kenya. This also brings forward the strict border mechanisms Kenya is putting in place to curb illegal cross-border movements, like the construction of the wall along Kenya-Somalia border. Based on the above arguments and the fact that these are stricter control, building walls along the border may not keep illegal migration at bay.

The International Organization for Migration (IOM) approximates that an estimated 4 million people are smuggled and trafficked across borders every year (Adamson, 2006). This can be attributed to corruption and porous borders, the United Nations recognize migrants smuggling as one of the transnational organized crimes

alongside human trafficking, drug trafficking and arms trafficking. It is a problem that affects the source country, the destination and or transit country albeit in different ways. However, a number of states that are considered to be transit states, these states treat all the illegal migration as economic migrations, and therefore, a threat to national security. These countries do not therefore admit asylum seekers or refugees, instead they nab and detain all the illegal migrants because they have no place for the requirements of the UNHCR or the defenders of the asylum seekers, (UNHCR, 2013).

Bonfanti & Martín (2015) noted that all the nation states in East Africa and the Horn of Africa lack enough data on the activities of illegal migration and smuggling of human beings. This is because there is internal sabotage within these governments in fighting these criminal activities. Some state officers in these governments are reported to be aiding these groups' activities. This is in addition to hosting refugees and giving asylum to the displaced persons. However, these contradictions can be understood given the nature of economic developments of these states. Its geopolitical location and dynamics. Since these states have no proper information about these criminal groups and therefore their knowledge on the operations of these groups is insufficient. The authors therefore suggest that the first sure way of these states combating these crimes is to have a proper database and sufficient information systems that can help them understand these criminal groups and their ways of operations, secondly they should strengthen on their migration laws. These authors' suggestion that having data base, sufficient information and strict migration laws to combat illegal migration may not be a sure way of guaranteeing illegal border control, as internal vulnerabilities and contradictions combined with corruption can still fuel the vice to continue. This study takes a closer look at these internal vulnerabilities and contradictions.

1.7.6 Literature Gap

The literature review section looked at migrants smuggling and human trafficking at the global level, the situation in the east and Horn of Africa sub-region as well as that of Kenya. The review also covered international as well as domestic instruments on smuggling and trafficking and security implications of the migrants smuggling and human trafficking. Based on this, there is so much academic work done on migrants

smuggling and human trafficking, international and domestic instruments dealing with migrants smuggling and human trafficking. However, most of the scholars; Collier, Shelley and Cornelius for instance, discuss the problem from economic disparities point of view between the developed North and the developing South, trivializing the paradigm shift on the current transnational threats associated with illegal cross-border movements that inform foreign policy debates and the lack of linking migrants smuggling, human trafficking, and their security implications thereof, especially within the Kenyan context. This literature is also scattered in the sense that, the enabling factors of migrants smuggling and human trafficking are not exhaustively and analytically investigated. This study aims to fill in this gap by looking into the enabling factors as well as the security implications of migrants smuggling and human trafficking in the Kenyan context.

1.8 Conceptual Framework

Migrants smuggling and human trafficking is wide and complex form of irregular migration. Because of its complexity and dynamism, it is quite inadequate to use one approach in making sense and understanding it. In order to have a comprehensive view of the topic, three theories have been reviewed and blended resulting to an integrated conceptual framework drawn to explain migrants smuggling and human trafficking. The reviewed theories include migration business theory by Salt and Stein (2002), social network theory by Herman (2006) and constructivist theory by Lebow (2001). This is justified on the basis that each of this theory explains one aspect of the problem and therefore having this interface and blending them together brings out an integrated and holistic approach.

Salt and Stein (2002) developed the migration business theory. The theory has four major assumptions. It assumes migration as a business that has legal and illegal aspects. The migration business is conceived as a system of institutionalized networks with complex profit and loss accounts. The migrants are seen as products and smugglers are portrayed as illegal entrepreneurs. This theory conceives human trafficking and migrants smuggling as an intermediary part of the global migration business facilitating movement of people between origin and destination countries. Aranowitz (2009) a proponent of this theory, argues that smuggling and trafficking could not have grown to

such heights if it were not supported by powerful market supply and demand forces. Aranowitz also argues that smugglers exhibit entrepreneur-like behavior and circumvent legal requirements through corruption, deceit and threats to stay in the market with no regards to national security.

The strength of migration business theory is its focus on three areas of importance, source, transit and destination countries. At the source, mobilization and recruitment of migrants takes place while in transit, this is where facilitation to smuggle or traffic migrants enroute to their destination takes place. At their destination country, integration of migrants into the diaspora labour markets and host societies takes place. Another important perspective of migration business theory is its emphasis on the need to focus on immigration controls in a new way where spotlight is on the interests involved and institutions as opposed to the migrants who are victims of the trade. However, the theory assumes that the law of demand and supply is the major underlying factor that facilitates this illegal trade whereas there are other underlying factors such as inequalities that exist between source and destination countries, intent to join criminal organizations and enabling social networks among others. Such weaknesses of migration business theory exclude it from predicting or explaining in a holistic manner the concept of migrants smuggling and trafficking in persons that this study sought to explore. This weakness is strengthened by the social network theory that explains how existing social networks enable smugglers and traffickers stay in their smuggling and trafficking enterprise.

Social network theory was developed by Herman (2006). It assumes that existing social networks have a role in the smuggling process. The smugglers depict themselves as serving migrants as opposed to being profiteers. Social networks lead to smuggling systems that work as organized crime syndicates across countries and regions. Social network theory assumes that migrants smuggling is an established branch of a well-structured international gangster-like association. Bhabha (2005) who is a proponent of this theory views migrants smuggling as a transnational highly structured and tightly controlled multi-million dollar mafia-like criminal organization trading in humans,

weapons, organs and drugs. Chin (1999) also compares such criminal organizations to a dragon that is a lengthy creature with different organs or parts which are tightly linked.

Social network theory places much emphasis on criminal network of organized crime syndicates in smuggling and trafficking in persons' trade. It assumes that an understanding of the networks irrespective of where they work from would be important in combating migrants smuggling and human trafficking trade. This does not however appreciate that criminal networks operate across borders and are highly sophisticated. They can rope in other legal institutions and professionals, which make it more difficult to stop them. The approach to understand these networks must as well be complex and comprehensive. It has to involve stakeholders in source, transit and destination countries. Another weakness of social network theory is that it lays all the blame for migrants smuggling and human trafficking on criminal networks without considering the structural failures that allow such criminal networks to operate. It is such weaknesses that limit social network theory from comprehensively explaining the phenomenon that this study seeks to analyze; migrants smuggling and human trafficking. This weakness of social network theory is covered by Ngunyi and Katumaga concept of distance decay that explains why organized criminal groups thrive despite state institutions constructed identities and interests.

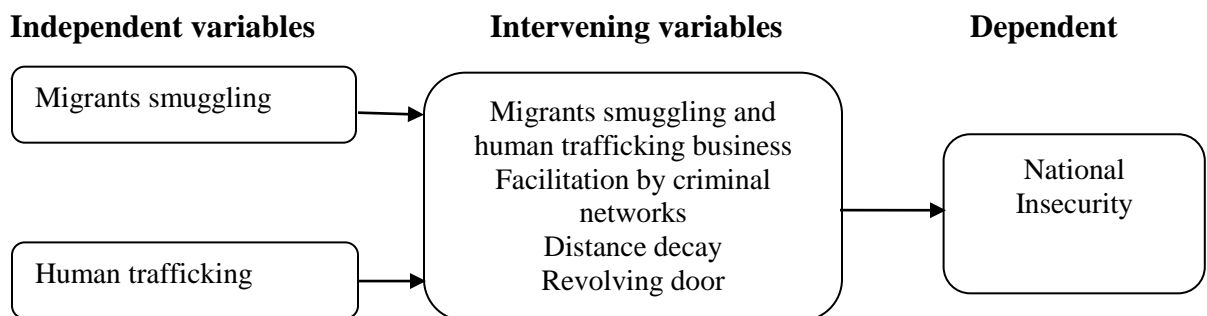
Constructivist theory was developed by Thucydides (Lebow, 2001). This theory holds that the edifices of interaction are defined by shared ideas. These shared ideas are used to construct identities and interests. The theory has both idealistic and structural aspects which bring out a richer and more vibrant explanation of how world system works. Shared language and conventions establish identities and enable power to be translated into influence.

The holistic approach and richness of constructivism can be seen in how its proponents have used it to explain phenomenon such as insecurity. Ngunyi and Katumanga (2014) arguing from constructivist point of view contend that, it is conventional states that should be responsible for security and in this case in combating migrants smuggling and trafficking in person's problem. However, in their argument, they perceived states or governments as having abdicated their responsibility (distance

decay) and allowed organized criminal groups to thrive and in this case migrants smuggling and trafficking in persons is not an exception. They attribute proliferation of smuggling and trafficking to state absence and state abstinence of its obligations. This creates a favorable environment for smugglers and human traffickers to operate through facilitation by organized criminal groups. Rietig and Villegas (2015) view state apparatus as the accepted or conventional manner to deal with migrants smuggling and trafficking in persons.

Examining illegal migrants in the lens of constructivist theory, Rietig and Villegas (2015) developed the revolving door concept where they highlighted incidents of various nationalities being deported and being smuggled back to the United States illegally due to failure of the systems in place meant to prevent such from happening. This revolving door of migration, deportation, and remigration takes place in developed countries and has serious implications on security.

This study conceptualized migrants smuggling and human trafficking as taking place in a multifaceted context, where it is perceived as a business, criminal network facilitating illegal trade at a fee and whereby migrants smuggling and human trafficking crimes have largely thrived due to absence or abstinence of state apparatus, a phenomenon called distance decay as well as where state apparatus are functioning, but, there is system failure that has seen migration, deportation and re-migration cycle which is referred to as revolving door phenomenon. This study adopts a hybrid-integrated approach to explain migrants and human trafficking problem. In these circumstances, migrants smuggling and human trafficking have negative implications on national security, hence insecurity, which is the dependent variable in this study.



1.9 Research hypothesis

The study tested the following (1) hypothesis:

- i. Migrant smuggling and human trafficking is a function of vulnerabilities and internal contradictions within the institutional framework in Kenya.

1.10 Methodology

This section outlines the procedures and methods that were used to achieve the set objectives of the study. They included the research design, study area, study population, sampling, data collection and data analysis.

1.10.1 Research Design

This study used a compliment of secondary and primary data. The choice of this method is informed by the fact that, it entails collecting, analyzing and integrating quantitative methods such as surveys and qualitative methods such as interviews. This approach to research is employed when this integration offers a better understanding of the study problem than any of each alone. This research design was beneficial to the researcher, as it allowed triangulation in the study. Qualitative and quantitative data complemented each other in the study. The major weakness of secondary data in this study was the changing nature of illegal migration and its relation with other transnational crimes. This weakness was complimented by primary data through key interviews and observations. Individuals with firsthand information were purposefully selected from immigration officers, police officers (Anti-terrorism police Unit), judges and prosecutors who completed questionnaires.

1.10.2 Study Area and Study Population

The study was conducted in Kenya. It specifically focused on three points of entry, transit and exit in Kenya namely Nairobi, Busia and Isiolo. The target population for this study comprised of immigration officers, prosecutors, judges and police officers (Anti-Terrorism Police Unit). The number of immigration officers at Nairobi (JKIA) is 68, at Busia they are 17 while at Isiolo they are 5. The number of prosecutors at Nairobi (JKIA) is 2 and 8 in Busia while in Isiolo they are 4 ATPU police officers at Nairobi

JKIA are 12 and 6 are based in Busia while they are 8 in Isiolo. There are 2 judges at Nairobi JKIA, 7 in Busia and 3 in Isiolo. The total population for this study was 142. These are key stakeholders handling smuggling and trafficking in persons issues hence it was imperative for this study to seek information from them.

1.10.3 Sampling

Respondents for this study were selected using purposive sampling technique. Four groups of respondents were selected. The first group comprised immigration officers who have the mandate to control migrants entering, transiting or leaving Kenya. The second group was composed of police officers from Anti-Terrorism Police Unit, who intercept and investigate foreigners arrested in Kenya. The third group was composed of prosecutors who handle cases of smuggled and trafficked foreigners arrested in the country. The fourth group consisted of judges who hear cases of smuggled and trafficked foreigners arrested in Kenya for determination. The sampling strategy assisted to access individuals who are closely acquainted with the type of information and knowledge that this study sought to use.

Table 3. 1: Sampling Matrix

Type	Population (P) and Sample (S)					
	Nairobi (JKIA)		Busia		Isiolo	
	P	S	P	S	P	S
Immigration officers	68	15	17	5	5	5
Prosecutors	2	2	8	8	4	4
Police officers (ATPU)	12	12	6	6	8	8
Judges	2	2	7	7	3	3
Total	84	31	38	26	20	20

1.10.4 Data Collection

Primary and secondary data was used in this study. Secondary sources comprised data from journal articles, security and policy documents, reports, books and newspaper articles. A semi-structured questionnaire was administered to immigration officers, prosecutors, police officers and judges. The questionnaire had four sections. The first section sought background information of the respondents while the second section sought information on underlying factors affecting migrants smuggling and human trafficking. The third section sought information on security implications of migrant smuggling and trafficking. The fourth section sought information on policies to curb migrants smuggling and trafficking. The questionnaires were administered using drop and pick later method. This method was preferred due to the busy schedules of the targeted respondents and high response rate that was needed. The researcher also employed face-to-face method to interview security experts who provided in-depth information on migrants smuggling, human trafficking and their implications on national security.

1.10.5 Data Analysis

The data obtained was analyzed using qualitative and quantitative methods. Quantitative data was analyzed using descriptive statistics which included frequencies and percentages. Statistical Package for Social Sciences (SPSS) was used as an aid in quantitative data analysis. Qualitative data was analyzed using content analysis.

1.11 Chapter Outline

The study is organized around five (5) chapters; chapter one discusses the background to the study; the statement of the problem; the research questions, justification of the study; literature review; theoretical framework, the hypothesis and the methodology. It also provides the pillars that anchor chapters two, three, four and five based on the components mentioned in chapter one.

Chapter two outlines a brief historical mutation and animation of migrants smuggling and human trafficking dating back when Kenya was under British Protectorate and the different successive regimes in post-independence Kenya; namely under Kenyatta

regime, Moi regime and Mwai Kibaki regime. Uhuru Kenyatta's regime is discussed in Chapter four that examines and analyses his administration in dealing with matters on national security implications.

Chapter three responds to the first question of this study. It examines and analyzes the underlying factors of migrants smuggling and human trafficking in Kenya. The chapter discusses how political, economic, social as well as institutional probity decay have enabled migrants smuggling and human trafficking in Kenya.

Chapter four tackles the second question. It is an analysis of the security implications of migrants smuggling and human trafficking on national security in Kenya. It discusses the threats posed by migrants smuggling and human trafficking based on the wider Buzanian security approach by grappling with the five sectors of security; economic, military, societal, political and environmental and debunking the threats that affect these sectors of security in Kenya.

Chapter five provides a summary of the study, conclusions and recommendations.

CHAPTER TWO

MIGRANTS SMUGGLING AND HUMAN TRAFFICKING: AN OVERVIEW

2.0 Introduction

This chapter discusses the historical evolution of migrants smuggling and human trafficking in Kenya. It is organized into five sections discussing migrants smuggling and human trafficking under different regimes in Kenya. The evolution of migrants smuggling and human trafficking is discussed in the context of the administrations of these different successive regimes. It puts into perspective the historical mutation and manifestation of illegal migration during colonial state engineering and the administrative approaches of the successive regimes in the post-independence Kenya.

