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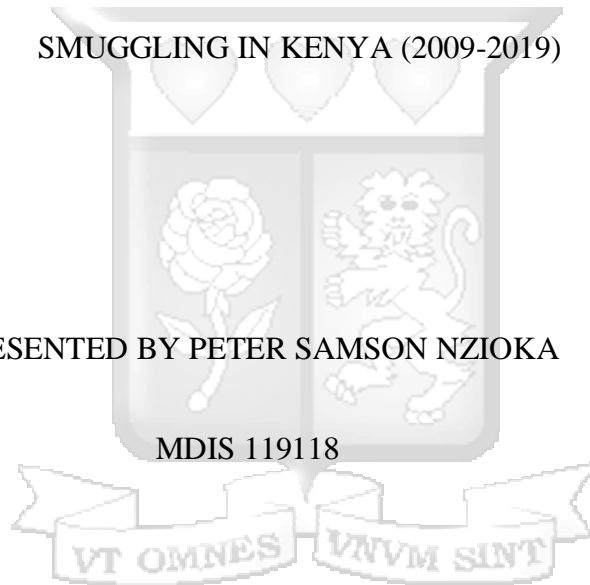
MASTER OF ARTS IN DIPLOMACY, INTELLIGENCE AND SECURITY

NATIONAL SECURITY IMPLICATIONS OF HUMAN TRAFFICKING AND MIGRANT

SMUGGLING IN KENYA (2009-2019)

PRESENTED BY PETER SAMSON NZIOKA

MDIS 119118



A Thesis Submitted in Partial Fulfillment of the Requirements for the Award of a Master of Arts Degree in Diplomacy, Intelligence and Security at the School of Humanities and Social Sciences, Strathmore University

2020

Declaration

I declare that this work has not been previously submitted and approved for the award of a degree by this or any other University. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made in the thesis itself.

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12TH October, 2021

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DEDICATION

I dedicate this dissertation to my wife Agnes, my sons Kevin, Jabali, and Kito, my parents Peter and Annah, and workmates who have been steadfast in encouraging me to pursue greater academic heights and excellence.

I also dedicate this dissertation to my employer for giving me the opportunity to pursue this degree, and in recognition of the immense support accorded during my studies.



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First and foremost, my sincere gratitude goes to God, the Almighty for his sufficient grace without which, not only this dissertation but also the entire education journey would not have been realized.

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The preparation of this thesis would have been a mirage without the assistance of the following people; lecturers at the SHSS, Strathmore University, members of my family, and colleagues in the Directorate of Immigration Services.

Much appreciation to the following, first my family; Agnes Mwikali, Kevin Nzioka, Peter Jabali, Evans Kito, Peter Kavali, and Annah Mutinda for your support. Secondly; my workmates, classmates, and friends who were so interested in my completion of this Master of Arts degree programme.

Table of Contents

.....	Error! Bookmark not defined.
DEDICATION.....	ii
ACKNOWLEDGEMENT	iii
List of Tables	viii
List of Figures.....	ix
ABSTRACT	x
ABBREVIATIONS.....	xi
CHAPTER ONE.....	1
THE NATIONAL SECURITY IMPLICATIONS OF HUMAN TRAFFICKING AND MIGRANTS SMUGGLING: CASE STUDY OF KENYA.....	1
1.1 Background to the Study.....	1
1.2 Statement of the Problem.....	2
1.3 Research Questions.....	4
1.4 Objectives	4
1.5 Justification of the Study.....	5
1.6 Scope and Limitation of the Study.....	6
1.7 Definition of Concepts	8
1.8 Literature Review	11
1.8.1 Human Trafficking and Migrant Smuggling: A Perspective.....	11
1.8.2 Increase in Human Trafficking and Migrant Smuggling Migrants.....	13
1.8.3 An Overview of Security implications of Human Trafficking and Migrant Smuggling	17
1.8.4 International and Domestic Instruments and Frameworks for Combating Human Trafficking and Migrant Smuggling	22
1.8.5 Theoretical Framework	25
1.8.6 Research Hypotheses	26
1.9 Research Methodology	27
1.9.1 Research Design	27
1.9.2 Target Study Area and Target Population.....	27
1.9.3 Sampling	28
1.9.4 Data Collection.....	29

1.9.5 Data Analysis and Presentation.....	30
1.9.6 Legal and Ethical Consideration	30
1.10 Chapter Outline	31
CHAPTER TWO	34
GENEALOGY OF HUMAN TRAFFICKING AND MIGRANT SMUGGLING IN KENYA (1963- 2008)	34
2.0 Introduction.....	34
2.1 The Harambee Regime, Africanization Strategy, Regional Instability, and the Crisis of Illegal Migration in Kenya (1963-1978)	35
2.2 (a) The Nyayo Regime and Evolution of Illegal Emigration and Immigration (1978- 1992)	37
2.2 (b) The Nyayo’s Multi-partyism Regime and Dynamics of Irregular Migration (1992- 2002)	40
2.3 The Mwai Kibaki’s Regime and the Dynamics of Irregular Migration (2002-2008) ...	42
2.4 Conclusion	45
CHAPTER THREE.....	46
FACTORS UNDERPINNING THE GROWTH OF HUMAN TRAFFICKING AND MIGRANT SMUGGLING IN KENYA	46
3.0 Introduction.....	46
3.1 Economic Factors	48
3.1(a) High Poverty and Unemployment Levels	48
3.1(b) Globalization, Human Trafficking, and Migrant Smuggling.....	50
3.1(c) Increased Demand for Trafficking or Smuggling Victims	52
3.2 Social-Cultural Dynamics behind Human Trafficking and Migrant Smuggling	55
3.2(a) Prejudiced Cultural Behaviors.....	55
3.2(b) Kin Connection Abroad.....	58
3.3 Political Factors Underlying Human Trafficking and Migrant Smuggling in Kenya....	60
3.3(a) Domestic and External Political Instability	60
3.3(b) Porous Border Control Points versus Restrictive Barriers	62
3.3(c) Rampant Corruption within Government Institutions.....	64
3.4 Ineffective Institutions.	69
3.4(a) Decay in Public Institutions	69

3.4(b) Poor Implementation of Counter-Trafficking Measures	71
3.4(c) Lack of Coordination and Synergy between Various Security Agencies	73
3.5 Analysis of Findings from the Study Respondent factors underlying Human Trafficking and Smuggling in Kenya	77
3.6 Conclusion	81
CHAPTER FOUR.....	82
NATIONAL SECURITY IMPLICATIONS OF HUMAN TRAFFICKING AND MIGRANT SMUGGLING IN KENYA	82
4.0 Introduction.....	82
4.1 Human Trafficking and Migrant Smuggling Implications on Economic Security	83
4.1(a) Cost of Human Trafficking and Migrant Smuggling.....	83
4.1(b) Loss of Revenue	86
4.2 Human trafficking and Migrant Smuggling Implications on Military Security	89
4.3 Human trafficking and Migrant Smuggling Implications on Political Security	97
4.4 Human trafficking and Migrant Smuggling Implications on Societal Security.....	104
4.5 Human Trafficking and Migrant Smuggling Implications on Environmental Security	108
4.6 Analyses of Findings from the Research Respondent on Implications of Human Trafficking and Migrant Smuggling on the National Security.....	112
4.7 Conclusion	118
CHAPTER FIVE.....	119
RECAPITULATION, CONCLUSION, AND RECOMMENDATIONS	119
5.0 Introduction.....	119
5.1 (a) Factors Underlying the Growth in Human Trafficking and Migrant Smuggling in Kenya	119
5.1 (b) Human Trafficking and Migrant Smuggling Implications on Kenya’s National Security.....	121
5.2(a) Hypothesis 1: The Underlying Factors engendering increase in Human Trafficking and Migrant Smuggling	123
5.2(b) Hypothesis 2: National Security Threats engendered by Human Trafficking and Migrant Smuggling.....	124
5.3 Conclusion	126
5.4 Recommendations	127

REFERENCES 129

APPENDICES 136

 Appendix 1: Interview Schedule. 136

 Appendix 2: Questionnaire 138

 Appendix 3: SIMILARITY REPORT 145

 Appendix 4: NACOSTI LICENSE 148

 Appendix 5: RHINNO CLEARANCE.....147



List of Tables

Table 1.1: Research Sample.....28

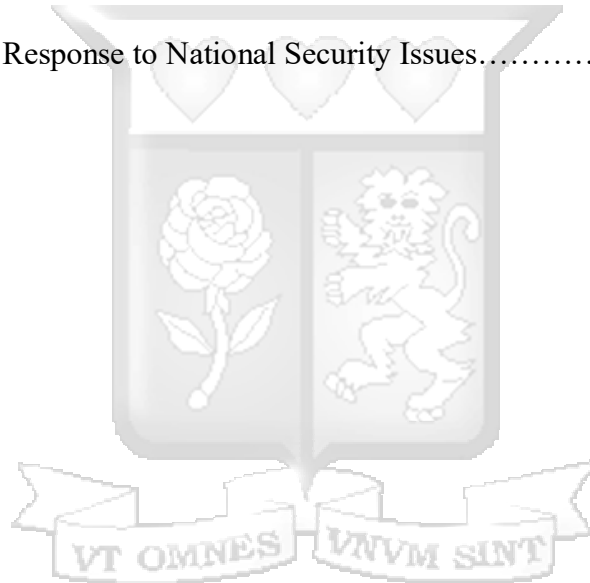
Table 3.1: Factors Underpinning Human Trafficking and Migrant Smuggling in Kenya.....78

Table 3.2: The most Trafficked or Smuggled based on gender in Kenya.....79

Table 4.1: Effects of Trafficking and Smuggling of Migrants on Kenya's National Security.....112

Table 4.2: National Security Threats Linked to Human Trafficking and Migrant Smuggling in Kenya.....114

Table 4.3: Government’s Response to National Security Issues..... 116



List of Figures

Figure 3.1: Factors Underpinning Human Trafficking and Migrant Smuggling in Kenya.....78

Figure 3.2: The most trafficked or smuggled based on gender in Kenya.....80

Figure 4.1: Effects of Human Trafficking and Migrant Smuggling on the National Security of Kenya. 112

Figure 4.2: National Security Threats Linked to Human Trafficking and Migrant Smuggling in Kenya 115

Figure 4.3: Government’s Response to National Security Issues Engendered by Human Trafficking and Migrant Smuggling 116



ABSTRACT

Using the Rational Choice Variant of Gary Becker as its conceptual tool of analysis, this study sets out to; firstly examine and analyze factors underlying the increase in human trafficking and migrant smuggling in Kenya. Secondly, to examine and analyze the implications of human trafficking and migrant smuggling on Kenya's National Security. And thirdly, to proffer research-based policy alternatives to address the same.

A descriptive research design consisting of both qualitative and quantitative approaches are converged to operationalize this study. The study was done in Kenya with the focus being five entry/exit points for migrants namely JKIA, Busia, Lungalunga, Moyale, and Namanga. The choice of these points of entry/exit was guided by Kenya's categorization as a source, transit hub, and destination point for trafficked and smuggled persons. To obtain the sample size, a purposive sampling technique was employed to identify participants for this study. A sample size of 120 security personnel was used. Both primary and secondary data was collected using a set of questionnaire and interview schedule respectively. Quantitative data was analyzed by the use of descriptive statistics such as percentages and frequencies, while content analysis was used in analyzing qualitative data. This was done by centralizing the analysis around certain themes.

The study contends that the increase in human trafficking and migrant smuggling is a function of the convergence of various negative and positive interests of human traffickers, migrant smugglers, and their victims. These convergences also underpin national security threats resident in multiple security sectors.

This study recommends that; a review of the legal framework on human trafficking and migrant smuggling to make these crimes capital offences should be done; a specialized Anti-human trafficking and Migrant Smuggling Unit within the Multi-Agency framework tasked with the enforcement and implementation of counter-trafficking policies and regulations be established; security surveillance and patrols at the points of entry and exit should be intensified; reporting of cases of human trafficking and migrant smuggling be made easier by providing toll-free anonymous call numbers; anti-corruption mechanisms at points of entry and exit be integrated; regular training of government officials on the morphing nature of human trafficking and migrant smuggling trends be carried out; and, vulnerable persons in the society should be empowered through equitable distribution of wealth and creation of sustainable employment opportunities to alleviate poverty.

ABBREVIATIONS

GAO:	Government Accountability Office
HOA:	Horn of Africa
GHOA:	Greater Horn of Africa
HAART:	Awareness against Human Trafficking
ILO:	International Labor Organization
UDHR:	Universal Declaration of Human Rights
IOM:	International Organization for Migration
JKIA:	Jomo Kenyatta International Airport
CAA:	Kenya Airports Authority
USD:	United States Dollars
IED:	Improvised Explosive Device
NGOs:	Non-Governmental Organizations
NPS:	National Police Service
CS:	Cabinet Secretary
PS:	Principal Secretary
UAE:	United Arab Emirates
GCC:	Gulf Cooperation Council
PISCES:	Personalized Identification Secure Comparison and Evaluation System
UNGA:	United Nations General Assembly
UNODC:	United Nations Office on Drugs and Crime
UNICEF:	United Nations Children's Fund
US:	United States
UNDP:	United Nations Development Programme
NCRC:	National Crime Research Centre
NEA:	National Employment Authority

IRC:	International Rescue Centre
BCOCC:	Border Control & Operations Coordination Committee
BMCs:	Border Management Committees
BMS:	Border Management Secretariat
JOCs:	Joint Operation Centers
UNHCR:	United Nations High Commission for Refugees
FGM:	Female Genital Mutilation
GBV:	Gender Based Violence
VOTs:	Victims of Trafficking
VOA:	Voice of America
IDPs:	Internally Displaced Persons
STDs:	Sexually Transmitted Diseases
HIV/ AIDS:	Human Immuno-deficiency Virus/Acquired Immuno-deficiency Syndrome
SLDF:	Sabaot Land Defence Forces
SALWs:	Small Arms and Light Weapons
T-I-P:	Trafficking in Persons
EU:	European Union
EAC:	East Africa Community
AU:	African Union
NCTC:	National Counter-Terrorism Center
ICT:	Information, Communication, and Technology
CS:	Cabinet Secretary
GSU:	General Service Unit
SMS:	Short Message Service
Kshs:	Kenyan shillings
SHSS:	School of Humanities and Social Sciences



CHAPTER ONE

THE NATIONAL SECURITY IMPLICATIONS OF HUMAN TRAFFICKING AND MIGRANTS SMUGGLING: CASE STUDY OF KENYA

1.1 Background to the Study

Human trafficking and migrant smuggling are as old as human society.¹ They affect all countries worldwide with the number of trafficked and smuggled persons being on an exponential increase every day.² This development prompted the United Nations to take action. Subsequently, several international conventions and protocols have been formulated in a bid to address the issue. They include inter alia, the United Nations Convention against Transnational Organized Crime of 15th November 2000 which became operational on the 23rd September 2003³; the Protocol to Prevent, Suppress, and Punish the Perpetrators of Trafficking in Person, especially Women and Children that was passed on the 25th December 2003⁴; and the Protocol against Migrant Smuggling by Land, Sea, and Air, of 28th January 2004.⁵ Kenya has been a state party to these protocols since 5th January 2005.

The 2019 US T-I-P Report placed Kenya in the second tier classification meaning that the country is yet to fully meet the minimum requirements for the elimination of human trafficking

¹ Shelley, Louise. Human trafficking: A global perspective. Cambridge University Press, 2010. Chap. 7 P.207

² Ibid.

³ Clark, Roger S. "The United Nations Convention against Transnational Organized Crime." *Wayne L. Rev.* 50 (2004): 161-184.

⁴ Annex, I. I. "Protocol to prevent, suppress, and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime." In the *United Nations Office on Drugs and Crime, United Nations Convention against Transnational Organized Crime and the Protocols Thereto.* 2000.

⁵ Assembly, UN General. "Protocol against the Migrant smuggling by Land, Sea, and Air, Supplementing the United Nations Convention against Transnational Organized Crime." *Retrieved March 14 (2000):* 2018.

and migrant smuggling. The report revealed that Kenya is indeed a source, transit, and also a destination country of trafficked and smuggled persons.⁶

1.2 Statement of the Problem

Between 2009 and 2019, approximately 10,000 cases of human trafficking and migrant smuggling were reported.⁷ The number of suspected cases rose from 1007 in 2018 to 1064 in 2019, representing a 5.6% increment.⁸

In response to this problem, the government of Kenya enacted several laws. These include, inter alia, the Counter-Trafficking in Persons Act of 2010,⁹ the Prevention of Terrorism Act of 2012,¹⁰ the Security Law Amendment Act of 2014,¹¹ Children Act of 2001,¹² and the Sexual Offences Act, 2006.¹³

Besides, the government embraced a Multi-Agency Approach, whereby different security agencies coalesce together to tackle security-related threats such as human trafficking and migrant smuggling. This approach led to the formation of Joint Operations Centers and Border Security Management Committees comprising of the National Police Service, the National Intelligence Services, the Kenya Revenue Authority, Port Health, and the Directorate of Immigration Services with the sole aim of securing the country. The government further installed the Personalized Identification Secure Comparison and Evaluation System (PISCES) at all points

⁶ US Trafficking in Persons Report 2019, pp272

⁷ Directorate of Immigration Services, Border Management Section. A compilation of data from the Annual Situation Report File

⁸ Ibid.

⁹ Counter-Trafficking in Persons Act No. 8 of 2010 laws of Kenya.

¹⁰ Prevention of Terrorism Act No. 30 of 2012 laws of Kenya.

¹¹ The Security Laws (Amendment) Act section 9 of Cap. 56. No.19. 318.

¹² Children Act of 2001, Cap 141, laws of Kenya.

¹³ Kenya: Act No. 3 of 2006, The Sexual Offences Act 2006 [Kenya], Cap 62(a). 21st July 2006.

of entry and exit to curb documentation fraud and apprehend black-listed criminals among them, human traffickers and migrant smugglers. Joint patrols along the long porous border points were intensified alongside the sensitization of all security stakeholders in a bid to curb the threat of human trafficking and migrant smuggling.

Despite these security measures, Kenya is still a source, transit route, and destination point for trafficked and smuggled persons. A few incidents can be used to demonstrate the extent of this problem in Kenya. According to reports in the Standard newspaper, on 31st March 2019, police rescued eight Eritreans who were being smuggled through Kenya to Asia. On the same day, twenty-five Burundians suspected to be victims of migrant smuggling were rescued while being held hostage pending transit to Asian countries.¹⁴ Yet in another incident on 15th March 2020, twenty-nine young women suspected of being victims of human trafficking were rescued.¹⁵

The US T-I-P Report of 2019 notes that the 142 investigations conducted and subsequent prosecutions of potential human trafficking cases yielded 98 convictions.¹⁶ Of interest is the nexus between human trafficking and migrant smuggling as organized transnational crimes and other crimes such as drug trafficking, money laundering, and terrorism. For instance, some of the gunmen involved in the Dusitd2 attack in Kenya, maximized on such networks to finance and facilitate the operation. This study grapples with the implications of this problem to national security in Kenya. It specifically responds to three questions;

¹⁴ Cyrus Ombati. "Police Bust Human Trafficking Syndicate, Rescue Eight Eritreans." The Standard Daily (Kenya), March 2019. <https://www.standardmedia.co.ke/kenya/article/2001318902/human-trafficking-syndicate-busted-8-rescued>

¹⁵ Aggrey Omboki. "Kenya Police Rescue 25 Women from Suspected Human Trafficking Ring." The Standard Daily (Kenya), March 2020. <https://www.theeastafrican.co.ke/tea/news/east-africa/kenya-police-rescue-25-women-from-suspected-human-trafficking-ring-1415046>

¹⁶ "Trafficking in Persons Report." United States Department of State. June 2019. pp. 272.

1.3 Research Questions

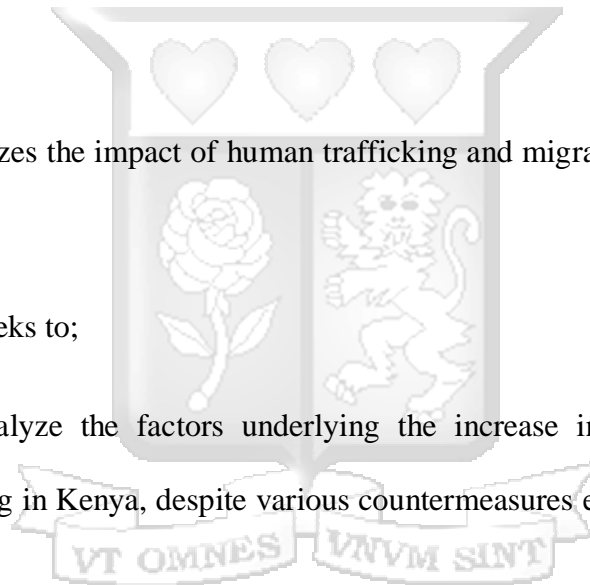
- (a) Why is there an increase in cases of human trafficking and migrant smuggling despite the countermeasures put in place?
- (b) How is this increase in human trafficking and migrant smuggling impacting the national security of Kenya?
- (c) How can the problem of human trafficking and migrant smuggling be contained in Kenya?

1.4 Objectives

Broadly, this study analyzes the impact of human trafficking and migrant smuggling on Kenya's national security.

Specifically, the study seeks to;

- a) Examine and analyze the factors underlying the increase in human trafficking and migrant smuggling in Kenya, despite various countermeasures enacted in a bid to contain the growth.
- b) Examine and analyze the implications of human trafficking and migrant smuggling to Kenya's National Security.
- c) Proffer research-based recommendations for containing the problem of human trafficking and migrant smuggling in Kenya.



1.5 Justification of the Study

In a bid to supplement the containment of human trafficking and migrant smuggling, Kenya enacted the Counter-Trafficking in Persons Act of 2010 as the main piece of legislation to contain human trafficking in Kenya. This was followed by the Prevention of Terrorism Act of 2012 and the Security Law Amendment Act of 2014. While the first legislation was to prevent, suppress, and disrupt any form and source of terrorism funding, the second was to enhance the capacity of the government to detect, deter, and disrupt any threats to national security. These legislations notwithstanding, the problem of human trafficking and migrant smuggling continues to increase. It is this increase that situates the interest of this study. It specifically seeks to grapple with the question, why and to what extent is this increase a function of institutional crisis and constraints. The project seeks to determine this in terms of whether the problem lies at the level of the actors or the infrastructural level. This is crucial in sustainable policy formulation and responses. The questions this study seeks to investigate ultimately aim at providing an understanding of the implications of these constraints to Kenya's national security. The 2014 National Security Policy is mute on the question of human trafficking and migrant smuggling. The study is interested in the apparent link between human trafficking and migrant smuggling and national security. It grapples with the question of the levels and sectors of security that are affected. In so doing, the understanding of this link will be deepened. The project's policy justification finds its rationale here.

Tabitha Bonilla and Cecilia Hyunjung Mo advance the need for conceptual clarity by identifying and differentiating human trafficking and migrant smuggling.¹⁷ This is seen to be important in

¹⁷ Bonilla, Tabitha, and Cecilia Hyunjung Mo. "The evolution of human trafficking messaging in the United States and its effect on public opinion." *Journal of public policy* 39, no. 2 (2019): 201-234. P.205

policy formulation and responses. While this is good, this study is interested in examining the convergence of human trafficking and migrant smuggling. How this happens is of interest in an attempt to grasp their implications on national security.

Siddharth Kara advances the need for cooperation amongst states given the existence of different policies among states in the advanced north and the developing south.¹⁸ However, he fails to offer a pathway on how to institute this cooperation among states or take into account the inherent costs involved in the realization of the same. The task of evolving a common security cooperation framework is of interest in this study.

Ella Cockbain and Kate Bowers advance that human trafficking and migrant smuggling occur for various exploitative purposes. However, they predominantly emphasize on sex trafficking of women and girls¹⁹ thereby failing to explore other forms of exploitation linked to these phenomena and their implications to national security. The task of unraveling the nexus between various forms of exploitation through human trafficking and migrant smuggling and threats to national security is of interest in this study. Our academic justification finds its rationale here.

1.6 Scope and Limitation of the Study

This study is framed by the 2009-2019 timelines. The choice of 2009 as the entry point is informed by the fact that it is the year when the Kenyan parliament passed a motion that introduced the Counter-Trafficking in Persons Bill which was the first step towards the enactment of comprehensive legislation to handle the increase in human trafficking and migrant

¹⁸ Kara, Siddharth. "Perspectives on Human Trafficking and Modern Forms of Slavery." *Social Inclusion* 5, no. 2 (2017): 1-2.

¹⁹ Cockbain, Ella and Kate Bowers. Human trafficking for sex, labor, and domestic servitude: how do key trafficking types compare and what are their predictors? *Crime, Law, and Social Change* 72, no. 1 (2019): 9-34. P.10

smuggling. This legislation domesticates the Palermo Protocols, the first international legally binding instrument to contain human trafficking and migrant smuggling in a bid to enhance national security. The exit point of the study is 2019 when Kenya first entered into a bilateral agreement with several Middle East countries such as Saudi Arabia, UAE, Kuwait, and Qatar in a bid to curb human trafficking and migrant smuggling of its citizens and subsequent maltreatment in the region. However, these timeframes do not preclude emerging concerns and deliberations of 2020. Issues of 2008 are covered in the historical background.

This study was conducted in Kenya and targeted key migrant entry and exit points namely, JKIA, Namanga, Lungalunga, Busia, and Moyale. The choice of these geographical areas of study is guided by the fact that Kenya is considered to be a source, transit route, and destination point for trafficked and smuggled persons. The porous nature of its border points coupled with corruption and ineptitude by government officers engender national security issues such as illegal trade in contraband goods, terrorism, money laundering, drug trafficking, human trafficking, and migrant smuggling.²⁰

Concentrating on key entry points is hampered by the fact that sometimes migrants enter or depart the country irregularly through unauthorized entry or exit points. The expansive and porous nature of these entry or exit points makes it difficult for authorities to control all entries and exits into or out of the country.²¹ Again, the limitation of the lack of sufficient resources makes it difficult to concentrate on all entry or exit points in Kenya. Given the sensitive nature of the study, respondents who include government officers might be reluctant to give information.

²⁰ Opon, Dan Odhiambo, P. G. Okoth, and K. Onkware. "Immigration Border Control Human Resource Challenges and Opportunities Affecting Counter-terrorism Strategies in Kenya." *International Journal of Education and Research* 3, no. 5 (2015): 301-309. P.302

²¹ Gituanja, Patricia Nduta. "Border Management and National Security: An Analysis of the Implementation of Border Policies in Kenya." (2013). P.42

To address this fear, participation was sought using a well-detailed consent form covering the areas of voluntariness, confidentiality, and anonymity. A research permit was also sought from the National Commission for Science, Technology, and Innovations.

1.7 Definition of Concepts

National Security - This study adopts the definition given by Buzan. According to Buzan, Security entails the pursuit of freedom from threat and the ability of states and societies to maintain their independent identity and their functional integrity against forces of change, which they see as hostile. Although the bottom line of security is survival, it also reasonably involves concerns about the conditions of existence. Our adoption is premised on the apparent holistic nature in matters of national security. It explores all the sectors of security inter alia, military, political, societal, economic, and environmental, from all angles while elucidating how people or societies construct or “securitize” threats. This definition also gives a more complete understanding of the intricacies of security with the ability to then apply these concepts to current issues. However, this definition is mute on the issue of trafficking and smuggling of migrants. Notably, we supplement this gap by incorporating the study of Wolfers.²² According to him, the core objective of enhancing national security is to guarantee the absence of threats to acquired values and the absence of fear that such values will be attacked. We thus advance that national security entails cushioning the state and its people from threats that instill fear and erosion of acquired values.

Human Trafficking – This study adopts the Palermo Protocol of December 2000. According to this protocol, human trafficking is the recruitment, transportation, transfer, harboring, or receipt

²² Wolfers, Arnold. "National security" as an ambiguous symbol." *Political science quarterly* 67, no. 4 (1952): 481-502.

of persons, through the use of threat, force, or other forms of coercion, abduction, fraud, deception, abuse of power, or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation".²³ Our adoption is premised on the apparent broadness of the concept. This includes the criminal nature of activities involved in human trafficking elements of force, deception, and involuntary nature involved. However, this definition is weak on enforcement mechanisms for curbing the various forms of exploitation. Notably, we supplement this gap by incorporating the study of Shelley.²⁴ According to her, coordinated efforts by the government, civil society, the business community, multilateral organizations, and the media are needed to fashion mechanisms necessary in curbing human trafficking. Our interest is specifically in enforcement measures. We thus advance that human trafficking includes the use of fraud, fear, abuse of power, and circumvention of law enforcement to exploit susceptible victims.

Migrant smuggling - This study adopts the UNODC definition of migrant smuggling. According to UNODC, migrant smuggling is viewed as the procurement for monetary or other material benefits of illegal migration of a person into a country of which that person is not a citizen or resident.²⁵ Our adoption of this definition is situated on its inclusivity of a wide array of reasons that engender smuggling such as the lack of legal documents, the attraction of material and financial benefits involved, and escape from persecution, violence, or conflict. However, this definition is silent on the mission of the smuggled persons in the transit and destination country.

²³ Protocol, UN Palermo. Adopted by UN General Assembly resolution A. RES/55/25 of November 2000 entered into force 25 December. 2003 United Nations Protocol on Trafficking in Persons, 2000.

²⁴ Shelley, Louise. Human trafficking: A global perspective. Op. Cit.

