



# International Peace Support Training Centre Nairobi, Kenya

## Irregular Cross-border Migration and Security: The Case of Kenya-Somalia and Kenya-Ethiopia Borders



**OCCASIONAL PAPER  
SERIES 6, N<sup>o</sup> 4**

**RADOSŁAW LUKASZ MALINOWSKI**

*Changing Trends of Conflicts and Response Strategies in Eastern Africa*

# Irregular Cross-border Migration and Security: The Case of Kenya-Somalia and Kenya-Ethiopia Borders

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**SERIES 6, Nº 4**

Radoslaw Lukasz Malinowski  
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## Foreword

The International Peace Support Training Centre (IPSTC) has made considerable contribution in research and training on peace support operations in the Great Lakes region and Horn of Africa. The Centre is a training and research institution focusing on capacity building at the strategic, operational and tactical levels within the African Peace and Security Architecture and has developed to be the regional centre for the African Standby Force (ASF) in Eastern Africa. It addresses the complexities of contemporary UN/AU integrated peace support operations through exposing actors to the multidimensional nature of these operations. The research conducted covers a broad spectrum ranging from conflict prevention, management, and post-conflict reconstruction.

The Peace and Security Research Department (PSRD) of the IPSTC presents Occasional Paper Series 6 No 4 of (2015) on various themes on peace and conflict situations in Eastern Africa. IPSTC produced six Occasional Papers in 2015. Three of them focused on Kenya while the others covered South Sudan, Uganda and Rwanda. This publication titled: **Irregular Cross-border Migration and Security: The Case of Kenya-Somalia and Kenya-Ethiopia Borders** explores the correlation between and irregular migration from Somalia and Ethiopia and security in Kenya.

These papers provide insight into pertinent peace and security issues in the region that are useful to policy makers. These publications also provide significant contribution to the security debate and praxis in the region. The research products from IPSTC have been developed by researchers from Kenya, Burundi, Uganda and Ethiopia and will inform the design of training modules at IPSTC.

This Occasional Paper is an important contribution to the vision and mission of IPSTC. The research and publication of this paper has been made possible by the support of the European Union.

**Brigadier R.G. Kabage**

**Director, IPSTC**

## Abstract

The relation between irregular migration and security is a highly debatable issue within the migration and security discourse. Still, there are contradictory views whether irregular migration derogates security or not. The fact that irregular migration is an under researched topic with little or no data available; makes the understanding of the complex relationship between the two even harder to comprehend.

This paper examines the relationship between the two using the Kenya-Somalia and Kenya Ethiopia cross border migration as a case study. The research scope addresses irregular migration and its impact on the two types of security: state (traditional) and human security. The hypothesis of the paper is that irregular migration has low or moderate influence on security. However, if merged with other variables such as organized crime, the influence of irregular migration on security becomes significant. This research established that whenever Organized Criminal Groups (OCG) merge with irregular migration (either as those facilitating movement and treating migrants as business, or using immigrants for other criminal activities) irregular migrants affect the state and human security. Where they do not merge, irregular migration is quite neutral to security in Kenya. The paper also proposes ways in which the definition of irregular migration can be reshaped. The term irregular migration, best reflects the phenomena on the ground, but it is not well understood within the public and key government spheres. As it is difficult to stop the flow of migrants, government institutions as well as other stakeholders should focus on countering the presence of Organized Criminal Groups alongside migration routes. The research proposes several non-coercive solutions that if implemented will reduce the negative correlation between irregular migration and security in Kenya.

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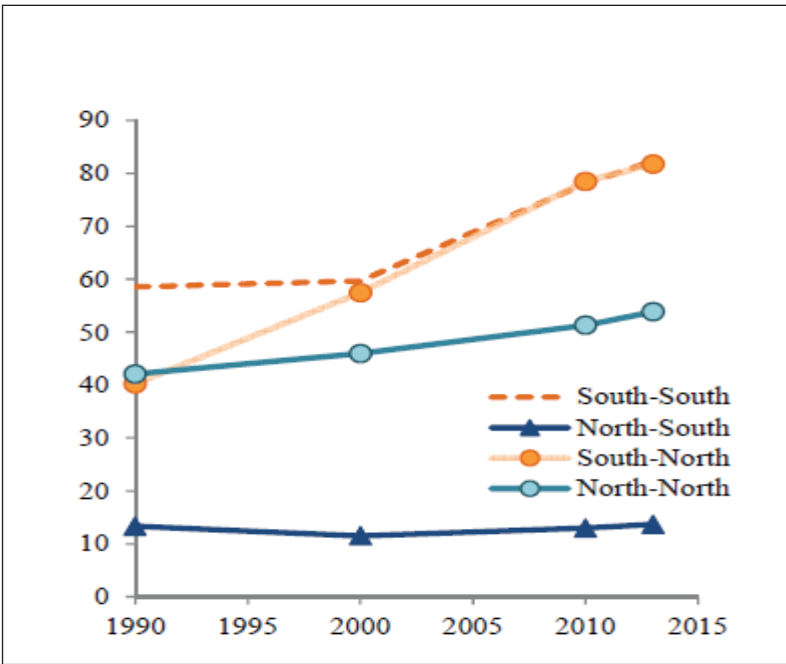




Introduction

Migration is a multi-faceted and complex phenomenon that has been part of human history since the beginning of humankind. Migrants or people on the move are present in virtually every country in the world. In the last few decades, globalization, ‘cultural revolution’ and better communication have only intensified the migration process and shaped its patterns. The Report on International Migration (2013) observes that: ‘between 1990 and 2013, the number of international migrants worldwide rose by 50 per cent’. As such, migration is both an outcome of globalization processes and a contributing factor to the rapid socio-economic changes in a globalized world. Figure 1 below, presents the trends in migration and its growth over the past two decades:

Figure 1: Number of International Migrants by Origin and Destination (Millions)



Source: *International Migration Report (2013, p. 2)*

Human Migration is complex and has a multiplicity of actors. This study therefore focuses on one type i.e. irregular migration (also referred to as illegal migration), with the intention of analysing the implications of irregular migration for security in Kenya. Cross-border migration mainly between Somalia and Kenya; and, Ethiopia and Kenya is used to describe the interplay between the two variables.

### **Problem Statement**

Irregular migrants in Kenya are often perceived as the ones providing channels for potential terrorists to enter the country or those likely to spread infectious diseases. However, a large number of irregular migrants are neither criminals nor sick but people forced by a variety of factors to migrate. The two main push factors behind migration are economic marginalization and/or political persecution in the home country. For others, Kenya is only a transit point to destinations such as South Africa, Europe or the US. For this reason, it is still unclear the extent to which the rising insecurity in Kenya is attributable to the irregular or regular cross-border migrants. This therefore begs the question: is migration a threat to security in Kenya and if yes, what makes it a security threat?