2.1 Slavery in Pre-Independence Kenya

(Bales 2012) observes that although nowadays slavery is considered by many people not to exist, Slavery though illegal still exists in various ways in many parts around the globe. The author explains the various forms of slavery in his book 'Disposable people; New slavery in the global economy'.

Human trafficking and migrants smuggling can be traced back to slavery. East Africa, Kenya in particular, was a major source of slaves. Based on route and destination, slave trade during this period can be categorized as eastern slave trade and transatlantic slave trade. In the eastern slave trade, slaves were largely women who were taken to Middle East, North Africa and India as domestic servants. In the transatlantic slave trade, the slaves, who were largely men, were shipped to the Americas and the Caribbean islands to work in plantations and mines. This trade was fuelled by competition of European powers striving to produce products for trade at a low cost. They turned to slave trade for cheap labor and this way their products became competitive in the market. This phenomenon continued until the scramble for Africa and its colonization.

After colonization of Africa, colonial powers needed labor to work in the companies and farms established by white settlers. Slave trade could no longer serve the European powers' interests since it was draining cheap labor from Africa where it was

needed at the time hence its abolition by the Great Britain. The Great Britain was one of the major European powers that acquired territories overseas (colonies) with a goal of increasing their wealth, enhancing their political power and boosting their prestige. The other powers included Spain, France, Germany and the Dutch. Kenya became part of the Great Britain overseas territory in 1895 as part of East African Protectorate. It later became Kenya colony from 1920 to 1963.

2.2 Colonial State Construction and The Political Economy of Migration

Kenya became a destination for European and Asian immigrants before and during colonial era. It attracted European immigrants due to large fertile tracts of land for exploitation, colonial government support for white settlers and the colonial lifestyle that many settlers enjoyed at the time. Kenya has volcanic soil and tropical climate but at a higher altitude that is not prone to many tropical diseases. The role of colonial government was significant in encouraging European migrants as most of them were British from South Africa and Britain (Hornsby, 2012).

The Asians immigrants mostly from British India came to Kenya as construction workers for the Uganda railway line which was completed in 1903. After the construction of the railway line, many remained and they established businesses in the urban areas. During the First World War, the British deployed Indian Army from India. This required carriers for transport logistics in the interior where approximately 400,000 Africans were mobilized to form Carrier Corps.

Internally, many Africans were displaced from areas that they called home for three purposes. First, to create space for the white settlers to establish farms where they produced cash crops such as coffee and tea especially in the highlands. The second purpose of displacement was to create low cost labor for the cash crop farms. The third purpose was to converge populations into a small area for easy control. The communities affected were largely those in highland areas and those that proved to be difficult to dominate. The wealthy families and those that worked closely with the colonial powers were at an advantage. Their children immigrated to other countries such as the Great Britain to get an education. They were later to play a significant role in transition from

colonial government to independent Kenya when they came back to the country. They also occupied senior positions in government after independence.

Before and immediately after independence, the Kenyan politics and economy were largely dominated by the white settlers. Many of them were uncertain of what will transpire under Kenyatta government. Some therefore opted to leave and go back to Europe. This saw a number of settlers sell their land and properties to the government and private individuals in preparation for their departure. The Kenyatta government attempted to persuade them not to leave in the understanding that their departure would have affected the Kenyan economy negatively. Despite the persuasion, some left and this coupled by other challenges in the international system such as oil crisis led to economic difficulties for Kenya.

2.3 Jomo Kenyatta Regime and the Asians Crisis

Kenya attained self-government in 1963 under Jomo Kenyatta as the prime minister. A year later, Kenya gained its independence and Kenyatta became the president. His regime had many challenges of a young economy determined to keep foreign investors and attract new ones. President Kenyatta at that time stressed so much matters dealing with education of Africans as well as the employment of African professionals in different fields to help Kenya to make progress. Those who received good education were assured of well-paying jobs in the public as well as in the private sector. This therefore means that education was a toll that ensures free movement of labor and an avenue for a brighter future. A number of young Kenyan students were airlifted to states in Europe and America to acquire higher education in different fields of study through government scholarships. At the end of their studies they were handed over state jobs and other plum positions in government to work as civil servants (Okoth 2003). Despite the fact that Kenya was colonized by Britain, other powerful states such as the Soviet Union, the United States of America came up with ideas of issuing scholarships to bright Kenyan students. The major motive behind this move was to shape the ideologies as well as political views of Kenyans to conform to their own ideologies. This therefore means that the movements as well as migration of Kenyans since the colonial period were for the purposes of acquiring higher education. After completing on their education, these

Kenyans were coming back home to be employed as civil servants. This practice continued upto the late 1980s.

Kenyatta retained many of the colonial government ministers with a view to gaining confidence of the white settlers. To some extent, this worked as the economy started growing. However, the Africanization policy caused what was to become Kenyan Asians crisis. Under Africanization policy, people of non-African origin were given two years to apply for Kenyan citizenship. Many Asians chose to retain the citizenship of the United Kingdom and colonies and this prevented them from getting work permits since at the time only Kenyan citizens could get them. This made Kenyan Asians feel like they have been denied an opportunity to make a living in Kenya. On the other hand, holders of passports issued by British government were free to enter the United Kingdom and settle there. Many of the Asians in Kenya had these passports and they decided to go to the UK instead of applying for Kenyan citizenship.

By 1968, an estimated 80,000 Asians had migrated to the United Kingdom. The exodus brought the issue of immigration to the fore in the UK. Conservatives argued that there were possibilities of serious negative social consequences if the trend was allowed to continue. This led to a new legislation in the UK aimed at curbing inflow of immigrants from East Africa (Commonwealth Immigrants Act 1968). Commonwealth Immigrants Act 1968 controlled the inflow of immigrants from Kenya to the United Kingdom.

Apart from the Kenyan Asians crisis, in the first two decades after independence, Kenya was not a source but a destination of migrants largely due to its high economic and employment growth. For instance, between 1971 and 1979 Uganda experienced constant violent atmosphere under General Idi Amin rule causing tens of thousands of Ugandan citizens fleeing Uganda for their safety. According to International Commission of Jurists report of 1977, by 1973 over 2000 Ugandans were granted asylum in Kenya. The Ugandans were escaping from Amin's eight-year dictatorial rule where an estimated 100,000 to 500,000 Ugandans were executed by Amin's execution squad and other security agencies [International Commission of Jurists, Uganda__and__Human Rights (Geneva, 1977)]. This indicates the regional dynamics of forced and voluntary

migration where people crossed borders for various reasons without using official documents issued by their governments. In addition, economic opportunities were opening up for Kenyans in all sectors. However, this situation changed in the 1980s when Kenya's economy started to deteriorate. The migration patterns changed and cross-border movement to neighboring countries have been encouraged by economic opportunities in those countries.

2.4 Moi Era, Repressive politics and The Voices from Exile

According to Okoth (2003), President Daniel Arap Moi took over the reign of power in 1978 after the death of President Kenyatta. At first president Moi was seen to be a weaker president who was held captive by powerful individuals of the previous Kenyatta regime. However since the failed attempted coup in 1982, president moi and his government changed the style of leadership. Not only did he ruthlessly dealt with the masterminds of the attempted coup, but he also completely dismantled the powerful clique that existed during President Kenyatta's regime. He also went ahead and altered the Kenyan constitution to allow for a single party system. He further brought in his own friends and political supporters into the cabinet. With all these political realignments, a number of persecutions, economic, political as well as judicial repressions were applied to the perceived opponents. This period from 1982 upto 2002 experienced poor economic performance, high rates of unemployment, stunted economic growth, economic underdevelopment as well as repression of the opposition leaders and supporters. This entire situation caused so many Kenyans to migrate from Kenya seeking greener pastures abroad, for instance so many doctors, academicians as well as high skilled professionals in different fields moved out of Kenya.

Kizuuka (2006) notes that the decade between 1980s and 1990s experienced the worst forms of dictatorial tendencies of president Moi. As a result of this dictatorial tendency it was difficult for the concept of democracy to mature and thrive in Kenya. This made it very difficult for the Kenyan opposition leaders, civil society groups, political activists and academicians to operate in Kenya, most of them were forced to flee for their safety in exile. Although section 2A of the Kenyan constitution was repealed in 1991 and the multiparty era was ushered at that time, still the KANU government under

president Moi survived through rigging of the election, detention without trial of political opponents, disruption of political rallies organized by the opposition leadership, The international community was forced to reign in on the dictatorial regime through cutting down on foreign aid and other economic and political sanctions. However these measures did not manage to yield fruits because they were being suspended, lifted, and reinstated. There was no consistency with these sanctions. Therefore, the Moi government proceeded with their dictatorial tendencies. This repressive activities therefore caused a lot of fear in the country hence the end result was the political as well as the economic and social push factors that made the highly skilled professionals to migrate from the country.

Okoth (2003) further explains that since 1982 after the failed attempted coup. President Moi started consolidating power and this made a number of academicians and political elites to flee from Kenya citing political, economic as well as social insecurity. This is because most state institutions and national infrastructure was collapsing at an alarming rate. The measures taken by the Bretton woods institutions to introduce economic conditions for the KANU government worsened the situation. This is because the measures abolished welfare systems and introduced the cost sharing of basic services such as education; health among authors. The explanation to this was to promote austerity. This made it difficult for the Kenyan economy to grow and develop, as a result the standards of living worsened and the cost of living also went up that many Kenyans could not afford. With this kind of scenario, many Kenyans who had the means were forced to migrate in order to ensure their survival hence massive migration.

2.5 Kibaki Regime and The flip Side of Regional Integration

The history of regional connection and cooperation in East Africa dates back to the pre-colonial period. The first moves were made in 1919 between East African states to bolster cooperation. Kenya, Uganda and Tanganyika, present day Tanzania, which were all under British administration formed a customs union (KAS International Reports 2011).

The extensive integration achievement of the East Africa community was first hailed a success in the initial stages, nevertheless this integration failed in 1977. This failure was attributed to factors that included lack of steering functions, unequal distribution of benefits, pure intergovernmental structure and the irreconcilable differences of opinion of the major leading actors, particularly Iddi Amin of Uganda and Julius Nyerere of Tanzania. Through a consultative Tripartite commission for cooperation which was a coordinating institution a draft treaty was produced in 1998 for the later EAC which also included cooperation on security matters. The treaty for the establishment of the East African Treaty was signed by the then three East African heads of state of Uganda, Tanzania and Kenya in November 1999 which later came into operation on 7th July 2000. The treaty later brought on board Rwanda and Burundi which joined the community in 2007.

Kibaki came to power in 2002 just four years after the re-establishment of the East African Community (EAC). However, this period was not a bed of roses for Kibaki administration as the fight against terrorism and counter terrorism policies thereof were shaping global and regional security agenda. Managing cross border crime was also a challenge to the EAC member countries particularly between Kenya and Tanzania. The manifestation of various forms of crimes have threatened to forestall the integration agenda of member states forcing them to rely more on national legislations than the East African Community Protocols at the expense of regional security at their common borders (Kenya News Agency, March 18, 2015). The emergence of Al-Shabaab terror group and its link with Al-Qaida network in East Africa has been a challenge to free movement of people and goods creating suspicion within the region and tension leading to migration restrictions at the national level.

The Kibaki administration had witnessed the formulation of legislations geared towards the prevention and prosecution of transnational organized crimes in a bid to comply with international protocols and resolutions. Of particular interest was the much contested prevention of terrorism Bill that was quashed in parliament twice, first in 2003 and secondly in 2006 by parliament due to outcry from Kenyan Muslim communities as they believed the Bill was discriminately targeting them. The Bill was later passed in

2012 after amendments of some controversial sections and Kibaki assented to it leading to the final Prevention of terrorism Act 2012 that became the main piece of legislation to prosecute terrorism offences (Kenya Law Reports 2012). Other legislations targeting transnational organized crimes enacted under Kibaki regime include Counter trafficking in persons Act 2010, proceeds of Crime and Anti-Money Laundering Act 2009 and Prevention of Organized Crimes Act 2010 (Kenya Law Reports 2012).

Kenya has long been viewed as a sleeping regional giant actor. Those who argue for Kenya's strong economy, also criticize it for lack of political advantage in East Africa region and its reluctance to act as a regional hegemon. Critics argue that Kenya adopts regional passive object of the geo-strategic interests of others in its regional strategic engagement. However, there was a paradigm shift from its regional conservative approach in its relations to its neighbors when under Kibaki administration it pursued and waged war against Al-Shabaab in Somalia in 2011 which was the biggest military incursion since post independent Kenya (Kisiangani 2014).

This incursion was necessitated by increased terrorism attacks in Kenya targeting western interests which led to negative domestic implications in Kenya. For instance, on September 11th, 2011 and on October 1st, 2011 a Briton and French tourists were kidnapped respectively from Lamu Island within Lamu County leading Kenya to pursue the enemy at its doorsteps in Somalia through operation dubbed "Operation Linda Nchi", (Operation Protect The Borders) (Kisiel & Levy 2011). This might have been a function of Kenyan security forces failure to provide the much needed security to its citizenry by denying the terrorists the favorable space and local dynamics that allow them cross border networks to easily carry out attacks and retreat to their bases. The terrorism incidences in Kenya, particularly in the coast led to foreign advisories denying the country the much needed tourism revenue resulting to job losses and further vulnerabilities of the youth to be recruited into terrorism groups.

According to 2014 BBC News special insight into Al-Shabaab recruitments in Kenya, titled “Funding Jihad: Al-Shabaab Cash lures in young Kenyans” many of the recruited youth insisted they did not travel to Somalia because of ideological beliefs or to fight Jihad per se but because of economic difficulties they experienced back home in Kenya. Three women interviewed by BBC all from Majengo slums in Nairobi confessed that their kin traveled to Somalia in 2009, 2011 and 2012 to join Al-Shabaab as they were in touch with them from their al-Shabaab bases in Somalia. The relatives of these individuals attribute their travel to Somalia due to poverty and deplorable conditions in the slums. They have also raised concern over the lack of trust between people living in the slums and the police. This is a function of political and economic distance decay on both the public and police creating favorable spaces for illegal organized groups to venture into terrorism recruitments uninterrupted. Due to poor institutional and corrupt regime the recruited youth are smuggled and or trafficked to Somalia to join terrorist groups. Reports indicate that recruited and trained youth later return from Somalia to come, create different theatres, and eventually carry out attacks in Kenya. Their geographical knowledge and the ability to mutate and blend with the population has enabled them to carry out successful attacks like the one in Gikomba market neighboring Majengo slum in May 16th 2014 leading to the death of 12 people and injuring 70 others.

CHAPTER THREE

MIGRANTS SMUGGLING AND HUMAN TRAFFICKING IN KENYA: AN ANALYSIS OF UNDERLYING FACTORS

3.0 Introduction

Kenya is a source, transit and destination country for migrants smuggling and human trafficking as discussed in the problem statement. Of particular interest to this chapter are the factors that enable the problem to thrive in Kenya. This chapter questions the factors that underpin the prevalence of migrants smuggling and human trafficking in Kenya. Its objective is to examine and analyze factors underlying this problem to thrive in Kenya. The assumption underlying this objective is that smugglers and traffickers maximize vulnerabilities within the institutional framework and the internal contradictions thereof to achieve their cause.

The central argument here is that, the prevalence of migrants smuggling and human trafficking in Kenya is a function of vulnerabilities and internal contradictions. These vulnerabilities and internal contradictions are as a result of distance decay at the social, economic and political levels between the Kenyan citizenry and the state. This engenders sanctuaries (SAN) for the smugglers and traffickers and obstacles (OBS) for the state security apparatus. The consequence of this is a favorable space (FS) for the smugglers and traffickers expressed as $(FS) = MI^2 + SAN + OBS - ICT$ (Ngunyi & Katumanga 2014). Where by MI^2 refers to square mileage plus obstacles (OB) plus sanctuaries (SAN), minus penetrative Information (I), communication (C) and transport networks (T).