²⁵ Assembly, UN General. "Protocol Against the Migrant smuggling by Land, Sea, and Air, Supplementing the United Nations Convention Against Transnational Organized Crime."(2000)

Notably, we supplement this gap by incorporating the study of Roza.²⁶ According to her, the smuggling of migrants is one of the most pervasive security threats on the globe. This concise remark encompasses the essence of the critical impact that migrant smuggling has on both state and human security. Our interest is precisely in the motives and mission of the smuggled persons. We thus advance that migrant smuggling includes the illegal migration or harboring of undocumented migrants who have been aided to cross a transnational border for clandestine motives. This weakness is attended to when analyzing the national security implications associated with this vice in chapter four.

These definitions enable a distinction to be made between human trafficking and migrant smuggling. While characteristics such as coercion, deceit, threats to victims, and exploitation are associated with human trafficking, migrant smuggling is executed with the consent of the victim. Smuggling entails the crossing of transnational borders unlike in trafficking whereby transportation and exploitation can either be within the country or may involve the crossing of international borders. Again in human trafficking Victims may originate from outside the country or within the country. This is in contrast to migrant smuggling whereby the transportation of migrants is through certain routes to avoid detection. However, the two crimes are not only transnationally organized in nature; they also threaten the country's national security in diverse ways. This will be elucidated in chapter four.

²⁶ Pati, Roza. "Human trafficking: An issue of human and national security." *Nat'l Sec. & Armed Conflict L. Rev.* 4 (2013): 29.

1.8 Literature Review

1.8.1 Human Trafficking and Migrant Smuggling: A Perspective

Laczko reveals that over the last two decades the problem of human trafficking has grown tremendously. He contends that this growth has heightened the efforts by many countries in the global north to combat human trafficking and migrant smuggling. Nevertheless, this had greatly been hampered by the inadequacy of information about these phenomena. Laczko attributes this to the lack of an empirical study and a systemic way of data collection and analysis. He further notes that there has been an over-emphasis on the trafficking of women for sexual exploitation with a meager study examining trafficking for labor exploitation.²⁷ While Laczko agrees that the lack of global data on human trafficking and migrant smuggling hinders comparative analysis, as well as the ability to inform the development of effective responses, his study fails to offer a framework of analysis that would give effective solutions to curb these crimes. This paper gives context to framework analysis that policymakers will use to effectively manage immigration matters.

The United States Government Accountability Office (GAO), like Laczko analyzes human trafficking growth and acknowledges the difficulties encountered in calculating the exact number of trafficking or smuggling victims in the globe. This is because the annual global, estimates that stand at between 700,000 and 4 million,²⁸ usually focus on transnational human trafficking, leaving out the number of internally trafficked victims.²⁹ What lacks in this analysis is the fact that information seems a determinant of how people make decisions to migrate. It is an

²⁷ Laczko, Frank. "Data and research on human trafficking." *International Migration* 43, no. 1-2 (2005): 5-16. P.11

²⁸ Adamson, Fiona B. "Crossing borders: International migration and national security." *International Security* 31, no. 1 (2006): 165-199. P.167

²⁹ The United States Government Accountability Office

interesting reflection to see how the sufficiency of information may be the game-changer in containing human trafficking and migrant smuggling.

Martin and Bonfanti note that information aimed at highlighting the plight of human trafficking and migrant smuggling is both anecdotal and limited. They add that many countries lack adequate data on human trafficking and migrant smuggling. Again, efforts to gather this data are sabotaged by corrupt and inept government officials. To contain the growth in human trafficking and migrant smuggling they propose that governments should adequately be equipped with sufficient information databases alongside strict migration laws.³⁰

Although Laczko, Martin, and Bonfanti studies correctly point out that information on human trafficking and migrant smuggling is not only fragmented but also underdeveloped because of weak research designs and poor-quality data, they fail to bring out the nexus between this lack of adequate information and the inherent growth in the number of trafficked or smuggled persons. Moreover, their studies look into these phenomena from the developed north worldview. There is also a need to analyze these phenomena from the global south perspective. Moreover, the proposition of adequately being equipped with sufficient information databases and strict migration laws may prove insufficient in containing human trafficking and migrant smuggling. Importantly, internal contradictions and vulnerabilities coupled with corruption within government institutions are salient contributing factors towards the growth of this crime. This study seeks to unravel these contradictions and vulnerabilities.

Adepoju focuses on the prevalence of human trafficking and migrant smuggling in sub-Saharan Africa. He notes that it is only until the late 1990s when these phenomena were acknowledged to

³⁰ Martin, Ivan, and Sara Bonfanti. "Migration and asylum challenges in Eastern Africa: Mixed migration flows require dual policy approaches." (2015). P.8

be prevalent in the region. During this period, the media, activists, and NGOs started raising the red flag. He adds that the lack of effective policies or national legislation to curb these crimes fueled their growth.³¹ However, Adepoju reveals that many African countries are still finding the fight against human trafficking almost insurmountable mainly because of lack of political will, failure to amply sensitize the general public, political and institutional corruption, ineffective policies, and lack of capacity, even where legislation is in place.³²

Adepoju's study is generally inward-looking and is only confined to West Africa. It attempts to show how the lag in acknowledging the presence of human trafficking and smuggling of migrants influenced the growth of these phenomena to metamorphose to prevalent transnational organized crimes in the region. Although he provides us with a signal of the probable trajectory of the growth of these phenomena, he fails to show how governments and authorities fuel these crimes and the models and frameworks that exist to contain them. This calls for a need to further examine the effect of this migratory pattern on other regions. This study intends to investigate and examine the underpinning factors that fuel the growth of these crimes in Kenya.

1.8.2 Increase in Human Trafficking and Migrant Smuggling

Shelley acknowledges that the number of persons being trafficked or smuggled is exponentially growing every day. She blames this growth on regional conflicts, porous transnational borders, globalization, and climate change. This according to Shelley has led to the increment of vulnerable members of the population³³ She adds that in the last two decades, migration flows across borders have increased immensely thereby making it easy for trafficked or smuggled

³¹ Adepoju, Aderanti. "Review of research and data on human trafficking in sub-Saharan Africa." *International Migration* 43, no. 1-2 (2005): 75-98.

³² Ibid

³³ Shelley, Louise. *Human trafficking: A global perspective*. Cambridge University Press, 2010. Chap.1

persons to hide within this enormous movement of migrants. Additionally, Shelly posits that discontented groups that emerge out of conflicts indulge in illicit activities such as human trafficking and migrant smuggling in a bid to increase their troops and bankroll their military actions.³⁴

While Shelley identifies some of the dynamics that engender the growth of human trafficking and migrant smuggling, her study fails to capture exhaustively, crucial underlying factors such as economic, social-cultural, and ineffective government institutions. Again, she superficially captures the security implications engendered by these phenomena. Our study task is to provide an analysis and examination of the diverse factors that contribute to the growth of these phenomena while at the same time expounding on the security threats engendered by this inherent growth.

Marie and Laczko argue that it is the desire by vulnerable individuals to seek refuge and the search for greener pastures that perpetuate human trafficking and migrant smuggling. They add that the Northern African region is not only a source and a destination point for many sub-Saharan migrants but it is also a transit route for migrants being trafficked or smuggled to Europe across the Mediterranean Sea. They posit that the rise in irregular migration practices is partly fueled by the lack of legal pathways for migration and strict immigration policies in the destination countries.³⁵

Marie and Laczko further contend that combatting trafficking and migrant smuggling involves a multifaceted set of responses. In their view, these responses can be broadly grouped into four key areas namely provision of protection and assistance to victims, addressing the root causes of

³⁴ Ibid.

³⁵ McAuliffe, Marie, and Frank Laczko. *Migrant Smuggling Data and Research: A global review of the emerging evidence base*. International Organization for Migration (IOM), 2016. P.11

these crimes, enhancement of the States' capacity to disrupt the activities of the perpetrators, and the promotion of research and data collection on trafficking and smuggling of migrants.³⁶ Although Marie and Laczko have done a good job in pointing out some of the challenges encountered in containing human trafficking and migrant smuggling, they have given more attention to inert institutional factors at the expense of other sets of underpinning factors. Moreover, the authors fail to explain the nexus between the increase in human trafficking and migrant smuggling and security. This study seeks to address this lacuna by showing how these immigration offenses do threaten the national security of a state.

In his work “Conflict and the refugee experience”, Bariagaber argues that for a long time the HoA region has been a hotbed of conflicts in the region. Consequently, these conflicts have led to an increase in illegal migration in the region as compared to other zones of the continent. He adds that the political instability and conflicts witnessed in Somalia, Eritrea, Ethiopia, Sudan, and South Sudan in the recent past have engendered an influx of refugees fleeing these countries.³⁷ Once in another country, these refugees engage in transnational criminal activities such as terrorism, smuggling of contraband goods, human trafficking and migrant smuggling, money laundering, and the proliferation of small arms and light weapons. He posits that such activities endanger the national security of the host country. Bariagaber adds that it is also in the refugee camps where transnational organized criminals ensnare them into trafficking and smuggling traps.³⁸

³⁶ Ibid.

³⁷ Bariagaber, Assefaw. Conflict and the refugee experience: flight, exile, and repatriation in the Horn of Africa. Routledge, 2016. P.21

³⁸ Ibid.

Bariagaber's sentiments are echoed by Lijnders and Sara. The two scholars note that some communities in the Horn of Africa find themselves in oppressive regimes which prompt people to flee their countries. They posit that people fleeing their conflict-torn countries are susceptible to trafficking and smuggling. According to the two scholars, the preferred destination for VOTs is the South African region whereby migrants are either trafficked or smuggled to be transported to Europe and America.³⁹

Bariagaber, Lijnders, and Sara acknowledge that political undercurrents play a significant role in fueling the trafficking and smuggling of migrants through irregular migration. However, they fail to elucidate other factors informing these phenomena. They also fail to show the nexus between the growth in the number of trafficked or smuggled persons, and the national security of the origin, transit, and destination countries, which happens to be the province of this study.

In his study on Irregular Migration Flows in the Horn of Africa, Horwood contends it is the lack of substitute ways of earning a living alongside economic insecurity that has led to an increase in the number of vulnerable persons in the East African region. He reveals that Ethiopia and Somali youths escaping poverty and economic meltdown in their countries are trafficked or smuggled to South Africa through Kenya in pursuit of better standards of living. He says that the number of trafficking and smuggling victims has increased in the recent past.⁴⁰ However, Horwood's study is concentrated on only two countries namely Ethiopia and Somalia. Moreover, his study focuses on economic factors as the only factor that engenders trafficking and smuggling of migrants in the region. Interestingly, his aspersions against security agencies and the interagency cooperation

³⁹ Lijnders, Laurie, and Sara Robinson. "From the Horn of Africa to the Middle East: Human trafficking of Eritrean asylum seekers across borders." *Anti-human trafficking Review* 2 (2013). P.138

⁴⁰ Horwood, Christopher. "Irregular Migration Flows in the Horn of Africa: Challenges and implications for source, transit, and destination countries." *Occasional Paper Series* 18 (2015). P.21

were founded on unidentified participants and missed the objective voice of players in the enforcement arm. In addition to collecting and collating the views of the relevant stakeholders, this study will analyze and illuminate other factors that contribute to the growth of these phenomena.

1.8.3 Security Implications of Human Trafficking and Migrant Smuggling

Barry Buzan explicates that the security of a state is affected by aspects in five key areas: the military, economic, political, environmental, and societal.⁴¹ By its transnational character, dynamism, and impact on people and institutions at all levels, irregular migration is perceived to pose a serious challenge to the national security of any state. In the last decade, many countries have witnessed a rise in irregular migration coupled with an increasing fear of transnational organized crimes. Although Buzan vividly expounds on the intricacies of national security highlighted in five sectors as seen above, he does not particularly elucidate on human trafficking and migrant smuggling as a threat to the security of a state. This, therefore, highlights the need for including these phenomena as important security challenges.

Shelley observes that human trafficking and smuggling of migrants breed other transnational organized crimes such as smuggling of contrabands, tax evasion, and money laundering. She notes that these crimes adversely affect the state's economy because their net effect is the loss of much-needed government revenue.⁴² She adds that the influx of irregular migrants such as VOTs overwhelms the resources of the host countries because it is costly to resettle these migrants. Shelley also links national security threatening activities such as the proliferation of SALWs, illegal logging, and charcoal burning that degrades the environment to the influx of irregular

⁴¹ Buzan, Barry. *People, States & Fear: An agenda for international security studies in the post-cold war era*. Ecpr Press, 2008. Chap.1

⁴² Shelley, Louise. Op. Cit.

migrants. According to her, the influx of dangerous weapons undermines the destination state's monopoly on instruments of violence. This is because some of the trafficked or smuggled victims are either dangerous criminals or are used by other transnational organized criminals to undermine the security of the transit and destination country.⁴³ While Shelley acknowledges that there is a link between human trafficking, migrant smuggling, and national security, her study fails to provide an adequate explanation on the nexus between other transnational organized crimes and the trafficking or smuggling of migrants. She also fails to offer ways of curbing the increase in the number of victims of these crimes.

Shelley's sentiments are echoed by Arthur and Sheri who posit that the national security of the source, transit, and destination countries is significantly compromised by the trafficking and smuggling of human beings. They note that sometimes irregular migrants hide among legal migrants, only to commit crimes such as terrorism in the destination countries. They argue that human trafficking and migrant smuggling proceeds have become an important source of finances for bankrolling terrorism globally. In addition, they posit that terrorist gangs use trafficking and smuggling as a fear tactic to scare vulnerable victims into giving in on their clandestine demands.⁴⁴

While their study is mainly centered on discussing how human trafficking threatens the national security of the USA, Arthur and Sheri fail to offer ways and means of identifying the root of trafficking and smuggling as well as probable remedies to curb the same. This is what our study will attempt to do.

⁴³ Buzan, Barry. *People, States, and Fear: The National Security Problem in International Relations*. Wheatsheaf Books, 1983. Chap.1

⁴⁴ Rizer, Arthur, and Sheri R. Glaser. "Breach: The National Security Implications of Human Trafficking." *Widener Law Review*. 17 (2011): p.69-94.

Sandra focuses on the exponential growth of human trafficking and migrant smuggling as a threat to the national security of the USA.⁴⁵ She notes that these transnational organized crimes generate colossal amounts of money which are used to further the activities of drug lords, violent extremist groups, and terrorists. She adds the events of September 11, 2001, validates this assertion. According to her, terrorists use the transportation networks of smugglers and traffickers to move their operatives. In addition, profits from trafficking and smuggling are a chief source of funds for terrorists. She argues that trafficking and smuggling enable potential terrorists to move their money easily through the channels of the illicit economy.

Sandra posits that the national and international security landscape changed significantly after the September 11, 2001 attacks.⁴⁶ This is because the emphasis was now placed on targeting trafficking and smuggling organizations that were seen as an emerging threat to any state's national security. This emphasis recognized that terrorists and their associates were likely to align themselves with trafficking and smuggling networks to gain undetected entry into a country.⁴⁷ Sandra's study attempts to show how the actions of transnational organized criminals engender threats to military security. However, it does not expound on the threats engendered to other security sectors as conceived by Buzan. Our study will attempt to explicate these national security threats to Kenya.

Sandra's contention is supported by Nikita. According to Nikita, it is correct to link human trafficking and migrant smuggling to other transnational organized crimes like drug trafficking, the proliferation of SALWs, as well as terrorism. She argues that drug barons use unsuspecting

⁴⁵ Keefer, Sandra L. Human Trafficking and the Impact on National Security for the United States. ARMY WAR College Carlisle Barracks Pa, 2006. P.3

⁴⁶ Ibid. P. 3

⁴⁷ Ibid. P. 3

victims of human trafficking and migrant smuggling to transport their consignments across boundaries. She adds that victims of these crimes are also used as conveyor belts to illicitly transport weapons and arms from source to the destination country.⁴⁸ While Sandra and Nikita acknowledge the role played by human trafficking and migrant smuggling victims in perpetuating other transnational organized crimes, they fail to advance the mechanisms and frameworks suitable for combating the exponential increase in the number of trafficked and smuggled persons. They are also mute on how other regions of the globe are affected by the growth of these crimes.

Shelley contends that the impacts of trafficking and smuggling of migrants are not only huge but also far-reaching. She argues that these criminal activities undermine the principles of democracy, respect for individual rights, and the rule of law. According to her, trafficking represents a new form of authoritarianism whereby victims are subject to coercion and control outside of the state. In addition, corrupt state officials such as border control officers and law enforcement officers are often trafficking and smuggling facilitators; for personal gains not for the interest of the state.⁴⁹ From this perspective, Shelley calls for the securitization of human trafficking and migrant smuggling. She likens the perpetrators as criminals with the intent of supporting acts such as drug trafficking and terrorism.

While Shelley acknowledges that human trafficking and migrant smuggling engenders varied national security threats, her study is mainly inward-looking as it does not attempt to illuminate the various national security threats engendered by these crimes. To securitize the problem of human trafficking and migrant smuggling in Kenya, there is a need to come up with a speech act

⁴⁸ Malik, Nikita. "Trafficking terror: how modern slavery and sexual violence fund terrorism." *The Henry Jackson Society* 24 (2017). P.38

⁴⁹ Shelley, Louise. Op. cit.

that will be embraced by the population. This will illuminate the existential threat engendered by these phenomena thereby eliciting the need to seek a lasting solution for the same. It is on this strength that this study attempts to analyze and proffer countermeasures towards the eradication of these crimes.

Roza notes that transnational organized criminals gain access into a country through trafficking and smuggling routes. She argues that these criminals use fraudulently acquired or forged travel documents to cross transnational boundaries.⁵⁰ According to her, human trafficking and migrant smuggling do not only corrode the fabric of society but also undermines the national security of the state. Although she emphasizes terrorism as the main resultant threat to national security, she correctly posits that trafficking and smuggling also endanger the security of the people.

Although Roza does a good job of exposing the inherent institutional decay that exists within government institutions mandated with the issuance of travel documents and certificates, she fails to offer policy solutions and measures to contain this institutional decay. She also fails to proffer mechanisms and frameworks suitable for curbing these crimes as a way of combating terrorism. This study explores the inherent gaps in the human trafficking and migrant smuggling countermeasures put in place by the government. Arising from the discussions around this thematic issue, suitable recommendations will be advanced with the view of curbing the growth of these phenomena.

⁵⁰ Pati, Roza. "Human trafficking: An issue of human and national security." *Nat'l Sec. & Armed Conflict L. Rev.* 4 (2013): 29.

1.8.4 International and Domestic Instruments and Frameworks for Combating Human Trafficking and Migrant Smuggling

Over the past two decades, human trafficking and migrant smuggling have become a core concern for international actors. Consequently, this has seen a rapid growth of broad international, regional and national legal frameworks.

The most significant international instrument in fighting trafficking-in-persons is the Palermo Protocol, a supplement to the UNCTOC of 2000. Article (5) of the Palermo Protocol, obliges States to criminalize trafficking-in-persons, attempted trafficking, and any other premeditated involvement or organization of trafficking-in-person conspiracy. The core mandate of this protocol is to prevent and combat trafficking and smuggling of migrants through a comprehensive international approach which includes measures to prevent these crimes, punish the perpetrators, and protect the victims.⁵¹

While this protocol remains the only international treaty aimed at eradicating trafficking and smuggling, protecting the rights of the victims, promoting collaborative countermeasures between states, this treaty is yet to be assented to by all states globally. Moreover, it is instructive to note that this protocol is mute on the punishment to be meted on traffickers and smugglers. Instead, UNCTOC, being an international legal instrument has obligated the states to enact laws to help in the fight against transnational organized crimes such as human trafficking and migrant smuggling. Consequently, this has led to the creation of laws that do not cut across all states. In addition, this protocol does not provide follow-up mechanisms that will ensure the formulation and operationalization of domestic legislation aimed at containing these crimes.

⁵¹ Protocol, Palermo. "Protocol to Prevent, Suppress and Punish Trafficking in Persons." In *Particular Women and Children, supplementing the United Nations Convention on Transnational Organized Crime*, vol. 15. 2000.

The East Africa Counter-Trafficking Protocol of 2016 provides a legal framework to guide prosecution, protection, and cooperation in combating the trafficking and smuggling of migrants in the region.⁵² According to this protocol, two actions namely; incorporating the UN policy on migration into domestic legislation and adopting a common understanding of regional countermeasures are effective ways of accomplishing this mandate. Additionally, this protocol calls for collaboration between member states in their efforts to combat the trafficking and smuggling of migrants. However, the protocol fails to elucidate how the perceived collaboration is to be achieved. It is also mute on the legal framework to guide the prosecution of traffickers and smugglers as well as the protection of VOTs.

Domestically, Kenya has enacted the Children Act of 2001 in a bid to address human trafficking and migrant smuggling of children among other issues.⁵³ This Act is supported by the Sexual Offences Act of 2006 which criminalizes sexual exploitation of women and children. It is worth noting that women and children are also the most vulnerable to trafficking and smuggling. Closely related to the Sexual Offences Act is the Victim Protection Act No. 17 of 2014, which is mandated with protecting the victims of such crimes as human trafficking and migrant smuggling. These Acts set sanctions against perpetrators while at the same time giving recourse and reprimand for such offences within the Kenyan law.⁵⁴

Kenya also enacted the Counter-Trafficking Act in 2010.⁵⁵ This Act of parliament was aimed at implementing Kenya's obligations under the UNCTOC, and in particular, its protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. This Act was later revised and operationalized in 2012 under the UN's Palermo Protocol. It thus became the

⁵² East African Community Counter-Trafficking in Persons Act, 2016.

⁵³ The Children's Act of 2001, Cap 141.

⁵⁴ Sexual Offences Act, Cap 62 (a), 2006.

⁵⁵ Government of Kenya (2012). The Counter-Trafficking in Persons Act.

supreme law mandated to guide the investigation, prosecution, and prevention of human trafficking and migrant smuggling in Kenya.⁵⁶

While these legislations are vividly clear, their implementation has not been executed effectively. Therefore, this illuminates the need to fashion a mechanism to coordinate the implementation and performance tracking of trafficking and smuggling policies, provide protection services to victims, and maintain data on trafficking in persons for planning purposes.

Even though the counter-trafficking legislation provides for a stringent punitive sentence of 30 years imprisonment or a fine of Kshs 30 million, or both for trafficking offenders,⁵⁷ criminals are hardly ever convicted under the Act. This has, in turn, led to lenient punishments for offenders. Again, whilst the international and domestic statutes provided by international treaties and protocols are clear, the implementation bit remains a challenge. This study seeks to explicate how the non-implementation of these legislations leads to the increase in the number of human trafficking and migrant smuggling cases in Kenya. The study also examines how the non-implementation of the law has engendered national security threats in Kenya with a view of proffering measures and recommendations for the containment of these crimes in Kenya.

It is therefore evident from the foregoing literature review that none of these studies specifically address the link between human trafficking, migrant smuggling, and national security. It is also evident that these phenomena engender national security threats which have not either been explicated in the literature reviewed or have superficially been explored. This study attempts to explore and examine the various security threats. Equally missing in the foregoing literature is the link between various models and frameworks put in place to contain these crimes and the

⁵⁶ The Counter-Trafficking in Persons Act, (No.8), 2010

⁵⁷ Ibid.

vulnerabilities in the social, economic, institutional, and political levels that fuel their growth. As a way to contribute to the theory and praxis, this study shall examine and analyze the role played by inherent weaknesses in the economic, political, social, and institutional levels in stimulating the growth in the magnitude of these crimes in addition to the national security threats they engender. These thoughts are important in formulating constructs that would be tested and theorized in the future by scholars within immigration practice and security studies.

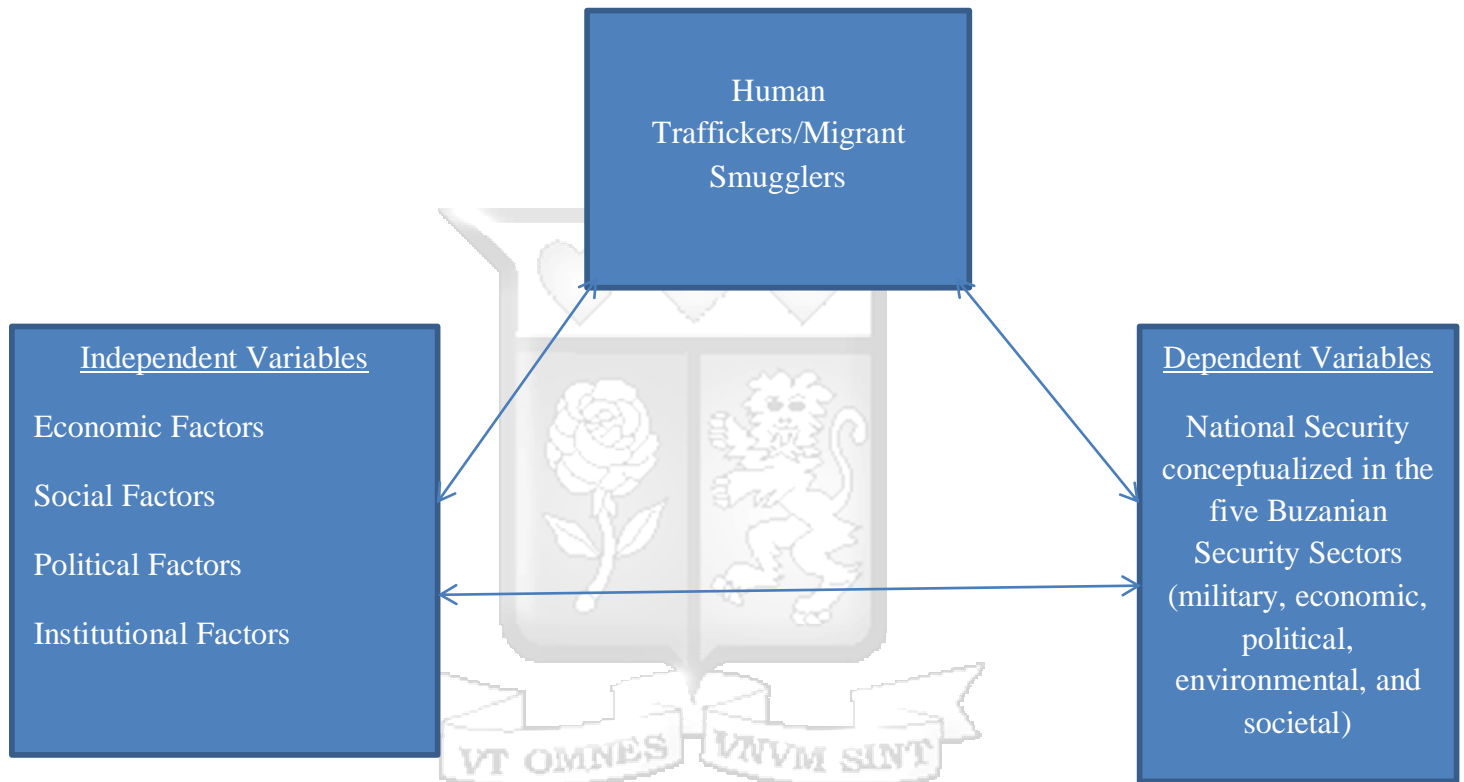
1.8.5 Theoretical Framework

This study adopts the Rational Choice Variant of Gary Becker. This theory contends that cumulative social behavior is a result of an individual actor's behavior and decisions. In this case, the government, human traffickers, migrant smugglers, and their victims are presumed to be rational in their choices grounded on cost and benefit analysis. Based on the calculations done, a decision is arrived at informed by the benefits which are maximized and the costs which are minimized.⁵⁸

As rational entities, states are obligated to ensure security. While traffickers and smugglers are guided by the huge profits involved, states are concerned with security. On the flipside, victims choose to trust the traffickers or smugglers in anticipation that their lives and those of their kin will improve. The strength of this theory lies in its recognition of rational calculations that actors are involved in. This theory also allows broadness in the application that allows the decision-maker to evaluate and consider the reasons behind these crimes. However, real life is complex and actors sometimes are not guided by rational choices but other motives. It is here that the logic of maximizing gains and minimizing costs in the Economic Theory of Crime, also

⁵⁸ Bouche, Vanessa, and Stephanie Shady. "A pimp's game: a rational choice approach to understanding the decisions of sex traffickers." *Women & Criminal Justice* 27, no. 2 (2017): 91-108.

proponent by Gary Becker, comes in handy. The Economic Theory of Crime advances that potential criminals are economically sensible and aim at maximizing their gains while reducing the risk.⁵⁹ Here, human traffickers and migrant smugglers will seek to minimize adverse effects and maximize gains.



1.8.6 Research Hypotheses

1. That the increase in human trafficking and migrant smuggling is a function of the convergence of various negative and positive interests of human traffickers, migrant smugglers, and their victims.

⁵⁹ Witte, Ann Dryden, and Robert Witt. Crime causation: economic theories. The University of Surrey, Department of Economics, 2000.

2. That national security threats are a function of multiple vulnerabilities resident in multiple security sectors.

1.9 Research Methodology

1.9.1 Research Design

The study employed a descriptive research design consisting of both qualitative and quantitative data in its attempt to understand and explain the phenomena of trafficking in persons and migrant smuggling. This design suits this study because our main aim was to describe and explain the characteristics of human trafficking and migrant smuggling phenomena. Again, descriptive research design suitability for this study can be beheld in its endeavor to address the question; what are the characteristics of the phenomena being studied? By answering this question, the trajectory of these phenomena and the reason for their growth will be understood.

Secondary data was used in comprehending the complex social frameworks that are involved in these phenomena. Such data capture the histories, perspectives, and experiences of the participants. Secondary data, however, has a weakness of continuous transmutation of variables involved. The study, therefore, complemented and cross-examined the secondary data using primary data collected through questionnaires and scheduled interviews. This data was analyzed with the help of statistical as well as quantitative tools and the results were used to produce an outcome that can be generalized to the larger population.

