



**UNIVERSITY OF NAIROBI**

**DEPARTMENT OF POLITICAL SCIENCE AND PUBLIC ADMINISTRATION**

**IMPLEMENTATION OF INTERNATIONAL LEGAL FRAMEWORKS  
AGAINST TRANS-BORDER CORRUPTION IN EAST AFRICA: THE CASE OF  
BUSIA- MALABA BORDER POINTS OF KENYA AND UGANDA**

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FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF  
MASTER OF ARTS IN INTERNATIONAL RELATIONS.**

## DECLARATION

I declare that this research project is my work and has not been submitted to any other university for an academic award.

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## **DEDICATION**

This study is dedicated to my Dad, Mum and my children Reiyian, Philip and Noontawua. You are the reason I soldier on.

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## **ABBREVIATIONS AND ACRONYMS**

**AU**-African Union

**AUCPCC**- Africa Union Convention on preventing and combating corruption

**EAAACA**- East African Association of Anti-Corruption Authorities

**EACC**- Ethics and Anti-Corruption Commission

**RECs** -Regional Economic Communities

**SPLM** – Sudan people's liberation movement

**UN**- United Nations

**UNCAC**- United Nations Convention against Corruption

## ABSTRACT

With the emergence and stabilization of the modern States in Africa, Corruption has remained the most formidable challenge to sustainable economic growth, good governance, peace, stability, and development across different Regional Economic Communities (RECs) in the continent. Indeed, the African States and by extension their borders, have been reportedly perceived as the most corrupt regions in the world. Trans-border corruption has persistently existed at border points but can be contained once States ensure strict rules, laws and a legal regime that heavily criminalizes the vice through severe punishment to perpetrators. The objective of this study was to determine how existing international legal frameworks impact trans-border Corruption between Kenya and Uganda. The researcher employed a descriptive Research Design. The researcher administered structured questionnaires and interview guides when assembling data. The researcher conducted one on one and phone call interviews specifically with the legal practitioners, Immigration officers, security officers in charge of investigations and members of the society who are in charge of dealing with trans-border Corruption either as policymakers or as policy implementers. The target population of this study was estimated to be 100 respondents; however, 50 participants were engaged as a sample. Since its a qualitative and quantitative study, content analysis was used to analyze qualitative data, while descriptive statistics were used to analyze quantitative data. The output revealed that most of the participants reported African Union Convention on Preventing and Combating Corruption was implemented through the participation of NGOs. Media was also allowed at the border in investigating cross border corruption and mutual accessibility of information between the two countries at the Busia and Malaba border points at a great extent with an aggregate mean ( $M = 3.91$ :  $SD = 0.7355$ ). However, some respondents reported that the UNCATOC through Criminalization of Corruption had been done in both countries, and asset recovery being exercised upon conviction of Trans border corruption offenders was implemented at a small extent with an aggregate mean of ( $M = 2.42$ :  $SD = 0.8015$ ). The findings were in collaboration with the existing literature. The coefficient of determination  $R^2$  is 0.686, indicating that the model explained 69% of the variations in trans-border corruption measures between Kenya and Uganda. It also shows that the United Nations Convention against Corruption, AUCPCC , the United Nations Convention against Transnational Organized Crime explained 69% of the trans-border corruption measures between Kenya and Uganda at the Busia Malaba border points. The study recommends that staff appraisal on international legal frameworks be encouraged regularly at all border points between Kenya and Uganda, among other neighbouring countries. This will encourage employees at the border points to be more ethical in their conduct and in the long run, help minimize trans-border corruption between the two countries.

## CHAPTER ONE: INTRODUCTION

### 1.1 Background of the Study

For decades, graft augmented beyond national borders. According to Patrick Glynn et al. (<http://www.ii.com>), the end of the cold war and the emergence of the international economy have, among other things, led to the spread of graft across the globe due to economic interdependence among States, leading to trans-border corruption. There is no State which is immune to cross border corruption. Although, studies have shown that once a state has strong institutions and a proper legal framework, cross border corruption is highly minimized (Heidenheimer, 2017). The main argument is that strong institutions and apposite legal frameworks from democratic governance correlate strongly with effective accountability systems needed to counter cross-border Corruption (Chêne, 2018). Governance institutions play a key role in fighting corruption by enforcing rules and regulations, anti-corruption laws and good practices. This helps to enhance transparency and accountability of processes (Chêne, 2018).

The International Legal frameworks on corruption involve regional treaties, instruments of incorporation, resolutions, and mutual agreements utilized to combat corruption. They entail the following: United Nations Transnational Organized crime, African Union Convention on Preventing and Combating Corruption, and United Nations Convention Against Corruption. These treaties are legally binding to all State parties. The legal frameworks also include the UN Anti-corruption tool kit, which contains parameters used to fight graft in terms of strategy.

Trans-border corruption has continued to destabilize the existing interstate relations across the world (Starke & Henrich2017). For instance, when US President Donald Trump assumed office, he embarked on an aggressive US foreign policy of constructing a wall between the US and Mexico to, among the significant reasons, control illegal immigration to the US and contain cross

border corruption. This led to a serious diplomatic row between the US and Mexico (Starke & Henrich2017). In Europe, Part of Britain's reasons for exiting the European Union was rampant cross-border corruption, which negatively affected Britain and its Citizens' wellbeing (Starke & Henrich2017).

With the emergence and stabilization of the modern States in Africa, Corruption has remained the most formidable challenge to sustainable economic growth, good governance, peace, stability, and development across different Regional Economic Communities (RECs). Indeed, the African States and their borders have been reportedly perceived as the most corrupt regions globally (Starke & Henrich2017).

Kayunga (2016) & Mwenda (2017) show that trans-border Corruption has been one of the significant causes of war in the new Republic of South Sudan. The South Sudanese elites both from the SPLM –in government and the SPLM in Opposition have been stealing the proceeds of oil and transferring the illicit finances to Nairobi, Kampala and Dar es Salaam within the East African Region, not only have they been buying apartments and land in posh suburbs in these cities, but they have also been participating actively in the stock exchange markets of these countries (Kayunga 2016). This is also the case in the DRC in central Africa (Mwenda 2017).

Both Kenya and Uganda have made individual and collective efforts to fight corruption within their territories and in East Africa at large. In particular, the East African Association of Anti-Corruption Authorities (EAAACA) members through the Ethics and Anti-Corruption Commission and Uganda's Inspectorate of Government have engaged in collaborative activities to reduce cross-border corruption. The EAAACA aims to promote the fight against corruption in the East Africa Community. Besides and most importantly, Uganda and Kenya are members of the AU Convention on Preventing and Combating Corruption (AUCPCC), the UN Convention

against Transnational Organized Crime and the UN Convention against Corruption (UNCAC). AUCPCC & UNCAC are examples of international legal frameworks established to help member States to control corruption. However, going by the reports of the EACC (2016), World Bank Report of (2014), and the Transparency International report of (2015), despite these legal frameworks, trans-border corruption is still on the rise.

Based on this, this study seeks to critically analyze the role of the existing international legal frameworks in the context of the Kenya-Uganda border. The study explores the relevance of AUCPCC and UNCAC legal frameworks in mitigating trans-border Corruption in East Africa while addressing the broader interest in discerning how states relate to combating cross-border problems such as Corruption in Africa.

## **1.2 Statement of the Problem**

In the ideal world, trans-border corruption can be contained once States ensure strict rules, laws and a legal regime that heavily criminalizes the vice through severe punishment to perpetrators (Jonston, 2005; Kivuva and Odhiambo 2010). However, this is a problem and can be a challenge even in those States with a developed democracy and strong institutions containing these vices in all their forms and shapes (UNDP, 1998; Escresa & Picci, 2019). In response to the above challenges of trans-border corruption, Kenya and Uganda have made individual efforts to fight corruption within their borders and beyond. Kenya, for instance, promulgated a new Constitution in the year 2010, which dedicated an entire chapter six to matters of leadership and integrity and continues to engage international organizations and states to control corruption. Articles 2(8) and (6) of the 2010 Constitution provide that the General rules of International law shall form part of the laws of Kenya, and any treaty or Convention ratified by Kenya shall form part of the laws of Kenya. The Ethics and Anti-Corruption Commission Act, 2011; the Anti-Corruption and

Economic Crimes Act of 2003; Leadership and Integrity Act, 2012 are among the legislations that govern the fight against graft in the country.

Mutual Legal Assistance Act No. 36 of 2011 was also enacted, enabling Kenya to work with other States in dealing with trans-border Corruption and other transnational economic crimes. The Government of Kenya has also enhanced collaboration with other foreign agencies to fight against cross-border corruption. While acknowledging Kenya's limited resources in this regard, the EACC leadership recently confirmed that moving forward. The FBI will work with the Commission to investigate and punish "high-profile" corruption architects (Daily Nation Newspaper of July, 24<sup>th</sup> 2019). On the other hand, Uganda established the Inspectorate of Government (IG) in 1988, which is tasked to fight corruption and other malpractices in government and administer the Leadership Code Act. The Government of Uganda has also enacted many laws to fight corruption, including the PPADA, 2003, Anti-Corruption Act, 2009, Finance and Accountability Act, 2003.