This chapter is organized into four sections which broadly analyze the underlying factors of migrants smuggling and human trafficking. Section one explores the social dynamics in relation to kin country connections by examining how Kenya's cross-border kin connection has enabled migrants smuggling and human trafficking. Section two examines the economic disparities that exist making population vulnerable for smuggling and trafficking networks. Section three tackles political instability and perennial conflict as enabling factors of migrants smuggling and human trafficking. The final section elaborates on how inert state institutions have failed to combat smuggling and trafficking of migrants due to probity decay. The chapter is also a transition to the next chapter that

examines the implication of migrants smuggling and human trafficking on national security in answering the second question by broadly tackling the question based on the wider Buzanian security approach where the implications on economic, societal, environmental, political as well as military securities are analyzed.

Cameron and Newman (2007) observe that the major causes of migrations and in particular human trafficking are different from one area to another. This means that the evil practices of human smuggling as well as trafficking of human beings is difficult to understand. It is caused by various factors of economic, political as well as social in nature. They are different according to the country in question. However, despite all these complexities, there exist common reasons as to why trafficking of human beings comes up in the first place in countries. Most victims of human smuggling are experiencing harsh conditions in their daily lives and they desire to migrate to their countries with an intended goal of looking for greener pastures. The recruiters of the perpetrators of these vice usually take advantage of the desperation of these victims in order to exploit on their situation. The tragedy here is that these victims are shipped to areas that have worse off conditions than those they were experiencing in their home countries. .

A majority of the study's respondents attributed the problem of migrants smuggling and human trafficking to economic problems (53.4%) at the source while 31% attributed the problem to conflicts in neighboring countries. The results also show that 8.6% of respondents attribute the problem to conflicts in Kenya while 6.9% indicated the problem as the search for better life. According to the study's respondents, there was an indication that the problem of migrants smuggling and trafficking is prevalent in Kenya due to absence or abstinence of state apparatus bringing forward the Ngunyi and Katumanga's concept of 'distance decay'; which partially explains the problem of migrants smuggling and human trafficking.

3.1 Social Dynamics And Kin country Connection

Cameron and Newman (2007) argued that the existence of relatives living abroad of different communities can be explained through migrant smuggling and human trafficking. However, by the mere fact that these communities live abroad does not

necessarily mean that they are participants of migrant smuggling and human trafficking. However, the study acknowledges that this group stands a high chance of perpetrating these illegal activities. These members find it hard to positively integrate with the citizens of the new states and ultimately they are forced to engage in illegal trade so as to make a living. This therefore means that if the government is serious in combating this menace of human smuggling, then it should design policies and systems that are able to integrate compact communities or the immigrants with the rest of the citizens in the society. At no time should these citizens feel excluded. This will be of much importance because in future the number of migrants may keep on rising in all the states. This is because of the existing economic hardships that are continuing to be experienced in the international system. The focus of all the states and governments across the world should be to closely monitor the activities of their citizens living abroad and the relationship they have with their kinsmen back at home. This is in relation to the issue of perpetrating migrants smuggling and human trafficking.

Kenya's ethnic cross border connections with the same ethnic composition in neighboring countries have created a complex social fabric between these communities. This is evident where, in Mandera for example; people from neighboring Bulla Hawa of Somalia have business in Mandera and intermarried across the border. In Namanga, Isbania and Moyale the case is similar where by the Maasai, the Kuria and the Oromo have strong social connections respectively. This assertion is supported by the study's respondents. According to the respondents, if there is no proper strategies of penetrating these type of communities that cut across national boundaries, the border communities stand the risk of being exploited by these perpetrators of these crimes to carry out their processes of recruitment, shipment and selling of the captured victims. These cross border communities will aid the perpetrators to continue with their illegal trade. This is confirmed by the number arrests of smuggled and trafficked persons made by the Kenyan police as discussed in the problem statement.

One other key factor here is that of Kenya's social fabric. According to the IOM report of 2015, Kenya is described as a multi-sectorial state whereby there are many communities, many cultures, many religions and Kenya hosts the world's greatest population of the refugees in its soil. The international Organization for migration

continues to observe that the recent decision that Kenya took concerning migration continues to shape migration matters. This is because Kenya has played a big role in managing matters to do with asylum seekers as well as the refugees.

According to IOM 2015 report, Kenya is classified as both a country of transit, a country of source and a country of destination for these illegal migrants. Although the organization notes that the details on the state of human smuggling in Kenya are very scanty, there are two major trading routes of these vice that have been detected namely; The Kenya Uganda boarder point of busia and the Kenya Somalia border through Garrisa. This is also supported by the study's respondents. According to the respondents, the number of interceptions made with in Isiolo County and also in Meru is a clear indication of the diversionary tactics of the migrant smugglers and traffickers of developing new entry and transit routes into and through Kenya.

The presence of refugees in Kenya, some of whom have been relocated to the US, Australia, Canada and other western world, where they got permanent resettlement in the diaspora, has created more migrants to be smuggled and trafficked to join their kin abroad. For instance, as of January 2011, the world university service of Canada resettled 129 Somali refugees in Canada alone from Kenya refugee camps (Plasterer 2011). This confirms Collier (2013) argument that larger diaspora communities attract larger migrants. In line with this assertion, which is also approved by the study's respondents, the presence of refugees in Kenya has created a pool of ethnic enclaves, predominantly composed of the Somali ethnic community that has further moved and settled in urban centers leading to the emergence of arrival cities like Eastleigh in Nairobi City County. Because of its Somali ethnic enclave, it has been named "*Little Mogadishu*" by the locals themselves.

The study's respondents indicate that the most vulnerable groups are those affected most, like women in migrants smuggling and human trafficking. For instance, majority (61.4%) of the victims of migrants smuggling and human trafficking were female while 38.6% were male. On the contrary, a majority (70.2%) of the traffickers were male while 29.8% were female. This, therefore, depicts that a majority of the

victims who are smuggled and trafficked were female while a majority of those who are involved in the smuggling and trafficking of humans were male.

3.3 Economic Disparities and Vulnerable Population

Cameron and Newman (2007) noted that Human traffickers and migrant smugglers are making huge profits from their illegal trade because of the existing uncertainties of the global system due to globalization. This means that both the causes and the effects are felt across the global system. In case globalization continues to give positive effects in future, some of these problems such as the smuggling of migrants will suffer a natural death. This study therefore notes that there are no short cuts in resolving this global challenge. Unless economic reasons that force people to engage in this illicit trade continues to exist. These crimes are here to stay if not collectively and holistically not addressed.

Dinan explored the nexus between sovereignty of states and globalization as the biggest cause of smuggling of human persons. He notes that the idea of nation states asserting their sovereignty leads states to resist globalization hence causing the illicit trade of human smuggling and trafficking. The states use the instruments of immigration in determining who enters its territory and who doesn't. The smugglers therefore feel that they are being discriminated upon hence their reliance on illegal means of carrying out on their trade. This idea was strongly advanced by most respondents in this study.

Dinan therefore suggests that if states are serious about dealing with these crimes, a new methodological approach must be adopted. This new approach according to him involves solving the main causes of this vice, which are poverty, economic instabilities, huge economic inequalities between states. Once the above measures are taken into account, he concludes that the vice will be greatly reduced in the long term. He also proposes other measures like introducing harsh punishments to the perpetrators so that they stop doing the illicit trade. There should be adequate measures of protecting the victims of the said crimes so that they may volunteer to be informants or witnesses in courts. The author continues to suggest that these crimes are unlikely to reduce unless states change their approach of reducing on this illicit trade but ending all forms of injustices that are done to fellow human beings for instance the workers. Another

suggestion she makes is that states should device ways and means of dealing with the challenges of the pressures of migration in relation to the national policies on immigration. All these factors make it attractive for the perpetrators to engage in this business. Unless this issue is addressed, this challenge will be here to stay.

(Chuang 2006) observes that due to the challenges of globalization, international migration has increased because of the existing differences of wealth and rates of development. Since national boundaries are rendered useless by globalization, the international systems of trade tend to favor developed nations at the expense of developing nations. Chuang further argues that although the smugglers of human beings are not the main cause of the challenges of globalization, they only take advantage of the weaknesses of globalization to exploit their trade. The author concludes by saying that 80% of the victims of human trafficking are women. This assertion conquers with that of the US state department that argues that there is feminization of poverty in most states of Africa. This is because there is unfavorable environmental structure that advances educational and employment inequalities that works to the disadvantage of women. The respondents in this study have also shown that women are most affected in the Kenyan context in migrants smuggling and human trafficking i.e. 61.4% of victim.

Malit and Youha (2016) argued that the human migrations from Kenya to middle East states such as Kuwait, Qatar, United Arab Emirates, Saudi Arabia as well as Bahrain has sharply grown in terms of population. This is because in those Middle East states there exists a big shortage of laborers in critical sectors of the economy such as the hotel industry, the construction sector and other sectors in the service industry. Secondly because Qatar is scheduled to host world cup in 2020 and UAE expo in the same year. Employers in this country are outsourcing labor force from Kenya and other African countries. The labour force from Kenya and other African states is cheap labor and most Middle East states have imposed a number of red tape measures for any laborer to work there. Some recruitment cartels have taken opportunity of this demand to smuggle and traffic vulnerable Kenyans-- and other Africans -- to these countries. "Porous borders, inadequate, poor and weak enforcement of immigration laws due to corrupt state officers are some of the major drivers of Migrants Smuggling and Human Trafficking", contends

Irene Ndungu, Nairobi-based researcher on Transnational Threats and International Crimes with the Institute of Security Studies (ISS).

Most middlemen and fake advertisers are luring desperate youths who are jobless to go and work in these countries especially in the Middle East. There is a belief among most jobless youths that Kenyans living and working in the Middle East are earning good money and living a comfortable life. But contrary to their expectations, reports of abuse and exploitations of Kenyans by their employers-turned masters in the Middle East are rampant and have reportedly prompted the Government of Kenya to stop the practice of exporting labour force to the Middle East, in addition the government has also deregistered over 930 recruiting agencies in Kenya (Standard Digital May 27, 2015). The IOM report (2015) noted that many Kenyans are shifting their bases to the Middle East in such of greener pastures yet they stand a high chance of being exploited in brothels, domestic houses and industries. Interestingly, a majority of the study's respondents attested to this problem in the Mid-east region.

The open borders between many countries has given chance to many people to move around as they wish in such for the greener pastures, by doing this they are able to escape the factors that may lead them into vices such as human smuggling. However, it should be noted that whereas globalization gives everybody an opportunity to prosper in life, it remains a pipe dream if every person does not take the advantage of it in order to meet their own needs in legal and acceptable ways. In view of the above, the future of migrants smuggling and human trafficking will have both positive and negative effects depending on how migration issues are permitted or restricted.

This also shows that both women and children are affected by poverty and has exposed them to a number of vulnerabilities. This, in turn, makes certain groups susceptible to migrants smuggling and human trafficking. Poverty is a recognized root cause of migrants smuggling and human migrations. This therefore continues to make a relationship to exist between poor people and their vulnerabilities to being trafficked or smuggled.

Migrants smuggling and human trafficking is acknowledged by many states to be a serious problem in most sectors of the economy. Especially those which have been integrated to the international market. The sectors that were noted to be the most exposed sectors to this problem are as follows: Construction sector, agricultural sector, mining sector, hospitality industry, fishing sector, logging and forestry sector, food processing as well as packaging sector, transport sector, domestic services sector, cleaning sector, garments and textiles sector. This is the population that migrants smuggling and human trafficking perpetrators target. Most respondents noted that the activities of the perpetrators of this crime are aided by their domestic business associates who may be recruiting agencies, brokers, sub-contractors or suppliers who may join the trade for the desire to make money from this kind of trade which is mostly exploitative.

3.4 Political Instability and Perennial Conflict

Cameron and Newman (2007) noted that the numbers of migrations of Africans into the Middle East and from Middle East to other countries in the world is because of the long periods of wars, drought, dictatorial governments, as well as economic hardships. This has made that the countries where these migrants are moving to are bearing the costs. This is because the destination states have to try and effect the integration and admission of these migrants into their countries. Therefore, in order to fully tackle the problem of human migrants, the organizations concerned must address the problems of political turmoil and hardships in the states of origin. This is how the problem of trafficking of persons will be fully dealt with. Kenya in particular is bordering Somalia, Ethiopia and south Sudan, which are all affected by perennial conflicts leading to the displacement of people that eventually seek refuge in Kenya or transit to further afield.

(Gastrow 2011) notes that Kenya has been classified as both a commercial hub and geographically an entry point to Africa. However, it is being surrounded by states that are riddled with political instabilities such as the civil wars as well as violent conflicts. Kenya is also suffering from a geographical challenge of having very long borders with many states and these borders are either porous or unsecured. Kenya is also blessed with a very long coastline as well as a very large port and harbor. Amidst all

these factors the levels of corruption in Kenya is so alarming and a combination of all these factors has been a big fodder for the human smugglers and traffickers.

Sorensen (2003) argues generally, violent conflicts have role to play in humanitarian crises and displacement of people leading to refugees. This in turn, fuel migrants smuggling and human trafficking. For instance, in situation where there is persecution of children, raping of women, kidnaps and forced disappearances of persons, tortures, and illegal detention of people, high cost of living and poor standards of living, individuals are exposed to vulnerabilities hence smuggling and trafficking traps. This makes people to live miserable lives. Therefore, people are forced to migrate in order to find a better place to live. This assertion is in line with the respondents of this study whereby 31% attributed the problem of migrants smuggling and human trafficking to conflict.

The study's respondents (8.6%) also argue that migrants smuggling and human trafficking is a sure sign of conflict situation and internal conflict can lead to the problem. This explains why young boys and girls are smuggled with a specific purpose of constituting enough combatants that aid the activities of rebel groups. This makes women and young girls to be exposed for inhuman activities such as rape and other sexual abuses done against them. These women are usually transferred from one country to another as sexual slaves. Sometimes they are subjected to forced labor and domestic duties for the combatants. It has also been noted that for the case of children, They are usually promised good jobs abroad and better life ahead of them, when they get to those countries, there are arranged marriages that are programmed for them. They end up in child prostitution, sexual slavery as well as abductions. In addition to this, these children may be included in paramilitary groups that supports the activities of the main rebel groups as child soldiers.

Reports on the widely covered "Desperate Journeys" aired by Al-Jazeera whereby many migrants die while trying to cross the deserts or the Mediterranean Sea, have shown that those migrants who try to escape conflict zones for the purposes of getting asylum

usually put their lives at risk. This is because the kind of journeys they make are met with dangerous situations (desperate journeys, Al-Jazeera News). The survivors end up being captured smuggled to other countries. This is because they have no options at all in their lives. Apart from living in a state of uncertainty, they go through psychological, physical as well as emotional torture. This is in addition to financial challenges as well as lack of legal support in their countries of destination.

According to US state department report of 2016 that places Kenya in Tier 2 of compliance with counter trafficking protocols contends that, Kenya is a source, transit and destination country where men, women and children are forced to labor and sex slavery, street vending and begging among other degrading and exploitative treatments. This kind of segregation makes it difficult for the victims to get education, healthcare and proper social amenities. They are also unable to secure meaningful employment opportunities to better their lives. The only avenue they have is through informal employment which has no regulations at all. This is the point at which they meet with the smugglers who exploit them. These will have adverse effects to children as they will be badly exploited because first they have missed on getting proper education; secondly they are vulnerable for being exploited for sex tourism.

International peacekeeping and humanitarian organizations staff have been associated with women and girls exploitation and trafficking in post-conflict environment where as they are required offer protection to these vulnerable (Morris 2010). There are a number of allegations attributed to the events that happen during the post conflict era in most parts of the world. Usually there are a number of activities that takes place such as peace keeping, and humanitarian services carried out by most international organizations. These organizations usually move around with a huge population as their staff, and other workers. It's during this period that human smuggling takes place mostly.