### **Objectives of the Study**

The objectives of the study were to:

- Identify forms and actors of irregular migration across the Kenya-Somalia and Kenya-Ethiopia borders;
- Identify the push and pull factors behind irregular migration in the study area; and,
- Analyse the implications of irregular migration for security in Kenya.

### **Research Questions**

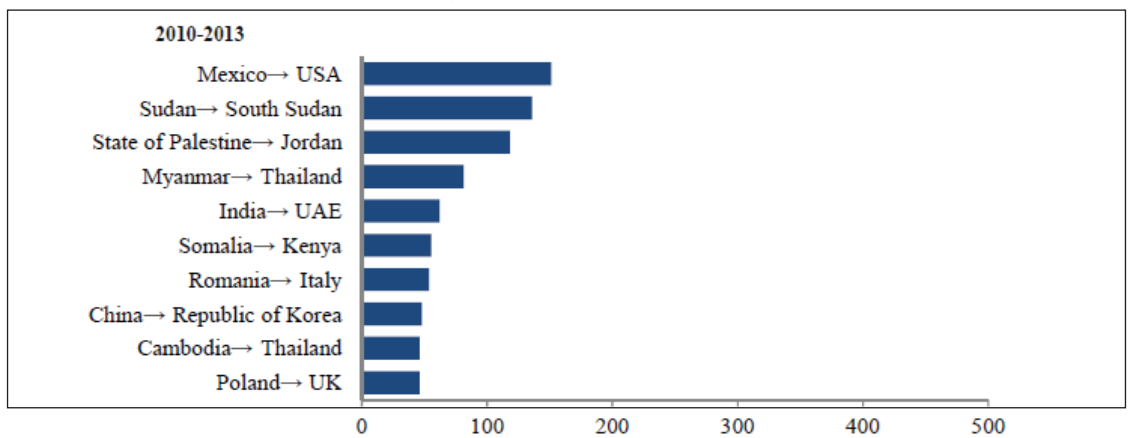
In an attempt to understand the interplay between irregular migration and security in Kenya, the researcher was guided by the following research questions:

- What forms does irregular migration across Kenya-Somalia and Kenya-Ethiopia borders take and who are the actors?
- What are the push and pull factors behind irregular migration in the study area?
- Which factors influence the interplay between irregular migration and security in Kenya or what are the implications of irregular migration for security in Kenya?

**Justification of the Study**

The concept of irregular migration and its relation with security is a subject of discourse within the academia, policy makers and human rights activists. Irregular Migrants have been perceived as a threat to national security. For example, the Kenyan government, following a series of terrorist attacks, launched a massive operation aimed at flushing out the illegal migrants. This is akin to securitization of migration that various UN agencies as well as human rights activists were opposed to. The task of reconciling these two opposing views was rendered even harder given the little and scattered data on this type of migration. The lack of data can be attributed to various factors not least the clandestine nature of irregular migration. While acknowledging that irregular migration is a particularly challenging field of research, there is little doubt that migration as a whole is a significant factor in the social, economic and political landscape in the region. For example, the cross-border corridor between Somalia and Kenya is the sixth largest international migration route in the world, as illustrated in Figure 2 below:

*Figure 2: Ten World’s Largest Bilateral International Migration Corridors (with thousands of migrants per annum)*



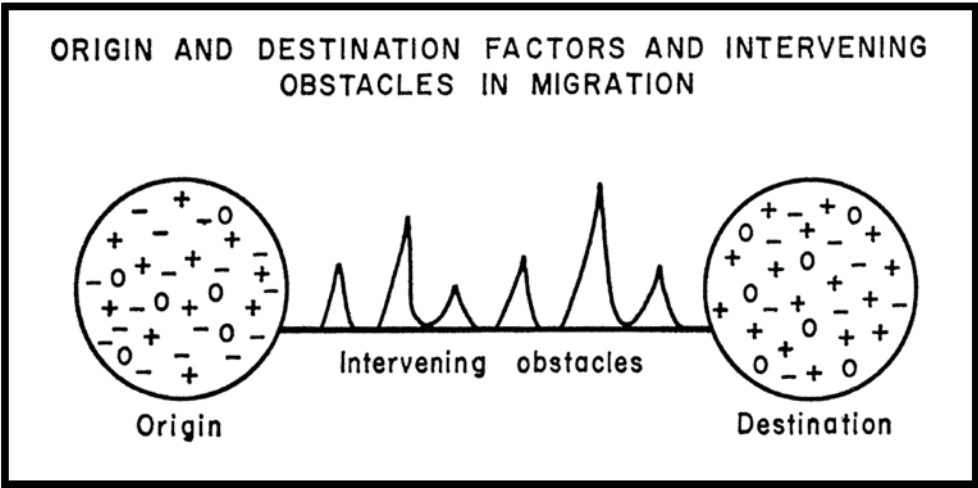
*Source: International Migration Report (2013, p. 6)*

In addition, the number of refugees in the Eastern Africa region remains high, with Ethiopia being the sixth and Kenya seventh largest refugee-hosting nations in the world (UNHCR, 2014). Although refugees are not part of illegal migrants, they do however play an important role in illegal migration; for example, refugee networks are often used by traffickers/smugglers to traffic/smuggle people.

Theoretical Framework

Theorizing migration is a complex task as different concepts try to analyse and conceptualize this intriguing part of human behaviour. As in any academic discipline, proposed concepts are often rejected or missing gaps are identified soon after a publication. For example, when the celebrated work of C.G. Ravenstein: “The Laws of Migration”, a worthy starting point for migration theory, was published in 1889 (Ravenstein, 1889), it received numerous critiques from different academics. One of the reasons why Ravenstein’s conceptualization was critiqued was the complex nature of the migration phenomenon. Contemporary theories deal mostly with the three groups/patterns of migration: temporary labour migrants, settler-migrants, and refugees. This section of the paper presents selected theories that explain the key aspects of irregular migration. Push and Pull factors of migration as presented by Lee (1966), looks at the factors that lie behind people’s decisions to migrate. Lee drew up a model that examined the positive and negative factors behind migration. He also envisaged origins – destination component in his theory. Figure 3 presents Lee’s concept:

Figure 3: Origin and Destination Factors of Migration



Source: Lee (1966)

Lee observed that migration does not simply happen once the negative and positive factors are summarized, but the process of making individual decision is far more complex. As Lee (1966) argues:

*While migration may result from a comparison of factors at origin and destination, a simple calculus of +’s and -’s does not decide the act of migration. The balance in favor of the move must be enough to overcome the natural inertia which always exists (p. 51).*

However, even if a migration decision may at times seem to be irrational, majority of migrants take into account the balance between the positive and negative push and pull factors of migration, for instance lack of job opportunities in the country of origin versus demand for workforce in the destination country. Intervening variables such as distance, insecurity, and lack of transport will also have an effect on the final decision. Lee also analyses the concept of migration patterns by presuming that most migrants use similar or previously used routes.