In addition, most studies have looked at corruption from different perspectives. Still, none has looked at corruption from a cross-border point of view and the role of international legal frameworks in the fight against this vice. For instance, Owiny (2009) studied the efficiency of the policy, legal and institutional arrangements for combating graft in Kenya. He found out that the current legal and policies that Kenya has adopted are too weak to contain Corruption in Kenya. His study focused on corruption in general but does not mention anything about trans-border corruption. Karanja (2008) also studied the interface between foreign direct investments and Corruption in Kenya, including legal and institutional issues. He found weak legal and lack of institutional capacities in utilizing these foreign direct investments in Kenya. Although his study discussed the legal framework, it mainly focused on the misuse of Foreign Direct Investments in Kenya, not cross-border corruption.

Besides, Ondieki Alice (2005) analyzed the legal and institutional arrangements for combating graft in Kenya. She concluded that Kenya has a shortage of tight laws to contain the vice of corruption within its territory. Although her study informs this research on the various legal frameworks in fighting Corruption in Kenya, she did not mention anything to do with cross border corruption and how the affected States can deal with it using the international legal frameworks.

The border between Kenya and Uganda as a case study is informed by the fact that Kenya and Uganda are the biggest trading partners in the East African region compared to the other Member States. According to the Business Daily of March 4<sup>th</sup>, 2019, Uganda has been Kenya's top long-standing export market. In the year 2019 alone, Uganda ordered from Kenya, goods worth Kshs. 61.9 billion. Among the goods Uganda imports from Kenya include edible oils, steel, paper, and medicines.

Mombasa's Port strategically serves the States of Uganda, South Sudan, Burundi, Rwanda, northern Tanzania DR Congo, Somalia and Ethiopia. The Port serves a population of over 250 million inhabitants in E.Africa. Most of these goods are transported through the Busia and Malaba Border Posts at the Kenya-Uganda border to their various destination, including Uganda, Rwanda, the Democratic Republic of Congo. This makes the Kenya Uganda border the main avenue for the landlocked States in East and Central Africa to trade with other countries. With this cross-border trade comes the menace of trans-border corruption, mainly orchestrated at the above border points. Given the foregoing and the fact that trans-border Corruption is rising, this study seeks to determine how the existing international legal frameworks have impacted this vice between Kenya and Uganda.



### **1.3 Research Questions**

The following research questions guided this study.

#### **1.3.1 Main Question**

(i) How has the implementation of the existing international legal frameworks impacted trans-border Corruption between Kenya and Uganda?

#### **1.3.2 Specific Questions**

- i. What is the extent to which UN Convention against Corruption is implemented to combat trans-border corruption between Kenya and Uganda?
- ii. How is the AU Convention on Preventing and Combating corruption implemented to combat trans-border corruption between Kenya and Uganda?
- iii. What is the extent to which UN Convention against Transnational Organized Crime implemented to combat trans-border corruption between Kenya and Uganda?

### **1.4 Objectives of the Study**

To answer the above questions, this study sets out the following objectives;

#### **1.4.1 Main Objective**

To Find out how the implementation of existing international legal frameworks impact trans-border Corruption between Kenya and Uganda.

#### **1.4.2 Specific Objectives**

- i) To highlight how the UN Convention against Corruption is implemented to combat trans-border corruption between Kenya and Uganda.
- ii) To analyze the how AU Convention on Preventing and Combating Corruption is implemented to combat trans-border corruption between Kenya and Uganda.

iii) To establish how the UN Convention against Transnational Organized Crime is implemented to combat trans-border corruption between Kenya and Uganda.

### 1.5 Operationalization of the variables

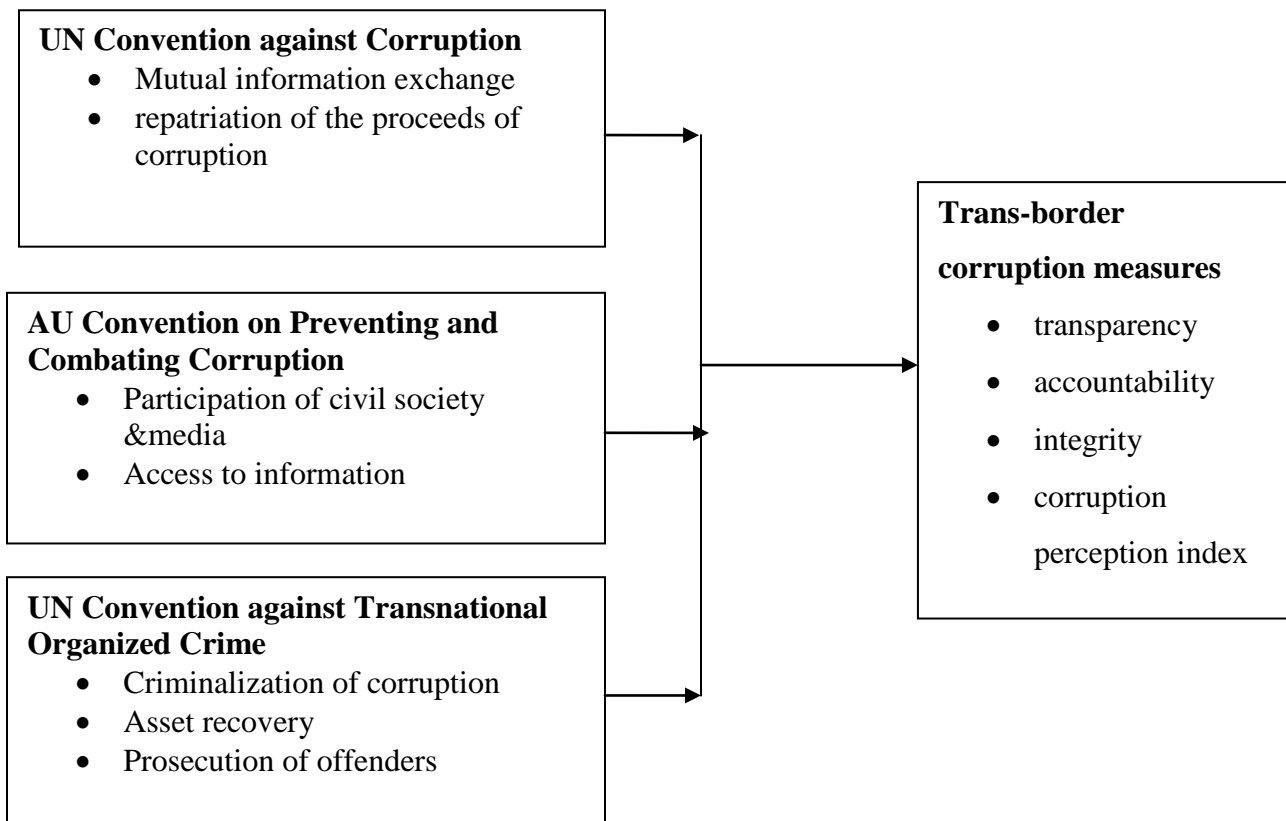
Figure 1.1: Operationalization of the Variables

#### Independent Variables

Implementation of international legal frameworks

#### Dependent variable

Trans-border corruption



Source: Researcher, (2021)

## **1.6 Justification of the Study**

### **1.6.1 Academic Level**

East Africa has several studies done on graft, but all these studies have dwelled on the effects of corruption on the economy. Other studies have focused on how corruption can be fought and contained within a State. Little research and knowledge exist on how trans-border Corruption exists between Kenya and Uganda, such as bribery, money laundering, can be controlled. Therefore, the outcome of this study would be valuable to the students of law, politics, economics, and international studies as it would form a good platform for academic debates, discussions and a basis for further research.

### **1.6.2 Policy Level**

Corruption has continued to impact economies negatively, and various governments have embarked on enacting policy measures and adopting various legal instruments to combat corruption within their territories. In Kenya and Uganda, most of these policies and legal instruments are intended to combat corruption within the territories and not deal with trans-border Corruption. Therefore, it is apparent that gaps exist in the current legal and policy regimes that deal with trans-border Corruption. The output of this study and the recommendations thereof would be useful to various policy makers and law enforcement agencies to fill the identified gaps.

## **1.7 Scope and the Limitations of the Study**

The scope encompasses various acts of trans-border corruption between Kenya and Uganda in the two major border points: Busia and Malaba border points. These acts include bribery, tax evasion, and diversion of transit goods, among others. The study would deal with the agencies in Kenya responsible for creating, adopting, implementing and enforcing the laws. One of the

limitations of this study is the issue of immigration rules. As far as this study was concerned, the right target population and the sample size should represent the two States under discussion. However, the researcher was aware that she could not interrogate various institutions of the Republic of Uganda dealing with trans-border Corruption at the two border points. The researcher nevertheless endeavoured to cure this by using secondary data such as publications, reports, and other relevant documents informing Uganda's trans-border corruption.