1.9.2 Target Study Area and Target Population

This study was done in Kenya and focused on five entry/exit points for migrants namely Jomo Kenyatta International Airport (JKIA), Busia, Lungalunga, Moyale, and Namanga. The choice of these points of entry/exit being guided by Kenya's categorization as a source, transit hub, and

destination point for trafficked and smuggled persons in the recent US Trafficking- in- Person Report. The study targeted both public and auxiliary security personnel based at these border controls. The sample population includes immigration officers, police officers, KAA security personnel, prosecutors, magistrates, judges, and senior officials of NGOs involved in the eradication of these vices.

1.9.3 Sampling

To obtain the sample, a purposive sampling technique was employed to identify participants for this study. A total of 120 security officers at entry and exit points were involved. The officers were further sampled using random sampling techniques after been stratified into investigating, prosecutors, judges or magistrates, and security personnel. This is illustrated in the sample frame shown in table 1.1 below

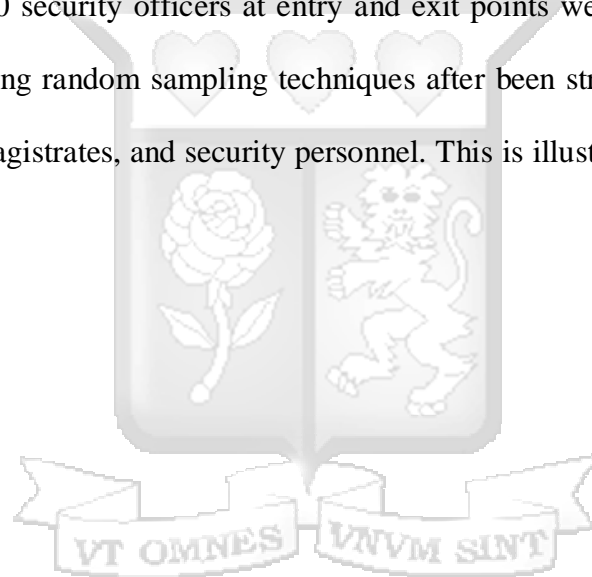


Table 1.1: Research Sample

Strata of respondents	Proportion(p) Target Sample(s)									
	JKIA		BUSIA		LUNGALUNGA		MOYALE		NAMANGA	
	P	S	P	S	P	S	P	S	P	S
Immigration Officers	200	25	15	8	12	6	16	6	16	6
NPS Officers	40	10	15	5	15	5	20	7	20	7
KAA Security	200	25	-	-	-	-	-	-	-	-
Magistrates/Judges	2	1	2	1	1	1	2	1	2	1
Prosecutors	2	1	2	1	2	1	3	1	2	1
Total	454	62	34	15	30	13	41	15	40	15

Source: Survey Data

1.9.4 Data Collection

This study used questionnaires and interview schedules to obtain information. Questionnaires were administered to government officers in the security docket who are privy to the problem of human trafficking and migrant smuggling in Kenya. The questionnaires consisted of both open-ended and closed questions. Scheduled interviews were conducted on key security informants privy to policy decisions on the problem of human trafficking and migrant smuggling. Senior representatives of NGOs involved in the eradication of human trafficking and migrant smuggling

and rescuing of VOTs, such as the IOM, UNHCR, HAART, and Trace Kenya, were also interviewed.

1.9.5 Data Analysis and Presentation

Data generated by questionnaires was checked, edited, organized, digitally coded, and reduced to obtain what is suitable for analysis. The coded data was then analyzed using the excel data analytics software. The statistically analyzed data was then summarized into frequencies and percentages and then presented in tables, bar charts/pie charts, and figures. The research questions yielding qualitative data was analyzed using content analysis procedures, while interviews were transcribed and qualitatively analyzed to draw explanatory patterns and generalize the assumptions that underpin human trafficking and migrant smuggling. Qualitative data was thematically analyzed by describing the phenomena around three themes namely, underpinning factors, security implications, and policy measures. Content analysis was employed to analyze documented information in the form of texts and media reports. This entailed gathering feedback and comments from the research participants, which were then coded, read, and a decision on how they should be organized made. In this case, the study had pre-determined themes which included underpinning factors, prevention and rehabilitation measures, security implications, and policy intervention. The decisions thus made engendered insights that led to the making of a report on the findings.

1.9.6 Legal and Ethical Consideration

The research adhered to outlined ethical and legal guidelines for research while maintaining high standards. The researcher ensured that the analysis done is not only researchable but also fulfills

the research questions and objectives. All literature sources in the literature review are highlighted in a clear, complete, and cogent manner.⁶⁰

1.10 Chapter Outline

This study is organized around five chapters.

CHAPTER ONE anchors the introduction of the study, statement of the problem, objectives of the study, research questions, and justification of the study, theoretical framework, literature review, hypotheses, and the study methodology. These components of chapter one give the framework that shapes the subsequent chapters.

CHAPTER TWO examines human trafficking and migrant smuggling from a historical perspective. It seeks to enhance our ability to understand the roots of human trafficking and migrant smuggling over and space. It explains the variables that underpin the rise in human trafficking and migrant smuggling in Kenya. The chapter offers an explanation of how political, social, and economic factors have a role in these phenomena. This chapter is structured around actor regimes. Underlying this notion is that each regime has had its unique orientation and challenges over the issue informed by multiple dynamics. This historical approach enables us to transit to chapter three whose task is framed by the period 2009 to 2019. It proceeds from the first regime of Mzee Jomo Kenyatta (1963-1978) and discusses the subsequent regimes of Presidents Daniel T. Moi (1978-2002) and Mwai Kibaki (2002-2008).

⁶⁰ Gajjar, D. "Ethical consideration in research." *Education* 2, no. 7 (2013).

CHAPTER THREE responds to the task of the first question; why is there an increase in cases of human trafficking and migrant smuggling despite the countermeasures put in place? And the first objective; to examine and analyze the factors underlying the increase in human trafficking and migrant smuggling in Kenya, despite various countermeasures enacted. This chapter will demonstrate how distance decay at the economic, social, political, and institutional levels converges to facilitate the growth of these phenomena in Kenya. This knowledge of the underlying factors at the four levels enables us to transit to chapter four where security threats engendered by trafficking and smuggling of migrants in Kenya will be analyzed.

CHAPTER FOUR responds to the task of the second question; how is this increase in human trafficking and migrant smuggling impacting the national security of Kenya? And the second objective; to examine and analyze the implications of human trafficking and migrant smuggling on Kenya's National Security. This chapter will demonstrate that the resultant effects of human trafficking and migrant smuggling threaten Kenya's national security. This task will be accomplished by analyzing the Buzanian logic of five different security sectors namely; the economic, military, political, societal, and environmental sectors, with respect to Kenya. The analysis of security threats engendered by trafficking and smuggling will enable us to transit to chapter five.

CHAPTER FIVE anchors recapitulation, conclusion, and recommendations of the study. It responds to four tasks. The first part is the recapitulation of the first two objectives of the study. It includes the study summary on the key findings while demonstrating the extent to which each of the two objectives has been addressed. The second part recapitulates our study hypotheses while concluding each hypothesis from the findings. The third part provides a base for our conclusions and thesis. The fourth is the task of the third objective; to proffer research-based

recommendations for containing the problem of human trafficking and migrant smuggling in Kenya, is undertaken.



CHAPTER TWO
GENEALOGY OF HUMAN TRAFFICKING AND MIGRANT SMUGGLING IN
KENYA (1963- 2008)

2.0 Introduction

This chapter undertakes a historical treatment of human trafficking and migrant smuggling in Kenya. It traces the changing variables that perpetuate these phenomena in the country. The chapter endeavors to respond to the question; how has the problem of irregular migration, which is the core component of human trafficking and migrant smuggling, mutated in Kenya from 1963-2008? This treatment is fundamental in our understanding of the evolution of human trafficking and migrant smuggling in Kenya. By reviewing the historical development relating to irregular migration within the distinct administrative periods, the study endeavors to scrutinize and evaluate how social, economic, and political distance decay¹ has gradually hatched into sanctuaries and obstacles that appeal to human traffickers and migrant smugglers. The central argument is that human trafficking and migrant smuggling in Kenya have evolved through the administration of the three different post-independence regimes.

This chapter is organized into four sections. The first section looks at Jomo Kenyatta's regime from 1963-1978. Section two examines the same relative to Moi's Regime from 1978-2002. The third section examines Mwai Kibaki's Regime from 2003-2008. The last section is the conclusion of the chapter.

¹ Ngunyi, Mutahi, and Musambayi Katumanga. *From Monopoly to Oligopoly of Violence: Exploration of a Four-point Hypothesis Regarding Organized and Organic Militia in Kenya*. UNDP, 2014.

2.1 Harambee Regime, Africanization Strategy, Regional Instability, and the Crisis of Illegal Migration in Kenya (1963-1978)

This section focuses on issues such as Kenyans migration abroad for education, the Africanization policy, the Kenya-Asians conflict, and the regional political conflicts during this period. When Jomo Kenyatta ascended to power in 1963, one of his greatest challenges was to retain the foreign investors in the country while working on modalities of attracting new ones in a bid to help Kenya start on the right economic footing as a young state. Because of the rapid economic growth in Kenya, there was an increase in employment opportunities making the country a key destination for international entrepreneurs and investors.

Jomo Kenyatta knew that an educated population was the driving force in ensuring the country's economic growth and prosperity. Under his rhetoric of education as the key to development, a belief that remains unchallenged today, many young Kenyans migrated to Europe, especially to the UK and the USA on fully government-sponsored scholarships in pursuit of higher education. Upon the completion of their studies and return to Kenya, the graduates were guaranteed integration into the civil service.² Ever since, the diversification of Kenyans' study and work destinations all over the globe has continued, with thousands of youth making the trip abroad to pursue their academic dreams every year.

Soon after Kenya's independence in 1963, a period of volatility pitting the Africans against the Asians ensued. The Kenyatta administration envisaged the "Africanization" policy whereby persons of non-African origin, most of whom were Asians and Europeans, were given two years to acquire Kenyan citizenship and renounce their British citizenship in what was to become the Kenya-Asians crisis. Less than 20,000 out of a total of 220,000 Asians and Europeans had

² Okoth, Kenneth. "Kenya: What role for diaspora in development." *Migration Policy Institute* (2003).

submitted their applications by the stipulated deadline.³ Those who declined to comply were taunted as being disloyal, thereby widening the animosity and distrust from the Africans. They also became victims of growing discrimination by the Jomo Kenyatta administration.⁴

By 1970, the entrepreneurial prowess of the Kenyan community saw 70% of the population consist of wage and salary earners while 30% were employed in the civil service. The Africanization policy exercised by the Jomo Kenyatta administration meant that many Asians and Europeans were dismissed in favor of black Africans.⁵ Moreover, the Kenyan Immigration Act of 1967 obligated the Asians to obtain work permits. A Trade Licensing Act passed in the same year curtailed the regions of the country in which non-Kenyans could do their business. Confronted with a blurred future in Africa, a huge number of Asians elected to use their British passports to relocate to the United Kingdom. As a result, the number of Asians living in Kenya dropped from an initial 179,000 in 1962 to 139,000 in 1969 and further to 78,000 in 1979.⁶

As of 1968, an estimated number of 100,000 Asians had moved to the United Kingdom. Their exit from Kenya brought the issue of immigration to the forefront in the United Kingdom, with the conservatives arguing that there was a possibility of severe negative social repercussions if the trend was allowed to continue. New legislation, the Commonwealth Immigrants Act of 1968,⁷ was enacted to control the inflow of immigrants from Kenya to the United Kingdom.

³ Rothchild, Donald S. *Racial Bargaining in Independent Kenya: a study of minorities and decolonization*. Published for the Institute of Race Relations London by Oxford University Press, 1973. Chap.1

⁴ The University of Denver. Center on International Race Relations. *Studies in Race and Nations*. Vol. 1. The University of Denver, Center on International Race Relations, 1969.

⁵ Rothchild, Donald. "Kenya's Africanization program: priorities of development and equity." *American Political Science Review* 64, no. 3 (1970): 737-753.

⁶ Cohen, Robin, ed. *The Cambridge survey of world migration*. Cambridge University Press, 1995. P.591

⁷ Act, Commonwealth Immigrants. "Electronic resource." *British nationality.—Mode of access:*< <http://www.Britishcitizen.info/CIA1968.pdf>>.—*Date of access* 20 (1968): 2011.

The constant violent atmosphere experienced in Uganda during the reign of President Idi Amin Dada, who overthrew Milton Obote in 1971, saw many Ugandan citizens irregularly migrate to Kenya for refuge. A total of 2,000 Ugandan Asians were granted asylum while several others settled in Kenya illegally.⁸ Again, in August 1972, President Idi Amin gave Uganda's 80,000 Asians a three-month ultimatum to leave the country. Even though at the time of this order, 23,000 Asians had their requests for Ugandan citizenship both processed and accepted, many elected to leave voluntarily. The majority of these Asians were citizens of the United Kingdom and its Colonies. This saw them migrate to the United Kingdom while others went to Canada. Up to 2,500 of them migrated and settled in Kenya.⁹

These events demonstrate the regional dynamics of involuntary migration whereby people were forced to cross borders, some of them illegally without the requisite travel documents. This irregular cross-border movement was facilitated by corrupt government officials mandated to man the border points. This shows that irregular migration and decay in government institutions is an old vice.

2.2 (a) Nyayo Regime and Evolution of Illegal Emigration and Immigration (1978-1992)

This section attempts to explicate migration dynamics after the 1982 attempted coup d'état, Kenyans migration into exile, effects of banditry and cattle rustling, and the regional political turmoil. When Moi took over, he was surrounded by a powerful clique of influential people from his predecessor's previous regime. However, after the 1982 attempted coup d'état, he dismissed his political adversaries and amalgamated his power. He changed his leadership style and

⁸ International Commission of Jurists, Uganda, and Human Rights (Geneva 1977). P.167

⁹ Jorgensen, Jan Jelmert. "Uganda: a modern history." (1981). P.381

ruthlessly dealt with the masterminds behind the attempted coup d'état while at the same time bringing in his supporters and friends into the cabinet and key government leadership positions.¹⁰ Perceived enemies of the state were subjected to political, economic, and judicial repressions. Again, the parliament enacted section 2(A) of the constitution to transform the country into a de jure one-party state.¹¹ This engendered resistance from the intelligentsia especially professionals and academics. In a bid to avoid torture and death, most of them were forced into exile without going through the proper immigration procedures.¹² This exodus into exile in effect engendered the genesis of illegal emigration from Kenya as emigrants fled the country irregularly with the help of corrupt government officials manning the border controls. Some of the Kenyans who exiled the Country for their safety during this time include Ngugi wa Thiongo in 1985 and Koigi wa Wamwere in 1986.¹³

During Moi's tenure, from 1978-1992, the GHOA region witnessed a prolonged period of political turmoil resulting in conflicts that not only led to fatalities but also a massive displacement of the population. The Uganda-Tanzania war from 1978-1979 led to the displacement of tens of thousands of Ugandans who irregularly migrated to Kenya for safety.¹⁴ In Somalia, the government of President Siad Barre was overthrown in January 1991. The conflict that followed led to bloodshed as many Somalis were not only internally displaced but

¹⁰ Dianga, James Waore. *Kenya 1982, the Attempted Coup: The Consequence of a One-party Dictatorship*. Pen Press, 2002.

¹¹ Murunga, Godwin. "The state, its reform, and the question of legitimacy in Kenya." *Identity, culture, and politics* 5, no. 1&2 (2004): 179-206.

¹² Murunga, Godwin R., and Shadrack W. Nasong'o, eds. *Kenya: The struggle for democracy*. Zed Books, 2007.

¹³ Korwa G. Adar and Isaac M Munyae. *Human Rights Abuse in Kenya under Daniel Arap Moi, 1978-2001*

¹⁴ Peter F. B. Nayenga. "The Overthrowing of Idi Amin: An Analysis of the War." *Africa Today* 31, no. 3 (1984): 69-71.

also trafficked or smuggled into Kenya. Many of the IDPs fled to Kenya at an average rate of 800 to 2,000 persons daily. This led to the establishment of the Dadaab Refugee Complex.¹⁵

The 1980s were also characterized by banditry and cattle rustling, especially amongst the marginalized border communities. This led to the militarization of migration whereby bloody warfare between these communities was mainly to expand their economic base in terms of livestock. Raiders from neighboring states would irregularly invade Kenya's territory and make away with large herds of livestock.¹⁶ With time, the cattle rustlers acquired weapons more sophisticated than the government's, a move that cascaded into the illegal entry of migrants and arms. Consequently, this led to the loss of monopoly of instruments of violence by the government, thereby posing a grave national security challenge to the country.

During this period of Moi's regime, incidences of transnational organized crime that threatened the country's national security took place. In 1980, the Norfolk Hotel in Nairobi was bombed by a suspected terrorist from Morocco. This incident caused the death of twenty people from different nationalities with eighty-seven others being wounded. Although the local police in conjunction with international security agencies had identified the terrorist, he managed to outwit them before fleeing to Saudi Arabia. Lack of collaboration between various security agencies was evident as the terrorist escaped through immigration checks without being apprehended.¹⁷

¹⁵ Hyndman, Jennifer, and Bo Viktor Nylund. "UNHCR and the status of prima facie refugees in Kenya." *International Journal of Refugee Law* 10, no. 1-2 (1998): 21-48.

¹⁶ Markakis, John. *Conflict and the Decline of Pastoralism in the Horn of Africa*. Macmillan, 1993.

¹⁷ Chuma, Matthew S. *The Scourge of Terrorism: Theater of Conflict Moves to Africa*. Army War College Carlisle Barracks Pa, 1999. P.16

2.2 (b) Nyayo's Multi-party Regime and Dynamics of Irregular Migration (1992-2002)

This section dwells on the heightened regional political conflicts and terrorism activities during the decade of 1992-2002. In the 1990s, the HOA region experienced perennial political conflicts that resulted in massive death tolls and extensive displacement of the population. Several countries in this region experienced political skirmishes at different times during this period. These skirmishes included inter alia, the Ethiopian-Eritrean war between 1998 and 2000,¹⁸ the 1994 Rwandan genocide,¹⁹ the second Sudanese civil war of 1983 to 2005,²⁰ the first Congo war of 1996 to 1997,²¹ the Somali civil war that started in 1991,²² and the Burundian Civil War of 1993.²³ As a result of these political conflicts and wars, tens of thousands of displaced persons irregularly migrated and sought refuge in Kenya.

Under Moi's regime, Kenya suffered deadly terrorist attacks that were perpetrated by migrants who had irregularly entered or left the country with the help of complicit security enforcement officials. The 7th August 1998 bomb blast that targeted the USA embassy in Nairobi was executed by foreign suicide bombers. The assembling of the bomb was done in Nairobi by foreigners who had accessed the country as a result of the laxity by law enforcement agencies manning critical points of entry and exit. The bomb blasts lead to 213 fatalities with 4,000 people seriously wounded.²⁴ The perpetrators of this attack entered the country as either tourists or

¹⁸ Mulugeta, Kidist. "2 The Ethiopian-Eritrean War of 1998–2000." *Regional security in the post-cold war horn of Africa* (2011): 31.

¹⁹ Prunier, Gerard. *Africa's world war: Congo, the Rwandan genocide, and the making of a continental catastrophe*. Oxford University Press, 2008.

²⁰ Barltrop, Richard. *Darfur and the international community: the challenges of conflict resolution in Sudan*. Bloomsbury Publishing, 2010.

²¹ Cooper, Tom. *Great Lakes Holocaust: First Congo War, 1996-1997*. Helion and Company, 2013.

²² Kapteijns, Lidwien. "Clan cleansing in Somalia: The Ruinous Turn of 1991." *Patterns of Violence in Somalia* (2013): 1.

²³ Ngaruko, Floribert, and Janvier D. Nkurunziza. "Civil war and its duration in Burundi." *Understanding civil war: Evidence and analysis* 1 (2005): 35-61.

²⁴ Shinn, David. "Fighting Terrorism in East Africa and the Horn." *Foreign Service Journal* 81, no. 9 (2004): 40.

visitors without their mission being detected. After the terrorist attack, it was revealed that one of the attackers had fraudulently acquired a Kenyan identification card and a birth certificate. Despite proof that he was a Jordanian national, his application for a Kenyan passport had been approved by the Directorate of Immigration.²⁵

In 1999, the then Principal Immigration Officer Francis Kwinga was fired in connection to terrorist activities. Reports indicated that Kurdish rebel leader Abdullah Ocalan and his aides were able to enter Kenya irregularly using falsified passports by exploiting the inherent lapse in the Directorate of Immigration.²⁶ This shows the level of inadequacies of government law enforcement agencies in curbing illegal entry and exit of criminal elements into and out of the country thereby threatening Kenya's national security.

In another terrorist attack on 28th November 2002, an all-terrain vehicle laden with explosives crashed through a barricade outside the Paradise Hotel in Kikambala and blew up moments after Israeli tourists had checked in. Three tourists and ten Kenyans lost their lives while several others were seriously injured.²⁷ On the same day, an Israeli passenger plane was almost brought down as it took off from Mombasa's Moi International Airport when two missiles were launched at it, fortunately missing the target.²⁸ These deadly attacks were masterminded by Fazul Abdullahi Mohamed, who was also the mastermind behind the 1998 bomb attacks in Nairobi and Dar es Salaam. Fazul had endeared himself to the local community in Siyu village, Lamu County where he not only married a local woman but also established a Madrasa for the villagers.

²⁵ Canada: Immigration and Refugee Board of Canada, *Kenya: Reports of corruption in the immigration office and issuance of passports to members of terrorist organizations; police investigations of civil servants suspected of corruption and whether they would be allowed to return to work and leave the country (1999-2000)*, 21 June 2000.

²⁶ Chege mbitiru. "Report: Kenya Reshuffles Cabinet." Associated Press, February 1999.

²⁷ Caroline Theuri. "Terrorists Hit Paradise Hotel after Elaborate Planning." Daily Nation (Kenya), November 2013.

²⁸ Kuto, B., and J. Groves. "The Effects of Terrorism: Evaluating Kenya's Tourism Crisis." *E-Review of Tourism Research* 2, no. 4 (2004): 88-95.

During his stay in Kenya, he infiltrated government institutions to acquire critical documents such as a Kenyan identification card, birth certificate, and a passport. He irregularly crossed between Kenya and Somalia to set up a terrorist network in the region. His ease of movement was aided by the inherent loopholes in Kenya's border security such as the connivance of government security officials and the porousness of the Kenya-Somalia border.²⁹

2.3 Mwai Kibaki's Regime and the Dynamics of Irregular migration (2002-2008)

This section will attempt to debunk how issues including domestic and regional political skirmishes, threats of transnational organized criminal networks such as terrorist networks, effects of famine, and corruption in government institutions shaped the dynamics of irregular migration and by inference human trafficking and migrant smuggling in Kenya.

In his inaugural speech in 2002, President Mwai Kibaki highlighted the need to tackle Kenya's security challenges. These security threats included transnational organized crimes such as human trafficking and migrant smuggling among others.³⁰ Soon after his ascendancy to power in 2002, Kibaki's regime introduced the Suppression of Terrorism Bill which later culminated into the Prevention of Terrorism Act of 2012. The goal of this legislation is to detect, deter and neutralize terrorist activities in Kenya.³¹ Like elsewhere globally, the September 11 terrorist attack in the USA resulted in the fight against terrorism being predominant in shaping up the Kenyan security landscape. More efforts and resources were now being directed into the efforts aimed at the detection and neutralization of terrorists' activities in the country.

²⁹ Nation Reporter. "Fazul; the Making of a Master Terrorist." Daily Nation (Kenya), August 2008.

³⁰ Kibaki, M. "President Kibaki's Speech to the Nation on His Inauguration as Kenya's 3rd President." (2002): 2002.

³¹ Prevention of Terrorism Act. (2012). <http://www.kenyalaw.org/lex/actview.xql?actid=No.%2030%20of%202012>

According to Simiyu, the Sabaot Land Defence Forces militia operating in the Mt Elgon region of Western Kenya in 2005,³² committed atrocities such as rape, torture, theft of property, and murdered 600 people. Another 66,000 persons³³ were internally displaced. Some of them irregularly migrated to Uganda to avoid being killed or maimed. Coincidentally, the SLDF militia also irregularly entered Uganda to regroup and carry out offensive attacks against the Kenya military personnel who had been deployed to quell the SLDF attacks. The porous borders led to the proliferation of SALWs from neighboring Uganda hence supplying the militia with firearms and ammunition that greatly threatened the national security in Kenya.

After the disputed 2007 general elections, Kenya experienced several days of political unrest. During these skirmishes, approximately 1,300 people lost their lives while over 600,000 others were internally displaced.³⁴ 12,000 IDPs irregularly fled into Uganda for safety.³⁵ The 2009 US T-I-P Report revealed that 170 IDPs in Kenyan camps were trafficked to the Middle East, Europe, and other East African countries for exploitation in massage parlors, domestic servitude, and forced labor.³⁶

In 2006, a severe famine wreaked havoc in Somalia at a time when the country was experiencing civil clashes between warlord militia and the Islamic Courts Union.³⁷ As a result, two million Somalis were adversely affected with 25,000 of them fleeing to Kenya. Their involuntary migration into Kenya was precipitated by humanitarian concerns and no immigration procedures were followed. Even though Kenya closed its border with Somalia in 2007 to wade off the Al

³² Simiyu, Robert Romborah. "Militianisation of resource conflicts: the case of land-based conflict in the Mount Elgon region of western Kenya." *Institute for Security Studies Monographs* 2008, no. 152 (2008): 80.

³³ Ibid

³⁴ Kamungi, Prisca. *Municipalities and IDPs Outside of Camps: The Case of Kenya's integrated Displaced Persons*. Brookings Institution-London School for Economics Project on Internal Displacement, 2013.

³⁵ UNHCR; 12,000 Kenyan Refugees Now in Uganda. Briefing Notes of February 2008.

³⁶ United States Department of State. Trafficking in Persons Report- Kenya. 2009.

³⁷ Civins, Braden. "Ethiopia's Intervention in Somalia, 2006-2009." *Yonsei Journal of International Studies* 2, no. 2 (2010): 121-138.

Shabaab terror-insurgency, Somali refugees and asylum seekers entered the country irregularly with the help of human trafficking and migrant smuggling cartels who bribed police officers stationed at the Liboi border. A report from a human rights watch revealed each person seeking entry parted with Kshs 10,000.³⁸

Combating trafficking-in-persons offences during this period of Kibaki's tenure was an uphill task. Kenya did not have a counter-trafficking-in-persons legislative framework until 2010 when the Counter-Trafficking in Persons Act of 2010 was enacted. Human trafficking and migrant smuggling offences were being conflated for irregular migration or labor laws-related offences.³⁹

This saw the directorate of public prosecution apply the Kenya Immigration Act cap 172, the Employment Act of 2007, the Penal Code cap 63, the Criminal Procedure Code cap 75, the Children Act of 2001 Cap 141, and the Sexual Offences Act 2006 to try human trafficking and migrant smuggling offences.

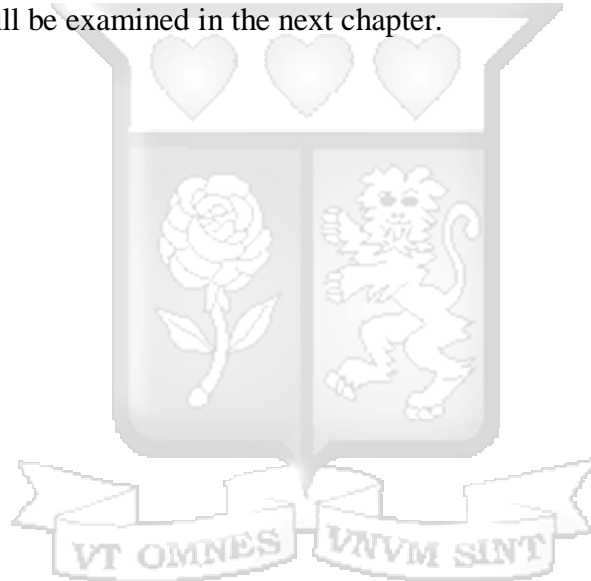
Efforts to eliminate these phenomena were hampered by a lack of coordination between government law enforcement agencies manning the points of entry and exit. A lack of a clear line of command to synchronize the operations of the security agencies in an attempt to contain cross-border criminal activities aggravated the situation. With this lack of coordination and collaboration, coupled with narrow information sharing between different security agencies, the implementation of policies intended to eradicate these criminal activities was not optimally realized.

³⁸ Human Rights Watch. "Welcome to Kenya" Police Abuse of Somali Refugees."

³⁹ Rutten, Marcel, and Koki Muli. "9 The Migration Debate in Kenya." *International Migration and National Development in Sub-Saharan Africa*, pp. 182-203. Brill, 2008.

2.4 Conclusion

This chapter has demonstrated that irregular migration and in inference, human trafficking and migrant smuggling, have been growing because of certain dynamics. Issues such as corruption within government institutions led to irregular entry and exit of undocumented persons, mostly fleeing from the effects of political instability and natural catastrophes such as famine both in Kenya and the neighboring countries. The review of the historical development of these phenomena has laid a foundation for an examination of the inherent factors that underpin their growth in Kenya. This will be examined in the next chapter.