Kenya borders countries that have experienced conflicts and attracted peacekeeping missions like Somalia and South Sudan and might have been the epicenter of this vice. It has been alleged that some of the officials of these international organizations are responsible for abetting this vice. This is because there is a huge demand for sex service and domestic duties for these workers. In fact due to institutional

weaknesses, this has now become a culture in most organizations. The officials of these organizations usually perpetrate these crimes with impunity because there are no mechanisms of investigating them and punishing them for the wrong doing by the said organizations. In addition, there is lack of proper regulations that govern employment and labor exportation in most states. This opens a Pandora's Box of false pretense of recruitment by the recruiting agencies in the country of origin. On the other side of the country of destination, there may be no laws as regard labor exploitation and child labor among other labor regulations

Corruption is another key political factor that can cause, as well as facilitate, migrants smuggling and human trafficking. Kenya's continued institutional failure and poor performance in the Corruption Perception Index shows need to go beyond anti-corruption rhetoric in addressing corruption and bribery (Amnesty International 2015). According to this report Kenya scored 25 on a scale of zero to 100 where by zero is perceived to be highly corrupt and 100 very clean from corruption. This was the same score for Kenya in 2014. The report ranks Kenya at position 139 out of 168 countries and territories in the 21st edition of the corruption perception Index.

Rampant corruption in the criminal justice system and other state institutions has enabled criminal organized enterprises to penetrate the political institutions in Kenya, a situation where countries branded so, run risk of being criminalized or condemned as "captured states" (Gastrow 2011). Although Gastrow contends that no research has justified Kenya as a captured state, he argues that the country's foundations are under attack. The relationship between corruption and migrants smuggling and human trafficking is very complex. The increasing levels of corruption practices amongst the government officials means that smuggling of human beings is being abated or is not prioritized. Secondly, corruption can cause political upheavals in any country. This is because it widens the gap between the rich and the poor. This prompts many people to move away from that country in order to look for opportunities outside. In fact this is one of the biggest challenge in dealing with crimes of this nature. It is even worse when the corruption activities are employed to aid these harm full trade because states enjoy the sovereignty that no one can question, control or challenge.

Despite the fact that the Kenya government deregistered these recruiting agencies, reports indicate that smuggling and trafficking of Middle East recruits-especially maids is a booming business and is thriving as a result of corrupt activities. Most respondents observed that other reasons that explains why this business is booming is the rising number of many unemployed youth and desire to make more money by the recruiting agencies. The respondents continues to observe that many states are weak especially those developing countries and these transboundary business groups have grown to be more powerful than some of these states. They have penetrated the state and are fighting these states from within. The organizations are colluding with some government officials to undermine these governments.

Gastrow (2011) argues that states that fail to effectively deal with this criminal groups are at the risk of being captured. For instance, the IOM report of 2015 noted that over 20,000 migrants from Ethiopia and Somalia usually migrate to South Africa passing through Kenya annually; to them their first country of landing is Kenya because they are aided by the corruption that exists in the police service and the immigration department. Most respondents strongly concurs with these assertion. Gastrow concludes by saying that this illegal trade makes profits worth \$40 million annually.

3.5 Inert State Institutions and Probity Decay

In addition to the social, economic and political factors, there are also other factors contributing to the migrants smuggling and human trafficking; among them conflict in Kenya and in neighboring countries, institutional failures and corruption that has eroded probity of state agencies and the issue of family reunification which would smuggled migrants and trafficked persons push them for such difficult journeys. For instance, Kenya's anti-corruption crusader John Githongo contended that government corruption as a serious and deepening menace in Kenya, particularly, during this time when terrorism threat is worrying (The Guardian, 3 July 2014). Due to these selfish and greedy driven individuals with poor integrity and patriotism, smugglers and traffickers manipulate and compromise state agencies through corruption.

The study's respondents attribute the problem of migrants smuggling and human trafficking in Kenya to poverty and underdevelopment (53.4%), corruption, conflicts in neighboring countries and its production of migrants, refugees and asylum seekers (31%). Only 6.9% of the respondents indicated they would attribute the problem to the search for a better life outside the country. Interestingly enough, the respondents argue that migrants smuggling and human trafficking in Kenya is not only a local, national issue (25.9%); but it is also a regional (12.1%) and a global issue (62.1%); therefore depicting that migrants smuggling and human trafficking was more of a global problem which had affected the countries all over the world.

According to Irene Ndungu, a Nairobi-based researcher on Transnational Threats and International Crimes with the Institute of Security Studies (ISS), who was interviewed by the researcher contends that, porous borders, inadequate, poor and weak enforcement of immigration laws due to issues of corruption, lack of adequate human and financial resources, other underlying developmental concerns like poverty and lack of enough employment opportunities are but some of the major contributing factors of the migrants smuggling and human trafficking problem.

Ndungu's assertion also concurs with the respondents within the security, immigration and judiciary that the problem of migrants smuggling and human trafficking is prevalent in Kenya due to weak and corrupt institutional framework reinforcing the 'distance decay' concept that state abstinence and absence may be the key contributing factor for the problem to thrive. Here, borders are either not manned due to the absence of state agencies or they are manned but the perpetrators exploit the system through compromise or corruption making state agencies abstain from taking action against the perpetrators.

3.6 Conclusion

This chapter explored the social, economic political and institutional failures as the enabling factors of migrants smuggling and human trafficking. It examined the argument that globalization has eroded the capacity of the state to provide public goods and deliver on basic services. Other than the main social, economic and political factors

underlying migrants smuggling and human trafficking, the chapter also looked at a few other factors among them conflict in neighboring countries, family reunification, weak institutional framework and corruption as well as the non-implementation of existing instruments to curb the problem. The chapter argued that there are more women affected by the migrants smuggling and human trafficking and that the problem is not only a local, national issue; it also has a regional and a global dimension. Modern forms of transportation and communication have, for example, aided the movement of people and also enabled transnational organized crime groups and trafficking rings to exploit vulnerable individuals for profit.

CHAPTER FOUR
MIGRANTS SMUGGLING AND HUMAN TRAFFICKING IN KENYA:
SECURITY IMPLICATIONS

4.0 Introduction

The wider security approach argued by Barry Buzan (1998) includes five sectors; military, political, environmental, economic and societal. Coincidentally, according to the discussion in chapter three of this study, the same are the underlying factors that push and pull people to be smuggled and trafficked. These enabling factors therefore have security implications for states. This argument underpins Barry Buzan's proposition that the state is the main referent in the national security problem. According to Buzan, for one to understand the security of the complex and the amorphous larger entities, one must understand the nature of the state. He discusses the nature of the state in a threefold approach as the physical base of the state component, the idea of the state component and the institutional expression component of the state on a three-point analysis. Although Buzan appreciates the possibility of discussing the three components as a stand-alone security issues, he contends, better still analyzing them, as a whole of different parts to get more insight of the security problem as they are all interlinked can be more fruitful.

In this regard, this chapter responds to the second question of the study; what are security implications of migrants smuggling and human trafficking in Kenya? It examines and analyzes the security implications of migrants smuggling and human trafficking based on the wider Buzanian security approach. The assumption here is that migrants smuggling and human trafficking pose existential threat to national security in Kenya as a result of vulnerabilities and internal contradictions. The chapter examines the proposition that in this era of globalization, liberal economic forces have resulted in an erosion of state capacity and a weakening of the provision of public goods.

Thus, migrants smuggling and human trafficking may be seen as a symptom of threats as a result of vulnerabilities associated with national security problems. Disparities in economic and social conditions coupled with ideological shifts to join transnational terrorist organizations provide an explanation for the direction and flow of migrants smuggling and human trafficking. Migrants smuggling and human trafficking, generally, occurs from poorer to more prosperous countries and regions. At the same

time, modern forms of transportation and communication have aided the movement of people and also enabled transnational organized crime groups and trafficking rings to exploit vulnerable people for profit.

Based on the aforementioned, this chapter is organized into seven sections. Section one discusses the feeble systemic institutions and the resulting political security implications. It examines how the monopoly of the state is challenged in delivering its mandate to the citizenry by transnational organized criminal networks. Section two examines the societal security implications and the erosion of the social fabric. It puts into perspective how migrants smuggling and human trafficking can negatively impact on country's culture, language, religious and national identities and the threats related to smuggled and trafficked individuals in coming along with infectious diseases. The third section grapples with the hidden hand of bandit economy and its economic security implication to Kenya national security. The fourth section debunks the existence of close range terrorism threat and the implication thereof on military security in Kenya. It focuses on how proximity to terrorism threat correlates with the ability to carry out effective military action and the effect of a close range terrorism infested environment to national security.

The fifth section examines the militarization of internal security and the securitization of migration under Uhuru Kenyatta's regime. It examines the compelling circumstances that made the military to leave the barracks in order to man roadblocks. It discusses the security challenges that called for internal military interventions in Kenya. The sixth section examines the vulnerable groups and terrorism networks can exploit their vulnerability into recruiting into terror networks. It brings forward the issue of refugee camps and their vulnerability in terrorism facilitation and links. The seventh section focuses on environmental security and the impact of uncontrolled migration on its existence. The eighth section examines the paradigm shift in the global security agenda on migration policy, with more focus on the global war on terror. It examines how migration has been securitized without actually being analyzed in the name of war against terror. Finally, the chapter looks into the security implications and policy options derived from the chapter before finally summarizing it in a brief conclusion.

4.1 Feeble systemic institutions and Political Security Implications

Buzan (1998) argues that the subject of political security usually refers to the ability of any state to stabilize itself through its organizational structures, ideologies or systems of governance that legitimizes the state and grants it the authority to rule. Transnational organized groups like migrant smugglers and human traffickers challenge this legitimacy and break the states' monopoly of violence. Extreme ideologies led to the recruitment of vulnerable youth that have been radicalized, brainwashed and recruited into terrorist groups like Al-shabaab. Such youth are smuggled and trafficked outside the country where they are trained and fight as foreign fighters or sent back to carry out terror attacks in their own homeland. According to a senior security officer, a significant number of Kenyan Al-shabaab fighters have carried out a number of terrorist attacks in Somalia where as others operate along the Kenyan Somalia border where they stage terror attacks on both Somalia and Kenya. The senior security officer gave an example of a Kenyan who was in custody in Somalia arrested when he tried to carry out a suicide mission attack using Vehicle Borne Improvised Explosive Device (VBIED) in a beach hotel in Mogadishu. Such youth leave Kenya without formal travel through recognized port of entries or documents.¹

The senior officer confirmed yet another scenario where some Kenyan youth who joined Al-Shabaab have successfully smuggled vehicle Borne Explosive Devices that were later intercepted in Mombasa before they used to accomplish their targeted terrorist attack. This raises the concern on Kenyan borders security laxity where such dangerous consignment can be smuggled from Somalia all the way to Mombasa.” Kenya as a regional hegemon has a role to play in spearheading conflict resolution mechanisms for the region’s stability and for its own security concern as spillover can threaten its own security stability”, contends the security officer.

Shelley (2010) observes that the practice of both human smuggling as well as trafficking undermines the state authority within its own territory thereby putting the security of citizens of that very state at risk. Women and children kidnapped by these criminal syndicates are not able to receive any form of protection from their respective

¹ Interview with senior police officer based in Nairobi County on October 18, 2016.

states and governments. These governments are therefore forced to part with huge sums of cash to these syndicates in order to release their kidnapped citizens. This complicates matters for these weaker states in fighting other domestic vices within its territories such as corruption in courts of laws, among the law enforcement agencies, in the immigration departments among other critical areas of security.

Another political aspect of the security implications of migrants smuggling and human trafficking concerns the nature of global interactions. There are international laws governing the non-state actors such as the refugees, illegal immigrants and asylum seekers among others. Any country's security is guaranteed if that particular state enjoys good relations with other states. A country can achieve this through participation in regional and international fora and other diplomatic activities between the states. Some of those states may be the sources of these illegal activities. The state will be seeking to enhance its idea of global interactions hence will be forced to accede to treaties that aid the activities of the illegal immigrants from that state. In case there is an emergence of diplomatic row between these two states, national security of this weaker state is at stake (Graycar & Tailby, 2000).

(Koslowski 2004) argues that the media and politicians usually take this issue of illegal immigration as a threat to the sovereignty of the state. This is because the state is the ultimate authority in the land and no other power can challenge the authority of the state given the fact that the state enjoys the monopoly of the instruments of violence. This therefore means that if the state tightens on its immigration policies it will be exercising its sovereignty. Anything short of that will be a challenge on its sovereignty hence national insecurity.

In the Kenyan context for instance, some foreign smuggled and trafficked individuals have gained Kenyan citizenship fraudulently, trained as terrorists in Somalia and travelled back to Kenya where they have carried out terrorist attacks. This kind of revolving door of criminal immigrants is a threat to national security. In yet another scenario, there had been allegations of illegally importing nationals of neighboring countries especially from Ethiopia, Somalia and Uganda, giving them identity cards and allowing them to participate in political elections in Kenya (Daily Nation, January 31st

2017, Daily Nation, January 24th 2017). This is a jeopardy to political security of Kenya as only Kenyan nationals have the political right to vote.

Irregular migrants threaten both state sovereignty and security. This is because the states perceive these illegal immigrants as opportunists who want to enjoy the plenty of its environs freely. The state fears that the illegal immigrants may flood on its territory hence threatening the provision of basic services to its rightful nationals. These makes it difficult for the states to willingly embrace these illegal I migrants.

The other challenge about these illegal immigrants is that, during the cause of these debates, the debates tend to become emotional and even polarizing. Sometimes these illegal immigrants may not be a big threat as it may be portrayed. However, it is good to admit at times that their huge numbers may pose a serious challenge to their host states. However, the challenge that most states have while engaging in such debates is the idea of distinguishing between regular immigrants from the irregular immigrants.

4.2 Societal security and the Erosion of Social Fabric

(Buzan 1998) observes that the aspect of societal security encompasses the issues of both cultures, languages as well as religious and national identities as part of security. All these societal variables must be properly sustained and accepted within recognized social purviews. Smuggled and trafficked persons come along with different cultures and customs that erode the social fabric of the host societies. Smuggled and trafficked individuals are carried in trucks that ferry smuggled goods and other contraband wares and therefore do not go through security checks. Such individuals may pose threat to societal security by coming with infectious diseases and therefore jeopardize the health of the population of the destination and transit countries.

Migrants smuggling and human trafficking not only infringe on the basic human rights of the victim such as movements, but it's a big threat to the security of the entire nation. The victims of these crimes are usually reported to be going through lots of psychological torture, this is in terms of bad conditions of work, traumatization, physical abuses, poor salaries and wages that they receive, deaths in occasional cases, long and lots of indebtedness, sexual abuses just to mention but a few.

At times, the victims of these crimes may be coming from states whose nature and systems of governance differ from their destined states. For instance the immigrants maybe coming from states that are characterized by wars, ethnic cleansing, political as well as religious intolerance, dictatorship, corruption, negative ethnicity just to mention but a few. These might not be the case in their destined states. These immigrants therefore might find it difficult to adjust to the way of life in their new states. Therefore, they may continue practicing the vices that was the norms in their home states hence causes problems with the citizens and the authorities of their new states. These will be cause of insecurities concern in the new state (Graycar & Tailby, 2000). This can be somewhat ethnic enclaves that creates disconnect between host communities and smuggled and trafficked individuals resulting in cultural tension and enmity.