The issue of privacy and the anonymity of the respondent also posed a challenge. Given that the problem under investigation was precarious, some critical respondents were unwilling to share relevant information or participate in this study for fear of being quoted. The researcher reassured the respondents that the research was purely academic. This study did not intend to investigate the confessions of those directly involved. Instead, it sought respondents' opinions, perceptions, and attitudes about study topics. The other limitation was that this study targeted high-profile individuals that bear critical information. Finding some of these high-profile individuals was quite challenging. However, the researcher made efforts to reach these individuals to obtain as much information as possible.

### **1.8 Definition of Key Concepts**

According to Joseph Nye (1967), corruption refers to acts of misconduct that direct public resources to satisfy private gains. This study relates to fraud, extortion, bribery, money laundering, and the swindling of public funds.

Trans-border Corruption (also cross-border corruption): According to Barney Warf (2017), transnational crimes contradict the norms of multiple States. These criminal acts may be at their planning stages, at the execution stages, and the impact stages. For this study, it would mean tax

evasion, bribery, money laundering, and the use of unofficial routes to enter or exit goods between the Kenya and Uganda border points.

Tax evasion refers to a deliberate act or omission to pay taxes as required by law. The behaviour is common practice among the ill acquired wealth, and as such, it attracts charges through economic crimes Acts of the laws of Kenya. (Starke & Henrich2017). Money laundering signifies the transfer of illegitimate wealth or monies to an economy by avoiding tax or evading tax altogether. Such money is termed dirty money and can be acquired through corruption means from one nation to another, thus an act of organized crime that is punishable by law (Karanja, 2008).

## **CHAPTER TWO: LITERATURE REVIEW**

### **2.1 Introduction**

This segment considered different scholars who have made landmark writings about the role of international legal frameworks in fighting trans-border Corruption. Whereas the study was not in any way challenging the findings of the said scholars, it served as a review of the ideas about combating trans-border corruption using the international legal frameworks. The approach compared and critiqued different ideas.

#### **2.1.1 Conceptualization of Trans-Border Corruption and the International Legal Frameworks.**

Michael Johnstone (2000) defines trans-border Corruption as theft and conversion of public resources into private gains that specifically happen along various nations' border points. Barney Warf (2016) conceptualizes trans-border corruption as a type of economic crime that surpasses the boundaries of various nationalities and geographies. From the foregoing, it is noteworthy that there is no single or generally accepted definition of trans-border corruption. However, from the above definitions, this study notes that the scholars agree that trans-border corruption refers to corruption that happens across various states' borders.

According to Barney Warf (2016), the legal framework refers to that set of laws that have been put in place in the form of Acts of Parliament, By-Laws or a Country's Constitution or specialized pieces of legislation aimed at containing any form of crime, in this particular case, the crime of trans-border corruption. According to the United Nations, international legal frameworks refer to the international treaties binding on States and create legal obligations to the State Parties.

## **2.2 The Major Causes of Trans-Border Corruption**

According to Bundo and Olivier de Sardan (2006), a lot of research done in the legal framework has always been done by legal experts. They only study the subject under the reductive prism of classical legal exegesis or normative analysis. The operations of the legal system in any country involve a large number of actors. Once some of the actors are not ideologically well-positioned to stick to what the law says, the whole issue of fighting against corruption becomes a circus.

Treisman (2000) notes that, all over the world, corrupt officers usually balance the probable overall costs of a corrupt act. In other words, chances of getting apprehended are often dependent on the country's laws in question. The author further contends that the law protecting private citizens from corrupt officials is different in each country. He stresses that what laws propose and how the said laws are implemented also vary from one State to another. In this author's opinion, corruption tends to be less in States that practice democracy and have a vibrant civil society and press. He also opines that States with high levels of literacy and well-developed economies have lower graft prevalence. Although the author talked so much about corruption, his ideas and conclusions are so relevant in understanding the dynamics of cross-border corruption since, in one way or another, it is an extension of domestic corruption to the external borders of the State.

While discussing the factors that increase corruption at border regions, Marie Chene (2018) notes that geographical dispersion is one factor as officials lack resources and proper observations. They operate in remote, geographically dispersed areas. Closely related to this factor is the border officials with customs powers and enjoy vast unrestricted powers. They often have sole authority to make various essential decisions on the level of duty or taxes and even admissibility of imports and exports in an environment where regulation and accountability are difficult. This sentiment is echoed by the Transparency International Report (2016).

She adds that poor pay, difficult working conditions, and the ease of concealment provide both incentives and opportunities for corruption at the borders. Ades and Tella (1999) argued that there is a high possibility of trans-border corruption interacting with domestic corruption. They opine that internally corrupt countries are more vulnerable to trans-border corruption. Therefore, they suggested that the best way of dealing with domestic corruption and trans-border corruption was to integrate the strategies that aim at reforming the state institutions. This means that all public officials available for rent will be eliminated by the strict reforms. However, the authors fail to appreciate that the ball game with the trans-border corruption is a bit different. It involves the source State and the recipient State, and matters are more complicated if one State is vulnerable politically, economically, institutionally, legally, and culturally.

Michael Johnston (1997) observes that the idea of the globalization of the markets and high levels of development inequalities in the world has contributed significantly to the rise of trans-border corruption. Globalization has its challenges such as the emergence of global interests, capital owners who have decided to do business across the geographies of States, and international crimes that cut across nationalities. He argues that the fusion of all these actors promotes trans-border corruption.

On the other hand, Barney Warf (2016) views trans-border corruption as a reflection of the weak legal regimes in most States. He cites weak immigration rules and a lack of institutional capacities in many States which can contain corruption. Thompson (2004) notes that trans-border corruption in the African continent emerged since the colonial period as part of the colonial legacy, which introduced a few people at the centre having so much power and resources. When African countries finally gained their independence, this practice was carried on by the independent Governments. According to Michael and Moore (2010), unless customs-related rules and procedures are tightened, there is no way that trans-border crimes can be eliminated.



They suggest that States take the following measures to strengthen the legal system in the fight against graft at the border points; identifying all corruption risks, implementing the code of conduct on the officials involved, monitoring and evaluating, and prosecuting all grafts cases.

These views sharply differ from Ferrew, Engelschack, and Mayville (2007), who noted that the domination of customs over the flow of goods promotes corruption in customs administration. Therefore, the authors conclude that tightening the legal framework is not enough to deal with trans-border Corruption. Hence, other human measures such as promoting integrity issues of officers, paying them enough salaries and wages, and sensitizing them against the dangers of trans-border corruption are the way to go.

Whereas the two authors make a lot of sense in their arguments, this study points out that all those measures are good but not enough. Most significantly, in dealing with issues such as poor civic education regarding local regulations, lack of goodwill by law enforcers in implementing anti-corruption laws between Multi-National Corporations, and certain resource imbalances in developing countries are among other factors. Therefore, this study argues that there must be some form of both legal and policy intervention measures that are critical in addressing all these mentioned factors.

Wanyande, Omosa, and Ludeki (2007), view graft in Kenya from a different perspective, which is a function of 'lack of adherence and respect of rules and ethical standards. This is a general attitude in Kenyan society, more so in the public sector. According to these scholars, this is as a result of the government's failure to be accountable to its citizens, which in turn predispose public officials to break the law as the affairs of the State in a democracy is ideally founded, namely; respect for both public service ethics and the rule of law. A closer look at the import of this discourse shows that it is only descriptive of the behaviour but does not analyze the strategic

cause of this behaviour, at least in terms of local elite interests, which this study calls log frames. These log frames have had a notorious tendency to subordinate public interests. Where anti-corruption measures stand in the way of the local elite's interests, they rise to protect the said interests if they had not already factored their interests during policy formulation and enactment. Chapter six (6) of the Constitution of Kenya, 2010 on integrity, is not complied with, yet the wordings of the Constitution are very clear on this issue. This indicates a direct relationship between these log frames and the management of Corruption in Kenya.

### **2.3 The International legal frameworks on the fight against trans-border corruption in East Africa.**

The International legal framework against trans-border corruption in East Africa involves all the agreements, resolutions, and other acceptable instruments across the globe. These are meant to fight graft. The UN Convention Against Corruption, AU Convention on Preventing and Combating Corruption and UN Convention against Transnational Organized Crime among other domestic laws.

#### **The UN Convention against Corruption (UNCAC)**

This is an international anti-corruption treaty adopted by the UN General Assembly in October 2003 and represents a global response to what has become, as already referred to above, a global problem - corruption (Hannes Hechler, 2017). UNCAC represents elaborate legal and institutional guidelines on how member States should fight corruption within their jurisdictions.