CHAPTER THREE

**FACTORS UNDERPINNING THE GROWTH OF HUMAN TRAFFICKING AND
MIGRANT SMUGGLING IN KENYA**

3.0 Introduction

Despite substantial efforts by the Kenyan government, International Organizations, and NGOs seeking to contain human trafficking and migrant smuggling, these phenomena continue to grow. This can be traced back to the distance decay¹ at the economic, political, social-cultural, and institutional levels. The realization of a favorable space for the human traffickers and migrants smugglers to pursue their objectives, can be demonstrated by an equation; $(FS) = MI^2 + SAN + OBS - ICT$, whereby (FS) is the favorable space, MI^2 is the square mileage, SAN represent the sanctuaries, OBS signify the obstacles and minus ICT, denotes the absence of information, communication, and transportation network.²

The analysis of the growth of these phenomena anchors the task of our first question; what explains the growth of human trafficking and migrant smuggling in Kenya notwithstanding the government's countermeasures? The chapter examines and analyzes factors underlying the rise in human trafficking and migrant smuggling in Kenya despite diverse government countermeasures from 2009 to 2019.

It advances the argument that the increase in human trafficking and migrant smuggling is a function of the ability of perpetrators to exploit and maximize on victims' and institutional

¹ Nggunyi, Mutahi, and Musambayi Katumanga. *From Monopoly to Oligopoly of Violence: Exploration of a Four-point Hypothesis Regarding Organized and Organic Militia in Kenya*. UNDP, 2014.

² Ibid.

vulnerabilities to achieve their objectives. These vulnerabilities will be clustered into economic, social-cultural, political, and institutional factors, best captured under the distance decay convergence. The challenge of vulnerabilities on the part of the victims and government institutions engendered by distance decay experienced at the social-cultural, political, institutional, and economic levels in the society creates sanctuaries for the perpetrators while at the same time creating obstacles for government institutions in their efforts to address these vices. As highlighted in chapter two, the contemporary distance decay dynamics have roots in the process of state institutional, social and economic development. The core interest of this chapter is to demonstrate how these past dynamics impact the current setting.

The chapter is organized around six sections. The first section explores the role played by economic factors such as poverty, unemployment, demand-supply dynamics, and globalization in the increase of human trafficking and migrant smuggling cases in Kenya. The second part explores the social-cultural dynamics underpinning the growth of these phenomena.

The third section examines how political instability, perennial conflicts, and widespread corruption, coalesce to exacerbate the trafficking and smuggling situation in Kenya. The fourth part examines how inert public institutions and probity decay in Kenya have led to the increase in the number of trafficked or smuggled victims. The fifth section presents the analysis and findings from the study respondents on the various factors underlying human trafficking and migrant smuggling in Kenya while the last section provides the conclusion of the chapter.

3.1 Economic Factors

3.1(a) High Poverty and Unemployment Levels

According to Lee, the startling increase in economic disparity between the rich and the poor remains a great concern in the fight against human trafficking and migrant smuggling in Kenya. She argues that typically, victims of trafficking are sourced from poor backgrounds.³ This explains the increasing number of trafficking and smuggling victims been sourced from Kenya which according to the 2018 World Bank report had 36% of its population living below the poverty line.⁴ The report added that the majority of the affected were women and children. This assertion corroborates with Shelley's who acknowledged poverty as one of the most prevalent push factors that drive vulnerable migrants into the hands of traffickers and smugglers.⁵

Kenyans leading poor lives are attracted to opportunities that promise to improve their standards of living and those of their kinsmen. According to a senior official of an NGO involved in rescuing victims of these crimes, seven out of ten rescued trafficking and smuggling victims stated that poverty had pushed them into the hands of traffickers and smugglers.⁶ These views were supported by 92.5% of the study respondents, who included Immigration officers, Police Officers, KAA Security Officers, Prosecutors, Judges, and Magistrates. They held that high poverty levels alongside high rates of unemployment accounted for the daily increment in the number of persons falling victim to traffickers and smugglers in Kenya.⁷

³ Lee, Maggy, ed. *Human Trafficking*. Routledge, 2013. Chap.1

⁴ 2018 World Bank Poverty Report

⁵ Shelley, Louise. Op. cit.

⁶ Interview with Senior Director HAART-Kenya. Telephone interview. July 10, 2020.

⁷ See Table 3.1 and Figure 3.1 on p. 78

A senior police officer interviewed revealed that traffickers and smugglers connive with poverty-stricken parents into giving out their children to be recruited for overseas employment opportunities. He added that the reality turns out to be different as these children end up being trafficked or smuggled for sexual and labor exploitation. According to the officer, seven out of ten victims intercepted or rescued from traffickers and smugglers, were from poverty-ridden backgrounds with the lure of high-paying job opportunities and better living conditions being cited as the baits used by the perpetrators.⁸

The 2014 ILO Global Report ranked trafficking and smuggling of migrants as not only amongst the largest and fastest-growing forms of transnational organized criminal activities but also highly lucrative in terms of returns.⁹ According to the report, these transnational organized crimes generate approximately USD 150 billion per annum, thereby making them a hugely profitable business. Indeed, the human trafficking and migrant smuggling business is only rivaled by drug trafficking and arms trade in terms of profitability.¹⁰ Perpetrators are attracted by the huge profits and low risk involved in trafficking and smuggling activities. Lack of employment opportunities has resulted in job seekers joining this lucrative trade.

From the foregoing perspective, we can draw that extreme poverty levels in Kenya coupled with high unemployment levels underpin the increase in the number of vulnerable persons likely to be trafficked or smuggled by manipulative criminals. To change this trajectory, inclusive institutions that bestow enable equal opportunities, equal rights, and entitlements, voice, and access to resources must be embraced. On the same breadth extractive institutions that either discourage people from taking economic growth initiatives or narrow their opportunities to do so

⁸ Interview with Senior Police Officer. June 5, 2020.

⁹ ILO Global Report 2014.

¹⁰ Ibid.

must be obliterated. This will uplift the living standards of the people thereby reducing the number of vulnerable people.

3.1(b) Globalization, Human Trafficking, and Migrant smuggling

According to Keohane, globalization is the increase in volume and speed of flows of capital, goods, information, ideas, people, and forces that connect different actors between countries.¹¹

This interconnectedness has played a huge role in opening up the world and collapsing it into a global village. This worldview is supported by Brewer who contends that it is this shrinking of the world that enhances the movement of people both voluntarily and through coercion.¹² Brewer argues that globalization has contributed to the evolution of human trafficking and migrant smuggling into lucrative and fast-growing crimes. He approximates that USD 150 billion is generated every year as profits from these transnational organized criminal activities.

Stiglitz posits that the globalization process that started with the integration of markets and the opening up of economies has also fueled the growth of human trafficking and migrant smuggling at the domestic, regional, and international levels. He adds that, although globalization, supported by information, communication, and technological advancement has fashioned massive growth of employment and economic prospects in numerous advanced countries, it has also led to the widening of the gap between the rich and poor.¹³ The desire by the vulnerable migrants to escape from their underprivileged economic situation drives them into trafficking and smuggling syndicates.¹⁴

¹¹ Keohane, Robert Owen. *Power and governance in a partially globalized world*. Psychology Press, 2002. Chap.1

¹² Brewer, Devin. "Globalization and human trafficking." *Topical Research Digest: Human rights and human trafficking* 2009 (2009): 46-56.

¹³ Joseph E. Stiglitz. *Globalization and its Discontents* (New York: W.W. Norton, 2003). Chap.1

¹⁴ Brewer, Devin. Op. cit. 46-56.

Musto and Boyd in their study “the trafficking-technology nexus,” argue that technological advancement has enhanced the access and dissemination of information. It has also given rise to new sophisticated platforms of transportation and communication thus making it easy for traffickers and smugglers to carry out their criminal activities. The modernization of transport systems has not only improved mobility but has also eased transport logistics, thereby making international travel, which is one of the attributes of smuggling and trafficking, more accessible.¹⁵

Significantly, modern communication platforms augment the communiqué between the perpetrators, the victims, and the recipients of these victims. Given that they are rational actors, these criminals make calculations on the gains that they are likely to accrue before engaging in human trafficking and migrant smuggling. To them, the most important goal is to benefit financially regardless of what befalls their victims.

Moreover, the social media platform remains a key driver behind the recruitment of vulnerable victims into human trafficking and migrant smuggling. The advent and the use of cellphones, access to internet services, and the use of social media platforms such as WhatsApp, Facebook, Instagram, and Twitter have lessened the work for traffickers and smugglers. It is now easier for them to recruit and transport their victims as well as swiftly send or receive payment for the same using modern cash transfer platforms.¹⁶

From the foregoing narratives, there is a need for the authorities to formulate policies and fashion ways of checking the use of modern information, technology, and communication platforms in a bid to gag the activities of traffickers and smugglers in Kenya. Such policies include the use of

¹⁵ Musto, Jennifer Lynne, and Danah Boyd. "The trafficking-technology nexus." *Social Politics* 21, no. 3 (2014): 461-483.

¹⁶ Interview with a Senior Police Officer. July 7, 2020, Nairobi.

sophisticated technology and heightened intelligence gathering to choke the communication and financial transactions of these criminals. One of the findings of this study is that transnational organized criminals are shrewd in their operations and are highly closely knit. An interview with a senior police officer supports this assertion. He said that;

These organized criminals cooperate and work as a team. Remember that they are fighting to evade the long arm of the law. Through well-synchronized means, they can perpetuate their criminal activities. This makes it difficult for the Kenyan government to eliminate them. With the advent of sophisticated modes of communication, traffickers and smugglers conduct their business more swiftly and more discreetly. Evidence gathered from those we have arrested points to discreet use of WhatsApp, Facebook, and SMSs to recruit victims. Payment transactions have also been traced to M-Pesa and Western Union money transfer platforms.¹⁷

The study can draw that; globalization has led to the expansion of the scope of criminal activities. This has, in turn, seen other transnational organized criminal organizations such as drug traffickers and money launderers expand their trade horizon by venturing into human trafficking and migrant smuggling. This has, in turn, created a symbiotic relationship between various transnational organized criminal syndicates. These views are supported by 70.8% of the study respondents who thought that the effects of globalization indeed play a critical role in the growth of trafficking and smuggling of migrants in Kenya.¹⁸

3.1(c) Increased Demand for Trafficking or Smuggling Victims

According to Bales, there is a huge demand for trafficked and smuggled persons for labor and sexual exploitation all over the globe, but more so in developed countries. He argues that the victims are perceived to be money-making products in the human trafficking and migrant smuggling arena. This has consequently created a vibrant market for trafficked or smuggled

¹⁷ Interview with a Senior Police Officer. July 13, 2020, Nairobi.

¹⁸ See Table 3.1 and Figure 3.1 on p.78

victims. He adds that being rational actors and guided by the desire to benefit economically, traffickers and smugglers are every day thinking about how this huge demand will be met.¹⁹

Bale posits that the permeability of border controls, which is mostly determined by the level of institutional corruption in the destination country, is an important consideration when analyzing how the demand dynamics influence the growth in the number of trafficked or smuggled victims. This is because the less permeable a border control is, the more difficult it becomes to traffick or smuggle victims and vice versa. The consideration of institutional corruption becomes an important consideration because it is this vice that opens up borders for traffickers and smugglers of human beings.²⁰ Corruption as an underlying cause for trafficking and smuggling is intricately elucidated under the political factors segment in this chapter.²¹

According to Bhalla, the growth of commercial sex work and sex tourism industries in Kenya has seen a rise in the demand for trafficked women and girls. This trajectory is fueled by the fact that the growth in sex tourism involves an unprecedented "commodification" of human beings. She posits that one in every three girls aged between 12 years and 16 years in this region has engaged in sex tourism. Additionally, 90% of the families in the villages have at least one girl who is a victim of commercial sexual exploitation in which girls as young as 16 years earn between up to Kshs 1,000 for every client entertained.²²

Kibicho supports Bhalla's sentiments and reveals that travel agencies and tour operators in Europe and North America as well as in Kenya are fully aware that sex tourism is a major attraction for some tourists. This is why the marketing of exotic beach locations such as the Kenyan coastal tourists' sites often includes photographs of young men and women clad in

¹⁹ Bales, Kevin. "Understanding the Demand behind Human Trafficking." *National Institute of Justice, Washington, DC* (2003).

²⁰ Ibid.

²¹ See P. 59

²² Nita Bhalla. "Child sex for a dollar on Kenya's palm-fringed beaches." Reuters News, June 2018.

scanty ethnic dresses. This is a concealed communication to the tourist that these men and women in the adverts are also accessible and are part of the holiday package.²³

Shelley contends that the demand for trafficked and smuggled persons has surged due to the growth of clientele in need of cheap labor. Industrialized countries have stepped up their activities to stay competitive in the global economy. She points out that the increase in demand for VOTs has fashioned a thriving business for traffickers and smugglers, who are rational actors and choose to trade in human beings because of the low start-up capital, marginal risks involved, colossal profits, and a ready market for their merchandise.²⁴

From the foregoing studies, we can deduce that the demand for women and girls for commercial sex work and sex tourism has been on the rise. Vulnerable victims are either recruited online or through recruitment agencies dotted around major cities and towns in the country. This revelation corroborates with the information given by a senior personnel of an NGO involved in rescuing, rehabilitating, and reintegrating victims of trafficking. He said that;

*The girls are approached directly or through their parents who are enticed with money. Usually, these traffickers target parents and children from low-income suburbs. In 2019, the NGO rescued eighty-nine girls who were engaging in sexual exploitative activities in the coastal region and rehabilitated them. In all of these cases, high demand for girls in the sex tourism industry and poverty stood out as a key push factor.*²⁵

Malit and Youha observe that because of the huge demand for semi-skilled and unskilled labor force in critical sectors such as the hotel, hospitality, and construction industries, the Gulf Cooperation Council (GCC) countries remain a top destination for trafficked or smuggled victims. They argue that with Qatar preparing to host the FIFA World Cup in 2022, and the UAE

²³ Kibicho, Wanjohi. "Tourism and the sex trade in Kenya's coastal region." *Journal of Sustainable Tourism* 13, no. 3 (2005): 256-280.

²⁴ Shelley, Louise. Op. cit.

²⁵ Interview with a Senior Director, Trace Kenya. Telephone Interview. July 10, 2020.

preparing to host Expo 2021, employers from this region have resorted to outsourcing cheaper labor force from Kenya and other African countries. The situation is compounded by the fact that most of the Gulf countries have imposed bureaucratic rules and regulations for any laborers wishing to work there. Consequently, recruitment agencies have taken advantage of these restrictions to traffick and smuggle susceptible Kenyans to these countries.²⁶

The preceding appreciates that the huge demand for unskilled labor force remains one of the reasons why most of the victims of trafficking and smuggling from Kenya find themselves in the Middle East and the Gulf regions. While in the Middle East many Kenyans are confronted by a life of modern-day slavery whereby some of them are sexually exploited with others been plunged into forced labor. Significantly, 55.8% of the study respondents agreed that the increase in demand for VOTs was indeed a major contributing factor to the growth of trafficking and smuggling in Kenya. Alongside the increase in the demand for trafficked and smuggled victims, brokers and fake advertisers have taken advantage of the shortage of employment opportunities in the country to lure vulnerable youth into trafficking and smuggling syndicates.

3.2 Social-Cultural Dynamics behind Human Trafficking and Migrant Smuggling

3.2(a) Prejudiced Cultural Behaviors

In Kenya, the social-cultural factors that underpin the growth of human trafficking and migrant smuggling include discriminatory practices that deprive the population, especially women, girls, and children of their rights and freedom in terms of access to education, employment opportunities, and resources. In addition, oppression of women and girls, sexual abuse, and domestic violence reflect instances of prejudiced cultural behaviors responsible for driving

²⁶ Malit, Froilan, Youha, Ali. Migration Policy Institute. Kenyan Migration to the Gulf Countries: Balancing Economic Interests and Worker Protection. 2016.

vulnerable women and children into the waiting hands of human traffickers and migrant smugglers.²⁷

Women and girls are more vulnerable to human trafficking and migrant smuggling because of prejudiced practices such as the reluctance to educate the girl child, female genital mutilation, early marriages, and domestic violence. This is because traffickers and smugglers take advantage of their desperation to traffic or smuggle them abroad with the lure of greener pastures and better living standards in the destination country. A senior police officer interviewed intimated that three out of ten women and girls rescued by the police stated that family pressure to hunt for job opportunities had exposed them to being trafficked or smuggled.²⁸

According to the latest survey conducted by HAART Kenya in 2020, the female gender continues to be the most affected by human trafficking and migrant smuggling in Kenya. From a data sample of 586 victims analyzed by the organization, 85% were female, with 15% being male. Women who participated in the study said that they landed in the hands of human traffickers and migrant smugglers after they were forced to flee from forced or abusive marriages.²⁹ The revelation that the female gender is in much danger of being trafficked or smuggled was supported by the results from our research correspondents whereby 71% of the study participants agreed that indeed women and girls are in great danger of being trafficked or smuggled as compared to 29% who were of a contrary opinion. It is also worth noting that 55% of the study respondents acknowledge that some social-cultural practices such as reluctance to

²⁷ IOM, Assessment Report on the Human Trafficking Situation in the Coastal Region of Kenya. May 2018.

²⁸ Interview with Senior Police Officer. August 28, 2020, Nairobi.

²⁹ Emmanuel Too. "Report: 9 out of 10 human trafficking victims are women." Standard Digital (Kenya), July 2020.

educate the girl-child, FGM, and discrimination against women force them to irregularly migrate, sometimes ending up in the waiting hands of human traffickers and migrant smugglers.

In 2018 a local daily reported that a Kenyan woman supposedly escaping gender-based violence was trafficked to Saudi Arabia after being promised an employment opportunity in Riyadh. It was recounted that while in Saudi Arabia she was repeatedly raped by her employer. This ordeal did not only leave her psychologically and emotionally bruised but also left her pregnant. She would, later on, be rescued and repatriated to Kenya with the help of the Kenyan Embassy in Riyadh.³⁰ Prejudiced cultural practices such as the FGM, forced early marriages, gender discrimination, and GBV against women and girls in Kenya contribute to their vulnerability to being maltreated. This validates our study respondents' views that the majority of vulnerable persons being trafficked or smuggled in Kenya are of the female gender. Apart from prejudiced cultural practices, victims are ignorant of trafficking and smuggling tactics used by criminals. We can therefore argue that this ignorance is a central reason behind the growth of trafficking and smuggling in Kenya.

Truong opines that due to gender inequality and discrimination, women are underrated in society. In many African settings, it is insinuated that the office of every woman is in the kitchen. Consequently, men are often given primacy in employment opportunities to the detriment of their women counterparts.³¹ These views are supported by Bales who posits that women in weak social-cultural backgrounds such as the homeless, divorced, orphaned, school dropouts,

³⁰ Patrick Beja. "Kenyan Woman Returns after Rape and Jail Ordeal in Saudi Arabia." Standard Digital (Kenya), April 2018.

³¹ Truong, Thanh-Dam. *Poverty, Gender, and Human Trafficking in Sub-Saharan Africa: Rethinking Best Practices in Migration Management*. UNESCO, 2005.

physically abused, victims of gender-based violence, and female genital mutilation, are susceptible to human trafficking and migrant smuggling for sexual and labor exploitation.³²

Even though the 2010 Constitution of Kenya provides for equal rights for both men and women in the bill of rights, discrimination against women and girls remains a huge challenge in resource allocation of resources and opportunities. This has played a significant role in increasing the vulnerability of women and girls to be trafficked or smuggled. To change this trajectory, the government is mandated to ensure that resources and opportunities are not only equitably allocated but also the laws are implemented to the latter.

3.2(b) Kin Connection Abroad

Kenya plays host to 500,000 refugees from different neighboring countries.³³ Through the UNHCR resettlement program, thousands of these refugees have been resettled in different parts of the globe such as the USA, Canada, Australia, and Europe. Once acquainted and integrated into the life of their new countries of residence, the resettled refugees make determined efforts to have their kinsmen back in the refugee camps join them abroad. Sally and Newman illuminate this by pointing out that the resettlement of Somali refugees in the USA which began in 1990 for instance, has seen 9,000 Somali refugees being resettled in the USA per annum.³⁴ The central claim here is that human traffickers and migrant smugglers take advantage of the desperation of refugees in camps to join their kinsmen abroad. The traffickers and smugglers utilize the inherent weakness within government institutions to fraudulently acquire travel documents and certificates for their victims before trafficking them to join their kinsmen.

³² Bales, Kevin. "What predicts human trafficking?" *International Journal of comparative and applied criminal justice* 31, no. 2 (2007): 269-279.

³³ UNHCR, Kenya. Figures at a Glance. 2020. <https://www.unhcr.org/ke/figures-at-a-glance>

³⁴ Cameron, Sally, and Edward Newman, eds. *Trafficking in humans: social, cultural and political dimensions*. United Nations Univ, 2008.

According to the UNHCR, victims of human trafficking and migrant smuggling have the right to be protected and thus qualify for refugees' status. The agency adds that people fleeing conflict, violence, and persecution are also forced to irregularly migrate in their efforts to seek protection.³⁵ Sometimes, the fleeing victims often end up in the waiting hands of human traffickers and migrant smugglers who assist them to cross transnational boundaries. This study takes note that some refugees in Kenya have been trafficked or smuggled into those camps. The contention that kin connection abroad is an integral factor in the rise in the number of persons either trafficked or smuggled in or through Kenya has been approved by 58.3% of the research participants. This illuminates the need for proper vetting and scrutiny at the points of entry and exit to weed out the activities of brokers, human traffickers, and smugglers inhibiting government efforts to curb these transnational criminal activities.

Cameron and Newman argue that people with kinsmen living abroad are trafficked or smuggled due to their determined resolve to join them. Nonetheless, they caution that the simple fact that their kinsmen live abroad does not mean that they participate in human trafficking and migrant smuggling. The two scholars add that trafficking and smuggling generally flow from poor to rich countries or regions.³⁶ However, this does not necessarily mean that it is the poorest regions that are most exposed. Sometimes people from well-off backgrounds may also be trafficked or smuggled for other reasons such as conflicts and war, natural disasters, and lack of awareness.

³⁵ UNHCR. "Trafficking in persons." The UN Refugee Agency.

³⁶ Cameron, Sally, and Edward Newman. Op. Cit.

3.3 Political Factors Underlying Human Trafficking and Migrant Smuggling in Kenya

3.3(a) Domestic and External Political Instability

Internally, Kenya has experienced incidences of political skirmishes that have led to the displacement of the population. For instance, the events of 2008 post-election violence claimed the lives of over 1300 persons while also leaving over 600,000 others internally displaced.³⁷ With nowhere to go, the displaced persons sought shelter in nearby institutions such as churches and schools. This situation made them vulnerable to being exploited. Consequently, the 2009 US T-I-P Report revealed that some of the IDPs trafficked to the Middle East, other East Africa countries, and Europe for labor exploitation and sexual exploitation.³⁸

70% of the study respondents overwhelmingly approved that political conflicts in the external environment have led to an increase in the number of persons fleeing their countries into Kenya to seek shelter and refuge. The increase in the number of refugees and asylum seekers has in turn led to the growth in the number of human trafficking and migrant smuggling cases in Kenya as victims seek to improve their standards of living and those of their kinsmen. Interestingly, 50% of the study respondents agreed that domestic political undercurrents in Kenya such as the 2008 post-election violence were to also blame for the growth of human trafficking and migrant smuggling in Kenya.³⁹

Otube et al advance that perennial political skirmishes in Kenya and the neighboring countries have engendered massive displacement of the victims thereby exposing them to transnational

³⁷ Report of the Commission of Inquiry into the Post Election Violence (CIPEV), Nairobi. Government Printers, 2008. P.346, p.352.

³⁸ US Department. Trafficking in Persons Report. 2009.

³⁹ See Table 3.1 and Figure 3.1 on Pg 78.

organized criminals such as human traffickers and migrant smugglers.⁴⁰ Protracted political conflicts experienced in countries such as Eritrea, Ethiopia, Somalia, Sudan, and South Sudan in the recent past have increased the pool of vulnerable persons in the region. The net effect of these conflicts has been economic meltdown and massive displacements of the population in these countries thereby leading to a massive humanitarian crisis.⁴¹ As a result, Kenya has borne the brunt of the increased numbers of refugees and asylum seekers from the entire GHOA region with the current number of refugees standing at approximately 500,000.⁴²

Life at the refugee camps is not cozy. These refugees are faced with an uncertain future characterized by hunger, lack of education facilities, and lack of adequate health care. Sometimes, these refugees fall prey to prowling human traffickers and migrant smugglers who ensnare them with promises of a better life and improved standards of living away from the camps. In 2017, it was reported by, the Associated Press that seven suspected human traffickers had been arrested by Kenya security officers for allegedly operating a human trafficking syndicate at the Dadaab refugee complex.⁴³ The arrest of these traffickers confirmed the claim that indeed criminals were preying on vulnerable refugees to traffick or smuggle them to Nairobi from where they would use fraudulent travel documents to irregularly migrate out of the country.

⁴⁰ Otube, Shirley Nakhumicha, Radoslaw L. Malinowski, Anni Alexander, and Abel M. Mogambi. *Displacement, violence, and vulnerability: Trafficking among internally displaced persons in Kenya*. Awareness Against Human Trafficking (HAART), 2016.

⁴¹ Ibid.

⁴² UNHCR, Kenya. Op. Cit. p.52

⁴³ Tom Odula. “Kenya Arrests seven Suspected Human Traffickers in Refugee Camp.” Associated Press, April 2017. <https://apnews.com/article/423abaa4189446f2ac4fb2baf9c7033c>

3.3(b) Porous Border Control Points versus Restrictive Barriers

According to the 2018 Economic Development in Africa Report, Kenya's capital, Nairobi was recognized as a top migration hub in Africa. The report attributed this to the geopolitical strategic positioning of Kenya in the GHOA region.⁴⁴ It also noted that most of the migrants are usually on transit mainly to Southern Africa countries, America, and Europe. The report added that, due to its perennial political volatility, Somalia accounted for the highest number of victims of forced migration.⁴⁵ According to UNHCR, 500,000 immigrants are residents in Kenya.⁴⁶

The 2018 Economic Development in Africa Report also acknowledged the role played by the EAC mutual recognition agreement that allows free movement of people and their merchandise within the regions' borders as a key factor underpinning trafficking and smuggling of migrants in Kenya. This report also revealed that tens of thousands of irregular migrants from Ethiopia are intercepted every year while on transit to South Africa. According to the report, some of these irregular migrants are destined for Kenya in search of greener pastures.⁴⁷

Even though there are over twenty police checkpoints from the Kenya-Ethiopian border to Nairobi, traffickers and smugglers evade them by bribing law enforcement agencies. Criminals have learned the language of the law enforcement officials and therefore work in cahoots with them to facilitate criminal activities. The assertion that the opening up of borders to facilitate free movement of people and goods has contributed to the influx of trafficked and smuggled persons, was echoed by a Senior Officer at IOM who argued that;

⁴⁴ Economic Development in Africa Report 2018: Migration for Structural Transformation. P. 110

⁴⁵ Ibid.

⁴⁶ UNHCR, Kenya. Op. Cit. p.52

⁴⁷ Economic Development in Africa Report 2018. Op. Cit. P. 57

Because of the ease of movement promoted by the EAC integration, human traffickers and migrant smugglers now have an easy time transporting their human merchandise across the transnational borders of the EAC member states. Before the agreement of the EAC protocol, the cross-border movement used to be strictly monitored by law enforcement officers from the concerned states. They have since toned down to enable the implementation of this integration treaty. The porousness of these borders coupled with the rampant corruption among law enforcement agencies has not helped in solving this problem.⁴⁸

In November 2018, the police rescued 169 suspected victims of human trafficking and migrant smuggling. This number comprised 161 Comorians, 6 Ugandans, 1 Congolese, and 1 Somali.⁴⁹

This combination of nationalities shows the extensiveness of these crimes. It also corroborates Shelly's argument that no single country is immune to the trafficking and smuggling of migrants.⁵⁰



Estimates by the IOM indicate that because of the porous nature of the borders, up to 20,000 Somali and Ethiopian migrants are either trafficked or smuggled into or through Kenya every year.⁵¹ This report validates Harwood's sentiments that Kenya is indeed a strategic hub where tens of thousands of Somali and Ethiopian migrants escaping political turmoil and natural catastrophes such as famine in their countries irregularly transit through on their way to South Africa in pursuit of greener pastures. Harwood notes that most of these migrants are victims of human trafficking and migrant smuggling.⁵²

Gastrow agrees with the IOM's position on the fact that Kenya's strategic geopolitical location makes the country a regional hub for human trafficking and migrant smuggling activities. He

⁴⁸ Interview with a Senior Officer in the IOM Secretariat. August 24, 2020, Nairobi.

⁴⁹ Ombati, Cyrus. 2018. "Police rescue 169 foreigners as the pursuit of traffickers intensifies." The Standard Digital (Kenya), November 2018.

⁵⁰ Shelley Louise. Op.Cit.

⁵¹ Barasa, Noela, and Lovell Fernandez. "Kenya's implementation of the Smuggling Protocol in response to the irregular movement of migrants from Ethiopia and Somalia." *Law, Democracy & Development* 19, no. 1 (2015): 29-64.

⁵² Christopher Horwood. In Pursuit of the Southern Dream: Victims of Necessity. 2018.

adds that this predicament is aggravated by the situation of Kenya being surrounded by neighbors who have been riddled with perennial political conflicts.⁵³ Criminal elements evade the legally established border points and use secret paths to traffic or smuggle illegal migrants into and out of the country. This is why in March 2019, 25 Burundian women suspected to have been smuggled through the porous Kenya-Uganda border were rescued in Ruiru, a suburb town of Nairobi, by police officers from the transnational organized crime unit.⁵⁴ In another incident, sixteen undocumented Ethiopians were rescued from being trafficked in an incident that saw Kenya law enforcement officials arrest six persons suspected to be the master minders.⁵⁵ This incident demonstrates how criminals utilize the inherent porousness of the border controls as well as the complicity of law enforcement officials to traffick or smuggle susceptible victims.