This illegal trade of human smuggling and trafficking may have bad effects to the security of the home communities of the victims. This is because it will instill the vices such as fear, escalation of crimes and violence activities in their own home communities. This trade will cause a separation of the victims to their families; it will cause an erosion of societal bonds and disorganizes support network as well as undermining the economic prospects of individuals in the said community. This trade of human trafficking when combined with other illicit trade such as drug trafficking, smuggling of small arms as well as light weapons, it will negatively affect national security of different states hence slowing down on the rates of human development since the state would have greatly been weakened.

The USAID report (2009) concluded that there are a variety of reasons that make people to agree to be suicide bombers. This is because whereas poverty, unemployment, dictatorship usually make people to embrace terrorism, however other factors such as emotional issues such as oppression, identities, threats of existence, humiliation by the state and society as well as ethnic and cultural domination of one ethnic group over the rest may also lead people to embrace terrorism (Kalinaki, 2014). This sense of exclusion and identity seeking behavior makes individuals vulnerable to those seeking to recruit for terrorism purpose.

In each state, a small group of people usually benefit by accessing state coffers, privileges as well as state power against the large majority. This access usually exposes them to personal insecurities, and sometimes resistance from the majority of the citizens who are excluded. This is because those who are excluded from this group are usually discriminated upon in terms of accessing social services, job opportunities, accessing proper services such as healthcare, good education, among others. All these leads to the marginalization of certain ethnic groups at the expense of the rest. These leads to high class communities as well as low class communities. The ethnic communities are usually prevented from rising up economically. This is because they are excluded from the most important activities such as education, and access to job opportunities. This comes about as a result of biased economic and social policies of the government. These policies usually ignore the cultures and social practices of these marginalized ethnic groups. This means that if the state is to ensure justice and equality in society, it must appropriately rectify these defective development policies.

4.3 Economic Security and The Hidden Hand of Bandit Economy

(Buzan 1998) notes that Economic security refers to those aspects that allow a community or individuals to access finances, markets, as well as other economic resources in a bid to boost their welfare and empower them economically and politically. According to national crime research Centre based researcher, human trafficking has links with other organized crimes like arms trafficking, poaching and other contraband and smuggled goods. He pointed out that trafficked people cross the border with their wares. The trafficked convert their cash into other products and these products cross the border untaxed hence deny the government the much needed revenue sabotaging the economic wellbeing of the state. This is a threat to the economic security of a nation.

This assertion is supported by a senior security officer based in Mandera who has informed the researcher how products from Somalia and Ethiopia are sold in Mandera at much lower price than the imported and locally produced commodities within Kenya. For instance, Mandera locals buy a kilo of sugar at 85 Kenyan shillings, a kilo of rice at 110 Kenyan shillings, a three litres container of cooking oil at 450 Kenyan shillings and a kilo of wheat flour at 60 Kenyan shillings. According to the senior officer all these products

are either from Ethiopia or Somalia. The same Kenyan products are sold at an average price of Kenyan shillings 150, 600, 200 and 80 respectively. ²

All the products from Somalia and Ethiopia are not taxed and this is a sabotage and threat to Kenyan economic security. The locals prefer buying the smuggled commodities from Somalia and Ethiopia because they are cheaper than Kenyan products. “Brother, here in Mandera there is no quality control, while there is quality control in Nairobi and you cannot bring expired commodities, here there are no rules. You can bring whatever you want including expired products as long as they are cheap, even medicine”.³

According to Barry Buzan (1998) the normal conditions of actors in a market economy is one of risk, aggressive competition and uncertainty. Buzan addresses the important linkage between economic security and other sectors of security. It is a strong and stable economy that can provide enough budgetary allocation to military security. It is this budgetary constraints and limits that make military security dependent on economic security. Economic security threats pose significant risks to source of resources for the government and its citizens. Without resources, it becomes difficult for the government to address military and political challenges.

Economic security refers to a situation of stability and being in a position to manage uncertainty brought about by risks in the market and competition by market actors. However, smuggling and trafficking in persons distort the stability and capacity to manage uncertainty. This is manifested in the nature of smuggling and trafficking as an unconventional business where commodities both legal and illegal are exchanged outside the laid out rules in a market economy. Smuggling and trafficking in person’s trade also extend to commodities like sugar, flour and fire arms across borders. These activities undermine the conventional market economy hence jeopardizing resources and establishments of individual business people and the state. Smuggled legal commodities deny the state taxes and ruin established businesses that deal in those commodities.

² Interview with a senior police officer based in Mandera County on October 20, 2016.

³ Interview with a senior police officer based in Mandera County on October 20, 2016.

Migrants smuggling and human trafficking threatens the acceptable levels of economic stability of any nation state. This is because it undermines social and national cohesion among the citizens. It causes anti-social behaviors such as the xenophobia, and national disintegration. These sentiments can be influenced by high rates of unemployment among the citizens. These can be worsened by other social issues such as religious, ethnic as well as cultural differences that may exist within a nation state (Kicinger 2004).

Firearms smuggled into a country create insecurity, which is not good for business growth hence dwindling opportunities for a country's economic prosperity. The state also incurs expenses to deal with insecurity denying other sectors such as health, education, agriculture and other important infrastructure significant resources. Economic security threats also affect management of other security threats such as military and political threats by a state. "When people cross borders they come with wares available in the country they are coming from, when people come from conflict affected countries, what do you expect them to come with?, they come with all sorts of contraband goods including small and light weapons", contends Mr Muteti, a senior research officer based in Nairobi with the National Crime Research Centre (NCRC).

4.4 Military Security and Close Range Terrorism Threat

Buzan, Ole Waever & Wilde (1998) observe that military security involves issues such as the capacity of the national army of any nation state to either defend the nation or offend other nations. This is analyzed through perceptions. According to Buzan (1998) closeness correlates strongly the ability to carry out effective military action and close range applies most easily to military threats. Kenya is strategically located within the African Mission in Somalia (AMISOM) troops contributing countries and is itself a major contributing country to the African Mission in Somalia with the vast Boni forest in its midst that has become an incubator for the Al-Shabaab affiliated Jaysh Ayman. Kenya therefore acts as a springboard for terrorist recruits travelling to join Al-Shabaab in Somalia.

For instance, according to police records an average of 85 smuggled and trafficked individuals were intercepted in Lamu county alone while either enroute or returning from Somalia between 2014 and 2016. These individuals were of different nationalities comprising of Ugandans, Tanzanians, Burundians, Somalis and Rwandese. Many may have passed unnoticed and penetrated the vast Boni forest to join the al-Shabaab affiliated Jaysh Ayman that has created and found safe haven in the mammoth forest. Worse still only in the month of May 2016 alone 12 illegal immigrants were arrested. Eleven of these individuals were Tanzanians (police records 2016). Based on the May 2016 twelve figure, if this figure remains constant it means that 144 individuals cross to Somalia through Lamu County alone ($12 \times 12 = 144$) in one year. On the same note if these individuals were travelling constantly during the period under this study (2010-2016), then it means that 1008 individuals have crossed through Lamu County alone, ($144 \times 7 = 1008$). In yet another scenario, police report shows that, five Kenyan youth have crossed through Busia border in the month of March 2016 alone and later joined ISIS as foreign fighters in Syria. These Kenyans were either smuggled or trafficked without the knowledge of the state and parents of the affected youth. For the routes used from and through Kenya see the map on appendix III.

People trafficked from war torn countries may come with arms and ammunitions. This is because people are associated what is readily available and common where they come from, war is associated with weapons and when people are trafficked from war zones they come with such wares. Most of the smuggled and trafficked victims come from Ethiopia and Somalia which are affected by conflicts, insurgency, terrorism and other cross border crimes. The government of Kenya spends a lot of resources in addressing these cross border crimes and this diverts resources that could have been spent on other important military matters. For instance, where traditionally the military is mandated to defend the territorial integrity of states and a lot of budget is allocated to them to execute this mandate, Kenya has gone an extra mile in constructing a security wall along Kenya-Somalia border estimated to cost the country at least 200 million Kenyan shillings per kilometer of the 700km long border to keep organized criminals at a bay (Citizen TV news, July 18 2015).

Since 2000, national and international policies and perceptions on migration have changed. This has further exacerbated after the 9/11 terrorist attacks in the United States of America. The fight against terrorism has become on top of the global security agenda. It was around this period that many UN resolutions, conventions and treaties that bind member states were ratified and domesticated. These instruments were geared towards combating terrorism and other organized crimes like smuggling of migrants, human trafficking, drugs trafficking and arms trafficking. Terrorism rose and spread globally and Al- Qaeda had established networks across the globe. In East Africa, the emergence of Al-Shabaab and its allegiance to Al-Qaeda has further complicated the already volatile region that had experienced conflict and failed states like Somalia creating vulnerabilities and safe corridors for migrants smuggling and human trafficking from, through and to Kenya. This has in turn increased military expenditure and allocation further straining other important sectors of the economy.

Military threats involve risks to the state and its fundamental duty of protecting its citizens. When people are smuggled and trafficked, their protection by the state is no longer there and those involved in smuggling and trafficking therefore are posing military threats to the state where this is taking place. Military threats also involve use of force. Smuggling and trafficking is linked to networks of criminal gangs that sometimes use force when individuals and state agencies come into their way. The state has a monopoly in use of force to protect its citizens. Smuggling and trafficking gangs using force therefore further erode the monopoly of the state to use force and this could result into questioning of the state legitimacy.

4.5 Uhuru Kenyatta's Militarization of Internal security And Securitization of Migration

President Uhuru Kenyatta came to power in 2013 and took over a country characterized by terrorism threats and a high inflow of refugees owing to conflicts in neighboring countries particularly Somalia, Ethiopia and South Sudan. To some extent Kenya can be regarded as a source state for migrants. The push and pull factors for migrants from Kenya differs from those other states in Africa. The Kenyan migrants can be classified as skilled and properly educated. Most of them go outside Kenya legally for

various reasons such as the pursuit for higher education or to look for employment opportunities in states such as Tanzania, Uganda, Botswana, Lesotho, and South Africa. Others go to overseas to states such as the US, European states, the Middle East and other Arabic states. Although the exact figures on the numbers of Kenyan migrants differ from source to source, an estimation by the world Bank report of 2016 places it at 475,499 in 2013. This is equivalent to 1% of the total population in the entire republic, (World Bank, 2016). Some government reports indicate that there are as many as 3 million Kenyans abroad in different countries (Government of Kenya, 2014).

The destination of most Kenyan migrants who constitute the unskilled labor-force ends up in the Middle East states and other states within the Gulf area. The estimates of this population according to the Kenyan government stands at 100,000 Kenyans in 2014. Most of these Kenyans in these parts of the gulf region are usually recruited by the Agencies based in Nairobi to come and get well-paying jobs in this area. After their arrival, it is reported that confiscation of their passports and manual jobs with little pay is what they encounter. At this point the vices of servitude, slavery and violation of basic human rights start happening to them. Some are posted to work in Massage parlors, brothels, or other manual labor upon their arrival. Trafficking victims are put into serious human rights violations, for instance torture, sexual harassment, starvation, violence as well as other forms of inhuman treatment.

There is a great challenge in getting the right information as far as the nature and frequency of these violations are concerned, since trafficking is an underground operation in which perpetrators may collude with government officials and trafficking victims may not be willing to disclose their status. Following these reports of abuse, the Kenyan government in 2014 deregistered more than 930 recruiting companies who were in the business of recruiting Kenyan unemployed youth and sending them to work in the Arabic states. On recruitment of workers for employment in the Gulf region. The Labor department laid down a new process of recruiting agencies as well as that of looking jobs abroad which requires government approval of all contracts prior to applicants signing them and leaving the country for employment. Applicants are also required to register with the Kenyan embassy abroad.

Most victims of migrants smuggling and human trafficking coming to Kenya are trying to avoid conflict, oppressive as well as poor living conditions in their home countries, particularly in Somalia, South Sudan and Ethiopia. Many of these victims cross to Kenya single handedly or they are aided by the brokers or the so called human smugglers. The mode of transport they use is either by road using vehicles or at times they just come by foot. These migrants may choose to stay in Kenya either as refugees or they may use Kenya as a springboard to other world destinations. They are therefore on transit to Europe or America. In addition to Somali refugees, Kenya also hosts a large South Sudanese refugee population, which increased when a civil war broke out in the country in December 2013. Kenya also hosts a large number of Ethiopian refugees, mainly from the Oromia and Ogaden regions, in addition to large numbers of undocumented Ethiopians transiting or settling in the country. Majority of Ethiopian migrants leave their country mainly due to political reasons, followed by economic factors. Kenya is the strongest economy in the East African region and scores highest in the region on the Human Development Index. This attracts economic migrants from neighboring countries in search of greater economic opportunities. Consequently, Kenya's relatively stable context (politically and economically), coupled with porous borders and a strategic location in the Horn of Africa make it an attractive destination (and transit) country (UNDP Human Development Report, 2015).

Kenya attracts mixed migration flows due to its strategic location, relatively developed infrastructure, good air and land linked transport network, large diaspora communities and well-connected smuggling and trafficking networks (RMMS, 2013). For these complex reasons, Kenya is not only a final destination but also, largely, a transit hub. In particular, the long and open porous borders that stretch between Somalia and Kenya, covering about 700km, enable thousands of migrants to come in Kenya. Most of these migrants who are on transit are of the Somali origin, some from Eritrea while others come from Ethiopia due to dictatorship, and economic hardships among other reasons. They come to Kenya in order to find their way to other countries such as South Africa.

Movement of migrants via the country is mostly facilitated by smuggling networks operating in and outside the country. According to the International Peace Institute (IPI) report on migrant smuggling (RMMS, 2013), it names a number of networks that carry out the vices of human trafficking particularly women and children that are largely based in Kenya and Somalia. They are well known and much prominent organizations in the entire East and central parts of Africa. Some of these organizations are reported to be carrying out their operations both in Nairobi as well as inside the refugee camps. These organizations play a pivotal role in ensuring that these refugees travel in and out of the refugee camps without valid documents at will. These organizations at times receive payments from these refugees in order to assist them to get in Nairobi either by use of official routes or other short cut routes. These organizations do collude with the police officers on duty and other government officials. Some of the victims confess that they were escorted by the police officers to Nairobi after bribing them heavily (RMMS 2013).

Lack of confidence in the police and the immigration services due to corruption and compromise accusing them for being part of the problem in smuggling and trafficking networks has prompted the Kenyatta regime to securitize illegal immigration, refugees and militarization of internal security whereby the military moved out of their barracks to man roadblocks on Kenyan roads.

For instance, military officers from the school of infantry were posted along the Moyale- Isiolo-Nairobi road where they erected roadblocks to arrest human traffickers and foreigners being trafficked from Ethiopia (The Standard Digital, 22nd April 2015). This indicates not only the militarization of internal security but also the fact that the government has no confidence in the internal security apparatus on one hand and the securitization of illegal immigration; migrants smuggling and human trafficking in this context.

The total number of both the asylum seekers as well as the refugees in Kenya by 31st December 2016 was 494,863 (UNHCR, 2016). Under the Refugee Act 2006, the responsibility of managing immigration, patrolling the borders, supervising the refugees and taking care of their welfare has been given to the immigration department under the

ministry of Interior. A new Refugee Bill to replace the Act is awaiting a third reading in the National Assembly as of February 2017. The new Bill seeks to provide for the recognition and protection of refugees and to give effect to the convention relating to the status of refugees. The Bill also seeks to establish the Kenya Refugee Repatriation and Resettlement Commission to formulate national policy on matters relating to refugees, ensure there are durable solutions for refugees and handle resettlement and voluntary repatriation of refugees. The new Bill proposes the establishment of the Secretariat of Refugee Affairs to handle all operations and protection aspects of refugees including determination of refugee status.