**Articles 5** through to **article 42** of the UNCAC gives member states elaborate guidance on preventing and combating corruption within their territories. For instance, **Article 5(2)** of the Convention directs member states to establish and promote effective practices to prevent corruption. **Article 7** thereof encourages state parties to adopt, maintain and strengthen systems

for the recruitment, hiring, retention, promotion, and retirement of civil servants. Chapter four of the UNCAC is dedicated explicitly to guiding member states on international cooperation. **Article 46** elaborately guides member states on mutual legal assistance where there is a need for the extradition of suspects. However, UNCAC only specifically addresses money laundering by giving member States guidelines on deterring the same on trans-border corruption. Consequently, it leaves out many other forms of cross-border corruption.

### **AU Convention on Preventing and Combating Corruption**

This Convention adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003, mirrors the UNCAC. It also gives members State guidelines on handling corruption within their jurisdictions and cooperating on issues regarding mutual legal assistance. The Convention emphasizes access to information and the involvement of civil society and media in the process of observation. The Convention further notes that political parties should be monitored so that proceeds of corruption cannot be used in their funding. The AU allowed the civil society groups to be involved in the Convention drafting hence being conclusive enough in combating Corruption (Marie Chene, 2018)

### **UN Convention against Trans-national Organized Crime.**

This Convention was put forward in 2000 in Palermo Italy. The Convention establishes the need to address organized crime including complex crime. More importantly corruption has been criminalized under this Convention, and public officials are required to comply with regulations against corruption practices. **Article 6** thereof criminalizes laundering of proceeds of crime while **article 7** provides measures to curb money laundering. **Article 8** criminalizes corruption while **article 9** gives measures to deal with corruption, including member states empowering their courts and financial institutions to confiscate and freeze all proceeds acquired through unethical

means as a preventive measure. The Convention applies to the African states, more so East African Nations (Marie Chene, 2018). Despite these treaties, trans-border corruption is still a major problem at the border points, raising the challenge whether these legal frameworks are ineffective or not efficiently implemented in that regard.

**Table 2.1: Summary of the International Legal Framework on the fight against Trans-border graft in East Africa.**

<b>International legal framework</b>	<b>Conditions</b>	<b>Member States</b>
UN Convention against Corruption (UNCAC)	Applicable in EA	UN Member States
AU Convention on Preventing and Combating Corruption	Applicable in EA	African Nations
UN Convention against Trans-national Organized Crime	Applicable in EA	UN Member States

**Source: Researcher, (2020)**

### **2.3.1 Measuring Trans border corruption**

Different parameters indicate corruption prevalence in Africa, including world governance indicators, corruption perception index, Ibrahim index of African governance, and afro barometer. The parameters are significant in shaping investment decisions, foreign policies as well as allocation of aid resources. African nations are more often than not named and shamed in corruption cases. Although different parameters are used to address such cases, addressing corruption issues in Africa is an urgent need that should be considered. The law stipulates that the culprits that give and receive bribes are the most guilty of fueling graft in Africa (ECA and African Union, 2014)

Trans-border Corruption involves different ways of documenting resources that are lost through unethical means and quantifying finances looted from public coffers. However, corruption is more complex than it requires accurate measures to contain it with sufficient resources. Moreover, noble terms such as accountability, accuracy and transparency are significant indicators that tell the existence of minimum or absence of graft in public institutions hence Trans border corruption. Accountability is a prerequisite of integrity that allows citizen participation in voicing a public opinion on ethical issues (Jonathan, 2014).

Transparency depicts openness in government processes and availability of information to the public members as and when they need it. Moreover, access and the right to information informs the principle of transparency in government administrative functions. Transparency in taxation, revenue collection, budget-making process, and procurement procedures are key functions that need to be addressed. Also, more resources and effort should be put in for purposes of information disclosure hence promoting transparency. Accountability involves processes that help in responding to public inquest about government processes that include decision making. More so, enforcement is regarded as an element of accountability that enhances service delivery to citizens when they need it (Fukuda-Parr et al., 2011).

Integrity is defined in two categories: individual and government integrity. Government integrity refers to the efficiency and effectiveness of enforcement of the rule of law in any democratic government in any given state. In this regard, the arms of government, namely judiciary, executive, and legislature, play a big role in mitigating corruption cases, thus upholding integrity. All other government institutions follow suit in enforcing the rule of law. More importantly,, other institutions such as the human rights Commission, Ombudsman, Audit institutions, EACC, Media, and other stakeholders, have a significant role in upholding integrity in their day-to-day

operations. Integrity refers to the conformity of public officials to ethical conduct, at the individual level, obedient to the rule of law and personal responsibility. Personal conduct and public officials' financial disclosure help to enhance high integrity levels (Fukuda-Parr et al., 2011).

## **2.4 Theoretical Framework**

This study is enshrined through the theory of Global Governance. This theory is considered a significant component of exploring *inter alia* collaboration of nations through their institutions (Zaum, 2018). The theory is about control of national border points through the authoritative power of member states that incorporates rules and norms that govern different states. However, in the contemporary world, global authority defines control of national borders. The theory postulates that global convergence drives politics and authority of international borders in a contemporary system, thus deference of mode of operations from the yester years way of doing things. The theory holds that legitimate power in transborder governance is achieved through the collaboration of member states. (Zürn, 2013)

The theory posits that governance institutions have different challenges from the balance of power and authority in different states. National and international players have different ways of handling issues despite the onset of global convergence among them (Zurn, 2018). Zürn (2013) notes that the global convergence of institutions promotes political and epistemic power among states at international borders and beyond. On the other hand, the theory establishes hierarchical systems among institutions that practice public authority. For example, the second segment in the hierarchy of the global convergence system involves such institutions that spearhead global convergence within border points among member states. The institutions play a central role in protecting human dignity and principles. Such institutions include International Accounting

Standards Board (IASB), International Monetary Fund (IMF) as well as United Nations Security Council (UNSC). However, in the same breath, in the process of such institutions exercising their mandate, they create a conflict of interest by undermining their respective host nations' principles.

In the same breath, Global convergence theory has been criticized for its applicability among international institutions. In International Relations, different states have their own laws, principles and policies that govern their national programs. However, international institutions tend to override state power to give directions on national matters, hence a conflict in its applicability in international border points.

This theory is an International Relations theory that was significant in this study in establishing the relationship between implementation of International legal frameworks with trans-border Corruption while at the same time creating a sense of authority by institutions of member states in the East Africa region. In this sense, malpractices and economic crimes such as trans-border Corruption are controlled within the markets in East Africa.

The link between theory and variables is evident when the researcher utilizes global convergence theory to promote the legal instruments used in managing corruption at the Busia- Malaba border points. The study variables include Trans-Border Corruption and the International Legal Frameworks. Therefore, global convergence theory necessitates the collaboration of Kenya and Uganda through cooperation of their institutions to implement International Legal Frameworks to deal with transborder corruption between the two nations. This theory proposes that global convergence determines the politics and authority of international borders in a contemporary system, thus a deference of mode of operations from what and how it used to be there before.

## **2.5 Research Hypothesis**

This study was anchored on the following hypothesis.

- i. Poor implementation of International legal frameworks contributes to the increase in trans-border corruption between Kenya and Uganda
- ii. The existing international legal frameworks are, to a greater extent, irrelevant in addressing trans-border Corruption between Kenya and Uganda.

A research question refers to a specific concern that one will answer through research. It is derived from one's research problem but is based on the study design. A research hypothesis is a predictive statement about the possible outcomes of a study. To predict outcomes, the researcher must have a clear idea of the problem they are studying in terms of a research problem and what they hope to achieve through the research objectives. Therefore, the research hypothesis is also dependent on the research problem while objectives are subject to the topic under investigation.



## **CHAPTER THREE: METHODOLOGY**

### **3.1 Descriptive Design**

The researcher employed a descriptive design in addressing the study objectives. As Kerlinger (1969) states, this type of study aid in fact-finding and creating important principles of knowledge and answers to major problems. The researcher had chosen this design as it enables one to draw concrete conclusions about the respondents. It offers a unique opportunity to examine the life experiences of the respondents and obtain an in-depth view of the research topic. In addition, this design gave the researcher the advantage of observing the phenomenon in its Natural State. In this case, the researcher observed the day-to-day activities at the Malaba and Busia border points and interacted with the respondents. This enabled the researcher to obtain more valuable information that may not have been foreseen.

### **3.2 Methods of Data Collection**

#### **3.2.1 Questionnaires**

The researcher gave out structured questionnaires to the participants. This was intended to offer the researcher empirical information to understand the subject better and collect quantitative information that tests a specific hypothesis. The open-ended questions assisted the participants in giving their valued outlook in a more detailed way. The closed questionnaire collected mostly quantitative information.

#### **3.2.2 Semi-structured Interviews/ Surveys**

The researcher conducted face-to-face and phone call interviews specifically with the legal practitioners, Immigration officers, officers in charge of investigations, and members of society dealing with trans-border Corruption either as policymakers or as policy implementers.