The Todaro-Harris migration theory (1970) analyses the dynamics within the phenomenon of migration. It addresses rural-urban movements and concludes that higher incomes in urban settlements is the decisive motive for migration. As many of the studied migrants fall under the rural-urban category, this theory may be used to explain why people choose to migrate even though destinations like Nairobi or other cities may also be experiencing high levels of unemployment.

The ‘immobility paradox’ (Malmerg, 1997) focuses more on the other side of the coin of migration; that is, why some people migrate when others decide to remain behind. Although this theory focuses on European migrants, it has relevance to this study. The author, while examining the moment of the decision to migrate, establishes that micro-economic factors, rather than regional disparities, have more to do with decisions about migration. It is clear from the findings of this study that for some people, socio-economic factors had a lot to do with decisions to migrate, while others chose to remain behind.

The concept of ‘conflict system’ (Mwagiru, 1997) can also be useful while examining international migration issues. Mwagiru argues that conflicts must be understood “as

an organic being whose life cycle has amoebic characteristics” (Mwagiru, 1997, p. 2). Conflicts tend to create some sort of trans-boundary links with other countries in the region, and conflict borders are not necessarily confined to international boundaries. As each conflict has its own linkages that correspond with economic ties, or with ethnic relationships that one or more sides of the conflict has in the other country, there is a high possibility that a spill-over effect will happen. Migrants from Ethiopia and Somalia, who travel to or through Kenya, are in one way an example of conflict spill-over to Kenya. As Mwagiru contends, “the countries of the Greater Horn relate together through shared conflicts even more than through shared borders” (Mwagiru, 1997, p.3). Conflict has an impact on the migration flow, as it pushes people to look for safety. Conflict in the Horn of Africa is also characterized by the existence of terrorist groups who also engage in criminal activities like smuggling of people. This can explain why irregular migration, as a result of conflict, might carry some characteristics of the Horn of Africa conflicts that have led to governments securitizing the phenomena.

## **Securitization of Transnational Organized Crime**

Irregular Migration is in some circumstances linked with the Transnational Organized Crime (TOC), as many migrants are assisted or abused by organized criminals (traffickers and smugglers). As it will be discussed later in findings, this connection is key for the migration-security nexus. By itself, TOC is a security threat but even though this became more apparent only after the Cold War Era (Fukum, 2008, p. 21), it does not represent the threats associated with globalization. Rather, the globalization processes reduced the importance of state borders, giving TOC greater prominence (Dordevic, 2009). Indeed, the emergence of TOC at the global scene might be compared to multinational companies (MNCs) which operate transnationally and in accordance with their strategic goals (Potter, 2006). First, TOC was perceived as a soft threat to human security since it was not threatening state sovereignty. Gradually, TOC began to be perceived as a threat to norms and institutions at the international level and to the internal stability of the state mainly due to the influence of key political actors. TOC also began to affect the identity of the state including its form of government, policies and the way it was perceived by other

states in the sphere of international relations (Fukumi, 2008). Undoubtly, at this point, TOC began affecting human security as the presence of criminals would always undermine the rule of law and contribute to public distrust and sense of insecurity (Picarelli, 2008). However, as the concept of security, specifically state security, was broadened through the work of policy makers and security analysts, it transpired that TOC was also posing a threat to state security and its four dimensions: economic, political, internal order and foreign policy (Fukumi, 2008). Below is a list of the main activities of TOC through which it poses a challenge to security (Dordevic, 2009):

- Money laundering
- Deceit and abuse
- Trade in illegal drugs
- Smuggling of prohibited merchandise
- Human trafficking and corruption
- Firearms trafficking and piracy
- High technology crime
- Ecological crime
- Theft of artworks

Amongst these activities, it is the triangle of trade in illegal drugs, human and firearms trafficking, coupled with corruption, use of violence and the finances acquired in criminal activities that pose the the main handicaps to security in contemporary society (Dordevic, 2009).



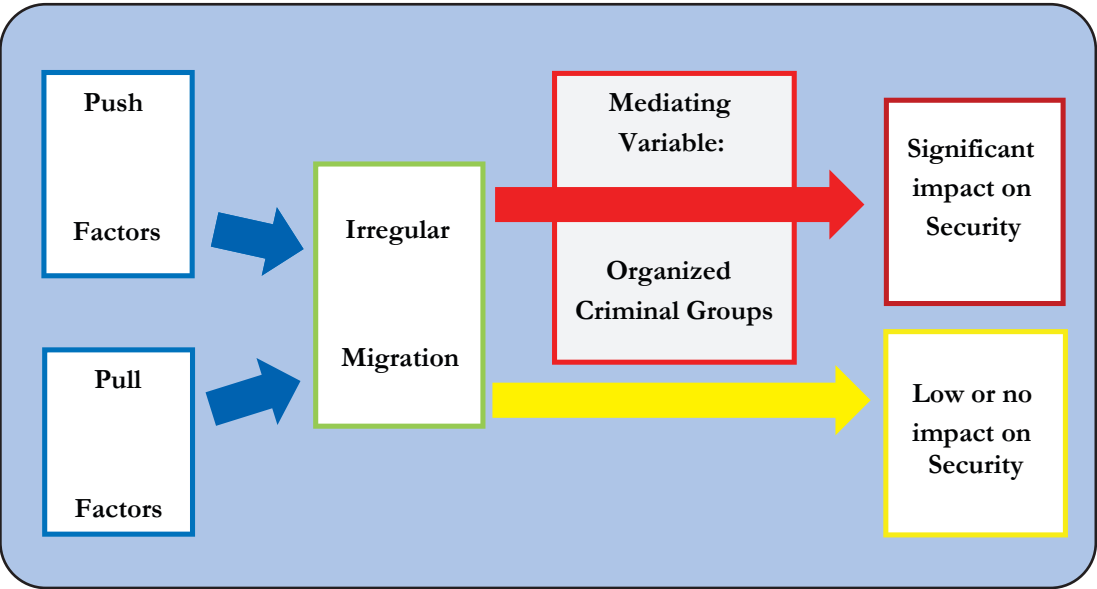
## Conceptual Framework

Irregular Migration may be explained by the interplay between the relevant push and pull factors as explained in the foregoing push and pull theory. War and conflict, abuse of human rights, economic disparity and/or poverty in the country of origin are the key push factors behind migration. On the other hand, peaceful countries where the rule of law and human rights standards are observed serve as magnets for irregular migrants. Moreover, since such countries have better economies, they typically need migrants for the underpaid jobs for which their own citizens are not available or are unwilling to take. This is explained in the Todaro-Harris and immobility paradox migration theories. These two factors, insecurity in country of origin and security in destination/transit country, constitute some of the push and pull factors that influence irregular migration.