3.3(c) Rampant Corruption within Government Institutions

According to the 2019 Transparency International Corruption Perception Index, Kenya is ranked amongst the most corrupt countries in the world.⁵⁶ This report ranked Kenya at position 137 out of 180 countries globally, with an index of 28 out of 100. In this ranking, a zero signifies the highest corrupt score whereas a score of 100 connotes a clean bill of health in corruption circles.⁵⁷ Based on this ranking, it is easy to relate why most corruption deals in Kenya are being perpetrated within government institutions. Again, this explains the increased distance decay between the government and the population.

⁵³ Peter, Gastrow. *Termites at work: Transnational organized crime and state erosion in Kenya*. New York: International Peace Institute, 2011. P.1

⁵⁴ Cyrus Ombati. "25 Burundian Women Enroute to Asia Found in Ruiru, Three Arrested." *The Standard Digital* (Kenya), March 2019.

⁵⁵ Sharon Maombo. "Six Arrested for Human Trafficking In Marsabit, 16 Foreigners Rescued." *The Star Newspaper* (Kenya), September 2020. <https://www.the-star.co.ke/news/2020-09-10-six-arrested-for-human-trafficking-in-marsabit-16-foreigners-rescued/>

⁵⁶ Transparency International. *Corruption Perceptions Index 2019*. 2019. <https://www.transparency.org/cpi2019>

⁵⁷ Ibid.

One of the government institutions adversely mentioned in corruption circles is the Directorate of Immigration. Interestingly, this institution is mandated to regulate the entry and exit of Kenyans and foreigners. In 2013, 15 immigration officers were sacked over allegations that they had been involved in irregular issuance of Kenyan identification documents to aliens. The then Interior Minister Joseph Ole Lenku held that the move was aimed at purging complicit officers as well as reorganizing the department.⁵⁸

Again, in 2014, the then Director of Immigration Services, Jane Waikenda was arrested by the anti-corruption police for alleged irregularity in the issuance of Kenyan work permits to foreigners. Two other immigration officers were being sought over the same issue.⁵⁹ To bring sanity and instill discipline and integrity in the department, the government appointed a former military officer retired Major General Gordon Kihalangwa to replace Waikenda at the helm.⁶⁰ When Kihalangwa left in 2018, the government appointed Alexander Muteshi, a career intelligence officer at the helm of the crucial security department to continue with its reorganization.⁶¹

The department has since undergone a revolution with several developments and changes been undertaken. For instance, the issuance of travel documents by the government has not only been centralized but has also been digitalized to curb cases of aliens fraudulently accessing these documents. Again, the entry and exit of Kenyans and foreigners have also undergone radical changes such as the installation of the PISCES system, a digital platform for clearing arriving

⁵⁸ Mwaniki Munihe. “15 Immigration Officers Fired.” Standard Digital (Kenya), October 2013.

⁵⁹ Jacob Ngetich, Kurian Musa, and Cyrus Ombati. “Drama as Immigration Boss Collapses at Integrity Centre.” January 2014.

⁶⁰ Standard Reporter. “Retired Major General Gordon Kihalangwa Appointed Immigration Director.” August 2014.

⁶¹ Cyrus Ombati. NIS Boss Muteshi Replaces Kihalangwa at Immigration Services.” July 2018.

and departing passengers in Kenya. Consequently, the introduction of this digitalized programme has brought transparency to border operations.

Rose and Nicholas argue that corruption in the recruitment phase of human trafficking and migrant smuggling involves buying the silence of government agencies entrusted with responsibility for guarding the society against the exploitation of traffickers and smugglers. They maintain that corruption is likely to take place in situations where transnational border crossing is involved in the commission of these crimes. This is because of the high likelihood of the involvement of other actors, such as brokers, intermediaries, and public law enforcement officials.⁶²

Rose and Nicholas' assertion explains why Kenya has been placed in the 2nd Tier watch list category according to the 2014 US T-I-P report.⁶³ This report apportioned blame to the Kenya Police and Immigration officers, as the two government institutions that have continually impeded the eradication of trafficking and smuggling of migrants in Kenya by collecting bribes to facilitate the illegal entry and exit of trafficked and smuggled persons.

According to the 2016 T-I-P report, employment recruitment agencies advertise sham job opportunities to lure vulnerable young Kenyans into trafficking and smuggling dragnets. The report also revealed that these recruitment agencies work in cahoots with corrupt government officials to enrich themselves by recruiting vulnerable youths into the global black market.⁶⁴ At some point, the trafficking and smuggling process involves the input of law enforcement agencies. Their participation in this process completes the trafficking and smuggling cycle of

⁶² Broad, Rose, and Nicholas Lord. "Corruption as a Facilitator of Human Trafficking: Some Key Analytical Issues." In *Corruption in Commercial Enterprise*, pp. 63-81. Routledge, 2018.

⁶³ 2014 Trafficking in Person Report- Kenya. <https://www.refworld.org/docid/53aab9e214.html>

⁶⁴ 2016 Trafficking in Persons Report – Kenya. <https://www.refworld.org/docid/577f95ec.html>

recruitment of victims, transportation, and exploitation of victims. For this cycle to be completed there must be successful recruitment, transportation, and exploitation of the victims. This assertion is supported by a senior immigration officer interviewed who said that;

For instance, for one to be trafficked through a point of entry or exit in Kenya there is the involvement of government agencies such as the police and immigration, working at these border points. These law enforcement officers are known to collect bribes to ensure smooth passage across the points of entry and exit. Furthermore, complicit law enforcement officers are bought by criminal elements to protect their interests. They also connive with the traffickers and smugglers to be giving them a prior warning on impending operations and investigations. Huge sums of money are involved in these criminal activities.⁶⁵

The allegations by the senior immigration officer interviewed are supported by the US Department of State 2019 T-I-P Report. According to this report, traffickers and smugglers bribed the police in exchange of crucial information and tip-offs on looming swoops and investigations. This report also revealed that the government reported an indefinite number of inquiries into law enforcement officers who ostensibly abet human trafficking and migrant smuggling.⁶⁶ In one instance, there was a reported inquiry of a Cabinet-level government official who supposedly signed special work permits irregularly for Asian girls to entertain revelers in a mujra club infamous for abusive practices.⁶⁷

However, the number of successful prosecutions or investigations is also not captured in the report. The presence of Asian girls trafficked to Kenya after being promised high-paying job opportunities supports the numerous Department of State T-I-P Reports that have consistently painted Kenya as not only a source or transit hub for VOTs, but also as a preferred destination for the victims.

⁶⁵ Interview with Senior Immigration Officer. August 25, 2020, Nairobi.

⁶⁶ United States (US) Department of State. "Trafficking in Persons Report, 2019." (2019).

⁶⁷ Ibid.

In 2014, there were reports of Kenyan migrants being sexually and physically mistreated abroad.⁶⁸ There were also videos of several of them begging for assistance after allegedly being maltreated by their employers.⁶⁹ This prompted the Kenyan government to ban its citizens from traveling outside the country, and especially the Gulf region and the Middle East as domestic workers. As a result, the government annulled 930 licenses issued to employment recruitment agencies by the National Employment Authority (NEA). However, some of these recruitment agencies continued to recruit vulnerable Kenyans in cahoots with complicit law enforcers, oblivious of the mistreatment and blatant abuse of human rights meted on these Kenyans in the destination countries.

Prevalent corruption within the criminal justice system poses a massive challenge in the effort to decisively contain the menace of trafficking and smuggling of human beings. According to Section one of the Counter-Trafficking in Persons Act of 2010, any person convicted of a trafficking offence is liable to a sentence of not less than thirty years imprisonment or a fine of not less than thirty million Kenyan shillings.⁷⁰ Despite this punitive sentence, human traffickers and migrant smugglers are charged with lesser punitive offences under the Immigration Act or Labor laws thereby escaping with lesser fines or lenient convictions. This can be traced to corruption within the criminal justice system in the country.

Therefore, there is a need for the country to go beyond the anti-corruption rhetoric in eradicating corruption to remedy the institutional failure and non-implementation of anti-human trafficking policies. While the Counter-Trafficking Act of 2010 gives guidelines on the handling of trafficking and smuggling offences, it fails to guide on implementation mechanisms thereby

⁶⁸ Lonah Kibet. “Kenyan Government Defends Move Against 930 Staffing Agencies.” Standard Digital (Kenya), September 2014.

⁶⁹ Ibid.

⁷⁰ Counter-Trafficking in Persons 2010. Laws of Kenya.

creating loopholes for criminals to continue recruiting and transporting victims for exploitation. Moreover, there exist no efforts in investigating the complicity of law enforcement officials despite credible information of them collaborating with criminals to fraudulently facilitate the issuance of travel documents and certificates. These assertions are supported by an overwhelming 75% of the study respondents who agreed that corruption within the different state agencies engendered the growth of trafficking and smuggling of migrants in Kenya.⁷¹ This means that taming corruption within government institutions in Kenya remains a critical milestone in the efforts to decisively curb the growth of these vices in Kenya.

3.4 Ineffective Institutions.

3.4(a) Decay in Public Institutions

Martin and Sara posit that governments need adequate and reliable data to formulate policies that will curb national security threats such as human trafficking and migrant smuggling. They add that the process of formulating government policies is cyclic and therefore a consistent supply of reliable and actionable data is critical.⁷² However, obtaining this data in a timely and actionable form is usually an uphill task which is sometimes sabotaged by the ineptness of government officials who fail to deliver on their mandate of maintaining a proper information database, adequate information systems, and strong immigration laws.

Holmes notes that transnational organized criminal gangs shrewdly cultivate close links with law enforcement officials to abet criminal activities.⁷³ Interestingly, this assertion by Holmes

⁷¹ See Table 3.1 and Figure 3.1 on p.78

⁷² Martin, Ivan, and Sara Bonfanti. Op. cit.

⁷³ Leslie Holmes, "Corruption and Trafficking: Triple Victimization?" in *Strategies against Human Trafficking: The Role of the Security Sector*, Cornelius Friesendorf, ed. (Vienna: National Defence Academy and Austrian Ministry of Defence and Sport, 2009), 89–121.

confirms the allegations by the US T-I-P Report⁷⁴ that human traffickers and smugglers astutely compromise law enforcement officials to overlook their criminal activities. This is why the complicity and laxity of law enforcement agencies in Kenya are linked to the growth in the number of human trafficking and smuggling cases. There is a need for law enforcement officials to embrace professionalism and diligence in their delivery of services. Moreover, these officials need to be trained and sensitized on the importance of protecting and enhancing national values and interests if the country is to move forward.

According to Aronowitz, it is the compromised law enforcement officials who connive with criminals to perpetuate the trafficking and smuggling of migrants. They do this by abetting the falsification of vital information required for the acquisition of travel documents and certificates.⁷⁵ Complicit and corrupt police officers collect bribes to alert criminals of impending swoops aimed at apprehending them. This makes it an uphill task to apprehend traffickers and smugglers to prosecute them as per the law. This information is corroborated by a senior police officer interviewed. He revealed that;

Six out of ten apprehended victims of human trafficking and migrant smuggling were revealed to have paid between Kshs 5,000 and Kshs 7,000 per person to acquire a birth certificate that ordinarily costs Kshs 150. And to obtain a passport, the victims revealed that one has to part with between Kshs 20,000 and Kshs 30,000 each instead of the normal fee of Kshs 4,500. Sometimes, this amount may double depending on the number of brokers.⁷⁶

This exposé demonstrates the rot that exists in government agencies mandated to not only issue important identification certificates and travel documents but also to protect and promote the national values of the country. The net effect of all these commissions and omissions is the

⁷⁴ 2014 Trafficking in Person Report- Kenya. Op. Cit

⁷⁵ Aronowitz, Alexis A. *Human trafficking, human misery: The global trade in human beings*. Greenwood Publishing Group, 2009. <https://www.tandfonline.com/doi/abs/10.1080/17440572.2012.754350>

⁷⁶ Interview with Senior Police Officer. August 25, 2020, Nairobi.

compromise of Kenya's national security as these fraudulently acquired documents may land into the hands of criminal elements.

3.4(b) Poor Implementation of Counter-Trafficking Measures

According to Shelley, the formulation and subsequent implementation of counter-trafficking laws and policies are two different dynamics. This is because effective countermeasures might not solve the problem of human trafficking and migrant smuggling if they are not effectively implemented. She adds that laxity and sloppiness among law enforcement agencies thwart the intended and effective implementation of the trafficking and smuggling countermeasures put in place by the government.⁷⁷ Although Shelly's study is mainly centered on the formulation of policies necessary in the eradication of trafficking and smuggling of migrants, it does not illuminate the measures necessary for their effective implementation. The essence of formulated a policy is to implement it effectively to achieve the desired goals. Therefore, effective implementation of existing countermeasures is an important ingredient in containing the problem of trafficking and smuggling of migrants in Kenya.

Shelly's sentiments have been echoed by Mendel who in his work on human trafficking and online networks, advances that, sometimes there is a hitch in the fight against trafficking and smuggling of migrants when government investigators and prosecutors defectively charge victims with either immigration or labor laws-related offences such as unlawful presence in Kenya or expired immigration status.⁷⁸

⁷⁷ Shelley, Louise. Op. cit.

⁷⁸ Mendel, Jonathan, and Kiril Sharapov. "Human trafficking and online networks: Policy, analysis, and ignorance." *Antipode* 48, no. 3 (2016): 665-684.

The Kenya Counter-Trafficking in Persons Act 2010⁷⁹ criminalizes sex and labor trafficking in Kenya. Additionally, section five of this Act prescribes an adequately punitive penalty of between thirty years to life imprisonment, a fine of thirty million Kenyan shillings, or both, for anyone convicted of this offence. Although this law is vividly clear, sometimes offenders are handed less castigatory punishments after being charged under more lenient laws such as the immigration and labor laws violation. This law is equally clear that law enforcement officials such as the police and immigration officials who connive with criminals to facilitate human trafficking and migrant smuggling should face similar punishment as the traffickers and smugglers after conviction. However, not a single officer has ever been successfully charged with human trafficking or migrant smuggling offences in Kenya. To curb these crimes, the law must be expeditiously applied to deter government officials who abet these crimes.

By allowing an option of a fine, the Kenya Counter-Trafficking in Persons Act 2010 fails to prescribe a sentence that is proportionate with the one meted on other serious crimes such as rape in which life imprisonment is prescribed. In addition, this Act has not been decisively applied to curb the increasing cases of trafficking and smuggling in Kenya. The US 2018 T-I-P Report concurs with this assertion by pointing out that, the high evidence threshold required to obtain a conviction has seen very few successful prosecutions in Kenya.⁸⁰ The situation has been aggravated by the reluctance of human trafficking and smuggling victims to adduce evidence for fear of being victimized. Occasionally, this has led to culprits being prosecuted based on either immigration or labor-related laws thus attracting less castigatory sentences.⁸¹

⁷⁹ Counter Trafficking in Persons Act Kenya 2010. http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Counter-TraffickinginPersonsAct_No8of2010.pdf

⁸⁰ United States (US) Department of State. "Trafficking in Persons Report, 2018." (2018).

⁸¹ Ibid.

According to the Kenya Sexual Offences Act of 2006, it is illegal to engage in prostitution or any other form of sex work. This Act also sets the age of sexual consent in Kenya at eighteen years, making it a criminal offence to have carnal knowledge with a minor. Such an offence carries a sentence of not less than ten years imprisonment or a fine of two million Kenya shillings.⁸² Although these laws are vividly clear, they are not fully implemented. This has seen offenders walk away with less punitive sentences. The situation has been aggravated by insolences and bias of the law whereby enforcement officials fail to identify and support victims.

Robust implementation and regulatory strategy with distinct comprehensive policies and regulations are needed to oversee the eradication of the trafficking and smuggling menace in Kenya. The roles to be played by the different security stakeholders in the fight against these crimes need to be well outlined as well. Besides, a clear robust strategy to monitor the implementation process aimed at curbing these crimes should be drawn. These sentiments were echoed by 73.3% of the study respondents who opined that indeed the fight against human trafficking and migrant smuggling in Kenya is hampered by poor or lack of formulation and implementation of counter-trafficking policies and laws.⁸³ For the government to win the fight against trafficking and smuggling of migrants robust policy formulation followed by expeditious employment of implementation and monitoring strategies should be embraced.

3.4(c) Lack of Coordination and Synergy between Various Security Agencies

The Kenyan government launched the National Coordination Mechanism on Migration in a bid to coordinate the activities of various law enforcement agencies and also enhance the sharing of

⁸² Kenya Sexual Offences Act no. 3 of 2006. <https://www.refworld.org/pdfid/467942932.pdf>

⁸³ See Table 3.1 and Figure 3.1 on p.78

critical information on migration.⁸⁴ This was in appreciation of the “Whole of Government Approach” in governing migration issues. This approach calls for the creation of a coordinating body that is mandated to strategically address migration issues by convening representatives from the different government agencies while at the same time tapping private sector participation.⁸⁵ This approach further call for greater collaboration and coordination across government departments in a bid to eliminate duplication, create synergy among agencies, optimize resources, and deliver seamless services to the citizenry.

Laczko concurs with this approach and opines that the reluctance of law enforcement agencies to share crucial information on transnational organized crimes exacerbates the problems.⁸⁶ Crucial information leading to the eradication of these crimes is often not shared promptly between the relevant security agencies in Kenya. There is a dire need of breaking information ‘silos’ created by departmentalism and lack of coordination by nurturing partnerships within various government agencies if the war against trafficking and smuggling of migrants is to be won in Kenya.

In the 2020 T-I-P Report, observers recounted a lack of information sharing from relevant law enforcement agencies.⁸⁷ The report argued that this lack of information sharing led to underreporting of human trafficking cases in 2019. For instance, the government reported six new human trafficking cases as compared to thirty-three new human trafficking and twenty-five human trafficking-related cases reported in 2018. Additionally, Kenyan courts convicted three

⁸⁴ IOM. Kenya Unveils National Migration Coordination Mechanism. July 2016. <https://www.iom.int/news/kenya-unveils-national-migration-coordination-mechanism>

⁸⁵ Ibid.

⁸⁶ Laczko, F. & Gozdzia, E. Op. cit.

⁸⁷ 2020 Trafficking in Person Report-Kenya. <https://www.state.gov/reports/2020-trafficking-in-persons-report/kenya/>

defendants under the Kenya counter-trafficking law as compared to seven convicted for human trafficking and twelve convicted for human trafficking-related cases in 2018.⁸⁸

Lack of synchronization between different government security agencies engendered by rivalry and blame game remains a stumbling block in the effective and optimal implementation of security policies formulated to neutralize security threats in the country. Although the multi-agency security approach was introduced in Kenya in 2017, the absence of one clear line of command creates sanctuaries for transnational organized criminals such as traffickers and smugglers to operate.⁸⁹ This, therefore, calls for a need to have a command center revolving around a distinct focal point that will be mandated to coordinate national security issues within the multi-agency setup.

Lando notes that failure or untimely sharing of crucial information between different law enforcement agents is a major hindrance in the war against transnational organized crimes such as human trafficking and migrant smuggling.⁹⁰ She argues that information hoarding between different security agencies coupled with mistrust and supremacy battles among these agencies derail the fight against national security threats such as trafficking and smuggling of migrants. The lack of coordination and supremacy battles was highlighted in the 2013 Westgate Mall terrorist attack in Nairobi whereby different security agencies fighting the same course showed a lack of synchronization and harmony. In essence, this created a favorable space for the enemy to achieve his objective.

⁸⁸ Ibid.

⁸⁹ Swain, Ashok. *Understanding emerging security challenges: threats and opportunities*. Routledge, 2013.

⁹⁰ Lando, Agnes Lucy. "The critical role of crisis communication plan in corporations' crisis preparedness and management." *Global Media Journal* 7, no. 1 (2014): 5.

To enhance synergy, border efficiency, and inter-agency coordination among government security agencies working in border management, Kenya established the Border Control and Operations Coordination Committee (BCOCC). This was done through Section 75 of the Security Laws (Amendment) Act 2014 by adding section 5A - 5D.⁹¹ Subsequently, other border security governance structures inter alia, Border Management Secretariat (BMS), Border Management Committees (BMCs), and Joint Operation Centers (JOCs) were formed.⁹² The main objectives of these security committees were to develop strategies for countering border threats and enhance sharing of information. While these security governance structures were meant to enhance coordination in the surveillance of porous border controls in a bid to address issues such as the illegal entry of migrants, threats such as trafficking and smuggling of migrants continue to thrive unabated as shown in the statement problem. This calls for an urgent change of strategy to decisively contain these crimes.

In Kenya, several government agencies and NGOs, inter alia, the National Police Service, the Directorate of Immigration, the Ministry of Labor, the Judiciary, Awareness against Human Trafficking (HAART), Cradle of Hope Foundation, National Crime Research Centre (NCRC), and International Rescue Committee (IRC) are engaged in combating the scourge of human trafficking and migrant smuggling. Of interest is the lack of a focal point to coordinate and harmonize efforts geared towards containing these crimes in Kenya. There is a need to have one agency performing the tasks of a lead agency to coordinate and synchronize the operations of the entire team.

⁹¹ Security Laws Amendment Act (SLAA), (2014).

⁹² Joel Osinta. Security and Facilitation; Operationalization of Coordinated Border Management. ICAO.

In the efforts to eradicate human trafficking and migrant smuggling, Kenya has passed several laws as elucidated in the problem statement.⁹³ In 2016, Kenya ratified the National Legal Aid Act⁹⁴ to provide affordable legal services to vulnerable persons such as the VOTs. However, judicial and law enforcement officials remain inaptly sensitized about the application of these laws. A senior police officer interviewed said;

*Sometimes, victims who should not be prosecuted but held confidentially to give important witness statements, end up being charged with immigration-related offences. Furthermore, the implementation and operationalization of these laws have not been sufficiently executed as victims continue to be treated as criminals. This scares the victims away who decline to report human trafficking and migrant smuggling activities to the authorities.*⁹⁵

For the war against human trafficking and migrant smuggling in Kenya to be won, all the law enforcement agencies need to be aptly trained and sensitized on the laws and policies fashioned to achieve these goals.

3.5 Analysis of Findings from the Study Respondents on Factors underlying Human Trafficking and Migrant Smuggling in Kenya

The study comprised of 120 participants drawn from public and auxiliary security personnel based at five entry/exit points for migrants namely JKIA, Busia, Lungalunga, Moyale, and Namanga. 92.5% of the respondents attributed the exponential rise in the number of human trafficking and migrant smuggling cases in Kenya to poverty and lack of employment opportunities each. Another 85.8% cited lack of awareness as the reason. They acknowledged that vulnerable persons are trafficked unknowingly. In this case, ignorance is cited as the overriding reason for their trafficking.

⁹³ See the problem statement.

⁹⁴ Act no. 6 of 2016, the National Legal Aid Act 2016, Laws of Kenya.

⁹⁵ Interview with Senior Police Officer. June 5, 2020, Nairobi.

As discussed in the foregoing literature, rampant corruption within government institutions plays a significant role in the rise in the number of persons falling victim to trafficking and smuggling of migrants cartels. This was supported by an overwhelming 75% of the study respondents who stated that indeed rampant corruption within government institutions was to blame for trafficking and smuggling woes in Kenya. Meanwhile, a whopping 73.3% of the study respondents opined that poor implementation of counter-trafficking policies and laws contributed to the growth of these crimes. This can be apportioned on the failure of government institutions to expeditiously implement and monitor these countermeasures. 70.8% of the study participants agreed that globalization and in inference the growth in the ICT sector has contributed to the growth of these crimes, while 70% thought that political turmoil in Kenya's neighborhood was the core reason for their growth. They argued that these conflicts created a huge number of IDPs forcing them to cross transnational boundaries to seek refuge with some being trafficked or smuggled.

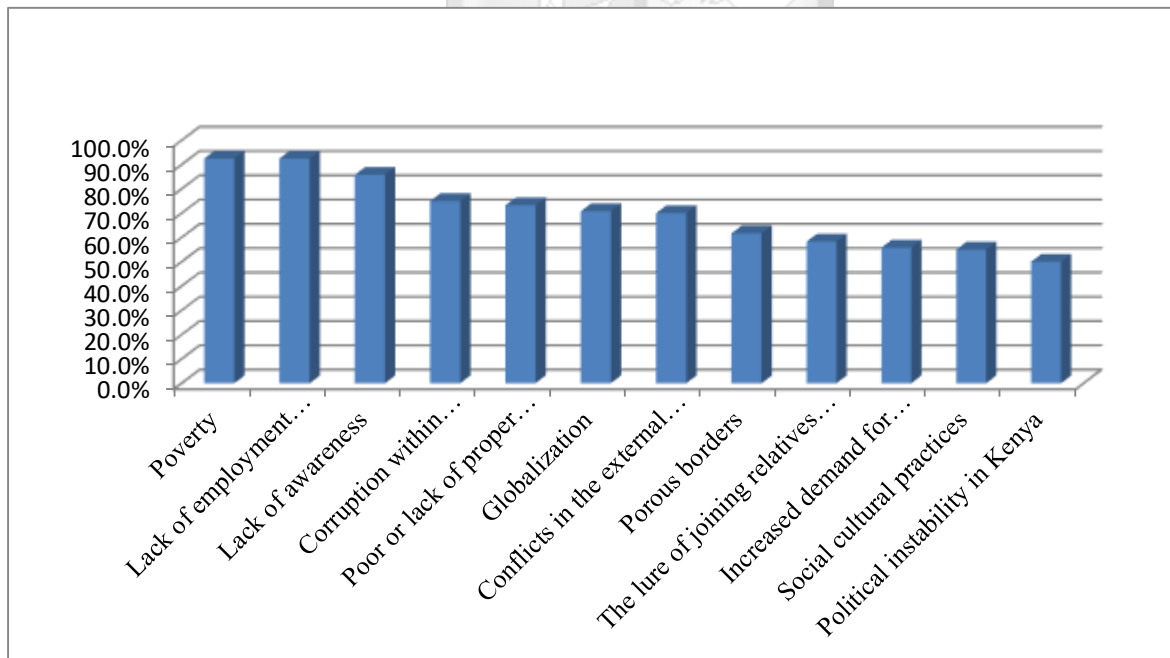
According to 61.7% of the study participants, the menace of trafficking and smuggling of migrants should be blamed on the porous nature of the border controls between Kenya and its neighbors. Another 58.3% of the respondents thought that the victims' lure of joining relatives abroad was a critical push factor, while 55.8% said that the increase in the demand for VOTs was the reason for the growth of these crimes in Kenya. 55% and 50% of the respondents reckoned that social-cultural and domestic political instability respectively led to the increase in the number of trafficking and migrant smuggling cases in Kenya. This report is illustrated in table 3.1 and figure 3.1 below.

Table 3.1: Factors Underpinning Human Trafficking and Migrant Smuggling in Kenya

FACTORS	N/120	Percentage
Poverty	111	92.5%
Lack of employment opportunities	111	92.5%
Lack of awareness	103	85.8%
Corruption within government institutions	90	75%
Lack of implementation of the law and government policies	88	73.3%
Globalization	85	70.8%
Conflicts in the external environment	84	70%
Porousness of the borders	74	61.7%
The lure of joining relatives abroad	70	58.3%
Increased demand for trafficked and smuggled persons	67	55.8%
Social cultural practices	66	55%
Political instability in Kenya	60	50%

Source: Survey Data

Figure 3. 1: Factors Underpinning Human Trafficking and Migrant Smuggling in Kenya



Source: Survey Data

According to the research respondents, the female gender is the most susceptible to trafficking and smuggling in Kenya. An overwhelming majority, representing 71% of the research participants acknowledged that indeed there are more female victims of human trafficking and migrant smuggling as compared to their male counterparts whom the respondents gave a 29% chance of falling victim to the vices as illustrated in table 3.2 and figure 3.2 below. This discrepancy can be attributed to social-cultural factors such as the discrimination against the female gender, gender-based violence towards women, early unplanned pregnancies leading to dropping out of school, the reluctance to educate the girl-child, poverty, and high unemployment rate. These findings fit in Sandra's assertions that the most vulnerable to be trafficked or smuggled are mainly women and children.⁹⁶

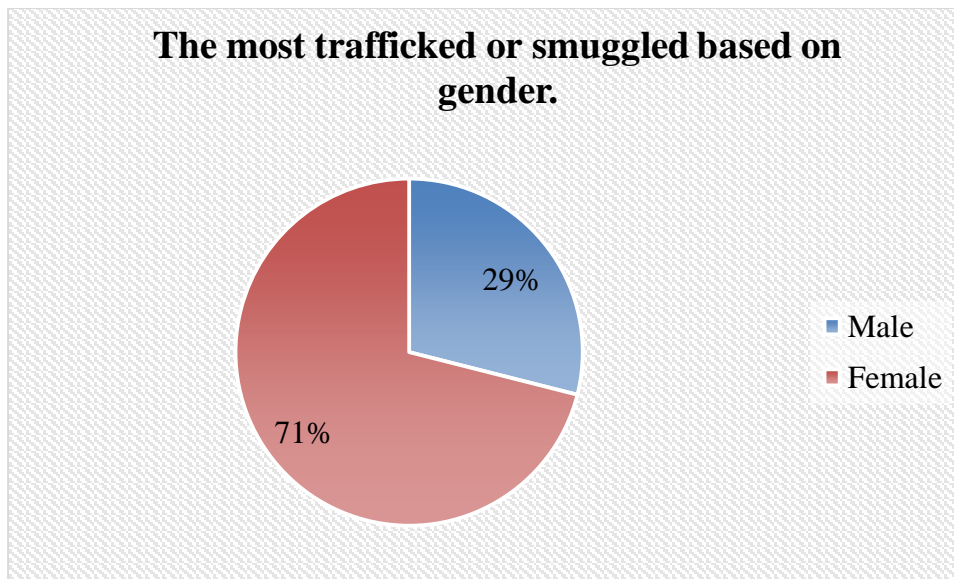
Table 3.2: The most trafficked or smuggled based on gender in Kenya

Gender	N/120	percentage
Male	35	29
Female	85	71
Total	120	100

Source: Survey Data

⁹⁶ Op Cit.