### **3.2.3 Documentary Analysis**

This included books, academic journals, articles, publications, speeches as well as documentaries. The most obvious advantage of using documentary analysis and why the researcher employed it is cost-effective and readily available. Official statistics were also helpful in making comparisons over time and were also the only means to research the past. The researcher primarily considered this combined method because the issue of trans-border corruption can elicit mixed reactions from various respondents, which can be contradictory. The key informants were issued with questionnaires given their sufficient knowledge and understanding of the dynamics of the issue under discussion. Those interviewed are those whom the researcher, in her judgment, perceived to have an in-depth knowledge of cross-border corruption as well as the existing legal frameworks and how it is carried out systematically.

### **3.3 Target Population**

The target population for this study involved the legal officers and investigating officers from EACC and DCI. Others were Immigration Officers at Busia and Malaba border points and residents living at Busia and Malaba Border Points. The researcher conducted face-to-face and phone call interviews specifically with the security officers and legal officers in charge of investigations. All of whom are in charge of dealing with trans-border Corruption either as policymakers or as policy implementers. Questionnaires were distributed to the remaining population. The target population of this study was 100 respondents.

### **3.4 Sample Size**

The research had a sample size of 50 respondents of the target population. This figure represents 50% of the target population. The researcher interviewed at least 15 respondents and distributed the questionnaires to the remaining 35 respondents. There were legal practitioners, Law

Enforcement Officers (officers drawn from the DCI, the ODPP, the EACC, and the Immigration Department), and civil servants business persons from Busia and Malaba Border Points. This comprised a sample of 50 respondents. Out of the sample size of 50 respondents, at least 17 respondents were of either gender, in line with the constitutional requirement of 1/3 gender rule. These helped in giving information relating to policymaking and implementation.

### **3.5 Sampling Design**

Stratified sampling divides the researcher's target population into standardized subgroups to ensure equal representation (Kisilu and Tromp, 2006). The purpose of employing this technique is to group a population into homogeneous subsets to ensure balanced representation. However, if not carefully stratified, bias may occur, resulting in some subgroups being unrepresented.

### **3.6 Data Analysis**

#### **3.6.1 Validity**

The typical process of finding out the content validity of a measure is to use an expert in the field of study who assist in the shaping of questions in terms of wording and the sequencing problems before the actual study, generally improving the quality of the study (Collis & Hussey, 2013)

##### **3.6.1.1 Construct Validity**

This is considered the most important form of validity (Mislevy (2007)). Its application can be achieved by involving experts closely familiar with the field of study (Messick (1989) The researcher connected the theory and measurements.

### **3.6.1.2 Internal Validity**

The researcher ensured internal validity by engaging the random selection of participants to represent the target population. The researcher was guided by objectivity to avoid bias in the outcome of the findings.

### **3.6.1.3 External Validity**

To improve the study's external validity, the researcher endeavoured to ensure good relations among study variables found in the experiment can be generalized. The outcome of the research applies to practical situations.

### **3.6.1.4 Methods of Data Analysis**

Since this study is both qualitative and quantitative, content analysis was used to analyze qualitative data. Content analysis is a method used to make replicable and valid inferences by interpreting and coding textual material. Data sources included books, law journals, public records and statistics, historical documents, magazines, and newspapers in content analysis. Data from existing statistics were analyzed and, together with the interview responses, concluded the subject matter. Quantitative data, on the one hand, was analyzed using descriptive statistics. Descriptive statistics are intended to provide a summary of the samples and the measures done on a study. On the other hand, it also refers to the use of measures of dispersion such as the range, quartile deviation, standard deviation and variance to describe a group of subjects. Measures of central tendencies generally describe how close a measure or a variable is to the central measure or variable.

### **3.6.1.5 Ethical Considerations**

#### **Informed Consent**

The major ethical problems in this study are getting consent from the respondents, maintaining a high level of privacy in the conversation with the respondents, and maintaining the levels of confidentiality with each respondent. The researcher gave out an explanatory letter from the University that assured the respondent of their responses and confidentiality. The same would only be used for the academic purpose stated. Participation in the study was entirely voluntary, and respondents were not coerced to participate in the research under any circumstance whatsoever.

#### **Confidentiality**

The study was able to freely engage with all the officers in relevant security and anti-corruption agencies tasked with specifically dealing with trans-border Corruption. This study aims to improve the war against trans-border corruption for the good of all Kenyans and beyond. However, this was a challenge because most officers were not comfortable discussing anti-corruption matters with the public. The researcher guaranteed the respondents of their confidentiality for participating in the study.

#### **The Openness of the Research**

The researcher focused on the participants in the study voluntarily. The study was also open to the public members within the study context who were willing to participate in the process and obtain divergent views intended for this study.

#### **Permissions**

Finally, to promote transparency and identification, which is part of ethical considerations, the researcher armed herself with her national identity card, student ID card for identification; in addition to these, the researcher also had an introductory letter from the University.

### **3.7 Organization of the Study**

This study was organized into five chapters. Chapter one deals with the introduction of the study. It covers the background of the study, statement of the research problem, research questions and objectives of the study, justification of the study, scope and limitations of the study, literature review, definition of terms, and key concepts, among others, research hypothesis, theoretical framework.

Chapter two was concerned with the concept of trans-border corruption. It mainly dealt with its causes, explained the types, how it is executed, and the effects it has had on the socio-economic development of the States involved, in this case, Kenya and Uganda.

Chapter three looked at the methodology employed by the researcher to collect data. This include study design, methods of data collection as well as methods of data analysis.

Chapter four was comprised of data presentation and data analysis. Data was presented in the form of tables, graphs, pie-charts as well as script narration. Data were analyzed through the convergent method and script narration. This is where the use of interpretation and giving of meaning to key quantitative data was done.

Chapter five covered a summary of the study, gave critical findings of the study, and a discussed those findings together with a conclusion. Finally, the chapter offered the recommendations of this study.

## CHAPTER FOUR: DATA ANALYSIS AND INTERPRETATION

### 4.1 Introduction

This researcher purposed to determine how existing international legal frameworks impact trans-border Corruption between Kenya and Uganda.

### 4.2 Response Rate

There were 50 questionnaires issued to the participants, but 32 were filled and returned for analysis. This, therefore, represented 64% of the response rate in the study being adequate.

### 4.3 Reliability Analysis

The researcher conducted a reliability analysis to analyze how the research instrument was consistent in testing what it sought to test. The findings are presented in table 4.1 below.

**Table 4.1: Test Reliability**

<b>Variable</b>	<b>Number of Items</b>	<b>Cronbach's Alpha</b>
<b>UN Convention against Corruption</b> There exists Mutual exchange of legal information between Kenya and Uganda	6	.782
Both countries exercise repatriation of the proceeds of corruption in their jurisdictions	6	.777
<b>AU Convention on Preventing and Combating Corruption</b> Participation of civil society & media is allowed at the border in investigating cross border corruption	6	.872
Access to information between the two	6	.690

countries is mutual		
<b>UN Convention against Transnational Organized Crime</b> Criminalization of Corruption has been done in both countries	6	.659
Asset recovery is exercised upon conviction of trans border corruption offenders	6	.702
Existence of transparent operations at the border.	4	.681
Improved accountability of government officials at the border point	4	.644
Existence of integrity among institutions at the border point.	4	.724
Enhanced corruption perception index among the citizens at the border point	4	.711

The feedback in table 4.1 demonstrate high-reliability scores for all the variables except for international regulations. However, the reliability score for international regulations was above the minimum threshold for acceptance. Although Nunnally (1967) recommends Cronbach's alpha coefficient of 0.7 a bench mark for reliability, Davis (1964) opined that 0.5 as the minimum value of coefficient reliability . The study adopted a cut-off point of 0.5 as an indicator for reliable data. African Union Convention on Preventing and Combating Corruption through Participation of civil society and media is allowed at the border in investigating cross border corruption had the highest reliability "coefficient of 0.872. UNCATOC through Criminalization of Corruption in both countries had the lowest value of Cronbach's alpha coefficient of 0.654 but still considered reliable in the study. The results of reliability coefficient scores compare well with previous studies.

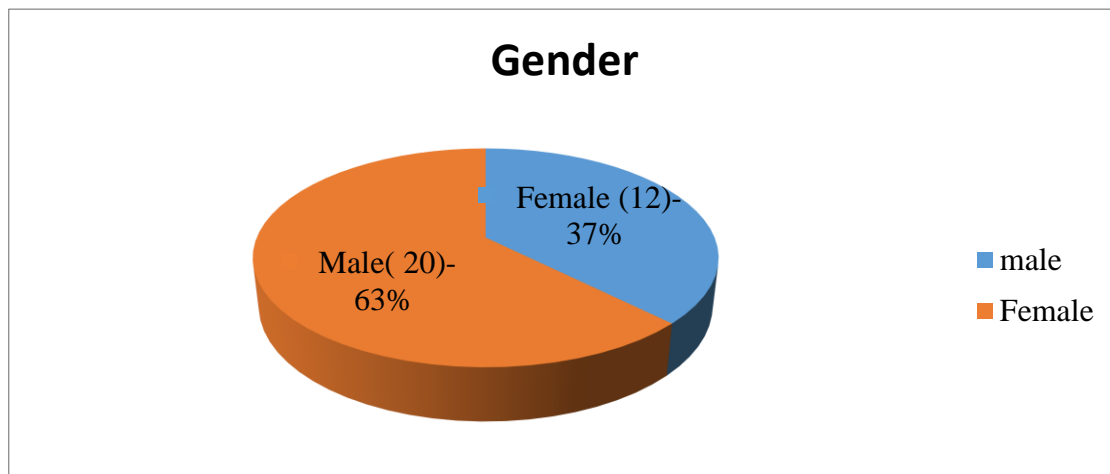


## 4.4 Demographic Characteristics

### 4.4.1 Gender

The study sought to determine the participants's gender composition that was involved in the study.