As people migrate, they impact on the security situation of the transit and/or destination countries. The impact may be insignificant or moderate. However, this changes when irregular migrants begin to be associated with organized crime or when organized criminal groups take part in smuggling and trafficking of immigrants. At this point, the low or moderate impact of migration assumes new dimensions especially when the organized criminal groups begin to smuggle weapons, drugs or other prohibited substances into the transit or destination countries. In addition, terrorist organisations may also use migrants to engage in transnational crime.

From the foregoing, TOC becomes an intermediating variable that determines the nature and magnitude of the impact that irregular migration will have on security. Where the irregular migration happens on its own accord, the migrants have minimal impact on security, but, if irregular migrants merge with organized criminal gangs, they are likely to have a fundamentally negative impact on security of a country. This is depicted on Figure 4 that shows the correlation between the push and pull factors.

Figure 4: Correlation between Push and Pull Factors



Source: Author

**Hypothesis**

Irregular migration alone has no impact on security in Kenya but when it is combined with the activities of organized criminal groups, the impact is significant.

## Literature Review

### Definition of Key Concepts

#### *Security*

Security is a subjective state in which an individual or collective entity feels free from threats, anxiety, or danger. Such causes of insecurity have typically been observed in relation to nation-states as regards borders or the institutions responsible for governance. Traditional security focused on the ability of a state to ensure its territorial sovereignty. This state-centric approach echoed a realist paradigm in international relations where the state was the primary actor in the international system. Potential security threats included those inherited from the Cold War Era, for example, the proliferation and management of nuclear arms and a range of new types that includes terrorism, cyber-crime and illegal exploitation of natural resources among many others. (Glossary in Peace Studies, 2005, p.70).

#### *Human Security*

The UNDP's Human Development Report (1994) defined the concept or paradigm of human security as one that constituted two main aspects: first, as safety from such chronic threats as hunger, disease and repression, and second, as protection from sudden and hurtful disruptions in the patterns of daily life-whether in homes, in jobs or in communities (UNDP Report, 1994, p. 23).

#### *Migration*

Migration is the movement of a person or group of persons, either across an international border, or within a state. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes. The movement includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification (Perruchoud et al., 2011, p. 62).

#### *Irregular Migration*

Irregular migration is movement that takes place outside the regulatory norms of the origin, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, it is entry, stay or work in a country without the necessary authorization or documents required under

immigration regulations. From the perspective of the sending or origin country, the irregularity is, for example, seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the required administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term “illegal migration” to cases of smuggling of migrants and trafficking in persons (Perruchoud et al., 2011, p. 54).

In this study, the definition of irregular/illegal migration will be re-examined because restricting the concept of illegality might not explain the phenomenon of human trafficking adequately. For example, many victims of trafficking might leave a country with all the required documents; however, they could still be subjects of human trafficking. This study holds that trafficking in persons is still illegal migration because international as well as domestic laws criminalize human trafficking. This is because the migrations often end up in the exploitation of human beings. In addition, the study focuses only on cross-border cases of human trafficking and does not examine cases of internally trafficked persons. With regard to human smuggling, illegal migration involves crossing international borders or assistance with fraudulent documents to people whose visa permits have expired.

### *Human Trafficking*

“Trafficking in persons” here means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UNODC, 2004, p. 42).

### *Human Smuggling*

Smuggling of migrants means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state of which the person is not a national or a permanent resident (UNODC, 2004, p.54).

### ***Organized Criminal Group***

An organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, (United Nations Convention against Transnational Organized Crime) in order to obtain, directly or indirectly, a financial or other material benefit (UNODC, 2004, p.5).

### ***Transnational Crime***

Transnational organized crime (TOC) is any serious transnational offence undertaken by three or more people with the aim of material gain (The Globalization of Crime: A Transnational Organized Crime Threat Assessment, 2010, p.1).

## **Irregular Migration in the Region: Human Trafficking and Human Smuggling**

### ***Irregular Migration***

Over the past several decades, migration patterns in Kenya and other countries in the region have been dominated by the refugee phenomenon. While refugees are still a significant issue there is a growing concern about other types of migration, particularly irregular migration (Musumba, 2008). Since irregular migration practically means two phenomena i.e. human trafficking and smuggling, it is paramount to understand and distinguish between the two. Up until 2000, the terms human trafficking and smuggling were used interchangeably. This has changed with the emergence of *the United Nations Convention Against Transnational Organized Crime* and two additional protocols: *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (for human trafficking) and *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* (for human smuggling). The convention, together with the two protocols, diametrically changed the perception of the two phenomena, with people subjected to human trafficking being treated as victims, while those involved in smuggling as lawbreakers. There is still heated debate on the exact meaning of the two concepts.

*Human Trafficking*

The Palermo Protocol’s definition of human trafficking can be divided into three parts: the recruitment, transportation, transfer, harbouring or receipt of persons; followed by means such as the threat or actual use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; and finally, the intention of these means and methods for the purpose of exploitation. It is important to note that this definition does not speak explicitly about exploitation but about the purpose of exploitation. The Process of human trafficking is explained in the Table 1 below.

**Table 1:Process of Trafficking an Adult Person**

ACTIVITY		MEANS		PURPOSE	
Recruitment		Threat or use of force		<b>Exploitation including:</b>	
Transport		Coercion		Prostitution of others	
Transfer		Abduction	+	Sexual exploitation	
Harbouring or Receipt of persons		Fraud		Forced labour	
		Deception		Slavery or similar practices	
		Abuse of power or vulnerability		Removal of organs	
		Giving payments or benefits		Other types of exploitation	
				=	<b>ADULT HUMAN TRAFFICKING</b>

*Source: (Odera & Malinowski, 2011) p. 18*

The process of trafficking starts with recruitment. The victim can be recruited or abducted. There are various patterns of recruitment and a variety of recruiters from businesspersons to villagers. The next stage involves transportation. There are two variants of transporting victims: trafficking across international borders or where the victim travels within the country of recruitment. The next stage is exploitation, which is done in form of forced labour, sexual servitude or organ donation or extraction. The concepts of coercion and

movement are at the core of the phenomenon of trafficking in persons.

The definition of trafficking in persons by the Palermo Protocol tries to solve the dispute surrounding what trafficking in persons is and what it is not. However, there is no consensus on the nature of trafficking in persons (Allain, 2009a; Allain, 2009b; Bales, 1999; Bravo, 2007; Ollus, 2008; Rassam, 1999; Scarpa, 2008). Scholars like Bales (1999) regard trafficking in persons as modern-day slavery, a continuation of the old slavery. In this context, Bales (1999) defines new slavery as work for no pay and under the threat of violence.