In July 2016, the Kenyan government launched a body known as the National Migration Coordination Mechanism (NCM) that was tasked with the responsibility of the activities of the various state agencies in sharing of critical information that touches on migration. This body will act as the official platform where all the state institutions share and gets all the information as pertains to the migration matters. In addition to this measure, the government made an order that all the refugees in Kenya have to stay and carry out their operations within their refugee camps in order to benefit from any kind of support that maybe offered. However, some refugees are allowed to live in Nairobi under special circumstances. Neither the Act nor its accompanying Regulations specify what these special circumstances may be, but an informal list is understood to include reasons such as health, education, resettlement interviews, and a catch-all category called “humanitarian reasons”, (Human Rights Watch (2010)). Kenya regards itself as a state full of asylum seekers since it hosts both refugees and asylum seekers from Somalia, south Sudan, just mention but a few. At the same time, Kenya is ready and willing to accept any refugee as long as he is in the process of getting the proper documentation. Apart from those refugees who come from the Somaliland as well as from punt land, the rest of the Somalis are given the direct refugee status.

Two refugee camps in Kenya namely, Kakuma and Dadaab complex hosts majority of the refugees who reside in Kenya. With Dadaab being largest hosting upto 55% of all the refugees in Kenya as at December 2016. Towards the end of 2013, an agreement was signed between the Kenyan government, the UNHCR and the Somalia

government on the issue of repatriating the Somali refugees back to Somalia. These were to be done in phases. A pilot repatriation was done towards the end of 2014 where 10000 refugees were repatriated to southern parts of Somalia such as Luuq, Kismayu and Baidoa. In order to enhance the voluntary return and reintegration process, UNHCR has expanded the return areas from the initial three to nine designated areas and aims to support returns to any part of Somalia including Somaliland and Punt land. As of January 2017, 43,438 of the Somali refugees decided to go back to Somalia willingly and they were given support by the Kenyan government.

Kenya is also a country of internal displacement with an estimated 309,200 internally displaced people (IDPs) as of December 2015 according to available figures by Internal Displacement Monitoring Centre (IDMC). This estimate includes people internally displaced by ethnic, political and land-related violence (about 250,000) since 1990s, and additional 50,000-registered IDPs following the 2007/8 post-election violence. The figure does not include displacements as a result of disasters (such as floods and droughts), development projects and more than 300,000 “integrated” IDPs who fled and settled in urban or trading centres following the 2007/8 post-election violence.

New displacements have been recorded since 2008 in different regions within the country. In 2014 for instance, UN OCHA reported there were 220,177 people displaced by inter-communal conflicts among pastoralist communities in north Rift Valley and north-eastern regions of Kenya (UNOCHA, 2014). IDMC also reported that 105,000 people had been newly displaced as a result of disasters in different parts of the country in 2015 (IDMC, 2016). The Kenyan government in February 2016 announced the release of Ksh. 1 billion to complete the resettlement of the remaining 5,261 2007/8 post-election internally displaced households living in camps spread over eight counties in the country. There is no official, comprehensive and up-to-date data on IDPs in the country.

4.6 Vulnerable Groups and Alleged Terrorism Links

Despite Kenya hosting a huge number of refugees which is estimated to be about 500,000. The refugee camps continue to experience many challenges such as overcrowding, encampment policies that are so strict. Inside the refugee camps there were rising cases of constant displacement amongst the refugees themselves, a long period of staying in one place without movements, lack of opportunities of getting jobs, setting up of business ventures as well as getting higher education among other things. According to the report on trafficking of human persons released by the US department of state 2016, it noted that children who reside in most of the refugee camps in Kenya are at risk of being recruited into the armed group al-Shabaab, or vulnerable to sex trafficking, while others endure forced labor outside the camps. Women and young girls from Somalia are trafficked into Kenya via cargo trucks returning from Somalia and subsequently placed in brothels in Nairobi (Moret, Baglioni and Efonayi-Mader, 2006).

Ever since the large influx of Somali refugees, there have been repeated warnings from the Kenyan government for a speedy repatriation of Somali refugees back to their country. While in recent years these calls were often made in relation to the terrorist threats facing Kenya. This made the opinions of the public to change due to the escalation of these acts of terrorism that often harmed the innocent citizens, since the attack of the Garrisa University College happened in 2015 in which over 150 individuals lost their lives. Other attacks include the Mpeketoni attack where about 50 persons died and the Westgate mall attack where 67 persons died (Editorial, 2013; Butime, 2014). Increased attacks resulted into debate on more strict measures to deal with refugee issue and migrants. The government of Kenya has started building a wall along its border with Somalia where a significant number of migrants to Kenya come from. The Kenyan government has also started repatriating refugees in Daadab refugee camp as the camp has allegedly become a springboard and the launching pad for terrorist attacks by militants from Somalia who come disguised as refugees raising concerns over refugee camps, illegal cross border movements and national security debates.

The Kenyan government came out loudly and demanded for the permanent closure of the Dadaab refugee camp arguing that the said camp was harboring the terrorist group, the alshabaab. In this university attack which over 150 individuals lost their lives, renewed the Kenyan government reiterated calls for the closure of Dadaab refugee camp and repatriation of refugees to Somalia, Kenya's deputy president in fact ordered the UNHCR to close down the Dadaab refugee camp in a three month ultimatum. This was later not effected. The government also announced, recommended and started constructing a huge security wall at the Kenya Somalia border with an aim of preventing the illegal migrants and terrorists from sneaking into Kenya.

The UNHCR high commissioner namely Antonio Guterres came to Kenya on May 2015 to try and persuade the officials of the Kenya government against the closure of the Dadaab refugee camp. Among the outcomes of this visit was the assurance given by the Kenyan authorities, that there would be no forceful return of Somali refugees to Somalia and instead, voluntary repatriation would be conducted as per the Tripartite Agreement. The Kenyan government and the UNHCR decided that they will work together in enhancing the security in Dadaab camp and avail sufficient resources in order to securitize the camp. Another agreement was to support the refugee who voluntarily wanted to go back to Somalia by increasing the returning stations to nine from the previous three.

One year later in May 2016, the Kenyan government announced its decision to shut down Dadaab refugee camp within six months and disbanded the Department of Refugee Affairs, (RMMS, 2016) a government unit responsible for registration of refugees in the country. The government also established a taskforce to inform among other things, modalities, timelines and cost of repatriation and later announced that approximately 10 million USD had been set aside to facilitate the repatriation exercise. In a statement to the press, the government cited national security as well as environmental and economic reasons for its decision to close the refugee camp (The Guardian, 2016).

Human rights organizations criticized the decision over the camp closure noting that the repatriation of Somali refugees did not meet international standards for voluntary refugee return. The agencies also expressed concern over the alleged intimidation of

Somali refugees by government and inadequate provision of information on safety and conditions in Somalia. According to reports by UNHCR and MSF, about 86% of Somali refugees were unwilling to return to Somalia due to concerns over security, access to basic services and source of livelihoods (RMMS, 2016).

In November 2016, the government announced it would delay by six months the closure of Dadaab camp following calls by UNHCR and humanitarian agencies to postpone the closure on humanitarian grounds (The Guardian, 2016). In a landmark ruling on 9th February 2017 that resulted from a petition filed by some of the human rights groups in Kenya. The court overturned the idea of closing down the refugee camp arguing that it was unconstitutional. The court observed that the said repatriation vilified and targeted the Somali community through illegal means. This was in many ways acts of discrimination and mass persecutions. The court also quashed the government's order of disbanding the department of the Refugee affairs (DRA).

Migrants crossing into Kenya are reportedly often harassed by Kenya security officers. The Kenyan organizations that concerns themselves with human rights issues have pointed out many times that the police officers usually harass Somalis at the Kenyan Somalia border when they are crossing over, which may entail extortion, detention and/or deportation. Incidents of extortion have been reported along key migration hubs /routes in Kenya with the highest number of such incidents being reported in Nairobi.

One of the challenges in protecting migrants in Kenya is that the law enforcement agencies are unable to differentiate the genuine refugees and asylum seekers from the illegal migrants and the criminals. The actions of the Kenyan police officers at times confirm the fact that they do not understand the provisions and the procedures of dealing with the genuine refugees and asylum seekers as prescribed by the refugee law. This is because instead of guiding them and assisting them as demanded by the law, the said police officers abuse them, extort from them and subject the said refugees to harassment (Refugees International, 2014).

Kenya's asylum laws demands that all the refugees and asylum seekers have 30 days after entering the country to be registered. For the case of the refugees from Somalia, their registration point was the dadaab refugee camp. However, most of these refugees usually go to the most parts of Kenyan towns such as Nairobi which is the Kenya's capital. Since these refugees are not registered and do not have proper documentation, it's hard for the police to detect the period they have stayed in the country. Since the police officers and most government officials are ignorant on the refugee issues and the demands of the refugee law, they are unable to make a proper cross-examination of these refugees. This scenario is complicated by the issue of language differences with these asylum seekers who speak the Somali language only. Therefore, it is hard to properly establish whether the said refugees are economic migrants or asylum seekers. Therefore, most asylum seekers are usually classified as economic migrants hence subjected to Kenya's court processes. Again, in the Kenyan court systems there are no enough interpreters, this makes it hard for the migrants to clearly grasp the kind of charges they are facing in court. The migrants either unknowingly accept the charges or misinterpret the questions asked by the judge or the state prosecutors. The Kenyan law usually sentence illegal immigrants up to three years in jail or fined heavily. For instance, between \$ 1,125-2,250.

The major policy of the Kenyan government in dealing with illegal immigrants has been ensuring their detention. The Kenyan immigration Act of 2011 states that any illegal immigrants in Kenya commits a criminal offence. Once he is arrested and convicted, he is liable for a fine not exceeding \$ 5,500 or a jail term of 3 years or even both. However, the same law exempts the genuine asylum seekers. The act continues to specify that the said illegal migrants are to be detained either in police remands, prisons, or immigration cells where they are temporarily detained for the purposes of being deported.

Apart from the many illegal arrests and irregular detention of these migrants. There has also been the practice of mass arrests made by the Kenyan government through an operation whereby many migrants are arrested, detained and deported. In most cases the arrests and deportation usually happens through reactive order which is a counter

reaction to the existing security challenges for example a series of terrorist attacks. For instance in 2012, the Kenyan authorities launched a nationwide crackdown on irregular migrants named 'operation fagia wageni' (get rid of the migrants). There was another operation that was carried out in Eastleigh and according to the UNHCR report 2014 more than 100 people were arrested, put in concentration camp at Kasarani then they were finally prosecuted or deported.

After a grenade attack in Mombasa and Nairobi in March 2014, the operation dubbed as 'operation Usalama Watch' took place where more than 4000 individuals were arrested and screened to establish their status. Most of the human rights groups termed it as slow and an opaque process. Even the UNHCR noted that it was not allowed anywhere near the Kasarani concentration camp where the migrants were being detained. Inside the concentration camp every refugee was thoroughly screened, charged, either released or deported. Some were taken back to the existing refugee camps. At the end of the operation, the government released a statement claiming that 500 people had been detained and deported to their countries of origin. The process was highly criticized by the human rights groups who claimed that there were a lot of abuses, dirty cells, and little food and extortionist cases by the police officers over the detainees.

Migrants who happen to be in Kenya face the risk of being detained for several reasons. For example, in the course of their travel, they are arrested and harassed due to the lack of proper travel documents, after their arrests and imprisonment, they are likely to be rearrested because there is lack of mechanisms for deportation that are enacted. Since these migrants go through several territories of different states, they are likely to face multiple arrests in different states. Once they are deported, they are taken to the nearest border points of the deporting state. After getting to the new country they are arrested. In Kenya when a migrant faces an arrest, they are usually detained for one or two days before being prosecuted. They can be sentenced in prison for two months. When they are finally deported, in most cases, after a migrant has completed his jail term, he is handed over to immigration officers. This immigration officer holds the migrants to their waiting cells as arrangements for the deportation are made. Sometimes they spend

long periods in waiting cells before being deported. This can be explained for reasons such as inadequate finances to carry out the exercise.

There is lack of sufficient data on the exact figure of migrant detainees in Kenya. This is because the information on detention of irregular migrants is not collated and /or made publicly available. Data is so scanty in remote areas such as north eastern parts of Kenya. There is a high likelihood that many of the asylum seekers are spotted, arrested and detained. This is because that region is situated at the Kenya Somalia border. In December 2015, Kenyan authorities announced a crackdown on irregular migration targeting especially the movement between Ethiopia and Kenya. Almost on a weekly basis, there are reports that migrants from Ethiopia have been nabbed and are being detained in Kenya. This reinforces the assertions that there is an increase of Ethiopian migrants who are on transit to South Africa. Some police officers and government officials have reportedly been implicated in facilitating Ethiopian migrants' movement via the country.

According to the US state department report on Human trafficking(2015), the report acknowledges that despite the fact that Kenya legislated and adopted the counter-trafficking of persons Act, Kenya is still placed under the second tier of the US watch list because of the reasons which include lack of compliance, low convictions, corruption and low protection of trafficking victims. The report further noted that although Kenya is doing her best to deal with the vice. This is because it has met the minimum counter trafficking of human person's requirements. Kenya has not fully complied with the requirements. Following these Kenya established an advisory board that started putting in places the mechanisms of collecting data and tracking of the perpetrators of this vice in all the 47 counties. The United States agreed at that time that Kenya had tightened its laws on enforcement. At the end of the year 2015, the Kenyan government announced that it had prosecuted over 762 suspected perpetrators out of whom 456 were found guilty and convicted. This was a steady improvement from the previous years where there were 65 prosecutions out of which only 33 convictions were made.

It's at this period of 2015 that there was a recorded data of these vices from all the 47 counties. This made the number of prosecutions and convictions to rise steadily. Also this advisory board was at the forefront in laying down the official standards operating procedures in dealing with these vices. New forms of training among the law enforcement agencies was introduced and was made mandatory for all the police officers. In that period no cases of collusion by government officials with these perpetrators was reported. However it was observed that the acts of corruption, extortion and complacency by government officials were aiding this vice. This is because the perpetrators are able to get valid travel documents, register false marriage certificates, in order to acquire Kenyan passports (Solidarity center 2007). The US state department noted that the Kenyan government was not consistent in its quest to ensure acts of child trafficking is put to an end. Also it had very weak systems of prosecuting the perpetrators of the vice. The reported also pointed out that most immigration officials were arresting suspects but failing to screen them and that's the loophole that perpetrators are using to forge travel documents. The perpetrators commit both acts of smuggling as well as trafficking. In 2015 the government and advisory committee developed and implemented a national referral mechanism guideline that would aid all the stakeholders to assist the potential victims of proper services. Among the appropriate stakeholders included the law enforcement agencies and the social services agencies. As a result of this development, the children's department as well as other NGOs continues to give 24 hour toll free line for the general public to report any cases of child abuse, be it child labor or child trafficking.

4.7 Environmental Security and The consequence of Uncontrolled Migration

(Buzan, Ole Waever & Wilde 1998) note that environmental security refers to the idea of maintaining both local as well as the ecosystem in order to guarantee the survival of both human beings and all the creatures. Environmental problems like deforestation are global in nature in the refugee context because of their prevalence in various parts of the world (Salmio, 2009). In the Kenyan context, many smuggled and trafficked persons end up in settling in the refugee camps in Kenya where they engage in charcoal burning and logging activities hence degrading the environment. Kenya has paid a heavy price in

the form of insecurity as far as environmental degradation and community conflicts are concerned as a result of hosting large numbers of refugees some who are smuggled and trafficked into the country (standard Digital, February 11, 2014).