**Figure 4.1: Gender**



The output in figure 4.1 indicated that 20 (63%) of the participants reported being male while 12 (37%) reported being female. Therefore, the majority of the participants were male. This revealed that more men work at both Busia and Malaba border points than women.

### 4.4.2 Age of the participants

The study sought to establish the age of the participants.

**Table 4.2: Age of the participants**

	Frequency	Valid Percent	Cumulative Percent
Below 30 Years	7	21.8	21.8
31-40 Years	12	37.5	59.3
41-50 Years	9	28.2	87.5
Above 50 Years	4	12.5	100.0
<b>Total</b>	<b>32</b>	<b>100.0</b>	

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From the output in table 4.2 above, the majority of the participants, 12 (37.5%), reported being aged between 31 – 40 years; 9 (28.2%) of the participants reported to be aged between 41-50 years, 7 (28.1%) of the participants were below 30 years of age, while 4 (12.5%) reported being above 50 years of age. This indicates that most participants were mature enough to give reliable information sought by the researcher.

#### 4.4.3 Occupation of the participants

**Table 4.3: Occupation of the participants**

	<b>F</b>	<b>Valid %</b>	<b>Cumulative %</b>
Business person	2	6.2	6.2
Civil servant	4	12.5	18.8
Legal practitioner	12	37.5	56.2
Law enforcement officer	14	43.8	100
<b>Total</b>	<b>32</b>	<b>100.0</b>	

Feedback indicates that most 14 (43.8%) of the participants were law enforcers at the Busia and Malaba border points, 12 (37.5%) of the respondents reported that they were legal practitioners, 4 (12.5%) of the respondents were civil servants. In comparison, only 2 (6.2%) of the respondents reported being business persons at the Busia and Malaba border points. This revealed that most of the participants were law enforcers who offered relevant information sought by the researcher. This indicated that most of the respondents had great knowledge and information on the research area, thus reliability of their information.

#### 4.4.4 Education Background

The study sought to figure out the educational background of the participants. This question was necessary for the researcher to understand the literacy level of the participants for the reliability of the information given. The table below shows the findings against the question.

**Table 4.4: Education**

	<b>F</b>	<b>Valid %</b>	<b>Cumulative %</b>
Secondary – O-level	4	12.5	12.5
College – Diploma	14	43.8	56.3
Undergraduate Degree	11	34.5	90.8
Post graduate Degree	3	9.2	100.0
<b>Total</b>	<b>32</b>	<b>100.0</b>	

Output in Table 4.4 indicated that most 14 (43.8%) of the participants had college diplomas, 11 (34.5%) reported to have university degrees, 4 (12.5%) of the participants reported being secondary-O-level education. In comparison, 3 (9.2%) were postgraduate degree holders. This indicated that most of the participants were educated enough to offer credible information sought by this study.

#### 4.4.5 Work Experience

The researcher investigated how long the participants have been working at their various institutions. This information was necessary for the researcher to understand the respondents' work experience to gauge their knowledge on the subject of the study.

**Table 4.5: Work Experience**

	<b>F</b>	<b>Valid %</b>	<b>Cumulative %</b>
6-10 Years	8	25.0	25.0
11-15 Years	6	18.8	43.8
16-20 Years	14	43.7	87.5
Above 20 Years	4	12.5	100.0
Total	32	100.0	

Feedback in table 4.3 indicated that 14 (43.7%) of the participants had work experience of 6 – 20 years, 8 (25.0%) of the participants had work experience of 6 – 10 years. 6(18.8%) of the respondents reported having work experience of 11-15years, while 4 (12.5%) of the staff members in respective institutions had over 20 years of work experience in their respective institutions based at Busia- Malaba border posts. This shows that most participants had enough experience working within their institutions at the border offered reliable information needed for this study.

**Table 4.6: Extent to which International Legal Frameworks have been implemented**

<b>INTERNATIONAL LEGAL FRAMEWORKS</b>	<b>Mean</b>	<b>Std. Dev.</b>
<b>UN Convention against Corruption</b> There is Mutual legal information exchange between Kenya and Uganda.	3.42	1.467
Both countries exercise repatriation of the proceeds of corruption in their jurisdictions	3.93	1.163
<b>Aggregate mean</b>	<b>3.675</b>	<b>1.315</b>
<b>AU Convention on Preventing and Combating Corruption</b> Participation of civil society and media is allowed at the border in		

investigating cross border corruption	4.20	0.862
Access to information between the two countries is mutual	3.62	0.609
<b>Aggregate mean</b>	<b>3.91</b>	<b>0.7355</b>
<b>UN Convention against Transnational Organized Crime</b>		
Criminalization of graft has been done in both countries	2.84	0.931
Asset recovery is exercised upon conviction of trans border corruption offenders	2.00	0.672
<b>Aggregate</b>	<b>2.42</b>	<b>0.8015</b>

Feedback in table 4.5 above show that most respondents reported that AUCPCC was implemented through participation of NGOs. The media can investigate cross-border corruption and mutual accessibility of information between the two countries at the Busia and Malaba border points at a great extent with an aggregate mean ( $M = 3.91$ ;  $SD = 0.7355$ ). Other respondents also reported that the United Nations Convention against Corruption through mutual legal information exchange between Kenya and Uganda and both countries exercising repatriation of the proceeds of corruption in their jurisdictions was implemented at a great extent with an aggregate mean ( $M = 3.675$ ;  $SD = 1.315$ ). However, some respondents reported that the UNCATOC through Criminalization of Corruption had been done in both countries. Asset recovery being exercised upon conviction of Transborder corruption offenders was implemented at a small extent with an aggregate mean of ( $M = 2.42$ ;  $SD = 0.8015$ ).

The findings were in collaboration with the existing literature. AU Convention on Preventing and Combating corruption, adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003, mirrors the UNCAC. The Convention emphasizes access to information and the involvement of civil society and media in the process of observation. The Convention further notes that political parties should be monitored so that proceeds of corruption cannot be used in their funding. The AU allowed the civil society groups to be involved in the drafting of the Convention hence being conclusive enough in combating Corruption (Marie Chene, 2018)

On the other hand, the UN Convention against Corruption (UNCAC) represents a global response to what has become, as already referred to above, a global problem- corruption (Hannes Hechler, 2017). The UNCAC provides elaborate legal and institutional guidelines on how member States should fight corruption within their jurisdictions. It also gives guidance on how member states should cooperate in terms of mutual legal assistance where there is a need for the extradition of suspects.

#### **4.6 Extent of Implementation of International Legal Frameworks in Combating Trans-Border Corruption between Kenya and Uganda.**

The researcher sought to establish how UN Convention against Corruption, AU Convention on Preventing and Combating Corruption, and UN Convention against Transnational Organized Crime combat trans-border corruption between Kenya and Uganda.

##### **4.6.1 Regression Analysis**

Regression analysis was conducted in the study to establish the relationship between independent variables and the dependent variable.

#### 4.6.2 Strength of the Model

Table 4.7 below depicts regression analysis

**Table 4.7: Model Summary b**

<b>Model</b>	<b>R</b>	<b>R. Square</b>	<b>Adjusted R Square</b>	<b>Std. Error of the Estimate</b>
1	.828	.686	.560	.336

- a. Predictors: (Constant), UN Convention against Corruption, AU Convention on Preventing and Combating Corruption, UN Convention against Transnational Organized Crime.
- b. Dependent variable: Improved accountability of government officials at the border point

Feedback in table 4.7 established coefficient of determination  $R^2$  is 0.686 indicating that the model explained 69% of variations in trans-border corruption measures between Kenya and Uganda. It also shows that UN Convention against Corruption, AU Convention on Preventing and Combating Corruption, UN Convention against Transnational Organized Crime explained 69% of the trans-border corruption measures between Kenya and Uganda at the Busia, and Malaba border points.

**Table 4.8: ANOVA**

Model	Sum of Squares	Df	Mean Square	F	Sig.
1 Regression	2.469	4	.617	5.458	.014 <sup>b</sup>
Residual	1.131	10	.113		
Total	3.600	14			

a. Dependent Variable: Improved accountability of government officials at the border point.

b. Predictors: (Constant), UN Convention against Corruption, AU Convention on Preventing and Combating Corruption, UN Convention against Transnational Organized Crime.