Scarpa (2008) classifies trafficking in persons into slavery-like practices. She associates it with other practices like debt bondage or incest, juxtaposed with traditional-chattel slavery. However, this approach has been criticized by Jean Allain (2009a), who points out the shortcomings of classifying trafficking in persons within slavery. Allain notes that the concept of *slavery-like practices* is unclear itself. In addition, the UN Convention against Transnational Organized Crime with two protocols did not replace the Slavery Convention. Therefore, the definition of slavery from 1926 is still in force (Allain, 2009a).

Allain (2009b) proposes a new approach to trafficking in persons without getting bogged down with a discussion of whether trafficking in persons is slavery, slave trade, slavery-like practice or modern day slavery. He believes that the concepts are used together with trafficking in persons for rhetorical purposes. Instead, he proposes the idea that trafficking in persons arises from summing up a number of worst examples of exploitation. He inserts the notion of exploitation within a historical timeframe such that the nineteenth century was characterized by the move to abolish slave trade. Subsequently, the twentieth century could be divided into three distinct phases: the dominance of colonial powers and abolition of slavery (1920-1945); the decline of empire and the abolition of servitudes (1945-1966); and the post-colonial era and development of the political term slavery-like practice (1966-1998).

Since 1926, the concepts of slavery and human exploitation have been dealt with in a fragmented manner. That is why a number of terms like slavery, segments of forced labour, serfdom, debt-bondage, servile marriage, child exploitation and servitude exist in international law (Allain, 2009a). In 2000, these various exploitative practices were

brought together in one definition dealing with trafficking Allain (2009b).

Allain (2009b) contends that the move against trafficking in persons comes from the tradition of international anti-slavery law. Early conventions against slavery were focused on states as the main culprits. In contradiction, contemporary world slavery is practiced rather by non-state actors like organized transnational groups. Another problem arises with the definition of slavery. Slavery *de iure*, as presented in the 1926 convention does not exist anymore. Therefore, Allain (2009b) criticizes the UN and other organs that continue to conceptualize slavery based on the Slavery Convention. He presents a number of cases when slavery *de facto* was confronted with the international notion of slavery *de iure*, and caused a legal problem as evidenced in the rulings in the Court of Appeal in 2007 and Supreme Court of Australia, *The Queen v Tang* in 2008 (Allain, 2009b).

There is no consensus or data on the number of trafficked victims per year. However, various international institutions and government agencies' for example, the United Nations Global Initiative to Fight Human Trafficking (UNGIFT), in a 2008 report estimated that between 600,000 and 2 million people per annum are trafficked across the globe. Various studies on human trafficking have indicated its negative impact on democracy, state security and gender equality (since a majority of the victims are women and children).

In addition, reports show that victims of human trafficking are often subjected to secondary victimization. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse (Declaration of Basic Principles, 1985) defines secondary victimization as that which occurs not as the direct result of a criminal act, but through the responses of institutions and individuals to the victim. Cases where victims of trafficking are arrested and put in cells, then deported back, or smuggled migrants – victims of rape or other crime are forced to pay bribes – are examples of secondary victimization.

### ***Human Smuggling***

Human smuggling has similar complexities to human trafficking. Being a criminal activity, there are no readily available statistics on how many people are smuggled in the region and, indeed, the whole area of smuggling remains largely under-researched. The



legal definition of smuggling of migrants is based on Articles 3 and 6 of the Smuggling of Migrants Protocol. However, the conceptualization of smuggling as a business activity (organized process that aims at securing financial gains) was developed earlier by Salt and Stein (1997). Smuggling as an illegal business model became popular among policy makers and in academic circles. The episode of smuggling is divided into three stages: the mobilization and recruitment of migrants; their movement en route; and their insertion and integration into labour markets and host societies in destination countries.

Another view on smuggling is provided by Aranowitz (2001), who points out at market forces behind the smuggling process. He argues that smugglers exhibit entrepreneur-like behaviour and circumvent legal requirements through corruption, deceit and threats. The migration business theory is widely accepted in different regions, including East Africa. According to this concept, smugglers are businessmen providing services, while smuggled migrants are clients paying for illegal services. This interpretation is generally accepted by many because it allows law enforcement agents to treat both, businessmen and migrants, as law-breakers rather than victims of necessity.

Scholars like Doornik and Kyle (2004) point out however, that the above model is oversimplified, as many smuggled people treat this form of migration as a last resort, when all other options are exhausted. A smuggled migrant might be a person wishing to join his/her family or relatives, while the smuggler is serving/assisting the smuggled person rather than making profit out of an illegal process. Van Liempt and Doornik (2006) support this approach when analysing the complex smuggling process that is not limited to the business-client model only.

Human Smuggling is often depicted as being dichotomous to trafficking: smuggled people as law-breakers and people subjected to trafficking as the victims. Such an approach is a simplification of the two complex phenomena. As various agencies (like IOM (2010) point out, smuggling and trafficking often overlap each other. In some circumstances, a person can start a journey as one smuggled but ends it as a victim. Also, many victims of trafficking are recruited from among people previously smuggled. Finally, smuggled people are also subjected to abuse (e.g. rape) but this however does not constitute the purpose of the act. Also, scholars like Koser (2005) criticise the concept in the UN Convention on

Transnational Crime and the Protocols on Smuggling and Trafficking stating that they emphasise human rights abuses associated with trafficking but underplay those that arise as a result of migrant smuggling.

**Distinguishing between Human Trafficking and Human Smuggling**

It is important to note the distinction between human trafficking and human smuggling. However, in practice, it is often difficult to separate the two phenomena, especially before the final destination of the trafficked or smuggled person. Also, many smuggled migrants, due to their vulnerability, eventually become victims of human trafficking. The key differences between human trafficking and smuggling are summarized in Table 2.