Figure 3.2: The most trafficked or smuggled based on gender in Kenya



Source: Survey Data

3.6 Conclusion

This chapter has demonstrated that human trafficking and migrant smuggling in Kenya are perpetuated by various push and pull factors conceptualized under the economic, social, political, and institutional distance decay convergence. In a nutshell, this distance decay spawns sanctuaries for traffickers and smugglers, while at the same time creating obstacles for security enforcement agencies trying to contain the growth of these phenomena. From the foregoing discussion, the push and pull factors are not only diverse and intricate but are also intertwined. Different parts of the world exhibit divergent contributing factors. However, some common contributing factors such as poverty, unemployment, corrupt institutions, poor or lack of implementation of trafficking and smuggling countermeasures cut across the globe. Having looked at the gap in the legal frameworks, institutional probity, and competence, the subsequent chapter aims at anticipating how these phenomena evolve to provide the platform for insecurity.

CHAPTER FOUR
NATIONAL SECURITY IMPLICATIONS OF HUMAN TRAFFICKING AND
MIGRANT SMUGGLING IN KENYA

4.0 Introduction

This chapter anchors the task of the second question of our study; what are the national security implications engendered by the growth in human trafficking and migrant smuggling in Kenya? The argument in this chapter is that the resultant effects of human trafficking and migrant smuggling threaten Kenya's national security. The chapter is conceptualized on the Buzanian logic which states that the national security of a state can be threatened by factors from five different sectors namely, economic, military, political, societal, and environmental sectors.¹

To this end, this chapter is organized into seven parts. Section one examines the economic security implications engendered by human trafficking and migrant smuggling in Kenya. Section two examines the military security implications while the third section focuses on the political security implications, while the fourth section debunks the societal security implications. The fifth section focuses on the environmental security implications. The sixth section demonstrates the analysis of findings from the study respondents on the national security threats engendered by human trafficking and migrant smuggling, while the last section forms the conclusion of the chapter.

¹ Buzan, Barry. *People, States & Fear: An agenda for international security studies in the post-cold war era*. Ecpr Press, 2008. Chap.1

4.1 Human Trafficking and Migrant Smuggling Implications on Economic Security

4.1(a) Cost of Human Trafficking and Migrant Smuggling

Data retrieved from the National Crime Research Centre (NCRC) 2015 report revealed that Kenya incurs huge costs in deportation, repatriation, and reintegration of victims of trafficking and smuggling (VOTs) into the society. The report added that the prosecution of human trafficking and migrant smuggling cases entails exhaustive investigations which require substantial financial and human resources. Again, costs are also incurred in the treatment of victims who suffer health problems as a result of their trafficking ordeal.² This information is supported by the 2020 T-I-P Report. According to this report, the National Treasury allocated Kshs 20 million to the National Assistance Trust Fund during the 2019/2020 financial year to take care of VOTs in Kenya.³ This allocation came with a huge opportunity cost given that these finances could have been used in other beneficial government projects such as improving the health sector, uplifting the education sector, or even improving the transport and communication system.

In 2015, the then Interior Cabinet Secretary Joseph Nkaisery revealed that Kenya had budgeted for one billion shillings to repatriate Somali refugees, the majority of whom are victims of trafficking and smuggling of migrants, from the Dadaab refugee complex.⁴ The decision to repatriate the refugees was grounded on an understanding that the refugee camp had become a

² NCRC Human Trafficking in Kenya Report. 2015.

³ US Department. Trafficking in Persons Report. 2020.

⁴ Cyrus Ombati. “Kenya to Spend Shs 1 Billion for Immediate Repatriation of Refugees from Dadaab.” The Standard Newspaper (Kenya), May 2016.

breeding ground for transnational organized criminals such as terrorists, as well as a conduit for trafficked and smuggled persons and contrabands. The pronouncement by the CS came after the Garissa University attack in April 2015, which left 142 students dead.⁵ The cost of accommodating, sustaining, and even repatriating these refugees weighs heavily on the government. The whole process involves logistical preparedness which requires a substantial amount of financial and human resources. Had it not been for these crimes, the resources would otherwise be used to accomplish more fundamental government projects and obligations.

According to the Global Terrorist Base, Kenya suffered 60 terrorist attacks of varying magnitude each year between 2011 and 2017.⁶ This figure includes high-profile attacks such as the 2013 Westgate shopping mall attack in Nairobi and the 2015 Garissa University attack. Consequently, these attacks negatively affected critical economic sectors such as tourism and the hospitality industry. Kenya lost 2487 visitors on average per year which translated to Kshs 155.8 million annual losses.⁷ The dire situation was aggravated by the issuance of travel advisories by Kenya development partners such as the USA, British and Australian governments to their citizens thereby negatively affecting the tourism industry, an integral part of Kenya's economic security.⁸

Some victims of trafficking and smuggling radicalized in violent extremism have carried out attacks on critical economic projects in Kenya.⁹ Consequently, these attacks have negatively impacted the economic security of the country. One of the critical projects that have been affected by these attacks is the construction of the LAPSSET corridor, which according to David

⁵ Ibid.

⁶ Global Terrorist Base. <https://www.start.umd.edu/gtd/search/Results.aspx?chart=overtime&search=kenya>

⁷ Buigut, Steven. "Effect of Terrorism on Demand for Tourism in Kenya: A Comparative Analysis." *Tourism and Hospitality Research* 18, no. 1 (January 2018): 28–37. <https://doi.org/10.1177/1467358415619670>.

⁸ Thomas Reuters. "Kenya's Tourism Industry Braces for Mass Cancellation after Al Shabaab Attack. (The World)

⁹ Staff Reporter, Garowe Online. "Al Shabaab Recruiting Youths in Kenya's Remote Village, Smuggling them to Somalia." *Garowe Online (Somalia)*, December 2019. <https://www.garoweonline.com/en/news/somalia/al-shabaab-recruiting-youths-in-kenyas-remote-village-smuggling-them-to-somalia>

Maringa, the PS for Ministry of Transport, is expected to cost an estimated USD 25 Billion.¹⁰ The perceived role of Lamu as a cornerstone for economic growth in Kenya and the region at large has made it a strategic target for the Al Shabaab.¹¹ Other than undermining the completion of the project, the Al Shabaab terror-insurgent group intends to use the attacks to scare away investors as they advance their fundamentalist resolve to establish a caliphate in the region. The construction workers are now becoming concerned about their security.

In February 2020, these fears were intensified when the Al Shabaab attackers completely damaged a construction lorry and an excavator by hurling IEDs at them. The destruction of this equipment belonging to a road construction company mandated to deliver the Garsen-Lamu road that connects to the LAPSSET corridor was aimed at scaring the construction workers into abandoning the project.¹² The net effect of these attacks is the prolongation of the completion of this project. This, in turn, translates to additional costs which are transferred to the government, thereby making the project overly expensive.

To secure its border with Somalia and curb irregular movement entry and exit of undesirable persons, Kenya embarked on a mission to construct a 700 km long complex wall in 2015 at cost of Kshs 200 million per kilometer.¹³ While the construction of this infrastructure was part of a wider national security plan to contain increasing cross-border attacks by the Al Shabaab militants, the wall was also aimed at preventing other cross-border criminal activities such as

¹⁰ Xinhua. Kenya says regional infrastructure projects on course.” African News, May 2018.

¹¹ Watkins, Eric. "LAPSSET: Terrorism in the Pipeline?" *Counter Terrorist Trends and Analyses* 7, no. 8 (2015).

¹² Kalume Kazungu. “Al-Shabaab militants burn construction vehicles in Lamu” Nation Media Group (Kenya), February 2020. <https://nation.africa/kenya/counties/lamu/al-shabaab-militants-burn-construction-vehicles-in-lamu-249170>

¹³ Koome Kimonye. “Security wall along Kenya-Somalia border could cost Kshs 200 million per Kilometer.” Citizen Digital (Kenya), June 2015.

human trafficking and migrant smuggling, the proliferation of SALWs, and smuggling of contrabands. However, the construction of the wall has come at a huge economic cost to Kenya with the situation being aggravated by allegations that the cost of this project may have been inflated to the tune of Kshs 3.4 billion for a ten-kilometer stretch.¹⁴ Consequently, human trafficking and migrant smuggling carry an economic cost to the individual, society, and the state.

4.1(b) Loss of Revenue

The transnational organized criminal activity of trafficking in persons is estimated to generate around USD 150 Billion annually.¹⁵ While these proceeds are enormous, they do not in any way contribute to the GDP of the country as no taxes are collected from the proceeds made. This means that this illegal trade in human beings does not benefit the community. It is the society that loses revenue given that human traffickers and smugglers invest in legitimate businesses to launder their ill-gotten money in an attempt to disguise their crimes. This, in turn, adversely affects competition in the business. This assertion was supported by a senior police officer based at one of the Border Control in the study who informed the researcher that illegal smuggling of contraband goods was rampant there. He said that;

The goods that are mostly smuggled include cement, second-hand clothes and shoes, cosmetics, mattresses, soap, sugar, cooking oil, drinking juices, and cereals such as maize, rice, and beans. These things are sold at less than half the price you get in Nairobi. A kilo of rice is sold at Kshs 50, a kilo of sugar at Kshs 50, a liter of cooking oil at Kshs 60, a 90kg sack of maize at Kshs 1,000, and a 90kg sack of beans at Kshs 1,500. The prices of these items in Nairobi are twice as much. In addition, every day between thirty and fifty truck-full of assorted

¹⁴ BBC News. “Scandal over Kenya's Border Fence that Cost \$35m for Just 10km.”

¹⁵ ILO Global Report 2014.

*goods cross the border to Kenya and only half of them use the right procedures to pass through the border control.*¹⁶

When goods that are supposed to generate revenue in terms of taxes and excise duties levied on them evade the same, this amounts to economic sabotage thereby leading to economic insecurity. Overall, the other sectors of security are also affected because as Buzan¹⁷ posits, there is a strong connection between economic security and other sectors of the economy. This is because a strong and stable economy is critical in providing sufficient budgetary allocations to the political and military legs of the national security matrix, the grand strategy.

The foregoing assertions are supported by Roza. According to her, countries lose revenue through transnational organized criminal activities such as trafficking and smuggling of migrants. She adds that when VOTs are deprived of their wages and instead subjected to debt bondage, they are in no position to remit finances back to their countries. This deprives their families and government at large of the much-needed remittances necessary for economic growth.¹⁸ A report by Reuters detailed how Kenyan women are being overworked in the Middle East. The women claimed to have worked for months without been paid. Those who were lucky got half pay.¹⁹ It is this non-payment or poor remuneration that deprives the victims, their families, and the state of the much-needed revenue in form of remittances.

Buzan refers to economic security as those aspects that contribute to community's or individuals' access to finances and markets in the effort to improve their wellbeing and empower them.²⁰

According to Wheaton et al, human trafficking and migrant smuggling often come with huge

¹⁶ Interview with Senior Police Officer. June 3, 2020, Nairobi.

¹⁷ Buzan Barry. *People, States & Fear*. Op. Cit.

¹⁸ Pati, Roza. Op. cit.

¹⁹ Katy Migiro. "Desperate Kenyan maids abused in the Middle East despite ban." Reuters, May 2015.

²⁰ Ibid

economic ramifications. They argue that the economic cost of these phenomena goes beyond the actual monetary aspect. The costs include the value of all the resources channeled towards their containment, protection, and rehabilitation of victims once they are rescued. The costs equally include monetary compensation to the victims, expenses involved in providing medical care to the victims, investigation, and prosecution of traffickers and smugglers.²¹ On many occasions, the costly burden of treating these victims is borne by their already vulnerable families. This contention is confirmed by a Senior Director of Trace Kenya, a national counter-trafficking NGO based in Mombasa, Kenya, who said that;

*Some of the afflicted families are forced to sell their properties to treat their ailing sons and daughters. For instance, a young lady who was rescued from her captives who had physically tortured and sexually abused her in Saudi Arabia, returned to Kenya in a deplorable health state. Her poverty-stricken parents who are also taking care of her two young children were forced to sell some livestock and a piece of land to meet the huge medical bills incurred in her treatment and rehabilitation.*²²

The foregoing contention is supported by Shelley. She notes that the rehabilitation and reintegration of victims of human trafficking and migrant smuggling is a resource-involving business. Shelley adds that the cost of providing health care is usually high and depletes the resources of both the families and the state.²³ In some instances, returning victims are usually in dire need of medical care following their horrifying ordeals abroad where most of them are physically assaulted while others are sexually exploited. The affected communities spend a substantial amount of financial and human resources on preventing, treating, and supporting these victims.²⁴ The financial and material resources thereby used translate to loss of revenue for

²¹ Wheaton, Elizabeth M., Edward J. Schauer, and Thomas V. Galli. "Economics of human trafficking." *International Migration* 48, no. 4 (2010): 114-141.

²² Interview with Senior Director Trace Kenya. Telephone Interview. July 10, 2020.

²³ Shelley, Louise. Op. cit.

²⁴ Ibid.

the affected families and the state. These resources could have been used in other projects were it not for the growth of trafficking and smuggling of migrants.

4.2 Human Trafficking and Migrant Smuggling Implications on Military Security

According to Buzan, Waever & Wilde, military security comprises of dynamics such as the capacity of the national army of any state to either defend its territory or offend other nations.²⁵ Kenya is strategically located within a volatile, uncertain, complex, and ambiguous neighborhood that has often been inflicted by political conflicts and instability. Because of these political skirmishes, the number of irregular migrants in the form of refugees and asylum seekers, seeking entry into the country has surged to stand at 500,000.²⁶ Some of these irregular migrants are transnational organized criminals who pose a grave threat to Kenya's national security.

As posited by Murphy, the events of 9/11 changed the landscape of security and migration all over the world. Soon after, George W. Bush declared a war on terror.²⁷ This was like no other conventional war, it meant a war from all fronts; inter alia, military, economic, political, and social fronts. Mwangi and Morumbasi note that Kenya is amongst the countries that have waged this war on terror both internally and externally.²⁸ The declaration of the war on terror saw human trafficking and migrant smuggling being incorporated into the debates of terrorist networks. This is because soon after the events of 9/11, the USA shifted its focus on not only establishing how terrorist activities were being financed, but also how this financial support

²⁵ Buzan, Barry. *People, States & Fear: An agenda for international security studies in the post-cold war era.*

²⁶ UNHCR, Kenya. Op. Cit. p.52

²⁷ Murphy, John M. "Our mission and our moment": George W. Bush and September 11th." *Rhetoric & Public Affairs* 6, no. 4 (2003): 607-632. <https://muse.jhu.edu/article/51643/summary>

²⁸ Makumi Mwangi, Kigen Morumbasi. *Countering Violent Extremism in Kenya. Vol 1: Strategic and Legal Issues.* Thirty Three Consortium Publications on International Security.3. 2018 Chap. 5

could be choked. This led the international community to set up a near-universal set of laws, tied to UN Security Council Resolution 1373, which advocated for the freezing of terrorists' finances to choke them.²⁹

In Kenya, the parliament enacted the POTA (2012).³⁰ This law tightened the existing provisions by making training for terrorism purposes in or outside Kenya an offence punishable by at least ten years imprisonment. In addition, the new law provided that any alien who enters or transits through Kenya to commit an act of terrorism within or outside Kenya, commits a crime punishable by up to thirty years imprisonment. Moreover, with this law, it was assumed that any person who travels to a country deemed a terrorist training country without passing through designated immigration entry and exit points will be deemed to have done so for purpose of being trained as a terrorist.³¹ Following the enactment of laws that disabled and choked terrorist financing, terrorist groups turned to organized criminal activities such as human trafficking and migrant smuggling as an alternative source of funds to bankroll their operations. The assertion that there exists a link between the increase in human trafficking and migrant smuggling and terrorism activities in Kenya has been supported by an overwhelming 90% of the study respondents who participated in the study.³²

Due to the threat of the Al Shabaab terror-insurgent group and the need to neutralize their activities such as terrorist attacks and kidnappings of locals and foreigners, Kenyan troops entered Somalia to launch a military offensive, Operation Linda Nchi (Protect the Country) in

²⁹ Gonzalez, Elsie. "The nexus between human trafficking and terrorism/organized crime: Combating human trafficking by creating a cooperative law enforcement system." (2013).

³⁰ Prevention of Terrorism Act No. 30 of 2012

³¹ Ibid.

³² See Table 4.1 and Figure 4.2 on p. 112

2011.³³ This was after Somali gunmen linked to the Al Shabaab kidnapped a French tourist³⁴ which was soon followed by another kidnapping of two Spanish Medecins Sans Frontieres aid workers at the Dadaab refugee complex.³⁵ Of interest is the fact that these two incidences were committed inside the Kenyan territory by militants who had irregularly crossed the Kenya-Somali border. Some of these militants are trafficked or smuggled into the country where they mutate to treacherous transnational organized criminals.

Vulnerable Kenyan youths from remote villages have been recruited by the Al Shabaab operatives and smuggled out of the country before being radicalized into violent extremism.³⁶ In 2011, just before Kenya's intervention in Somalia, security authorities reported of eleven Kenyan youth who had been recruited and radicalized into violent extremism by suspected Al Shabaab militants. Soon after, the security authorities released their names and photos before warning the public of the danger these youths posed. This was at the time when Kenya was grappling with series of attacks that were being carried out by radicalized Kenyan returnees, some of whom had been smuggled into Somalia.

On one occasion, one youth identified as Elgiva Bwire Oliacha a.k.a. Mohamed Seif was arrested in possession of a cache of assorted weapons. He confessed to having carried out two grenades attacks that left one person dead and several others nursing serious injuries in Nairobi on the 17th and 24th October 2011.³⁷ Bwire revealed that he left Kenya for Somalia to join the Al Shabaab terrorist group after converting to Islam from Christianity in 2005. He added that his first attempt

³³ Jeffrey Gentleman, "Kenyan Forces Enter Somalia to Battle Militants", New York Times, 16 October 2011.

³⁴ Jeffrey Gettleman, "Somali Gunmen Abduct Elderly Tourist in Kenya." *New Times*, October 1, 2011.

³⁵ Xan Rice. "Two aid workers kidnapped from Kenyan refugee camp." *The Guardian*. October 13, 2011.

³⁶ Staff Reporter, Garowe Online. "Al Shabaab Recruiting Youths in Kenya's Remote Village, Smuggling them to Somalia." *Garowe Online (Somalia)*, December 2019. <https://www.garoweonline.com/en/news/somalia/al-shabaab-recruiting-youths-in-kenyas-remove-village-smuggling-them-to-somalia>

³⁷ Botha, Anneli. "Assessing the vulnerability of Kenyan youths to radicalization and extremism." *Institute for Security Studies Papers* 2013, no. 245 (2013). p.9

to cross the border to Somalia failed. However, he eventually succeeded on his second attempt by irregularly sneaking out through the border town of Liboi. This illuminates the porousness and the ease with which the Kenyan borders are penetrated by deadly transnational organized criminals who pose serious national security threats in the country. This is aggravated by the high level of corruption within the law enforcement agencies mandated to secure the borders. A senior police officer interviewed narrated how a young man from Majengo slums in Nairobi was lured and smuggled into Somalia to join the Al Shabaab. He said that;

The youth was approached by a man whom he knew as a religious teacher. This man offered him Kshs 100,000 and promised much more if he joined the group and travelled with him to Somalia. Because of the deplorable conditions the youth was living in with her single-parent mother and three other siblings, he accepted the offer. They travelled to Somalia in the company of the religious teacher and three other youths through Liboi via Garissa. While in Somalia he was trained and indoctrinated into violent Extremism. He would later be used to smuggle arms across the Kenyan border with Somalia. The young man narrated how they would hide grenades among food items and bribe the police officers manning the border control. He returned to Kenya after the militants were convinced that he was returning to carry out attacks. The youth has since been deradicalized and re-integrated back into the society.³⁸

The sentiments on youth from the poverty-stricken areas being easy targets for radicalization in violent extremism were echoed in an article appearing in one of the local dailies in April 2018, which reported that Kenya police officers were pursuing local Al Shabaab contacts who had smuggled three Kenyan youths from Majengo area in Nairobi to Somalia to the terror outfit. It added that one of the youths had previously been apprehended and sentenced for five years after a botched attempt to sneak into Somalia for Al Shabaab training.³⁹ Again, this illuminates the resolve and zeal by the indoctrinated youth to irregularly traverse the border to Somalia for

³⁸ Interview with a Senior Police Officer. August 28, 2020, Nairobi.

³⁹ Jeremiah Wakaya. Police Hunt for Shabaab Agents Smuggling Radicalized Youth to Somalia. Capital News (Kenya), April 2018.

radicalization, training, and deployment. To reverse this trajectory, the root causes of this irregular migration by the youths should be addressed.

According to a senior police officer interviewed, Police records show that an average of 85 youth from different nationalities such as Uganda, Tanzania, Somalia, Rwanda, Burundi, and Kenya suspected to be victims of human trafficking and migrant smuggling were intercepted either on transit or returning from Somalia between 2014 and 2016.⁴⁰ Mwangiri notes that the strategy of the Al Shabaab terror-insurgency to radicalize Kenyan youth had far-reaching effects. This is because this terrorist group transformed the Kenyan youth to be the enemy within thereby making it easier for the Al Shabaab to pick and attack their targets.⁴¹

In 2013, the Kenyan government deported twenty-four foreigners from different countries for being involved in various transnational crimes such as human trafficking, migrant smuggling, terrorism, and drug trafficking. Among them was Antony Chinedu, a Nigerian who was at the time of his deportation facing charges of drug trafficking in Kenya. A month after their deportation, one of Chinedu's accomplices, Eneke Chimenze, was smuggled back into the country through Kenya – Tanzania's Namanga border control. Following this incident, one immigration officer suspected to have abetted the smuggling of Chimenze was arrested and arraigned in court.⁴² An overwhelming 70% of the study's respondents acknowledged the existence of a nexus between human trafficking, migrant smuggling, and other transnational organized crimes like drug trafficking.⁴³

⁴⁰ Interview with a Senior Police Officer. August 28, 2020, Nairobi.

⁴¹ Makumi Mwangiri, "Strategic, Legal and Administrative Implications of the War on Terror in Kenya," *Contemporary Security in Africa*, Vol.3, No.2 (2015) pp.16-31.

⁴² Cyrus Ombati. "Nigerian deported alongside Antony Chinedu sneaks back to Kenya," *The Standard Newspaper* (Kenya), July 2013.

⁴³ See Table 4.2 and Figure 4.2 on p. 114-115

The dynamics of traits of irregular migration such as the trafficking and smuggling of migrants can be linked to some of the significant terrorist attacks in Kenya. These attacks include the Nairobi Dusit D2 hotel attack in 2019 that killed 21 persons,⁴⁴ the Garissa University attack in 2015 that killed 142 persons,⁴⁵ and the Nairobi Westgate Mall attack in 2013 that killed 67 persons.⁴⁶ For instance, the mastermind behind the Dusit D2 Hotel attack, Ali Salim Gichunge⁴⁷ had irregularly sneaked out of the country to Somalia. From the foregoing and the fact that Kenya had closed its Liboi and Mandera border control points with Somalia in 2011, Gichunge could only have entered or exited Somalia irregularly using undesignated entry and exit points along the expansive porous Kenya-Somalia border. Alternatively, he might have been smuggled into and out of Somalia by the Al Shabaab operatives working in cahoots with the complicit government officials at the border points. Once in Somalia, he was radicalized by the Al Shabaab and trained as a foreign fighter. He would, later on, sneak back into the country, the same way he had sneaked out, to plan for attacks in Kenya where he eventually settled on Dusit D2 Hotel in Nairobi.⁴⁸

The Garissa University attack⁴⁹ was engineered by Sheikh Mohamed Mohamud Ali, a Kenyan Al Shabaab commander who was later killed by the US military in 2016.⁵⁰ Others who actively participated in this attack were three Al Shabaab fighters who included two Kenyans Mohamed

⁴⁴ Bryden, Matt, and Premdeep Bahra. "East Africa's terrorist triple helix: The Dusit Hotel attack and the historical evolution of the jihadi threat." *CTC Sentinel* 12, no. 6 (2019): 2-11.

⁴⁵ BBC News. "Kenya attack: 147 dead in Garissa University assault." April 3, 2015.

⁴⁶ Blanchard, Lauren Ploch. *The September 2013 Terrorist Attack in Kenya: In Brief*. Congressional Research Service, 2013.

⁴⁷ Nation Team. "Dusit attacker Gichunge was a KDF son, wife a jihadist." Daily Nation Newspaper (Kenya), January 2019. <https://nation.africa/kenya/news/dusit-attacker-gichunge-was-a-kdf-son-wife-a-jihadist-128930>

⁴⁸ Humphrey Malalo, Duncan Miriri. "Kenyan authorities investigate local role in Nairobi attack." Reuters, January 2019. <https://www.reuters.com/article/us-kenya-security-idUSKCN1PC0Y7>

⁴⁹ BBC News. "Kenya attack: 147 dead in Garissa University assault." April 3, 2015.

⁵⁰ AL JAZEERA. "Al-Shabab confirms death of Garissa attack leader." AL JAZEERA, NEWS AGENCIES, June 2016. <https://www.aljazeera.com/news/2016/6/19/al-shabab-confirms-death-of-garissa-attack-leader>

Ali Abikar and Hassan Edin Hassan, and one Tanzanian, Rashid Charles Mberesero. In 2019 four years after the attack, the three militants were convicted for their role in the attack. The two Kenyans were handed a forty-one years prison sentence while the Tanzanian was sentenced to life imprisonment. Just like Gichunge, Sheikh Mohamed and the three gunmen who had carried out the attack were trained in Somalia. Of interest is the fact that the master minder and the gunmen had crossed the Kenya-Somalia border after taking advantage of the inherent lapse in security along the border. This lapse entails persons who are a national security threat irregularly migrating or either being trafficked or smuggled into and out of the country.

Lastly, the Westgate Mall attack was conceived by Samantha Lewthwaite aka the White Widow.⁵¹ She also fraudulently obtained travel documents for her children after paying a bribe. After the attack, the White Widow escaped arrest after managing to beat the security system. Of interest is the narrative that four other attackers entered the country through the Kenya-Somali border travelled to Nairobi days before the attack.⁵² The aftermath of the attack saw the parliamentary committee on security carry out investigations into what might have transpired.⁵³ After investigations, the committee gave out several recommendations. Among them was a review of immigration services to eradicate the issuance of fraudulent identification documents to aliens who return to threaten the security of the country. Consequently, fifteen immigration officers alleged to have been involved in the fraudulent issuance of identification documents to

⁵¹ Blanchard, Lauren Ploch. Op.Cit.

⁵² Ibid.

⁵³ Cyrus Ombati and Geoffrey Mosoku. “Parliamentary Committee on National Security and Defence to summon all security chiefs over Westgate Mall attack.” The Standard (Kenya), October 2013.

undeserving persons were fired. In doing so the purge on government departments responsible for providing security-related services started.⁵⁴

What followed soon after the purge in the Directorate of Immigration was the digitalization of the process of issuance of travel documents and identification certificates. Again, the process of facilitating entry and exit of Kenyans and foreigners at the points of entry and exit was radically enhanced by adding the practice of capturing passengers' biometrics and photos in the PISCES. Although these additional security procedures are subject to misuse by complicit officers who connive with criminals, they have been worthwhile add-ons. It is now easier to trace and apprehend criminals using their fingerprint matches and facial images. In turn, the number of reported cases of criminal activities related to document fraud and transnational border crossing is bound to go down. However, despite these positive additions, the number of trafficking and smuggling incidents is still on the rise. This translates to more security threats linked to these phenomena.

Nikita notes that human trafficking and migrant smuggling engender other transnational organized crimes. She argues that these phenomena and other transnational organized crimes such as drug trafficking and the proliferation of SALWs are like siamese twins. This is because drug barons use unsuspecting VOTs to transport their consignments across transnational boundaries. In addition, VOTs are also used to illicitly smuggle weapons and arms from source to the destination country. The use of these weapons to fuel violence thereby undermines the security and tranquility of a country. Besides, proceeds from trafficking and smuggling of

⁵⁴ Mwaniki Munuhe. "15 Immigration Officers Fired." Standard Digital (Kenya), October 2013.

migrants are used to bankroll the operations of transnational organized crimes such as terrorism.⁵⁵

4.3 Human Trafficking and Migrant Smuggling Implications on Political Security

According to Buzan, political security entails the issue of democracy through dynamics such as respect to human rights and freedoms, humanity, democracy, and rule of law.⁵⁶ This demands for the prevention of violation of human rights, government repression, and threats emanating from militarization, ill-treat, and torture. Indeed political ramifications of human trafficking and migrant smuggling go beyond the issues discussed from the conventional security perspective.