Environmental threats arise when the habitat or ecology that community depends on for livelihood is affected negatively. The environment is critical to the survival of every society. Criminal gangs engaged in smuggling and trafficking in persons can pose threats to the environment in many ways. First, these criminal gangs also engage in other forms of illegal trades apart from smuggling and trafficking in persons such as poaching. Such trade includes smuggling ivory and other wildlife products. This has brought some wildlife species close to extinction. Elephants in Kenya can be used to illustrate this phenomenon. In addition, criminal gangs engaged in smuggling and trafficking in persons also engages in banditry with a view to creating insecurity for their space to operate within a state. In such an environment, conservation efforts become difficult. The populations living in those areas lose their livelihood and become vulnerable to these gangs and finally become victims of smuggling and trafficking in persons. Poverty, drought and insecurity drives them to look for better opportunities elsewhere hence they offer themselves to be smuggled or their kin give them out to the human traffickers for money.

4.8 Migrants Smuggling and Human Trafficking and the Global War on Terror

September 9/11 has had far-reaching impacts in influencing of debates as well as policies on European security, both the “softer” security sectors such as migration. Indeed, the consensus is that the sad incident provided an increased opportunity for the idea of securitizing of migration, in particular irregular migration. In the lenses of critical security approach, it widened up the debate and policy opportunities to associate terrorism with immigration, whereby (certain) immigrants were associated and categorized as posing an existential threat to the regional security of European societies. This has consequently resulted in helping legitimizing the practices, policies as well as new technology in migration control that were usually the preserve for emergencies or national security threats (Huysmans 1995, 1997; Buzan et al. 1998:23-6).

The most policy area of migration that is mostly looked at in this manner is the control measures of migration. These policies are conceptualized as those that aim at countering the trafficking and smuggling of human persons. These measures include visa requirements, passports and other travel documents. They are meant to restrict entry and exit at the country's boarder points. Without these the culprit is arrested, detained and prosecuted or at worst deported. The general idea behind all these tough restrictions is to reduce on the numerous terrorist attacks that are widespread across the globe. Therefore illegal immigrants must be excluded by all means.

Trafficking and terrorism are all organized crimes that are closely interconnected. (Keefer, 2006) observes that the transport routes that terrorist groups use are the same as those that the human smugglers as well as trafficking networks use in moving closer and to their targets. It is widely believed that these trade of smuggling of human persons is so profitable to an extent that the huge profits made are used to bankroll the activities of the most terrorist groups in the world. In fact it has become an economy in itself although it's illicit. For instance, the Balkans who are majorly spread across the south eastern parts of Asia, Philippines, as well as in the Soviet Union. These areas are very key transit points of transferring cash by the said terrorist groups all over the world to finance their terrorist activities.

The level of seriousness that states in the international system started having in dealing with the terrorist activities was greatly influenced by the Sept 11 terrorist attacks in 2001. this explains why there is a union of convenience between the human smugglers and the terrorist groups. The states were forced to combine their efforts for a common purpose and intent. More focus was now shifted to the practice of tighten immigration rules whereby illegal migrants were dealt with in each and every state. These are because they were becoming a serious threat to national security. Most states believed that since human smugglers have joined efforts with the terrorist groups, they are likely to open up new trade routes in various states as they work on their ways to get into their final destinations. The activities of these two groups who have now combined forces are aided by three major factors. These factors include the growth development and expansion of these groups numerically, the capacity of these two illegal groups to infiltrate state

institutions of different countries due to the culture of corruption, and finally weak immigration as well as taxation control measures in most countries be it the source state, the transit state or the destination state.

4.9 Security Implications in Kenya

According to the study's respondents, migrants smuggling and human trafficking has negatively affected the national security of Kenya and it has remained a thorny issue. For example, a majority (65.2%) of the respondents indicated there were security issues attributed to the problem of smuggling and trafficking of persons while 34.8% were of the contrary opinion. This depicts that there were security issues attributed to the problem of migrants smuggling and trafficking of persons. This was a serious issue in the country that required appropriate measures to address.

Of all the security issue attributed to migrants smuggling and human trafficking in Kenya, a majority of the study's respondents (70.7%) point to terrorist attacks while kidnappings show a 25.9% and 3.4 % is blamed on general banditry. This, therefore, depicts that some of the security issues attributed to migrants smuggling and trafficking of persons were terrorism attacks. The study's respondents argue that due to reluctance at the border points terrorists would get into the country and accomplish their mission with ease.

Two cases of serious security threats in Kenya are the 'White widow' and Harun Fazul. The FBI through its transcripts that came up as an interrogation of the associates of these two individuals, note that Fazul a 38 year old gentleman was an Al-Qaeda operative who was a colleague of the late Osama Bin Laden, the leader of the Al-Qaeda. Bounty of \$ 5m was placed on Fazuls head by the US state. Among other things, Fazul was allegedly accused to be the real planner and executor of the 1998 bombing of US embassies in Nairobi and Daresalam. He is also associated with the Kikambala bombing where a paradise hotel was bombed. He is also associated with the shooting of an Israeli plane in 2002.

The bombings in Kikambala caused 15 deaths and serious injuries to more than 80 people. Fazul the main suspect was reported to be having dual citizenship of Kenya as well as that of Comoros Island this is besides being the mastermind of the US embassies in Nairobi and Dare salaam attacks. According to the sky news, it was reported that on the day he was killed, he was in possession of a South African passport and he was registered in South Africa as Daniel Robinson, he was also in possession of \$40,000 in cash. The passport was issued in 2009 and it indicated that Fazul left South Africa on his way to Tanzania and its in Tanzania that he obtained the Visa.

The White Widow Samantha Lewthwaite, on the other hand, is reported to have obtained travel documents from a fraudster after giving bribes. These travel documents was for use by her children. This woman is reported to be behind the Westgate attacks in Kenya and she is the most wanted lady in the world due to her suspected terrorist activities. It's also reported that she managed to beat the existing security systems by avoiding dragnets to bring her to book.

In terms of government's address of the security issues attributed to migrants smuggling and human trafficking, a majority (89.1%) of the study's respondents indicated that the government has addressed issues attributed to migrants smuggling and trafficking of persons while 10.9% were of the contrary opinion. This depicts that the government has addressed issues attributed to migrants smuggling and trafficking of persons and that the government is serious on the issue of migrants smuggling and human trafficking. This means that the government used the security agencies to ensure that the country remains free from threats and also strengthen border points through strict immigration laws that monitor on who gets into or out of the country.

4.10 Policy Options

This section presents the findings on the policies that have been developed to address the issue of migrants smuggling and trafficking. The policies are important since they will enable government agencies monitor the country's security situation; if and once implemented.

The study's respondents indicated that tight security at the country's entry points - land, air and seaports -- has been enhanced to ensure no illegal immigrant get into the country. The respondents also indicated that the government has enacted the law that ban trafficking of persons e.g. the Trafficking in Persons Act. Contacting the embassy in the case where an illegal immigrant is caught was another policy that was implemented. The respondents further indicated that the government has been conducting training on how to deal with border point security issues which has enhanced security and managed illegal immigrants in the country.

From the findings above majority (89.1%) of the respondents indicated that the government has addressed issues attributed to migrants smuggling and trafficking of persons while 10.9% were of the contrary opinion. This depicts that the government has addressed issues attributed to migrants smuggling and trafficking of persons. This also shows that the government is serious on the issue of migrants smuggling and human trafficking. The government used the security agencies to ensure that the country remain free from threats and also strengthen border points through strict immigration laws that monitor on who gets into or out of the country.

According to the UNODC (2012), training of border officials is important in equipping them to face the many challenges and hazards associated with migrants smuggling and human trafficking. It is therefore clear that training is important hence the study inquires on whether this policy direction is implemented. The government has also installed anti-corruption personnel who are addressing the issues of illegal immigration at the border points; and from a socio-economic point of view.

According to Achuka (2016), policies that gear towards the improvement of people's standards of living should be given first priority. For instance, employment, economic stability and national security policies should be prioritized at the global and the regional levels of governance. This should be done particularly in less developed countries and those regions that are characterized by the free movement of persons, goods as well as services. This is mostly in African countries, Asian countries as well as South American states. Once the economic problems that affect the people are solved, it is

believed that the appealing benefits that smugglers dangle to the potential citizens of these states will be reduced. This will also kill the business of human smuggling because the likely benefits of the illicit trade would have reduced significantly and it would become very risky for anyone to engage in such kinds of trade.

In order for the illicit trade of human trafficking and smuggling to be fully stopped, a number of policy measures must be put in place. For instance, some policies such as strict border controls will aim at scaling down the rates of irregular immigration from the likely perpetrators. Other policies such as tightening the requirements of obtaining a visa will greatly alter the patterns of geographical as well as the direction of the perpetrators movements. Carrier sanctions are aimed at reducing on the amount of goods to be transported and restrict the perpetrators welfare, in turn all these measures will significantly cause a reduction on the level of attractiveness of the country of destination. Most respondents in this study suggested that all the states must embrace the idea of harmonizing all these policies so that they are integrated.

In terms of the effectiveness of the policies, 65% of the study's respondents indicated that the policies in place have been effective in addressing the issue of migrants smuggling and human trafficking while 35% were of the contrary opinion. This depicts that the policies in place have been effective in addressing the issue of migrants smuggling and human trafficking. Hence the government needs to stick with the policies and ensure they are followed to the latter.

Ueling (2004) observes that control measures are insufficient in dealing with the challenges of illegal migration. This is because of the significant increment of the number of illegal migrations in many states despite tightening the immigration controls. The author also notes that even in areas where there have been reductions, it has been in very minor levels. Castles (2004) gives a number of explanations as to why these control measures have failed to deliver the desired results. For instance globalization is far much above the control and containment of any single nation state, secondly the increment of conflict areas in the world, thirdly the ever widening gap between the rich and poor states these three reasons are responsible for the continuation of the illicit trade and control

policies have no capacity whatsoever to make a major shift in the core causes for the continuation of the illicit trade.

(Koser 1997) argues that once any form of illicit trade such as human smuggling and trafficking has started and its sweet benefits experienced by the perpetrators, it's very difficult to bring it to an end. This is because a number of networks and chains have been created and strengthened to become a big industry. Therefore (Salt and Stein 1998) concluded that the interests of the industry are the continuation of the said illicit trade. Among the beneficiaries of the industry include the recruiting agents, travelling agents, advocates and the smugglers themselves both human and migrant.

(Koser 2000) continues to advance his arguments that another reason as to why control policies do not succeed is that they usually bring up unintended consequences. Some of these consequences he explains that the more tightly the control measures are, the harder and deepened the perpetrators become. Most respondents of this study shared the same arguments where they explained that once the perpetrators are cornered in one direction, they tend to shift to other directions that are more complicated and dangerous. In other words they devise new ways of redesigning their trade routes and operating illegally.

One other area is about available policy options not utilized in dealing with problem of migrants smuggling and trafficking of persons. The study's respondents indicated that the officers in charge of immigration have not been investigating all the people travelling to different parts of the country. Also, it has been established that there has not been public sensitization of the rights of the immigrants (victims), issuance of the clearance by the government, as well as the crackdown of brokers who do not issue detailed contract letters to the immigrants.

As earlier mentioned, there is, however, another greater problem; that of transnational criminal networks. According to Gastrow (2011), he observes that some states especially those in the south which are mostly developing countries are so fragile. This enables the perpetrators of human smuggling and trafficking to infiltrate the institutions of those states using corruption, bribery as well as threats. They become a

threat to the existence of that very state. This is because of their huge financial capacity that is much more than that of the state. The end result is that the state is undermined from within its own circles. These states are therefore either criminalized states or captured states.

Studies on migrants smuggling and Trafficking (Araia 2009 and Spencer 2006), on the other hand, point out that corruption plays a big role in facilitating migrants smuggling and Trafficking specifically illegal migration in general. The studies show that migrant smugglers and Traffickers bribe those charged with manning border controls to facilitate their trade hence become part of the network.

4.11 Conclusion

The chapter argued that these criminal activities impact negatively on people's lives and welfare. And, that when looked at wholesomely, as far as migrants smuggling and trafficking of human persons is concerned, migrant related criminal activities portray how national security has greatly been affected. In order to clearly grasp this argument, the chapter explored the connection between national security and migrants smuggling and human trafficking. The chapter then delved into the issue of national security, migrants smuggling and human trafficking and the global war on terror, as well as security implications in Kenya based on the wider Buzanian perspective, it argues that migrants smuggling and human trafficking rots the social fabric and, as a result, has a destructive effect on national security. The chapter examined how migration has been securitized and has caused a paradigm shift in global security agenda on migration policies.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATION

5.0 Introduction

This chapter recapitulates on this study by specifically responding to four tasks. The first task is the recapitulation of the core objectives of this study; evaluating the extent to which each objective has been met. The second task is the recapitulation of the hypothesis of this study. The third task is to anchor the conclusion of this study in the major arguments presented. The fourth task is to respond to the third objective in specific to outline the policy recommendations for combating migrants smuggling and human trafficking on national security in Kenya.

5.1 Migrants smuggling and Human trafficking in Kenya: An analysis of underlying factors

5.1(a) Social Dynamics and Kin Country Connection

The first objective was to establish the factors underlying migrants smuggling and human trafficking in Kenya. The assumption underlying this objective was that smugglers and traffickers maximize vulnerabilities within the institutional framework and the internal contradictions thereof to achieve their cause.

The central argument here was that, the prevalence of migrants smuggling and human trafficking in Kenya is a function of vulnerabilities and internal contradictions. These vulnerabilities and internal contradictions are as a result of distance decay at the social, economic and political levels between the Kenyan citizenry and the state. This engenders sanctuaries (SAN) for the smugglers and traffickers and obstacles (OBS) for the state security apparatus. The consequence of this is a favorable space (FS) for the smugglers and traffickers expressed as $(FS) = MI^2 + SAN + OBS - ICT$ (Ngunyi & Katumanga 2014). Where by MI^2 refers to square mileage and $-ICT$ means (minus penetrative Information (I), communication (C) and transport networks (T)).

To achieve the above objective, the factors underlying migrants smuggling and human trafficking were broadly organized into four sections. Section one explored the social dynamics in relation to kin country connections by examining how Kenya's cross-

border kin connection has enabled migrants smuggling and human trafficking. Section two examined the economic disparities that exist making population vulnerable for smuggling and trafficking networks. Section three tackled political instability and perennial conflict as enabling factors of migrants smuggling and human trafficking. The final section elaborated on how inert state institutions have failed to combat smuggling and trafficking of migrants due to probity decay. The argument here is that state apparatus have either abdicated their responsibility or have been compromised for the smuggling and trafficking problem to continue. The assumption here is that, social, political, economic as well as weak and inert state institutions have enabled migrants smuggling and human trafficking to thrive in Kenya. Facts gathered in this regard included completed questionnaires by the respondents and key interviews of purposively security experts and officers.

5.1(b) Security Implications of Migrants Smuggling and Human Trafficking

The second objective of this study examined and analyzed the security implications of migrants smuggling and human trafficking based on the wider Buzanian security approach. The assumption here was that migrants smuggling and human trafficking pose existential threat to national security in Kenya as a result of vulnerabilities and internal contradictions. Here the proposition is that in this era of globalization, liberal economic forces and transnational organized criminal networks have resulted in an erosion of state capacity and the weakening of the provision of public goods. The wider security approach argued by Barry Buzan (1998) includes five sectors; military, political, environmental, economic and societal. Coincidentally, according to the discussion in chapter three of this study, the same are the underlying factors that push and pull people to be smuggled and trafficked. These enabling factors therefore have security implications for states.

This argument underpins Barry Buzan's proposition that the state is the main referent in the national security problem. According to Buzan, for one to understand the security of the complex and the amorphous larger entities, one must understand the nature of the state. He discusses the nature of the state in a threefold approach as the physical

base of the state, the idea of the state component and the institutional expression component of the state on a three-point analysis. Although Buzan appreciates the possibility of discussing the three components as a stand-alone security issues, he contends, better still analyzing them, as a whole of different parts to get more insight of the security problem as they are all interlinked can be more fruitful. It was against this broader Buzan security approach this study contended that migrants smuggling and human trafficking threatened the state as a main referent object.