**Table 2: Differences between Human Trafficking and Human Smuggling**

	Human Trafficking	Human Smuggling
Activity	Trafficker’s transport and transfer people from one place to another, internally or across borders.	Smugglers facilitate the transportation, attempted transportation or irregular crossing of a person(s) across an international border.
Means	Traffickers use the means listed in article 3, i.e. deception, force, fraud, abuse of power or coercion in the execution of one or more activities.	There is no element of distortion of the free will of the person through force, deception, coercion or other means

<b>Purpose</b>	Always for the purpose of exploiting the victim in the manner set out in article 3, i.e. prostitution of others, forced labour, domestic servitude, and organ removal, among other forms of exploitation. The relationship between the trafficker and victim is continuous for the purpose of exploitation. Trafficking victims are not free to end the relationship with the trafficker without risking serious consequences.	Smugglers often do not transport migrants with the intention of exploiting them, and even though they sometimes abuse the position of vulnerability of the persons in their charge, they do not do so for the purpose set out in article 3. The relationship between the two stops at the point at which illegal entry is achieved. The smuggler's relationship with the smuggled migrant normally ends once the fee is paid and the illegal entry has been achieved.
<b>Trans-nationality</b>	Human trafficking can either be internal/domestic, i.e. within a country's border, or transnational (across international borders). It may also involve illegal or legal entry into a country.	Smuggling is always transnational in nature, i.e. an international border must be crossed for smuggling to occur. Smuggling always involves the illegal crossing of an international border

*Source: (Odera & Malinowski, 2011) p. 49*

### **Irregular Migration in Kenya**

A US Government report on human trafficking points out possible incidents of the Al-Shabaab recruiting and then trafficking young boys for terrorist purposes in Northern Kenya (Trafficking in Persons Report, 2014). There are additional sources that link the activities of the Al-Shabaab with human trafficking (e.g. Howard & Traughber, 2013). Looking outside the region, there are reports of other terrorist groups engaging in the trafficking of people. For example, the Islamic State of Iraq and Syria (ISIS) is reported to engage in organ removal for the purpose of illegal organ trade. The links between

terrorism and illegal migration are not the only examples of the illegal migration-security correlation. Human trafficking and human smuggling are also correlated with corruption, drug and weapon trafficking. Additionally, the illegal migration has an impact on human security, with documented cases of victims of trafficking contributing to the development of new HIV sub type viruses (health is a key component of human security), corruption, deterioration of the rule of law, and abuse of human rights of victims, among others.

A study conducted under the auspices of IOM (Horwood, 2009) established three main routes for irregular (illegal) migrants namely: 1) From Ethiopia via Moyale, Marsabit and Nairobi then to various destinations; 2) From Somalia Border to Garissa, Matuu, Nairobi and then to various destinations; and, 3) From Somalia, alongside the Coast to Tanzania. The three routes are depicted in Figure 5, below.

*Figure 5: Major Migration Routes in Eastern Africa*



*Source: Horwood (2009) p. 45*

In Kenya, a similar study was conducted by the IOM in 2010. The study established the main routes for irregular migration as depicted in table 3 below:

*Table 3: Main Transit Routes for Irregular Migrants into Kenya*

Origin	Transit Points	Destination
Southern Somalia	Liboi, Fafi	Garissa
Garissa	Madogo, Bangale and Mwingi	Nairobi
Garissa	Wajir	Kismayu
Dadaab	Ijara	Mombasa
Ijara	Nairobi, Dar es Salaam, Maputo	South Africa
Mogadishu	Liboi, Garissa, Nairobi	South Africa
Garissa	Nairobi, Sudan, Libya	Malta and Italy
Liboi	Dadaab, Garissa	Nairobi, North America
Liboi	Dadaab, Modogashe, Isiolo,	Nairobi, Britain
Mandera	Wajir, Modogashe, Isiolo	Nairobi, Europe
Fafi	Ijara, Garsen, Mombasa	Nairobi, Botswana
Moyale	Marsabit, Isiolo, Nanyuki	Nairobi, Botswana

*Source: IOM (2010)*

Table 4 summarizes some basic facts on irregular migrants, the numbers and sources of the information.

**Table 4: Basic Facts about Irregular Migration in Kenya**

Category	Number	Source
Number of females trafficked from Somalia to Nairobi weekly	50	Regional Mixed Migration Secretariat (2013)
Number of Somalis and Ethiopians on transit to South Africa annually	20,000	Horwood (2009)
Rate of Ethiopian irregular migrants witnessing violent death during transit (percent)	29.5	Kanko (2013)
Average price for young female victims of Human Trafficking in Kenya (USD)	600	Regional Mixed Migration Secretariat (2013)

## Migration and Security

### *Reconciling State and Human Security*

Traditionally, security has focused on the ability of a state to ensure its territorial integrity and sovereignty. This state-centric approach echoed a realist paradigm in international relations, where the state was the primary actor in the international system. This was the dominant approach in the Cold-War era where all the efforts were geared towards ensuring the integrity and sovereignty of the state (King and Murray, 2001). As long as a state, through alliances and military power, was able to preserve itself, its security goals were achieved. With the end of Cold War hostilities, there was a significant shift in the doctrine of security with the concept of human security beginning to take root. One of the factors contributing to this change was the emergence and recognition of non-state actors such as ethnic groups. While the state remained an instrumental player in the

international system, the new actors gained prominence and meaning and re-defined the nature and prosecution of conflicts (Goldstein & Pevehouse, 2014). In today's world, the potential security threats include those inherited from the Cold War era, for example, the proliferation and management of nuclear arms, and a range of new types that include terrorism, cyber crime, and illegal exploitation of natural resources among others. The two types of security, state and human, do not in fact compete with each other but rather they are interdependent.

### *Irregular Migration as a Threat to Human and State Security*

Several scholars have pointed at migration as a threat to security. Kicinger (2004) argues that migration in general can threaten economic stability by increasing employment competition, undermining social stability especially when combined with a rise in xenophobia and lack of integration, and may contribute to multiple challenges associated with increasing religious, cultural and ethnic heterogeneity. MacPherson and Gushulak (2004) note that irregular migrants are being associated with different health risks as compared with regular migrants, perhaps resulting from the long periods spent in transit. Koser (2005), on the other hand, states that irregular migration also impacts on the ability of governments to expand regular migration channels. When this is juxtaposed against the fact that the Al Shabaab terrorist group engages (for the sake of increasing its profits) in human trafficking both in Kenya (Trafficking in Persons Report, 2014) and abroad (Howard & Traughber, 2013), then, irregular migration becomes negatively correlated with security. That is why in political and media discourses, irregular migration is often described as constituting a threat to state sovereignty.

The wholesome interpretation of migrants constituting a threat to security/sovereignty has been questioned by scholars. Koser (2005) points out that irregular migration does occur in significant numbers but in most countries, it represents a fairly small proportion of total migration. Secondly, irregular migrants often work in precarious and dangerous jobs. They are excluded from health, education and other social welfare provisions and can also be subject to exploitation in the housing market (Le Voy et al., 2004). Additionally, their status often makes them unwilling to engage with the authorities and this is of particular

concern where they may have a valid asylum claim. Ibrahim (2005) observes that there is a growing trend of securitization of migration, specifically the refugee phenomenon. By securitizing migration, host countries cite the threat refugees and migrants in general pose to security. This paper does not subscribe to this perception that is rather biased and not in line with UN guidelines. Indeed, illegal migration should not be subject to securitization as it is an outcome of security failure itself even though it might contribute to the deterioration of security.