In 2014, a Kenyan female victim of human trafficking was tortured to death in Saudi Arabia. The woman had travelled to the Saudi Kingdom city of Jeddah where she 'sought' greener pastures and worked as a house help. Reports indicate that the lady was killed by her cruel employers who could be seen in a video clip that went viral on the internet whipping her several times with her head hanging downward and her legs tied from a rooftop position.⁵⁷

Again in 2014, distraught Kenyan women in the Middle East and the Persian Gulf, send a rescue plea to the government. They complained that their basic human rights and freedoms were repeatedly been violated. This prompted the Kenyan government through the Ministry of Labor to ban its citizens from travelling to the Middle East and the Gulf region in pursuit of

⁵⁵ Malik, Nikita. "Trafficking terror: how modern slavery and sexual violence fund terrorism." *The Henry Jackson Society* 24 (2017). P.46

⁵⁶ Buzan, Barry. Op. cit.

⁵⁷ Philip Mwakio. "Body of Kenyan domestic worker who died in Saudi Arabia flown to Mombasa." *Standard Digital* (Kenya), February 2015. <https://www.standardmedia.co.ke/the-counties/article/2000150486/body-of-kenyan-domestic-worker-who-died-in-saudi-flown-to-mombasa>

employment opportunities. Labor Cabinet Secretary Kazungu Kambi reiterated that the ban had been deliberated after an increase in cases of distraught Kenyans in the region.⁵⁸

According to the Copenhagen School, torture and abuse of basic human rights of the people is a damaging threat to political security.⁵⁹ Going by the logic of the Copenhagen School, there was a need to securitize the trafficking and smuggling of migrants in Kenya. For Kenya to decisively curb these crimes, the focus should be on the four Ps; Prevention, Protection, Prosecution, and Partnership. These measures are fashioned to work together to preserve the victims' human rights. However, the first P (Prevention) should form the greatest focus given that the ultimate goal of the government is to conclusively stop the commission of these crimes.

Human rights violations meted upon Kenyan migrants in different destinations and especially the Middle East and the GCC countries led to Foreign Affairs CS Amina Mohamed to form a task force to investigate the same. After the completion of its mandate, the task force confirmed the claims that indeed Kenyan migrants were being tortured and subjected to human rights abuse in these zones. This confirmed a report carried in one of the local dailies on the 11th of April 2018 that a Kenyan lady had been raped and impregnated by her employer's driver in Saudi Arabia. In a surprise turn of events, she was sentenced to one-year imprisonment for committing adultery while her assailant was only sentenced to serve a three-year jail term.⁶⁰

Another incident riddled with human rights abuse allegedly took place in 2019 where a Kenya lady broke her leg after being hauled down the staircase again in Saudi Arabia. On a sad note,

⁵⁸ Lonah Kibet. "Kenya Government Defends Move against 930 Staffing Agencies." The Standard Newspaper, September 2014.

⁵⁹ Barry Buzan, Ole Waever, and Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder: Lynne Rienner Publishers, 1998).

⁶⁰ KTN News. A Kenyan Woman is Raped and Impregnated in Saudi Arabia.

her contract was terminated without pay or any compensation before being sent back to Kenya.⁶¹ In a similar incidence, another Kenyan lady died in startling conditions while working as a domestic servant in the same country in June 2020. Of interest to note is that, on both occasions, the two Kenyan women had been trafficked with the promise of a better-paying job.⁶² It is also interesting to note that it is indeed the females who are severely affected by human rights violations as compared to their male counterparts. This does not only illuminate the susceptible nature of females, it also validates the study respondents' views that it is the female gender that is prone to be either trafficked or smuggled.

These atrocities committed on Kenyan migrants infringe on their fundamental right to live as enshrined in Chapter Four of the Kenyan Constitution (2010).⁶³ Moreover, they violate the Universal Declaration of Human Rights (UDHR)⁶⁴ articles three, four, and five which state that everyone has a right to life, liberty, and security of person. They also reiterate that no one should be held in slavery or servitude, subjected to torture, inhuman or degrading treatment. They also state that slavery and slave trade shall be prohibited in all their forms.

Kenya needs a robust mechanism of identifying victims of trafficking and smuggling to be able to give support to the victims. However, what the government should be striving for is to eliminate the need to rescue victims by eliminating trafficking and smuggling decisively. Given the blatant violation of human rights and freedoms encountered by these migrants, a meticulous

⁶¹ Jillian Keenan and Njeri Rugene. "They see us as slaves: Kenyan women head for the Gulf despite abuse fears." *The Guardian*, October 2019. <https://www.theguardian.com/global-development/2019/oct/29/kenyan-women-gulf-despite-abuse-fears-domestic-workers>

⁶² Kennedy Gichuhi. "Bring back our loved ones, say families of kin dead in Saudi." *Standard Digital (Kenya)*, September 2020.

⁶³ Chapter Four. *The Bill of Rights*, Kenya Law Reform Commission (KLRC).

⁶⁴ Assembly, UN General. "Universal declaration of human rights." *UN General Assembly* 302, no. 2 (1948): 14-25.

plan to protect them should be put in place. For instance, migrants should have the freedom to change employers depending on the skills that they possess. This could push the employers to offer better wages as well as better working conditions given the competition for migrant workers. The claim of incidents of human rights abuse meted on Kenyans who have irregularly migrated outside the country through trafficking and smuggling was supported by 67% of the study respondents. This shows the extent of the knowledge about these human rights and freedoms violations meted on Kenyans abroad.⁶⁵

The complicity of government officials working in cahoots with traffickers and smugglers enables them to infiltrate government systems and manipulate the formal operations of the government such as immigration procedures. Even though the government may not have the capacity or the political will to combat human trafficking and migrant smuggling, the complicity of its officials compound the problem. In February 2020, two GSU officers and one civilian were arrested at a roadblock in Isiolo County while smuggling ten undocumented Ethiopians and bhang worth Kshs 1.6 million into the country.⁶⁶ The fact that a government-owned vehicle was used to transport these aliens and narcotics shows the level of complicity of the law enforcement agencies mandated to secure the country from looming national security threats. There is a need for government officials to embrace and cultivate national values and principles such as patriotism, integrity, and the rule of law, for the fight against transnational organized crimes such as trafficking and smuggling of migrants to be won. There is also a need to cultivate a positive attitude towards national security and the protection of national interests.

⁶⁵ See Table 4.2 and Figure 4.2 on p. 114-115

⁶⁶ Waweru Wairimu. “GSU officers, civilian detained in drug trafficking, smuggling case.” Nation Media (Kenya), February 2020.

Buzan notes that a State should be capable of stabilizing itself via its organizational structures, systems of government, and ideologies that make it legitimate and gives it the power to govern.⁶⁷The central claim here is that this state authority and legitimacy are sometimes challenged by the activities of transnational organized criminal organizations such as human trafficking and migrant smuggling networks. For instance, the state's monopoly over the use and control of the instruments of violence is challenged by the influx of weapons smuggled into the country together with or by victims of human trafficking and migrant smuggling. These criminal networks threaten the existence of the state's population, one of the attributes of statehood according to the 1933 Montevideo Convention on the Rights and Duties of a State.⁶⁸

Interestingly, in the 2018 US T-I-P Report, corrupt police officers took bribes to tip-off traffickers of imminent operations and investigations by the government. At the same time, corrupt immigration officers connived with traffickers and smugglers to fraudulently issue travel documents to facilitate the commission of these crimes. No government official who participated in these illegalities was apprehended, investigated, or prosecuted as stipulated in the Counter-Trafficking in Persons Act of 2010.⁶⁹ The perpetuation of these illegalities threatens the state's legitimacy and its' authority to confront national security threats.

Kenya like any other developing country with a weak rule of law is susceptible to penetration by transnational organized crimes such as trafficking and smuggling of migrants. The apparent nexus between transnational organized criminals and some elements of government represents a significant threat to legitimate economic and democratic institutions. This is because corrupt government officials turn a blind eye to the activities of these criminal groups. Failure to

⁶⁷ Barry, Buzan. "Security: A new framework for analysis." (1998).

⁶⁸ The Montevideo Convention on the Rights and Duties of States, 1933.

⁶⁹ Trafficking in Persons Report - Kenya, 28 June 2018.

decisively curb the activities of these transnational organized criminals is compounded by their ability to infiltrate government systems.

For some time now, countries neighboring Kenya such as Somalia, Ethiopia, and South Sudan have been afflicted by perennial wars and conflicts. The displacement of the population engendered by these conflicts has led to an influx of refugees and asylum seekers in Kenya, with the current figure standing at approximately 500,000 persons.⁷⁰ Koslowski opines that this category of immigrants breeds dangerous transnational organized criminals which pose serious security threats to societal security in the destination country.⁷¹ In 2019 the Dadaab refugee complex was regarded as a breeding and training ground for the Al Shabaab militants.⁷² Soon after the 2019 terrorist attack at the Dusit D2 Complex in Nairobi, twelve suspected terrorists were apprehended at the sprawling refugee camp during a security operation carried out by Kenya's security forces.⁷³

One of the Dusit D2 Complex attackers had not only passed through Dagahaley Camp, one of the camps comprising the Dadaab refugee complex but was also aided in communicating with fellow attackers in Nairobi. The attacker was also facilitated with transportation logistics to Nairobi. The same report revealed that another three Al Shabaab militants were nabbed in Hagadera refugee camp, another camp in the Dadaab complex. The terror suspects entered Kenya through the expansive Kenya-Somalia border at Liboi town after taking advantage of the security lapse at the point of entry to sneak into the country undetected.

⁷⁰ UNHCR, Kenya. Op. Cit. p.52

⁷¹ Koslowski, Rey. "International cooperation to create smart borders." In *Ottawa at the Conference on North American Integration: Migration, Trade, and Security*. 2004. P.6

⁷² John Kamau. "Dadaab weak link in fight against terrorism." Nation Media Group (Kenya), February 2019.

⁷³ Ibid.

In 2017, President Uhuru Kenyatta ordered the closure of the Dadaab refugee camp.⁷⁴ Although this presidential order effectively securitized the issue of refugees in Kenya there was a lot of backlash from the international community who were opposed to the repatriation of the refugees in the camp. They reiterated that the principle of non-refoulement, which dictates that refugees or asylum seekers cannot be sent back to a country where they are likely to be persecuted, ought to prevail. Prior to the presidential orders, the interior CS Joseph Nkaissery and PS Karanja Kibicho had described the Dadaab refugee complex as a hideout for criminal elements and thus a hindrance to Kenya's fight against terrorism and other related national security threats such as human trafficking and migrant smuggling, contraband smuggling, and the proliferation of SALWs.⁷⁵

Bariagaber notes that violent extremists, who are sometimes victims of trafficking and smuggling who have been radicalized, are capable of irregularly crossing interstate boundaries before polarizing a state in their effort to advance their political ideologies. Sometimes, this leads to conflicts, massive displacement of the population, and loss of lives.⁷⁶ Bariagaber's conception came into play during the 2014 Mpeketoni attacks. In these attacks, the Al Shabaab militants entered Kenya from Somalia through Boni forest and attacked Mpeketoni town in Lamu County before killing nearly 100 people in three consecutive nights of terror. In a series of systematic attacks, the militants targeted non-Muslim men mainly from the Kikuyu ethnic community. The move to religiously and ethnically profile the communities living in this area was meant to drive a wedge between them thereby creating political animosity.

⁷⁴ Cyrus Ombati. "Kenya to Spend Shs 1 Billion for Immediate Repatriation of Refugees from Dadaab." The Standard Newspaper (Kenya) May 2016.

⁷⁵ John Kamau. "Dadaab weak link in fight against terrorism." Nation Media Group (Kenya), February 2019.

⁷⁶ Bariagaber, Assefaw. Op.cit.

While the Al Shabaab claimed responsibility, local tension loomed large as the militants celebrated the success of the attack by spreading propaganda. One of the propaganda included a video entitled “Reclaiming Muslim Lands under Kenyan Occupation.” There was also footage of a radical Kenyan Muslim cleric from the Coast region preaching about how disbelievers had stolen their land in Mpeketoni. In that footage, he urged the locals to wake up and fight for their land. All this was a well-calculated attempt to polarize the communities living in that area and divide them along political and religious ideologies. Kenya’s national security was greatly compromised by this attack perpetrated by militants who had irregularly entered the country. To contain the emergent political security threats, there is an urgent need of enhancing convictions for trafficking and smuggling of migrants offenses. Again, there is a need to come up with strategies and programs focused on the prevention of these crimes. These programs should be adequately resourced to achieve the intended goals.

4.4 Human Trafficking and Migrant Smuggling Implications on Societal Security

The concept of societal security was developed by the Copenhagen School of Security Studies in the 1990s.⁷⁷ This was after the realist traditional approach which considered the state as the only security referent object was challenged by the human security paradigm. The Copenhagen school adopted a duality of security with both the state and the society as the referent objects of security. This paradigm de-emphasized the role of the state in ensuring societal security by confronting threats and highlighting questions of community identity and social dynamics.⁷⁸

⁷⁷ Waever, Ole, Barry Buzan, Morten Kelstrup, and Pierre Lemaitre. "Societal security and European security." *Identity, migration and the new security agenda in Europe* 185 (1993).

⁷⁸ Ibid.

According to Shelley, human trafficking and migrant smuggling pose numerous societal challenges such as health hazards. She adds that the consequences of trafficking and smuggling to the victims, their families, as well as their communities are not only severe but are also diverse. For instance, trafficked children are deprived of the opportunity of acquiring education. Teenagers and women trafficked for sexual exploitation are exposed to a myriad of reproductive system health problems as well as deadly illnesses such as HIV/AIDS. In addition, men trafficked or smuggled for labor exploitation not only face prolonged periods of absence from their families but are also exposed to fatal work-related injuries. Besides, Shelley acknowledges that while in transit and the destination countries, victims of human trafficking and migrant smuggling face the risk of being infected with contagious diseases. She adds that these diseases can also be transmitted from one society to another through human trafficking and migrant smuggling activities.⁷⁹

In 2010, the Center for Disease and Prevention (CDC) responded to nine disease outbreaks in the Dadaab Refugee Complex. These diseases included cholera, measles, meningitis, H1N1 Flu, and pertussis.⁸⁰ Yet in another incidence, in 2015 a cholera outbreak was reported in the same facility. During this particular outbreak, fourteen persons died while 1,797 others were infected.⁸¹ The two incidents of disease outbreaks in facilities hosting migrants, some of them victims of human trafficking and migrant smuggling, epitomize the threat of the spread of contagious diseases by irregular migrants such as trafficked and smuggled persons. Given the

⁷⁹ Shelley, Louise. "Human security and human trafficking." *Human trafficking and human security* 4, no. 10 (2009). P.35

⁸⁰ Crossing Borders: One World, Global Health, *Clinical Infectious Diseases*, Volume 59, Issue 1, 1 July 2014, Pages v–vi, <https://doi.org/10.1093/cid/ciu281>

⁸¹ Golicha Q, Shetty S, Nasiblov O, et al. Cholera Outbreak in Dadaab Refugee Camp, Kenya. November 2015–June 2016. *Morbidity and Mortality Weekly Report* 2018; 67:958–961.

congestion synonymous with these facilities hosting the migrants, disease outbreaks are prone to occur. This calls for the government to be adequately prepared to avert any imminent danger.

According to a report by Reuters, Kenyans working as domestic workers in the Middle East and the GCC region endure mental challenges engendered by the ill-treatment meted on them by their employers. These abuses range from physical harm, death threats, and sexual abuse. The report added that these workers are treated as slaves and are often kept under lock and key by their employer, forced to work more than 18 hours a day, deprived of food and wages. Some of them suffer from depression, mental disorientation, with others running mad. A case reported in particular is of a Kenyan lady who ran mad and stripped naked while shouting “stop beating me” in Saudi Arabia after suffering from mental disorders.⁸²

Jonsson contends that trafficked and smuggled persons suffer from serious psychological problems such as post-traumatic stress and stigmatization which directly and negatively impact their health.⁸³ She adds that victims of sex trafficking are forced to indulge in substance abuse as a stress-management mechanism. She reckons that this continued substance abuse leads to other serious health complications such as permanent brain and kidney damage. Besides, breaking the drug addiction requires expensive medical support.⁸⁴

Jonsson’s assertion is supported by the 2015 National Crime Research Centre (NCRC) Report on human trafficking. According to this report, two out of every ten victims of trafficking encountered experienced traumatic conditions such as depression, disorientation, and post-

⁸² Katy Migiro. “Desperate Kenyan Maids Abused in the Middle East Despite Ban”. Thomson Reuters Foundation (Canada), May 2015.

⁸³ Jonsson, Anna, ed. *Human trafficking and human security*. Routledge, 2012. P.41

⁸⁴ Ibid.

traumatic stress disorder.⁸⁵ This statement confirms Shelley's expose that VOTs return to their communities after a trafficking or smuggling ordeal with severe psychological and health problems that are expensive for their communities to manage.⁸⁶ This illuminates why it is therefore important for the government to work towards achieving policies that lessen the burden of treating, rehabilitating, and reintegrating rescued or returning VOTs. Setting up a workable strategy equipped with adequate human and financial resources to mount a comprehensive and coordinated campaign to curb modern forms of trafficking and smuggling of migrants should be the government's ultimate priority.

As observed in the foregoing, VOTs return to their communities in derelict physical and mental health conditions after undergoing inhuman exploitation ordeals. Some of them die from deadly communicable diseases and physical injuries sustained from these ordeals. This places a heavy rehabilitation responsibility on their families and their communities. In the event of sexual exploitation, the consequences are more severe.

Shelley argues that this is because sexually abused human trafficking and migrant smuggling victims are not presented with an opportunity to protect themselves in their sexual encounters. The status of being trafficked or smuggled denies women their universal right to protection of life. As a result, these women are at a greater risk of contracting STDs such as HIV/AIDS. Those controlling the victims are disinterested in providing any medical assistance to them. Consequently, STDs spread into the larger community thus affecting even more people. This does not only compound the health costs but also threatens the existence of the society.⁸⁷ Shelley adds that trafficking and smuggling activities also pose a devastating demographic significance

⁸⁵ The National Crime Research Centre Report, 2015.

⁸⁶ Shelley, Louise. Human trafficking: A global perspective. Op. Cit.

⁸⁷ Shelley, Louise. Human trafficking: A global perspective. Op. Cit.

in the sense that societies are deprived of women of child-bearing age in the process. This leads to a demographic crisis in the sense that these girls' and women's reproductive health is adversely ruined through sexual exploitation. When this happens, the progression and continuity of that society are in jeopardy.⁸⁸

Coincidentally, 60% of the study respondents also linked trafficking and smuggling of migrants to societal security threats. The respondents agreed that traumatic conditions such as depression, disorientation, and post-traumatic stress disorder are common with persons who have undergone trafficking and smuggling ordeals. Furthermore, they agreed that trafficking and smuggling activities are capable of transmitting contagious diseases that pose a threat to the national security of the country.⁸⁹

4.5 Human Trafficking and Migrant Smuggling Implications on the Environmental Security

According to the Copenhagen School, the referent object of the environmental security is either the environment or some strategic part of it. Buzan illuminates this by stating that environmental security entails the maintenance of local and global ecosystems to enhance the survival of the people and creatures in that environment.⁹⁰ He sees the environment as a significant resource for states to build power. Buzan's worldview is supported by Richard and McDonald who advance that environmental issues such as deforestation are global because of their popularity in various regions of the globe. In addition, concerns like environmental degradation are increasingly being

⁸⁸ Ibid.

⁸⁹ See Table 4.2 and Figure 4.2 on P.114-115

⁹⁰ Barry Buzan, Ole Waever, and Jaap de Wilde. Op. cit.

considered as a threat to the individual, national, and global security. This has subsequently created a new agenda in the field of security studies.⁹¹

Kenya hosts over 500,000 refugees with half of them being held at the Dadaab refugee complex.⁹² By hosting this huge number of refugees, the country has paid a hefty environmental security price as these refugees compete for the scarce resources available. To make ends meet, the refugees engage in environmentally degrading activities such as deforestation and charcoal burning. Interestingly, this destruction of the environment creates tension between the migrants and the local communities who now feel threatened. In 2017, Garissa residents held day-long demonstrations over the wanton depletion of natural resources in the area. The residents accused Somali refugees in the area of deforestation, charcoal burning, and increased poaching of wildlife and demanded for their relocation.⁹³ The continued destruction of the ecosystem drove wildlife away, thereby negatively impacting the tourism industry. The net effect of the destruction of the ecosystem and the ensuing dwindling of tourism fortunes is the loss of employment opportunities in the country. This situation negatively impacts Kenya's economic growth.

In 2018, Turkana County residents engaged refugees at the Kakuma refugee camp in a fight elicited by accusations that they were engaged in the destruction of the region's natural resources. Notably, the core source of livelihood for natives living around the refugee camp and Kakuma town is the selling of firewood and charcoal to the refugees and town residents.⁹⁴

⁹¹ Richard Matthew and Brian McDonald, —Networks of Threats and Vulnerability: Lessons From Environmental Security Research, I ECSP Report, Issue 10 (2004): 10.

⁹² UNHCR, Kenya. Op. Cit. p.52

⁹³ Abdimalik Hajir. “Garissa Residents Block UNHCR Offices in Dadaab over Refugees.” Daily Nation (Kenya), November 2017.

⁹⁴ UNEP. “Managing environmental stress in Kenya's Kakuma refugee camp.” February 2018.

Sensing competition, the natives accused the over 160,000⁹⁵ refugees residing in the Kakuma refugee camp of engaging in environmentally degrading activities such as illegal logging for firewood and charcoal burning. With the fuel rations provided by the UN Refugee Agency proving to be insufficient, the refugees are forced to engage in wanton destruction of the environment. This is in their quest to supplement these insufficient fuel rations with firewood and charcoal, thereby putting them on a collision course with the natives.⁹⁶

Roza postulates that national security should encompass the protection of the environment from destruction. She adds that destructive activities on the environment have led to the extinction of important species of flora and fauna.⁹⁷ This destruction of the environment if unchecked leads to shrinking or total extinction of critical natural resources. In turn, this engenders poverty and food insecurity which are some of the leading push factors in the growth of human trafficking and migrant smuggling.

In Kenya, wanton depletion of resources is exacerbated by the influx of migrants flocking the country for various reasons such as natural catastrophes and protracted political conflicts. For instance, as postulated earlier in this study, protracted political conflicts in Kenya's neighborhood have given rise to a significant number of internally displaced persons. These IDPs have, in turn, infiltrated the country as refugees, asylum seekers, or victims of human trafficking and migrant smuggling. While in Kenya, these migrants engage in illegal activities that negatively affect the environmental security of the country. This presents a huge threat to Kenya's natural resources with some being threatened with extinction. On many occasions, the

⁹⁵ UNHCR: The UN Refugee Agency

⁹⁶ UNEP. "Managing environmental stress in Kenya's Kakuma refugee camp." February 2018.

⁹⁷ Pati, Roza. Op. cit. p.32

competition for these natural resources degenerates into political conflicts thereby adversely compromising Kenya's national security.

The infiltration of the Boni forest by the Al Shabaab militants, who irregularly smuggled across the boundary from Somalia, has disrupted the existing natural ecosystem in the forest. According to reports from Al Jazeera, the densely forested national conservancy ceased from being a home of flora and fauna and became a home to the Al Shabaab militants. Reports by Al Jazeera also said that heavy fighting between the militants and the Kenya security forces has driven wild animals in the forest to the Jubba area in Somalia in what can be seen as a threat to Kenya's environmental security.⁹⁸

In 2014, the Voice of America news channel reported that the Al Shabaab militants were exporting rhino horns and ivory smuggled from Kenya to Asian countries such as Thailand, Iran, Korea, and China through the Indian Ocean. According to VOA, the proceeds received from the sale of these game trophies were being used to bankroll the operations of the Al Shabaab militants.⁹⁹ Interestingly, the Al Shabaab is known to traffick and smuggle vulnerable migrants across the border in its efforts to bankroll its operations and boost its troops. Notably, Kenya has been grappling with the challenge of elephant and rhino poaching for the last three decades. In 2016, President Uhuru Kenyatta torched 105 tons of ivory estimated to have been harvested from 6,700 elephants dotted across Africa. Significantly, Presidents Moi and Mwai Kibaki had previously torched other huge ivory hauls in 1989 and 2011 respectively.¹⁰⁰

⁹⁸ Hamza Mohamed. "Kenya's wildlife flees al-Shabab conflict into Somalia." Al Jazeera, September 2015.

⁹⁹ William Eagle. "Somalia's Insurgents Turn Ivory into Big Export Business." VOA (America), June 2014.

¹⁰⁰ Damian Zane. "Kenya's ivory inferno: Does burning elephant tusks destroy them? BBC News, April 2016.

The claim that human trafficking and migrant smuggling contribute to the degradation of the environment and wanton depletion of resources in Kenya was supported by 57% of the study respondents.¹⁰¹ This calls for the formulation and enactment of strategic action, legislation, and sanctions at both the national and international level, including measures that target the disruption of overseas exportation of trophies from endangered species of flora and fauna. Most importantly, the concern of the refugee welfare should be enhanced to prevent them from engaging in destructive activities in their quest to fashion alternative means of survival. Besides, economic incentives and alternative livelihoods for those living in poverty should be provided.

4.6 Analysis of Findings from the Research Respondents on Implications of Human Trafficking and Migrant Smuggling on the National Security

As illustrated in table 4.1 and figure 4.1 below, an overwhelming majority (90%) of the study respondents who included Immigration officers, Police Officers, KAA Security Officers, Prosecutors, Judges, and Magistrates agreed that human trafficking and migrant smuggling are a threat to Kenya's national security. This is because these phenomena are linked with various forms of transnational organized criminal activities such as terrorism, drug trafficking, money laundering, the proliferation of SALWs, and the smuggling of contrabands. They agreed that these phenomena remain a nagging security concern in Kenya, hence the need for a spirited effort to contain them. However, 10% of the study respondents were of the contrary opinion that these phenomena pose no threat to Kenya's national security. This illustrates a lack of awareness of the existence of threats that are posed by these phenomena, hence the need to sensitize the general public on the same.

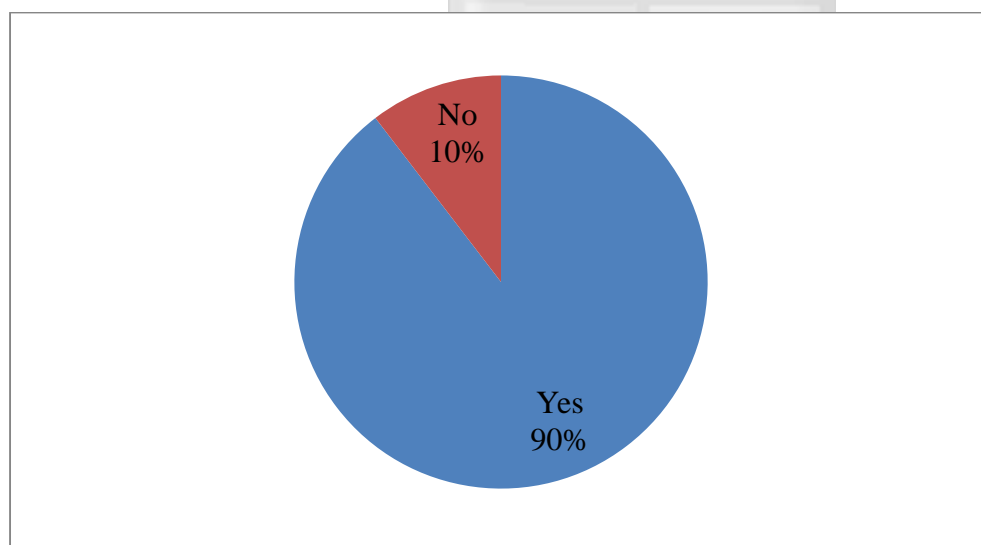
¹⁰¹ See Table 4.2 and Figure 4.2 on p.114-115

Table 4.1: Effects of Human Trafficking and Migrant Smuggling on the National Security of Kenya

Response	N/120	Percentage
YES	108	90
NO	12	10
Total	120	100

Source: Survey Data

Figure 4.1: Effects of Human Trafficking and Migrant Smuggling on the National Security of Kenya



Source: Survey Data

Asked on which national security threats have a link with human trafficking and migrant smuggling in Kenya, 90% of the study respondents, said that these phenomena can be linked to the surge in the number of terrorist attacks that took place during the study period. During this period terrorists irregularly entered and exited the country with the assistance of corrupt

government institutions to carry out devastating attacks in Kenya. Others were smuggled into the country as refugees before being radicalized and trained as foreign fighters.

Interestingly, 76.7% of the respondents linked human trafficking and migrant to the proliferation of SALWs. This is because transnational organized criminals use victims of trafficking and smuggling to sneak in arms and light weapons. These weapons are used by criminal elements to breach the country's national security. To smuggle SALWs into the country, criminals take advantage of the rampant corruption and inherent feeble government institutions in Kenya. This is why 73.5% of the study participants agreed that illicit smuggling of contraband goods is perpetuated by human trafficking and migrant smuggling activities in Kenya. This threatens the country's economic security bearing in mind that revenue is lost through tax evasion. Besides, smuggled contrabands would kill local entrepreneurship through unfair competition.

70% of the study participants held that there is a nexus between drug trafficking, human trafficking, and migrant smuggling in Kenya. This is because VOTs are used by drug barons to smuggle drugs into the country. These illicit drugs pose a great danger to societal security given that they adversely affect the health of the users. Another 68.2% of the study participants linked human trafficking and migrant smuggling to the increase in money laundering cases as criminals trickily endeavor to cleanse their ill-gotten money. 67% of the study participants thought that the increase in cases of human rights and freedoms violation especially for Kenyan VOTs abroad was a result of increased cases of trafficking and smuggling of migrants.