5.2 Recapitulation of the Hypothesis

This study had one hypothesis; migrants smuggling and human trafficking is a function of vulnerabilities and internal contradictions within the institutional framework in Kenya. This is underpinned by the interface between business facilitating criminal networks, the distance decay phenomenon and the revolving door concept. The argument here is that migrants smuggling and human trafficking has an economic monetary gain leading to transnational organized crime groups to suffocate state institutions and individuals through corruption, deceit, unmanned routes and threats. These criminal networks are enabled by state absence or state abstinence leading to their exploitation of the institutional contradictions to thrive in their illicit trade. To this end, even captured and deported criminals return to the country illegally leading to the revolving door phenomenon.

The study established that that one factor was how cases on migrants smuggling and human Trafficking were undertaken. It was established that most of the respondents indicated they had handled the cases rarely showing that although they had experience the frequency was not high. It was also established that most of the respondents indicated that they played the role of investigation meaning that they were investigating on how issues of migrants smuggling and human trafficking brought insecurity in the country and more particularly the nexus of this with terrorism. Majority of the respondents attributed the problem of migrants smuggling and human trafficking to conflicts in the neighboring countries.

Another factor underlying the migrants smuggling and human trafficking was the nature of the respondents. The study established that majority of the respondents handled victims and thus they had a real experience on Migrants Smuggling, Human Trafficking and National Security in Kenya. This showed that the issue of illegal immigration was real and this facilitated illegal immigrants in the country. The other factor was the gender of the smugglers. The study established that majority of the victims who are smuggled and trafficked were female while those who are involved in the smuggling and trafficking of humans were of the male gender. This showed most of the men were engaged in illegal activities causing insecurity in the country. The study further established that the problem of migrants smuggling and trafficking in persons exists in Kenya. The study also established that migrants smuggling and trafficking was a global problem which had affected the countries all over the world.

The second objective was to establish the Security Implications of Migrants Smuggling and Human Trafficking in Kenya. The study found that there were security issues attributed to the problem of migrants smuggling and trafficking of persons. This was a serious issue in the country that required appropriate measures to address. Further it was established that some of the security issues attributed to migrants smuggling and trafficking of persons were terrorism attacks. Due to reluctance at the border points terrorists would get into the country and accomplish their mission with ease. The researcher further found that the government has addressed issues attributed to migrants smuggling and trafficking of persons. This also shows that the government is serious on the issue of migrants smuggling and human trafficking. The government used the security agencies and other concerned state apparatus to ensure that the country remains free from threats and also strengthen border points through strict immigration laws that monitor on who gets into or out of the country.

The third and final objective was to find out the Policy Options to Contain Migrants Smuggling and Human Trafficking in Kenya. The study established that tight security at the border entry points, airports and seas has been enhanced to ensure no illegal immigrant gets into the country. The respondents also indicated that the government has enacted the law that ban trafficking of persons e.g. the counter

trafficking in persons Act 2010. Contacting the embassy in the case where an illegal immigrant is caught was another policy that was implemented. The respondents further indicated that the government has been conducting training on how to deal with border point security to enhance security and prevent illegal immigrants in the country. The government has also installed anticorruption personnel who are addressing the issues of corruption and illegal immigration at the border points.

There are policies in place, but they have not been effective in addressing the issue of migrants smuggling and trafficking, hence, the government needs to harmonize the policies and actions to ensure they are followed to the latter. However, the study established that, there is no specialized unit within the Kenya National Police Service to deal with issues of migrants smuggling and Human Trafficking. Finally, it was found that officers in charge of migration have not been seriously investigating the entire persons travelling to different parts of the country. In addition, it has been established that there has not been public sensitization of the rights of the immigrants, crack down of the brokers who do not issue detailed contract letters to the immigrants.

5.3 Conclusion

Based on the findings, a number of conclusions can be drawn:

- i) The study established conflict in the neighboring countries to be the main cause of people to be smuggled and trafficked (field data).
- ii) In terms of the link between migrants smuggling and human trafficking and widespread corruption, Ngunyi and Katumanga's '*Distance Decay*' concept explains porous borders and corruption as a result of state agencies abstinence and absence which has contributed the vice to thrive. The study found out that the concept partially explains the problem.
- iii) The study established that, there is no special police unit in Kenya specifically tasked to handle the issue of migrants smuggling and human trafficking like other transnational organized crimes, terrorism, for example.
- iv) The study also found out that the military is involved in the control of migrants smuggling and human trafficking internally within Kenya.

- v) The study also brings into light new routes for smugglers and traffickers i.e. through Isiolo to Nairobi from Ethiopia through Moyale being the point of entry. The same route is used by smugglers and traffickers avoiding Garissa-Nairobi route because of the many police barriers. This route is accessed by smugglers from Ethiopia and Somalia as well. Isiolo is an interesting point of convergence for migrants smuggled and trafficked from and through Kenya.
- vi) The study also found out that there is a need for a regional approach to curb the menace. Source, transit and destination countries all have roles to play.
- vii) The study also predicts that, without addressing the real underlying factors to protect territorial integrity of Kenya, stricter policies like the wall being built by Kenya along the border with Somalia is not a solution.
- viii) The study argues that there were security issues attributed to the problem of migrants smuggling and trafficking of persons. This was a serious issue in the country that required appropriate measures to address. Some of the security issues attributed to migrants smuggling and trafficking of persons were terrorism attacks. Due to reluctance at the border points terrorists would get into the country and accomplish their mission with ease. The researcher concluded that the government has addressed issues attributed to migrants smuggling and trafficking of persons but lacked proper harmonization of existing policy mechanisms and efforts.
- ix) The study also contends that tight security at the border entry points, airports and seas has been enhanced to mitigate illegal immigrants getting into the country. The government has enacted the law that ban trafficking of persons e.g. the counter trafficking in persons Act 2010. Contacting the embassy in the case where an illegal immigrant is intercepted was another policy that was implemented. The respondents further concluded that the government has been conducting training on how to deal with border point security issues which has enhanced security to prevent illegal immigrants in the country. The government has also installed anticorruption personnel who are addressing the issues of corruption and illegal immigration at the border points.

- x) In conclusion, corruption facilitated migrants smuggling and human trafficking to some extent and was a key driving force in the menace. Though the findings suggested that the integrity of security officers charged with manning border controls or other immigration checks was high, doubts were raised from accounts by key informants who indicated to have witnessed border officials receiving bribes from smugglers and traffickers.

5.4 Recommendations

The main aim of the study was to assess Migrants Smuggling and Human Trafficking on National Security in Kenya (2010-2016). This section outlines recommendations for policy makers to help curb the vice of migrants smuggling and human trafficking. Based on the findings of this study, the researcher presents the following recommendations:

- i) The study recommends that there is a need for Kenya National Police Service to have specialized counter trafficking police unit for dealing specifically on issues of migrants smuggling and human trafficking. At the moment, the problem is handled and referred to by the Anti-Terrorism Police Unit which is trained on terrorism and not on migrants smuggling and human trafficking.
- ii) The study recommends training and sensitizing the internal security apparatus particularly the police and the immigration department to deal with the problem instead of the military. The danger in using the military is that, the task may expose them to corruption temptations as the police has already been accused of the vice.
- iii) The study recommends Kenya to spearhead and play a regional role in conflict resolution in the neighboring countries for its own national security interest and regional stability by addressing the push and pull factors of migrants smuggling and human trafficking in the region as a collective security responsibility.
- iv) The frequency and variety of trainings for immigration officers should be increased to capture all the diverse issues that call for their attention. These include relevant legislations, training in the use of various equipment and information on current trends of illegal migration and specifically migrants smuggling and Human

Trafficking. There should be an exhaustive training needs assessment done regularly to ensure all courses are distributed equitably.

- v) There is need to strengthen and focus on the anti-corruption measures in all stations since corruption facilitates migrants smuggling and human trafficking to some extent. This can be achieved by sensitization through training and encouraging integrity among officers. A good starting point is on sensitizations on the Public Officer Ethics Act, continuous supervision and removing all opportunities for corruption through streamlining and making procedures hard to manipulate.
- vi) While addressing corruption and empowering rights-oriented entities, state security and other related apparatus must be a priority, Kenya as a regional power has a role to play in spearheading conflict resolution in the eastern and Horn of Africa sub-region and the issue of migrants smuggling and human trafficking must be resolved within and through such conflict management mechanisms at the regional level.
- vii) There is also a need to sensitize state apparatus on existing laws and on victims' rights so that the high number of victims ending up in courts can be reduced and the menace resolved.
- viii) The study recommends that further research should examine whether smuggled and trafficked persons from and through Kenya join terrorist organizations in their destination countries.
- viii) Finally, the study also recommends that future scholars should compare the perspectives of migrants, smugglers and trafficked persons on underlying issues that cause them to immigrate or be in smuggling and human trafficking business. Further research should also examine cases of migrants who change to become smugglers in the course of their journey and the implications this has on curbing the problem.

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APPENDICES

Appendix I: Interview Schedule

1. How would you describe the problem of migrants smuggling and trafficking in persons in Kenya?
2. How would you describe the problem of migrants smuggling and trafficking in persons in the Horn of Africa region?
3. Is Kenya a source of migrants smuggled and trafficked outside the country? If yes, please explain your answer.
4. What are the factors that make Kenya a source of migrants smuggled and trafficked outside the country?
5. Has Kenya been used as a transit point in migrants smuggling and trafficking in persons in the East Africa region? If yes, explain how and why?
6. Are there security issues attributed to smuggled and trafficked migrants in Kenya? If yes, please explain.
7. Why does the problem of migrants smuggling and trafficking of persons persists in Kenya?
8. What measures would you recommend to combat smuggling and trafficking trade in Kenya?
9. What are the measures that you can recommend for dealing with the problem of migrants smuggling and trafficking in persons in Kenya?
10. What measures would you recommend for dealing with the problem of migrants smuggling and trafficking in persons in the Horn of Africa region?

**Appendix II: Questionnaire for Immigration Officers, Prosecutors, Police Officers
(ATPU) and Judges**

Instructions

Kindly mark, tick or write in the spaces provided as appropriate.

Section A: Background Information

1. What is your occupation?

- Judge or Magistrate
- Prosecutor
- Police officer
- Other (Specify)

2. Where are you stationed?

- Nairobi
- Busia
- Isiolo
- Other (Specify)

3. How long have you served in this station?

- Less than 1 year
- 1-3 years
- 4-7 years
- 8 years and above

Section B: Underlying Factors

4. Have you handled cases of migrants smuggling and trafficking in persons?

Yes [] No []

5. If yes above, how often?

Rarely []

Occasionally []

Often []

Very often []

6. In 5 above what was your role?

Investigation []

Prosecution []

Judgement/sentence []

Arrest or interception []

Other (Specify) []

7. In 6 above was/were your subject/subjects victims of migrants smuggling/human trafficking or smugglers/traffickers

Victims []

Smugglers/Traffickers []

8. Who are the majority of the smuggled based on gender?

Victims [Male] [Female]

Smugglers/Traffickers [Male] [Female]

9. Why do you think the problem of migrants smuggling and trafficking in persons exist in Kenya?

- Conflicts in Kenya []
- Conflicts in neighboring countries []
- Economic problems at the source []
- Search for better life []
- Corruption []
- Striving to join kin at the destination []
- Other (Specify) []

10. How would you categorize migrants smuggling and trafficking?

- It is a national problem []
- It is a regional problem []
- It is a global problem []

Section C: Security Implications

11. Are there security issues attributed to problem of migrants smuggling and trafficking in persons?

- Yes [] No []

If yes explain.....

12. What are the security issues associated with the problem of migrants smuggling and trafficking in the region?

- Terrorism []
- Kidnappings []

- Criminal activity
- Banditry
- Other (Specify)

13. Has the government addressed security issues attributed to problem of migrants smuggling and trafficking in persons?

- Yes
- No

14. If yes explain

.....

15. Comment on the effectiveness of those steps

Section D: Policy Options

16. What policies have been put in place to deal with problem of migrants smuggling and trafficking in Kenya?

.....

17. Have the policies been effective in addressing problem of migrants smuggling and trafficking in the region?

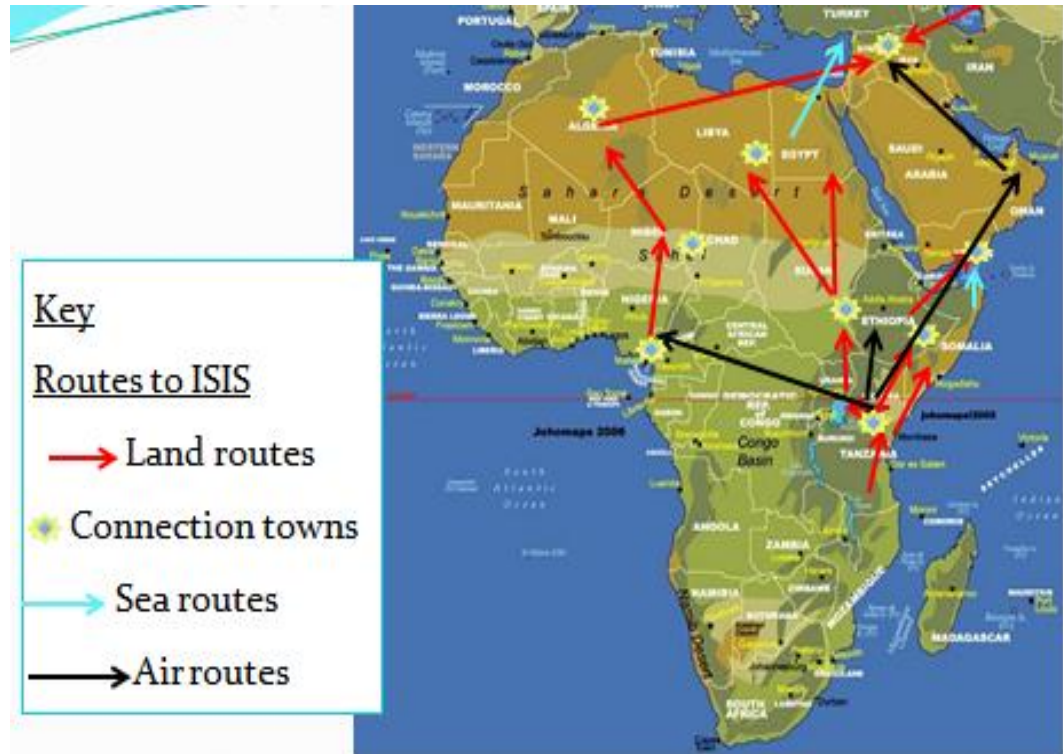
- Yes
- No

18. If yes, explain

.....

19. What policy options would you recommend to curb the problem?

Appendix III: Routes to Syria used by Kenyan youths to join ISIS



Map showing routes from kenya used by youth joining ISIS

Source: Daily nation, March 29 2017

Appendix IV: Research Permit

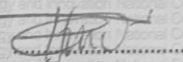
THIS IS TO CERTIFY THAT:
MR. HASSAN GUHAD ABDULLAHI
of UNIVERSITY OF NAIROBI, 552-610
nairobi, has been permitted to conduct
research in All Counties

Permit No : NACOSTI/P/16/34172/14599
Date Of Issue : 21st November, 2016
Fee Recieved : ksh 1000

on the topic: **MIGRANT SMUGGLING
HUMAN TRAFFICKING AND NATIONAL
SECURITY IN KENYA (2010 TO 2015)**

for the period ending:
8th November, 2017




.....
Applicant's
Signature


.....
Director General
National Commission for Science,
Technology & Innovation