It is therefore highly plausible that the biggest threat is not posed by irregular migrants but by the Organized Criminal Groups (OCGs) that facilitate their migration. Already, The Globalization of Crime A Transnational Organized Crime Threat Assessment (2010) confirms that smuggling of humans is closely interlinked with other criminal activities that pose a serious threat to security. As Bhabha (2006) observes, there is a widely held view that smuggling of migrants consists of a “transnational highly structured and tightly controlled multi-million dollar, mafia-like criminal network, transporting in addition to humans, weapons, organs and drugs”(n.p.). The Globalization of Crime A Transnational Organized Crime Threat Assessment (2010) also links smuggling of migrants with corruption, failing state, conflict and war and above all, deteriorating state of the rule of law.

### *Gaps in the Literature*

After analysing the available literature, the study identified the following gaps. First, the definition of irregular migration is based on illegal entry of migrants, which might not necessarily correspond with the nature of human trafficking for example, some people might enter a country with legal documents but end up being exploited. Second, the available data on irregular migration in Kenya is inadequate and the one that is available already outdated. Finally, there are two conflicting views among scholars; the perception of irregular migration as a threat to security and the one disassociating irregular migration from security.



## Methodology

This section discusses the research design, description of research site(s), methods and tools for data collection and analysis and ethical issues.

### Research Design

The study sought to collect both primary and secondary quantitative and qualitative data, which called for use of mixed methods of data collection. According to Babbie (2013), having this wide range of data allows a researcher to obtain information that fulfils the criteria of data validity and reliability. To collect primary data, the study relied on a cross-sectional survey of 360 respondents selected from 12 identified clusters. The interviews were conducted using a structured questionnaire. Additional data was collected from interviews with key informants such as government officials and other experts with knowledge on pertinent issues (social, health, legal, economic, etc.) related to illegal migration and security. The number of key informants was 36 i.e. 3 in each cluster. An interview guide covering all the relevant issues was used as the data collection instrument. For the secondary data, the researcher consulted the available sources such as books, journal articles, special reports and newspaper articles. The target population in this study were people with specialized knowledge and experience in migration issues.

As argued by Gozdziaik and Bump (2008), the complexity of human trafficking and human smuggling render the establishment of a sampling frame extremely difficult. Indeed, the data reported in a vast majority of scientific journal articles concerning human trafficking are based on unknown samples. For this reason, this study used the cluster sampling technique. A total of 12 clusters were identified alongside the main migration routes – in places where irregular migrants transit or reside. The intended sample population was 360 respondents – 30 in each cluster (10 members of local population, 10 irregular migrants and 10 representatives of service providers, government institutions dealing with migration issues or civil society organisations active in the field of migration and human rights).

The research instruments were pre-tested before launching the data collection exercise. The instruments were updated according to the outcomes of the pre-testing.

# Research Sites and Data Collection Clusters

As both human trafficking and human smuggling are clandestine in nature, the research focused on established routes for both human trafficking and human smuggling. Taking into account other reports e.g. IOM (2010) Regional Mixed Migration Secretariat (2013), the study focused on the following three migration routes:

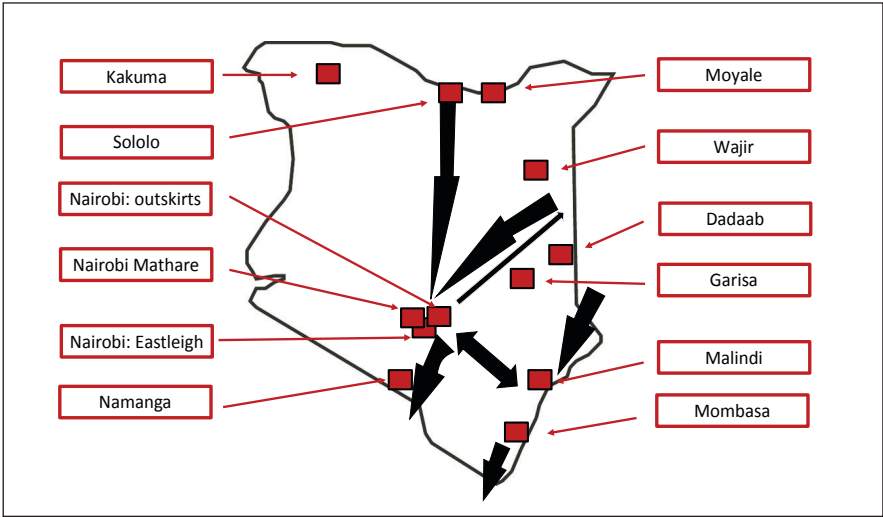
- Route 1: Nairobi, Moyale – Sololo, Marsabit, Isiolo, Namanga;
- Route 2: Nairobi, Matuu, Garissa, Wajir; and
- Route 3: Mombasa, Malindi, Shimoni, Taita Taveta.

Out of the three routes, 12 data collection clusters were isolated as follows:

- |                        |            |
|------------------------|------------|
| 1. Nairobi –Eastleigh  | 7. Garissa |
| 2. Nairobi – Mathare   | 8. Wajir   |
| 3. Nairobi – outskirts | 9. Dadaab  |
| 4. Namanga             | 10. Moyale |
| 5. Mombasa             | 11. Sololo |
| 6. Malindi             | 12. Kakuma |

The justification for selecting the above places was that they were either on the main transit routes for irregular migrants from Ethiopia and Somalia, or serve as destination places for the immigrants. Figure 6 shows the distribution of clusters together with the main migration patterns (represented by arrows).

**Figure 6: Data Collection Clusters**



*Source: Author*

**Data Analysis**

As already pointed out, the study used mixed research methods to collect data. For analysis of the qualitative data, the standard procedure of pattern coding for discovering patterns was applied alongside cross-case analysis. For the quantitative data, the Statistical Package for Social Sciences (SPSS) was used to generate descriptive and inferential statistics such as Chi-square or other measures of association.

**Delimitations and Limitations of the study**

Considering the Push and Pull Factors; no data was collected in either the country of origin or destination (with the exception of Kenya). In order to mitigate this fact data information from literature was used. This gap could be breached later in a follow-up study.

## **Ethical Considerations**

As research on irregular migration is sensitive and touches on clandestine activities, the study observed ethical standards namely confidentiality and anonymity of respondents. It was important to first explain the details of the study, its objectives and significance and how the data and information collected would be used. All the respondents were asked to give their consent for voluntary participation and were as well informed and assured of the highest levels of confidentiality and protection from direct quotation. No institutional logos/letterheads were used and no photographs were taken. At the end of each interview, the respondents were thanked and informed that the findings in form of a final report would be available on the IPSTC's website.