Interestingly, 60% of the study participants pointed at the health threats involved. They acknowledged that trafficking and smuggling activities in Kenya contribute to the spread of contagious diseases like cholera. In addition, 57% of the study participants linked these

phenomena to environmental degradation which entails concerns like wanton depletion of natural resources and poaching of flora and fauna. Another 53.6% of the study participants opined that human trafficking and migrant smuggling pose a threat to Kenya’s territorial integrity in the sense that traffickers and smugglers undermine governance by engendering clandestine entry of irregular persons. This is intrinsically adverse to state sovereignty.

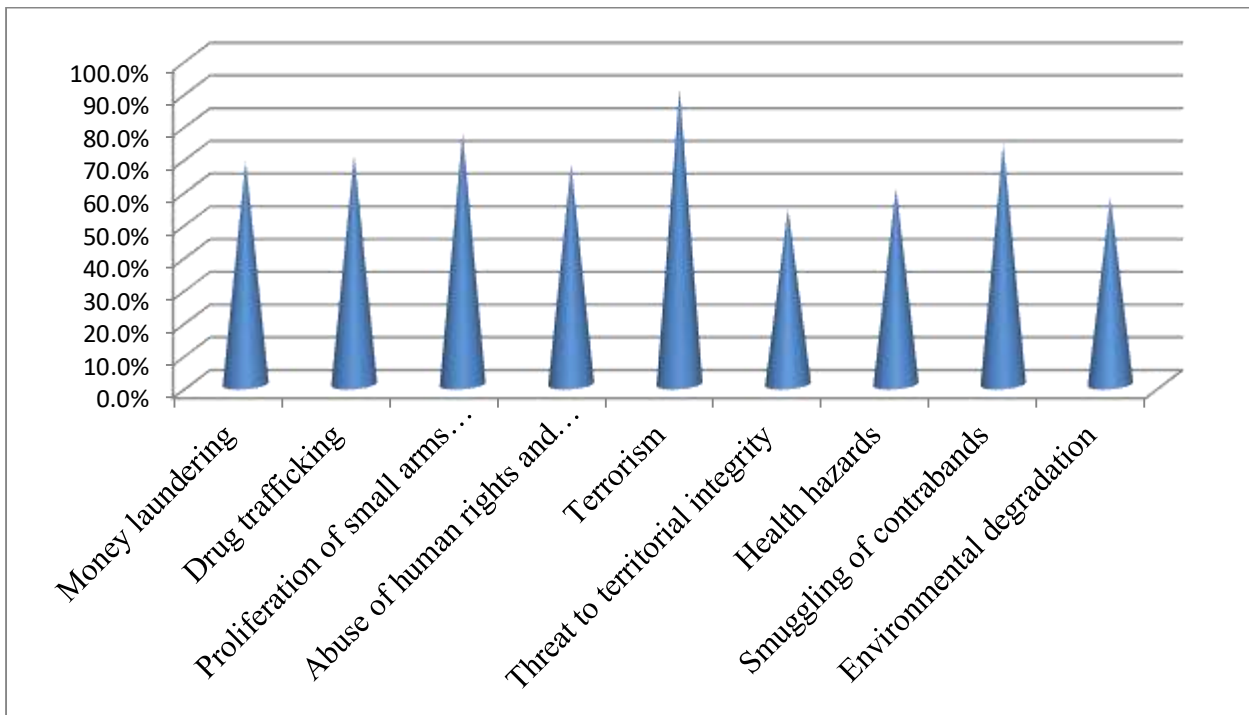
A graphical presentation of the findings from the research participants on the implications of human trafficking and migrant smuggling on Kenya’s national security is illustrated in table 4.2 and figure 4.2 below.

Table 4.2: National Security Threats Linked to Human trafficking and migrant smuggling in Kenya

Type of Threat	N/120	percentage
Terrorism	108	90.0%
The proliferation of small arms and light weapons	92	76.7%
Trafficking of contrabands	88	73.5%
Drug trafficking	84	70%
Money laundering	82	68.2%
Abuse of human rights and freedoms	80	67%
Health hazards	72	60%
Environmental degradation	68	57%
Threat to territorial integrity	64	53.6%

Source: Survey Data

Figure 4.2: National Security Threats Linked to Human trafficking and migrant smuggling in Kenya



Source: Survey Data

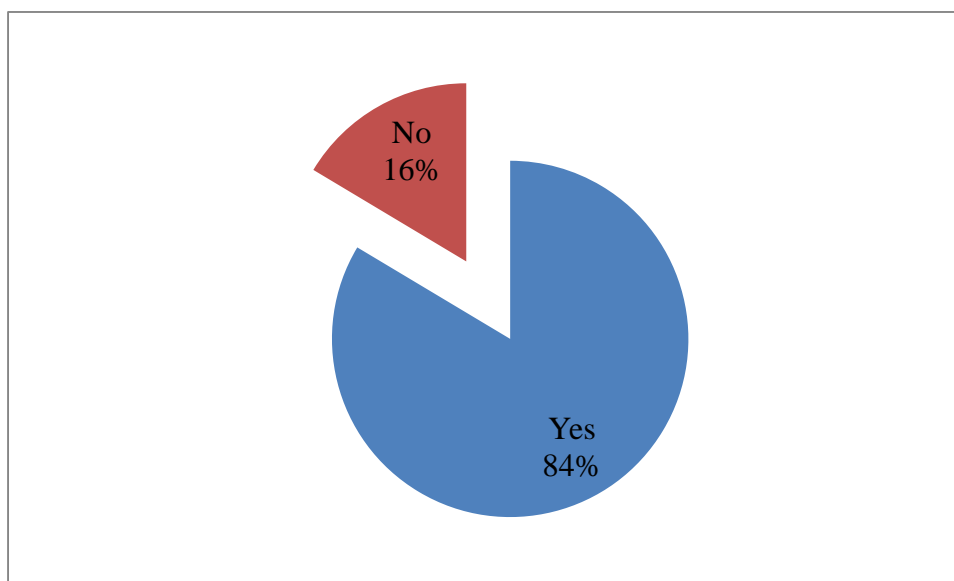
Queried on whether the government has in any way responded to the human trafficking and migrant smuggling menace, 83% of the study respondents acknowledged that the government has indeed put up some efforts to curb these crimes. This has been done by enacting laws and formulating policies geared towards the containment of these phenomena. On the contrary, 17% of the study respondents thought that the government was yet to step in and offer solutions in terms of policies or legal frameworks to contain these phenomena. This is illustrated in table 4.3 and figure 4.3 below.

Table 4.3: Has the Government’s Response to Human Trafficking and Migrant Smuggling?

Response	N/120	Percentage
YES	100	83
NO	20	17
Total	120	100

Source: Survey Data

Figure 4.3: Has Government’s Responded to Human Trafficking and Migrant Smuggling?



Source: Survey Data

A majority of the study participants acknowledged that the government of Kenya has admitted that the problem of trafficking and smuggling of migrants is rampant. This acceptance prompted the government to put up countermeasures as seen in the problem statement to address these phenomena. However, the study respondents unanimously agreed that these countermeasures have not been implemented to the latter, even though the essence of formulating policies is to appropriately implement them. To decisively contain the menace of human trafficking and

migrant smuggling in Kenya, the government must not only toil to formulate strategic measures but must also appropriately operationalize them.

4.7 Conclusion

This chapter has demonstrated that human trafficking and migrant smuggling engender various threats to Kenya's national security. The chapter has also detailed the various aspects in which these phenomena undermine Kenya's national security. These aspects include undermining economic growth, aiding and abetting terrorist activities, wanton depletion of natural resources, abuse of human rights and freedoms, and aiding the spread of contagious diseases thereby adversely affecting the societal security of the population. Moreover, the chapter has brought out the nexus between human trafficking and migrant smuggling and other transnational organized crimes such as drug trafficking, terrorism, money laundering, and the proliferation of SALWs. Revisiting the wider Buzanian approach to security, this chapter has demonstrated how human trafficking and migrant smuggling affect the five sectors of security namely, economic, military, political, societal, and environmental. Having established that these phenomena engender national security threats conceptualized in the five mentioned sectors, the question that we ask ourselves is; how these phenomena can be contained in Kenya. This will be one of the tasks that anchor the next chapter.

CHAPTER FIVE

RECAPITULATION, CONCLUSION, AND RECOMMENDATIONS

5.0 Introduction

This chapter anchors the recapitulation, conclusion, and recommendations of the study. It responds to four core tasks. The first recapitulates our two core objectives with a view of demonstrating how the underlying tasks were fulfilled. The second task entails the validation of our hypotheses. The third objective anchors the conclusions and thesis of our study. The last section responds to the task of the third objective of our study by proffering research-based recommendations.

5.1 (a) Factors Underlying the Growth in Human Trafficking and Migrant Smuggling in Kenya

In the first objective, the study sought to examine and analyze the factors underlying the increase in human trafficking and migrant smuggling in Kenya over the period 2009 - 2019. It attempted to respond to the question; why there was an increase in the number of human trafficking and migrant smuggling cases despite the countermeasures put in place. The core assumption was that the growth of these phenomena in Kenya was as a result of diverse factors, classified as economic, political, institutional, or social-cultural.

To examine and analyze the growth of human trafficking and migrant smuggling, the study assessed the contributions of various economic factors including poverty, unemployment, globalization, and the increase in demand for trafficked and smuggled persons. The study found out that persons from poor backgrounds were the most susceptible to being trafficked or

smuggled. The 2018 World Bank report revealed that the number of Kenyans living below the poverty line has risen over the last two decades to stand at 36.1% as of 2019. The study also established that poverty and unemployment drove the perpetrators, who are rational actors and, therefore, determined to pull themselves out of poverty, into engaging in the USD 150 billion transnational organized criminal activities of trafficking and smuggling of migrants.

Besides, the study demonstrated that rampant corruption with government institutions fueled the increase in human trafficking and migrant smuggling in Kenya. The Directorate of Immigration, mandated to regulate entry and exit of Kenyans and foreigners, was riddled with integrity issues. The study established that, because of corruption, 15 immigration officers were dismissed over integrity issues. Again, the Director of Immigration Services was arrested for irregularly issuing Kenyan work permits to foreigners. The study has also established that the Kenya National Police Services officials also collected bribes to warn human traffickers and smugglers of impending swoops targeting them. Further on rampant corruption, the study found out that, a Cabinet Secretary-level government official irregularly signed special work permits for suspected trafficked Asian girls to entertain revelers in a *mujra* club infamous for exploitative practices.

Additionally, findings also showed that lack or non-implementation of the government's counter-trafficking laws and measures led to the growth of these phenomena in Kenya. For instance, the Kenya Counter-Trafficking in Persons Act 2010 criminalizes sex and labor trafficking in Kenya. It also prescribes an adequately punitive penalty of between 30 years to life imprisonment, a fine of Kshs 30 million, or both, for anyone convicted of this offence. However, offenders were handed less castigatory punishments after being charged under the lenient immigration and labor laws. Besides, Kenya Counter-Trafficking in Persons Act 2010 directs that law enforcement

officials who connive with criminals to abet human trafficking and migrant smuggling should be convicted. The study established that no official was successfully charged with these offences in Kenya over the study period.

Statistically, of the percentage of primary data collected, 92.5% of the respondents attributed the exponential rise in the number of trafficking and smuggling cases in Kenya to poverty and lack of employment opportunities, 85.8% cited lack of awareness, 75% blamed rampant corruption within government institutions, 73.3% attributed the rise to poor implementation of counter-trafficking policies and laws, 70.8% cited globalization, 70% blamed perennial conflicts and instability in the external environment, 61.7% pointed to the porous borders between Kenya and its neighbors, 58.3% blamed victims' desire to join relatives abroad, 55.8% cited the increase in demand for trafficked and smuggled persons, 55% blamed social-cultural factors, while 50% cited domestic political instability.

5.1 (b) Human Trafficking and Migrant Smuggling Implications on Kenya's National Security

In the second objective, the study sought to examine and analyze the implications of human trafficking and migrant smuggling on Kenya's national security over the period 2009 - 2019. This objective was guided by the assumption that the resultant effects of human trafficking and migrant smuggling threaten Kenya's national security. To achieve this objective, the study employed the wider Buzanian Security Approach which states that national security can be undermined by dynamics from five sectors namely the economic, military, political, societal, and environmental sectors.

In the military sector, the study established that human trafficking and migrant smuggling were linked to the influx of transnational organized criminals such as terrorists. The study revealed that vulnerable Kenyan youths were recruited and smuggled out of the country and initiated into violent extremism. In 2011, authorities reported that eleven Kenyan youths were smuggled into Somalia and radicalized into violent extremism. Their names and photos were released by the government before the public was warned of the danger posed by the youths. During this period, Kenya witnessed several terrorist attacks carried out by radicalized Kenyan returnees. One youth identified as Elgiva Bwire aka Mohamed Seif was arrested with a cache of assorted weapons. He confessed to having sneaked into Somalia where he was radicalized and trained as a foreign fighter for the Al Shabaab.

Additionally, the study established that Kenyan migrants were maltreated and physically abused by their employers in the Middle East and the Gulf Persian countries. This infringed on their fundamental human rights and freedoms. The study revealed that a Kenyan woman was reportedly tortured to death in Saudi Arabia while another one died in startling conditions in the same country. The two women had been trafficked to Saudi Arabia with the promise of a better-paying job. In addition, the study exposed how distraught Kenyan women send rescue pleas to the government after facing various human rights abuses in the Middle East. In yet another incident, a Kenyan woman was raped and impregnated by her employer in Saudi Arabia before being sentenced to one-year imprisonment on adultery charges.

The study further demonstrated how conflicts in Kenya's neighboring countries of Somalia, Ethiopia, and South Sudan have led to an influx of refugees and asylum seekers, with some of them being victims of trafficking and smuggling. According to the latest UNHCR statistics, this

number stands at 500,000 persons. The study further established that the Dadaab refugee camp had been turned into a breeding and training ground for the Al Shabaab terrorists. Revelations from the study showed that soon after the 2019 Dusit D2 Complex terrorist attack in Nairobi, twelve suspected terrorists were apprehended at the refugee camp. The study also established that one of the Dusit D2 Complex attackers had not only passed through the Dadaab refugee camp but was also aided to communicate with fellow attackers in Nairobi.

5.2(a) Hypothesis 1: The Underlying Factors engendering increase in Human Trafficking and Migrant Smuggling

This section validates the first hypothesis, that the increase in human trafficking and migrant smuggling is a function of the convergence of various negative and positive interests of human traffickers, migrant smugglers, and their victims. The overriding assumption was that the increase in human trafficking and migrant smuggling is a function of the ability of perpetrators to exploit and maximize on the victims' and institutional vulnerabilities to achieve their objectives. Findings from the study respondents showed that factors such as poverty, lack of employment opportunities, rampant corruption within government institutions, poor implementation of counter-trafficking policies and laws, globalization, external conflicts and instability within Kenya's neighborhood, and the porous nature of the border between Kenya and its neighbors contributed to the exponential growth of these phenomena. Findings from the study also showed that human trafficking and migrant smuggling were serious issues in Kenya. This was depicted by Kenya's categorization by several US Department of State T-I-P Reports as a source, transit hub, as well as a destination point for trafficked and smuggled persons.

Additionally, the study established that rampant corruption within various government institutions mandated with enhancing national security was alarming. For instance, the Directorate of Immigration and the National Police Service officials participated in corrupt malpractices to abet these crimes. This in turn threatened the country's national security in diverse ways. The prevalence of rampant corruption within government institutions was demonstrated by the sacking of fifteen immigration officers linked with the issuance of identification documents to aliens in 2013. This was immediately after the Westgate Mall terrorist attack in which the Directorate of Immigration was hugely blamed for complicity and corruption. To crown it all, the Director of Immigration Services was likewise arrested over corruption allegations in 2014. The study also established that police officers collected bribes from human traffickers and migrants smugglers to protect and alert them on looming security operations targeting them. By and large, the study demonstrated that indeed, the foregoing underlying factors have contributed to the increase in the number of human trafficking and migrant smuggling cases in Kenya.

5.2(b) Hypothesis 2: National Security Threats engendered by Human Trafficking and Migrant Smuggling

In the second hypothesis; that national security threats are a function of multiple vulnerabilities resident in multiple security sectors, the overriding assumption was that the resultant effects of human trafficking and migrant smuggling are a threat to Kenya's national security. In addition, these national security threats are resident in the five sectors of security as advanced by Buzan. According to 90% of the study respondents, human trafficking and migrant smuggling facilitate the entry and exit of terrorists. 76.7% linked these phenomena to the proliferation of SALWs,

while 73.5% correlated the phenomena to the smuggling of contraband goods. 70% held that drug trafficking in Kenya is aided by human trafficking and migrant smuggling, while 68.2% connected the phenomena to money laundering. 67% thought that the phenomena were responsible for Kenyans' human rights and freedoms abuse. 60% pointed at the health security threats, while 57% linked the phenomena to environmental degradation.

The study established that from 2011 to 2016, Kenya lost 2,487 visitors on average per year, following an escalation in terrorist attacks in the country. This translated to a loss of Kshs 155.8 million annually. In one of the interviews with a senior police officer, it was established that trafficked and smuggled victims ended up being indoctrinated into violent extremism. It was also revealed that on average, 85 youths from Uganda, Tanzania, Somalia, Rwanda, Burundi, and Kenya suspected to be victims of human trafficking and migrant smuggling were intercepted either on transit or returning from Somalia between 2014 and 2016.

Significantly, noteworthy terrorist attacks in Kenya such as the Nairobi Dusit D2 hotel attack in 2019, the Garissa University attack in 2015, and the Nairobi Westgate Mall attack, had some dynamics of irregular migration. Firstly, the Dusit D2 hotel attack was masterminded by Ali Salim Gichunge who had irregularly sneaked in and out of the country to Somalia. Secondly the Garissa University attack master minder Sheikh Mohamed Mohamud Ali had irregularly sneaked into and out of Somalia where he was based as an Al Shabaab commander. Thirdly, the Westgate Mall attack master minder, Samantha Lewthwaite had fraudulently obtained travel documents for her children after exploiting the inherent institutional weaknesses. Four other attackers had travelled to Nairobi days before the attack after sneaking into the country through the Kenya-Somali border. The study demonstrated that different security threats in different sectors as

advanced in the wider Buzanian model are engendered by the problem of human trafficking and migrant smuggling in Kenya.

5.3 Conclusion

The study examined the nexus between the growth of human trafficking and migrant smuggling and the consequent national security implications in Kenya from 2009 to 2019. The study attempted to answer the questions; why is there an increase in cases of human trafficking and migrant smuggling despite the countermeasures put in place? How has this increase in human trafficking and migrant smuggling impacted the national security of Kenya? And lastly, how can these phenomena be contained? The study asserts that human trafficking and migrant smuggling are a function of various underlying factors, and that, the inherent growth of these phenomena engenders a wide range of national security threats.

The study analyzed and examined three objectives. In the first objective, the study sought to examine and analyze the push and pull factors that lead to the rise of human trafficking and migrant smuggling cases in Kenya. The second objective sought to examine and analyze the implications of human trafficking and migrant smuggling on Kenya's national security, while the third objective focused on proffering research-based policy recommendations for containing human trafficking and migrant smuggling into Kenya.

The study noted that the increase in the number of persons trafficked or smuggled in Kenya was as a result of multifaceted underlying factors. This was evident by the number of political, economic, institutional, and social-cultural factors examined and analyzed. These factors

included perennial conflicts and political instability in Kenya's neighborhood, rampant corruption, unemployment, poverty, and globalization.

The study contends that the increase in human trafficking and migrant smuggling is a function of the convergence of various negative and positive interests of human traffickers, migrant smugglers, and their victims. This convergence also underpins national security threats resident in multiple security sectors as advanced by Barry Buzan.

5.4 Recommendations

The third objective of the study was to proffer research-based policy recommendations to contain human trafficking and migrant smuggling in Kenya. Based on the research findings, the study makes the following recommendations:

- i) For the review of the legal framework on human trafficking and migrant smuggling to make these crimes capital offences punishable by death sentence. This will not only institute stiffer and more punitive measures but will also deter perpetrators of these vices. Over and above, there is a need to establish a specialized Anti-human trafficking and migrant smuggling Unit within the Multi-Agency framework. The unit is to be tasked with the enforcement and implementation of counter-trafficking regulations and policy interventions put in place in Kenya. The unit should also be tasked with the investigation, apprehension, and prosecution of complicit and corrupt government officials who abet these crimes, as spelled out in the Counter-Trafficking laws. For further deterrence, benefits such as money or assets amassed from the proceeds of these crimes should be recovered and surrendered to the government.

- ii) For heightened security surveillance at the points of entry and exit. There is a need for the government to invest in sophisticated technology such as the digitization of travel documents as well as entry and exit processes. In addition, the government should make it easier to report cases of human trafficking and migrant smuggling by providing toll-free anonymous call numbers. There should also be heightened efforts to enhance the protection of whistleblowers and witnesses to safeguard evidence. This will also go a long way in encouraging members of the public to report suspected trafficking and smuggling incidents.
- iii) For the integration of anti-corruption mechanisms at points of entry and exit in Kenya in a bid to address the rampant corruption within government institutions and security enforcement agencies. This will not only curb the trafficking and smuggling of migrants but will also address the issue of contraband smuggling and tax evasion at the points of entry and exit. The government should also embark on regular training programmes for government officials on national security dynamics linked to human trafficking and migrant smuggling, and the need to protect and promote Kenya's national values and interests. Through training, law enforcement officials need to be brought up to speed on the morphing nature of human trafficking and migrant smuggling trends to decisively contain them. Over and above, there is a need for the government to collaborate with the relevant regional, bilateral, and multilateral institutions to contain these crimes.
- iv) For the empowerment of vulnerable persons in society through equitable distribution of wealth and creation of sustainable employment opportunities to its population to alleviate poverty, which is the key push factor underlying these phenomena.

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APPENDICES

Appendix 1: Interview Schedule

1. How would you describe the problem of human trafficking and migrant smuggling in Kenya?
2. How would you describe the problem of human trafficking and migrant smuggling in the East Africa region?
3. How would you describe the problem of human trafficking and migrant smuggling in the Horn of Africa region?
4. Is Kenya a source of trafficked and smuggled persons? If yes, kindly explain.
5. Is Kenya a transit route for trafficked and smuggled persons? If yes, kindly explain.
6. Is Kenya a destination for trafficked and smuggled persons? If yes, kindly explain.
7. What are the underlying factors that make Kenya a source of trafficked and smuggled persons?
8. What are the underlying factors that make Kenya a transit route of trafficked and smuggled persons?
9. What are the underlying factors that make Kenya a destination point for trafficked and smuggled persons?
10. What are the security implications of human trafficking and migrant smuggling?
11. What frameworks would you recommend to contain the problem of human trafficking and migrant smuggling in Kenya?
12. What frameworks would you recommend to contain the problem of human trafficking and migrant smuggling in the East Africa region?

13. What frameworks would you recommend to contain the problem of human trafficking and migrant smuggling on the global scene?



Appendix 2: Questionnaire

Questionnaire for collecting data from security officers (Immigration Officers, National Police Service Officers, KAA Security Officers, Prosecutors, and Judges)

Instructions; kindly tick or mark in the space provided.

Section A; Demographic information

1. What is your gender?

Male () Female ()

2. What is your age?

Below 25yrs ()

25-35yrs ()

35-45yrs ()

45-50yrs ()

Above 50yrs ()

3. Where are you stationed?

JKIA ()

Moyale ()

Namanga ()

Busia ()

Lungalunga ()

4. What is your occupation?

Immigration officer ()

Police officer ()

KAA security officer ()



Judge/Magistrate ()

Prosecutor ()

5. For how long have you worked in your current station?

Less than 1 year ()

1yr-2yrs ()

2yrs-4yrs ()

4yrs-6yrs ()

More than 6yrs ()

Section B. Push and Pull factors

6. In your line of duty, have you ever handled human trafficking and migrant smuggling case(s)?

Yes ()

No ()

7. If yes in number 6 above, how regularly?

Very regularly ()

Regularly ()

Rarely ()

8. In number 6 above, what was your role?

Arresting officer ()

Investigating officer ()

Prosecuting officer ()

Judging/sentencing ()

Other role(s) (specify) _____

9. In number 6 above, was/were the person(s) in question, victim(s) or perpetrator(s) of human trafficking and migrant smuggling?

Victim(s) ()

Perpetrator(s) ()

10. What do you think are the underlying factors that make human trafficking and migrant smuggling thrive in Kenya?

Political instability in Kenya

Conflicts in the external environment

Lack of employment opportunities

Poverty

Porous borders

Social-cultural practices

Lack of implementation of government policies

Corruption within government institutions

The lure of joining relatives abroad

Lack of awareness

Increased demand for trafficked and smuggled persons

Globalization

Others (specify) _____

11. Based on gender, who are mostly trafficked or smuggled?

Male

Female

Don't know

12. Based on gender, who mostly perpetrate trafficking or smuggling of persons?

Male

Female

Don't know

13. What categorization would you give the problem of human trafficking and migrant smuggling?

- Global problem ()
- Regional problem ()
- Or national problem ()
- Don't know ()

14. In your opinion, how serious is the issue of human trafficking and migrant smuggling in Kenya?

- Very serious ()
- Serious ()
- Not very serious ()
- Not serious at all ()
- Does not even exist ()

15. In your opinion, do you think that Kenya is a source, transit point, or a destination point for trafficked and smuggled persons?

- Source () Transit () Destination ()

Section C; Security implications of human trafficking and migrant smuggling

16. Is human trafficking and migrant smuggling a security issue in Kenya? Kindly explain your answer.

- Yes () No () Don't know ()

17. How would you compare the magnitude of human trafficking and migrant smuggling in Kenya today with that of past years?

- Much higher than past years ()

- Slightly higher than past years ()
- Same as past years ()
- Slightly lower than past years ()
- Much lower than past years ()
- Don't know ()

18. What are the security issues linked to the problem of human trafficking and migrant smuggling?

- Money laundering ()
- Drug trafficking ()
- The proliferation of small arms and light weapons ()
- Abuse of human rights and freedoms ()
- Terrorism ()
- Threat to territorial integrity ()
- Health hazards ()
- Smuggling of contrabands ()
- Environmental degradation ()
- Others (specify) _____

Section D; Policy Framework Options

19. Are you aware of the policies put in place by the government to combat the problem of human trafficking and migrant smuggling?

Yes ()

No ()

20. If yes above, what are they?

21. Have these policies in 19 above, been effective in combating the problem of human trafficking and migrant smuggling in Kenya?

Yes ()

No ()

Don't know ()

22. If yes above, kindly explain.

23. If no above, give suggestions for achieving desired results.

24. How can the government improve its efforts in containing human trafficking and migrant smuggling in Kenya?

- Full implementation of anti-human trafficking and migrant smuggling laws ()
- Increased civic education on the general public ()
- Regular training of government officials ()
- Increased border patrols and surveillance ()
- Creation of more employment opportunities for the youth ()
- Equal and fair distribution of resources for enhanced fair economic development ()
- Increased collaboration between relevant stakeholders ()
- Increased war on corruption in government institutions ()

Inflicting punitive penalties to human trafficking and migrant smuggling offenders ()

Enhancement of political stability ()

25. If no in 18 above, what policy options would you recommend in the efforts to contain the problem of human trafficking and migrant smuggling in Kenya?



Appendix 3: SIMILARITY REPORT

ORIGINALITY REPORT

11 %	8 %	5 %	3 %
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	Johan Leman, Stef Janssens. "Human Trafficking and Migrant Smuggling in Southeast Europe and Russia", Springer Science and Business Media LLC, 2015 <small>Publication</small>	1 %
2	"The Palgrave International Handbook of Human Trafficking", Springer Science and Business Media LLC, 2020 <small>Publication</small>	1 %



Appendix 5: RHINNO CLEARANCE



Strathmore
UNIVERSITY

7th May 2020

Mr Peter Samson Nzioka
peter.nzioka@strathmore.edu

Dear Mr Nzioka,

RE: National Security Implications of Human Trafficking and Migrant Smuggling

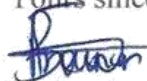
This is to inform you that SU-IERC has reviewed and **approved** your above research proposal. Your application approval number is **SU-IERC0732/20**. The approval period is **7th May 2020 to 6th May 2021**.

This approval is subject to compliance with the following requirements:

- i. Only approved documents including (informed consents, study instruments, MTA) will be used
- ii. All changes including (amendments, deviations, and violations) are submitted for review and approval by SU-IERC.
- iii. Death and life threatening problems and serious adverse events or unexpected adverse events whether related or unrelated to the study must be reported to SU-IERC within 72 hours of notification
- iv. Any changes, anticipated or otherwise that may increase the risks or affected safety or welfare of study participants and others or affect the integrity of the research must be reported to SU-IERC within 72 hours
- v. Clearance for export of biological specimens must be obtained from relevant institutions.
- vi. Submission of a request for renewal of approval at least 60 days prior to expiry of the approval period. Attach a comprehensive progress report to support the renewal.
- vii. Submission of an executive summary report within 90 days upon completion of the study to SU-IERC.

Prior to commencing your study, you will be expected to obtain a research license from National Commission for Science, Technology and Innovation (NACOSTI) <https://oris.nacosti.go.ke> and also obtain other clearances needed.

Yours sincerely,


Dr Virginia Gichuru,
Secretary; SU-IERC

Cc: Prof Fred Were,
Chairperson; SU-IERC