Output in table 4.9 revealed that the model utilized by the researcher was statistically relevant with a P-Value of 0.014, which is less than 5%.



**Table 4.9: Coefficients**

**Coefficients<sup>a</sup>**

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	3.739	1.246		3.001	.012
1 United Nations Convention against Corruption	.446	.273	.537	1.634	.131
African Union Convention on Preventing and Combating Corruption	-.413	.335	-.327	-1.231	.244
United Nations Convention against Transnational Organized Crime.	.174	.174	.305	.997	.340

a. Dependent Variable: Improved accountability of government officials at the border point

The model used is displayed as follows :  $Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + e$

Where Y = Combating Trans-border corruption measures

$B_0$  = Constant

$B_1, B_2, B_3, B_4$  = Regression Coefficients

$X_1$  = UN Convention against Corruption,

$X_2 = \text{AU Convention on Preventing and Combating Corruption}$

$X_3 = \text{UN Convention against Transnational Organized Crime}$

The findings of the study on table 4.6 established that;

$Y = \text{Trans-border corruption measures.}$

$= 3.739 + 0.446 \text{ UN Convention against Corruption} - 0.413 \text{ AU Convention on Preventing and Combating Corruption} + 0.174 \text{ UN Convention against Transnational Organized Crime} + e$

The regression model noted that when a unit changes in UN Convention against Corruption leads to a 0.446 unit increase of Trans-border corruption measures at the Busia-Malaba border points. A unit change in AU Convention on Preventing and Combating Corruption leads to a - 0.413 unit decrease in Trans-border corruption measures at the Busia-Malaba border points. A unit change in UN Convention against Transnational Organized Crime leads to 0.174 units increase in Trans-border corruption measures at the Busia- Malaba border points. The findings revealed that there existed both positive and negative relationships among the study variables.

The findings were in collaboration with the existing literature. Measurement of trans-border corruption involves different ways of documenting lost resources through unethical means and quantifying finances that are looted from public coffers. However, corruption is more complex than it requires accurate measures to contain it with sufficient resources. Moreover, noble terms such as accountability accuracy and transparency are major indicators that indicate minimum or absence of graft in public institutions hence measuring trans-border corruption. Accountability is a prerequisite of integrity that allows citizen participation in voicing a public opinion on ethical issues (Jonathan, 2014).

Transparency depicts openness in government processes and availability of information to the public as and when they need it. Moreover, access to and the right to information enlighten the principle of transparency in government administrative functions. Transparency in taxation, revenue collection, budget-making process, and procurement procedures are key functions that need to be addressed. Also, more resources and effort should be put in place for information disclosure purposes (Fukuda-Parr et al., 2011). Accountability involves processes that help in responding to public inquest about government processes that include decision making. Enforcement is regarded as an element of accountability that enhances service delivery to citizens when needed (Fukuda-Parr et al., 2011).

Regarding the interviewee's understanding of trans-border corruption and naming some forms or examples of trans-border corruption between Kenya and Uganda, most respondents revealed that corruption involved giving and receiving bribes by individuals for their own benefit. This, at the same time, deprived others of the intended opportunities. Other respondents said that corruption at the border involved issuing bribes to government officials to smuggle goods between Kenya and Uganda. One respondent lamented that corruption meant nonpayment of tax to the government when it was necessary to do so. Also, most of the participants noted that bribes and tax evasion were the common types of corruption at the Busia Malaba border points. Also, most respondents indicated that greed and the urge to get rich quickly were the leading cause of corruption at the border point.

Other respondents reported that most of corruption activities are practiced by transit goods drivers ,who either transport mixed goods or petroleum products from Kenya to other nations such as Uganda ,Tanzania,Rwanda and Burundi. The participants noted that the government officials receive bribes so as to allow illegal goods or goods that surpass legal tonnage at the

weighing bridge. At the same time the participants revealed the transporters evade to pay the required road toll fee as required by law but rather bribe the KRA and immigration officials hence facilitating to transit to their destination. This was in collaboration with the existing literature.

Regarding policy loopholes in the immigration department that enable perpetrators of trans-border corruption between Kenya and Uganda to execute their illicit business, most respondents were unaware of any such issues at the border point. Concerning the Governments of Kenya and Uganda being committed enough to dealing with the vice of trans-border corruption at the border points between the two States, most of the participants reported that the two governments were committed to fighting corruption. However, some respondents said they were not aware of any commitment initiated by the Ugandan government in fighting graft, thus being consistent with the existing literature.

There is no State immune to cross-border corruption. Studies have shown that cross-border corruption is highly minimized once a State has strong institutions and a proper legal framework (Heidenheimer, 2017). The main argument is that strong institutions and relevant legal frameworks from democratic governance correlate strongly with effective accountability systems needed to counter cross-border corruption. Governance institutions play a key role in fighting corruption by enforcing rules and regulations, anti-corruption laws and good practices. This helps to enhance transparency and accountability of processes (Chêne, 2018).

Concerning the main challenges of the existing international legal instruments containing trans-border Corruption between Kenya and Uganda, the respondents indicated that the lack of government officials' awareness of such legal instruments at the border points was the main impediment to their implementation.

Other business persons revealed that they were not conversant with such legal instruments in their day-to-day activities at the Busia and Malaba border points. One of the respondents noted that one common feature at the border point was truck drivers being harassed by the Ugandan officials at the border points based on COVID 19 re-testing procedures, thus causing major traffic jams in Busia and Malaba towns. He cited a lack of trust among the two nations in implementing any legal agreement to fighting corruption.

On the role of the following institutions as far as the war against trans-border corruption between Kenya and Uganda is concerned, Directorate of Public Prosecution; Ethics and Anti-Corruption Commission, Directorate of Criminal Investigations, Immigration department, National Intelligence Service, and the Judiciary; most participants indicated that EACC was the only institution mandated to fight graft in Kenya. As such, it was not doing enough citing a lack of personnel at the border points. Some respondents revealed that all those institutions work interdependently. Thus it was difficult for them to tell specifically their role in fighting graft at border points at the individual level. Two participants noted that the institutions mentioned were the main perpetrators of trans-border corruption at the border points, thus aggravating the situation.

Concerning what needs to be done to sufficiently contain trans-border corruption at the Busia and Malaba Border Points. Most of the participants noted that the government should prosecute all officials culpable of corruption. Also, other participants reported that the national and county governments should establish youth's economic support programs at the border points. This should include offering affordable credit to youth groups that will facilitate them to start and sustain small businesses, thus minimizing their chances of smuggling at the border points. Also, other respondents indicated that stringent penalties, including asset recovery should be put in place to punish all perpetrators of corruption at the border points from both countries through a

mutual collaboration framework. Some participants noted that the general public should be open to reporting all corruption cases and must be protected through witness protection programs in both countries.

The findings are in agreement with the existing literature. Michael Johnston (1997) observes that the idea of the globalization of the markets and high levels of development inequalities in the world has contributed significantly to the rise of trans-border corruption. Globalization has got its challenges, such as the emergence of global interests, capital owners who have decided to do business across the geographies of States, and international crimes that cut across nationalities. He argues that the fusion of all these actors promotes trans-border corruption.

## **CHAPTER FIVE: SUMMARY, CONCLUSION, AND RECOMMENDATIONS**

### **5.1 Introduction**

This part covers summary of feedback, conclusions drawn as well as recommendations. It also highlights the considerations for further studies as well as study limitations.

### **5.2 Summary of the Study Findings**

The researcher envisaged establishing how existing international legal frameworks impact trans-border corruption between Kenya and Uganda. The study considered UN Convention against Corruption, AU Convention on Preventing and Combating Corruption, and UN Convention against Transnational Organized Crime in combating trans-border Corruption between Kenya and Uganda as key variables.

The output in figure 4.1 indicated that 20 (63%) of the respondents reported being male while 12 (37%) reported being female. Therefore, the majority of the respondents were male. This revealed that more men work at both Busia and Malaba border points compared to women. Feedback in Table 4.3 indicated that most 14 (43.7%) of participants had work experience of 6 – 20 years. 8 (25.0%) of the respondents reported having work experience of 6 – 10 years. 6 (18.8%) of the respondents reported having work experience of 11-15years, while 4 (12.5%) of the respondents had over 20 years of work experience in their respective institutions based at Busia- Malaba border posts. This indicates that most of the participants had enough experience working within their respective institutions at the border offered reliable information needed for this study.

Concerning the extent to which international legal frameworks have been implemented, the research output revealed that most of the respondents reported how AU Convention on Preventing and Combating corruption was implemented through participation of civil society and media is allowed at the border in investigating cross border corruption and mutual accessibility of information between the two countries at the Busia and Malaba border points at a great extent with an aggregate mean ( $M = 3.91$ ;  $SD = 0.7355$ ).

Other respondents also reported the UN Convention against Corruption through mutual legal information exchange between Kenya and Uganda. Both countries exercising repatriation of the proceeds of corruption in their jurisdictions were implemented greatly with an aggregate mean ( $M = 3.675$ ;  $SD = 1.315$ ). However, some respondents reported that the UN Convention against Transnational Organized Crime through the criminalization of graft had been done in both countries, and asset recovery being exercised upon conviction of Transborder corruption offenders was implemented at a small extent with an aggregate mean of ( $M = 2.42$ ;  $SD = 0.8015$ ).

The findings were in collaboration with the existing literature. African Union Convention on Preventing and Combating corruption, adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003, mirrors the UNCAC. It also gives members State guidelines on handling corruption within their jurisdictions and cooperating on issues regarding mutual legal assistance (Hannes Hechler, 2017). The Convention emphasizes access to information and involvement of civil society and media in the observation process. The Convention further notes that political parties should be monitored so that proceeds of corruption cannot be used in their funding. The AU allowed the civil society groups to draft the Convention, hence being conclusive enough in combating Corruption (Marie Chene, 2018).



### **5.3 Conclusion**

In conclusion, there existed a positive and negative relationship between the study variables. The study concludes that UN Convention against Corruption and AU Convention on Preventing and Combating Corruption was significantly implemented. In contrast UN Convention against Transnational Organized Crime has been implemented to a small extent hence the need for its improvement at the Busia Malaba border points. In this regard, Kenya Uganda should consider implementing UN Convention against Transnational Organized Crime in their internal control processes to enhance their chances of Combating corruption in their respective border points.

The study indicated that the regression model employed was very significant, thus fitting to test the study variables as expected. However, the study findings established that implementation of the Convention emphasizes access to information. In that regard, civil society and media involvement in the observation process should be emphasized at the border points to enhance high levels of accountability of all operations of government institutions stationed at the border points.

### **5.4 Recommendations from the study**

The researcher recommended that Business persons, Civil servants, legal and law enforcement officers at the Kenya Uganda border points, among others, undergo more joint training on the various existing international legal frameworks and how the same can be implemented to combat corruption at the border points. More importantly, routine performance assessment should be established on periodic levels, for instance, bi-annually. Maintenance and system upgrades should be encouraged periodically to enhance their relevance and accountability in their professions. The study recommends that staff appraisal on national laws and international legal frameworks be encouraged regularly at all border points between Kenya and Uganda, among

other neighbouring countries. This will encourage employees at the border points to be more aware of the impact of corruption hence the need to be ethical in their conduct and help minimize trans-border corruption between the two countries.

The study recommends that proper surveillance measures be implemented at both border points in Kenya and Uganda. CCTV cameras will be used to capture every activity at the border points, thus enhancing transparency. Information sharing mechanisms should be availed at both border points such that there should be prompt reporting among key stakeholders on issues relating to transborder corruption. Futhermore the study recommends that stringent penalties should be enforced through legislation in both countries such that the corruption becomes an expensive and costly vice for it to be practiced.

### **5.5 Limitations of the Study**

Participants in the study were very reluctant to participate, citing busy schedules at their workstations. This proved challenging to the researcher and, as such, caused delays in filling the questionnaires. The researcher repeatedly reminded the respondents to fill the questionnaires, thus causing further delays in the analysis process. Significantly few participants were willing to be interviewed, citing fear of the unknown. Furthermore, due to COVID 19 Protocols issued by the government, people were restricted at Busia and Malaba border points, thus limiting the chances of many respondents participating in the study.

Moreover, some participants cited that the information was investigative and could implicate them in the future, thus delaying filling the questionnaires and refusing to be interviewed. Under the circumstance, the researcher consulted widely and convinced them that the study was only for academic use, hence taking more time to collect data, thus delaying analyzing the data.

## **5.6 Suggestions for Further Study**

Future studies should be conducted in all other border points in the country and her neighbours. A comparative analysis of the study topic and conclusions could be made for future government corruption issues. This is because such institutions also serve the public's interest. Thus, trans-border Corruption is of great concern to all stakeholders. Given that Kenya has a devolved system of government, a replica of the current study topic should be made by future researchers concerning county governments as the study context. This will help enrich the literature on international legal frameworks and how it impacts economic development on counties in Kenya. This will further create a comparison of study findings that help improve on corruption issues in the counties. The study further suggests that future researchers should also expand on the study context of the current study to incorporate Non-Governmental Organizations in the country.

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## APPENDICES

### APPENDIX I : QUESTIONNAIRE

The questionnaire was drafted to facilitate the researcher in obtaining relevant data in the process of conducting her research entitled "*The implementation of international Legal Frameworks in the fight against Trans-Border Corruption between Kenya and Uganda: the Case of Busia and Malaba Border Points*"

Kindly assist the researcher in this exercise which is part of the fulfillment of the award of the Degree of MA in International Relations of the UoN. The answers given in this questionnaire will strictly be used for academic purposes only and not for any other purpose. Kindly do not write your name anywhere on this questionnaire.

#### SECTION A: DEMOGRAPHIC INFORMATION OF THE RESPONDENTS

Please read the information provided below and tick against the statement that you agree with or give your views in the provided spaces. Do not leave any contacts or your names on the questionnaire. Privacy and confidentiality is of essence. Kindly tick (✓) where appropriate

Gender                      M        [ ]              F              [ ]

#### 2. Age

Below 30 Years    [ ]    31-40 Years    [ ]    41-50 Years    [ ]    Above 50 Years    [ ]

#### 3. Education

(i)    Secondary – O-level                      [ ]

(ii)    College – Diploma                      [ ]

(iii)    Undergraduate                      [ ]

(iv)    Post graduate                      [ ]

4. What is your occupation?

- (i) Business person [ ]
- (ii) Civil servant [ ]
- (iii) Legal practitioner [ ]
- (iv) Law enforcement officer [ ]

4. How many years have you been working with your current employer?

0-5 [ ] 6- 10Years [ ] 11-15Years [ ] [ ] 16-20 Years [ ] Above 20 Years [ ]

5. What is your level of working experience?

- (i) Between 1 – 5 years [ ]
- (ii) Between 6 – 10 years [ ]
- (iii) Between 1 – 15 years [ ]
- (iv) Between 16-20 years [ ]
- (v) Above 20 years [ ]

**Section II: Extent of implementation of UN Convention against Corruption, AU Convention on Preventing and Combating Corruption and UN Convention against Transnational Organized Crime to combat trans-border corruption between Kenya and Uganda.**

Kindly indicate to what extent the following international legal frameworks have been implemented to combat trans-border corruption between Kenya and Uganda. Using a Likert Scale of 1 – 5

<b>INTERNATIONAL LEGAL FRAMEWORKS</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>UN Convention against Corruption</b> There is Mutual legal information exchange between Kenya and Uganda.					



Both countries exercise repatriation of the proceeds of corruption in their jurisdictions.					
<p><b>AU Convention on Preventing and Combating Corruption</b></p> <p>Participation of civil society &amp; media is allowed at the border in investigating cross border corruption</p> <p>Access to information between the two countries is mutual</p>					
<p><b>UN Convention against Transnational Organized Crime</b></p> <p>Criminalization of Corruption has been done in both countries</p> <p>Asset recovery is exercised upon conviction of trans border corruption offenders</p> <p>Prosecution of offenders is mutually done between the two countries.</p>					

**Section III: The extent to which the implementation of existing international legal frameworks impact trans-border corruption between Kenya and Uganda.**

To what extent has implementation of UN Convention against Corruption, AU Convention on Preventing and Combating Corruption, and UN Convention against Transnational Organized Crime impacted on trans-border Corruption between Kenya and Uganda?

Using a Likert Scale of 1 – 5

<b>Trans-border cooption measure</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Existence of transparent operations at the border.					
Improved accountability of government officials at the border point.					
Existence of integrity among institutions at the border point.					
Enhanced corruption perception index among the citizens at the border point.					

## **APPENDIX II: INTERVIEW GUIDE**

1. How do you understand the term trans-border corruption?
2. Name some forms or examples of trans-border corruption between Kenya and Uganda that you know of that are perpetrated at the border points between these two States
3. In your view what causes individuals to engage in these acts of trans-border corruption?
4. Are there any policy loopholes in the immigration department that enables the perpetrators of trans-border corruption between Kenya and Uganda to execute their illicit business?
5. Do you think the Governments of Kenya and Uganda have been committed enough in dealing with the vice of trans-border corruption at the border points between the two States?
6. What are the main challenges of the existing international legal instruments in containing trans-border Corruption between Kenya and Uganda?
7. What can you say about the following institutions as far as the war against trans-border corruption between Kenya and Uganda is concerned?

A, Directorate of Public Prosecutions

B, EACC

C, Directorate of Criminal Investigations

D, Immigration department

E, National Intelligence Service

F, the Judiciary

8. In your view what needs to be done in order to sufficiently contain trans-border corruption at the Busia and Malaba Border Points?

9. In your view what role can the general public play in fighting corruption at the Busia and Malaba Border Points?

**THANK YOU FOR YOUR PARTICIPATION.**