## Findings

### Introduction to Findings

A majority of the respondents in this study had difficulties in understanding the concept of irregular migration as opposed to the term ‘illegal migration’. The reason is that it was much easier to identify what was legal or illegal rather than what was irregular versus regular. This further was complicated by the fact that the conventional definition of this type of migration explains the illegality rather than the irregularity aspect. Irregular migration is:

*Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term “illegal migration” to cases of smuggling of migrants and trafficking in persons. (Perruchoud et al., 2011, p. 54)*

The above definition focuses on the fact that the migrant in this category lacks valid documents. As such, presence in the transit or destination country lacks legality. That was the common understanding among the respondents and stakeholders. However, such an approach to irregular (or rather illegal) migration limits it to smuggled migrants, excluding the second component, human trafficking (see the difference between the two in the Literature Review section). Also, respondents instinctively associated irregular migrants with those who are smuggled. This limitation of irregular migration to smuggling excludes the victims of trafficking from necessary and needed assistance as in some cases, it is difficult to distinguish whether migrants en route to final destinations are trafficked or smuggled. The principle of benefit of doubt would require that appropriate institutions treat the migrant as victims, rather than lawbreakers but instead, the opposite is the norm.

As respondents (and stakeholders) typically use the terms trafficking and smuggling interchangeably (thus associating both with movement), it makes human trafficking a sub-type of human smuggling. The following is a conversation with one of the respondents

(a stakeholder) qualifying this lack of conceptual clarity.

**Question:**

*Are you aware of any Somali or Ethiopian immigrants living in your area?*

**Answer:**

*Yes. In most cases, Ethiopians are the most trafficked, with Nairobi being the largest or main trafficking point.*

**Question:**

*Which is their preferred destination when they come to live in Nairobi?*

**Answer:**

*Eastleigh is their main area of stay.*

**Question:**

*How does this affect the local community?*

**Answer:**

*They are not a threat to our security and do not engage much in crime as they safeguard their temporary haven as they transit through Nairobi, Kenya. As for those who are on permanent settlement, they strive to avoid crime in order to avoid the police, which could see them lose their new found haven (KII 04/4/2015).*

The above interview shows that while the informant may have been talking about trafficking, the meaning was clearly smuggling. One possible solution to the problem identified by this study would be to redefine the concept of irregular migration by confining it to human smuggling while human trafficking is treated as an independent type of migration, or rather as a human rights issue. Illegal migration would then imply that all migrants are smuggled.

The other approach would be to retain the term illegal migration, but change the meaning of illegality when it comes to human trafficking. After all, human trafficking is illegal and therefore a crime. Victims of trafficking therefore would be taking part in illegal migration not because they lack the appropriate documents (in fact many of them enter Kenya at least with valid tourist visas), but because they are subjects of exploitation by traffickers, which is illegal.

The other meaning of irregular migration seems to avoid all the problems of legality/ illegality, but as noted above, it is completely misunderstood by practitioners in government institutions, civil society and the wider society. The difference between trafficking and smuggling does not only belong to the academic discourse but also has practical repercussions (people trafficked are victims, therefore should be assisted, while people smuggled are rather lawbreakers). Therefore, there is need to create awareness, at least, among the service providers on the two types of irregular migration.

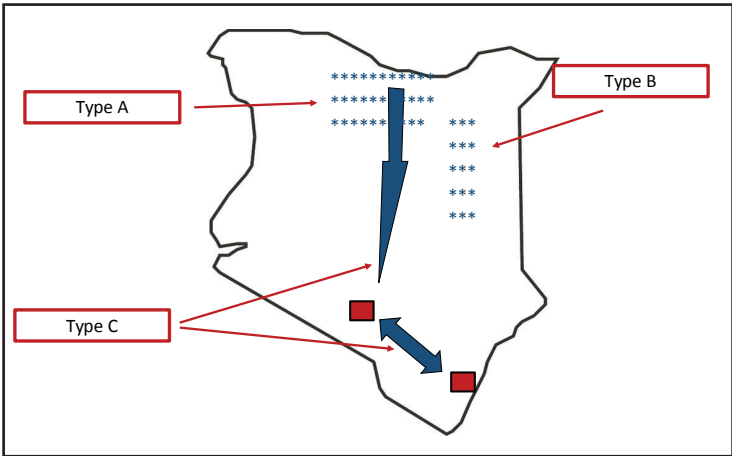
### Forms and Actors of Irregular Migration across the Kenya-Somalia and Kenya-Ethiopia Borders

The respondents identified several patterns of irregular migration from Somalia and Ethiopia to/through Kenya. First, there are migrants from Ethiopia (and also from other countries like South Sudan, Sudan or Eritrea) who migrate to Kenya for the purpose of temporary or permanent residence. Immigrants in this type may fall under three categories.

- a) Immigrants residing alongside border areas;
- b) Immigrants residing in Wajir County; and,
- c) Immigrants residing in main towns in Kenya.

Figure 7 below, presents the distribution of immigrants within the first pattern.

Figure 7: Types/Patterns of Irregular Migration



Source: Author

Some migrants from Ethiopia (and other countries in the region) come to Kenya with the intention of staying. In some cases, this could lead to permanent residence while in others the intention is temporary stay. Those in type A (immigrants residing alongside the Kenya-Ethiopia border) are an outcome of the porous borders and the fact that some ethnic groups live on both sides of the border (e.g. Borana and Gabra). They easily cross the porous borders and engage in various economic activities on the Kenyan side. As majority of them belong to ethnic groups that also reside in Kenya, their presence does not cause any suspicion, and members of the local communities treat them as their fellow kinsmen. The level of acceptance among the local population is high with this type of irregular migration. When asked to comment on whether the local population was concerned about the presence of irregular migrants, a respondent remarked: No, because we are all one community. However, in the eyes of the immigration law and department they are here illegally. *We do not mind their presence because today they are here and tomorrow they go back to Ethiopia* (KII 11/3/2015). When asked if their presence affected their wellbeing, another respondent retorted: No, as we are all from the same community speaking the same language hence we understand each other. They can come and work here for even three months looking after camels and then go back home (KII 11/3/2015). These were the common sentiments among the majority of the respondents.

Even though there are no records available of migration across the international border, the presence of migrants in the border areas is significant. For instance, one respondent observed: *All the people and children looking after our livestock are from Ethiopia as we have taken our children to school* (KII 18/4/2015). One can possibly discern the possibility of child trafficking in this statement. Indeed, the respondent was reluctant to discuss the issue further but pointed out to the need for further investigation into child trafficking. Interestingly, the migrants were well known within government institutions and on several occasions, some in government admitted that they knew of or had engaged the services of migrants. This finding goes further to restate the fact the pastoralist communities freely migrate across international borders usually in search of water and pasture. The IOM (2010) states that nomadic movements are normally not regarded as migration as there is no intention to settle in the new place and because the movement is generally seasonal. This, together with the fact that the local population has been migrating outside Kenya



for the same purpose, creates an environment of social acceptance of irregular migrants.

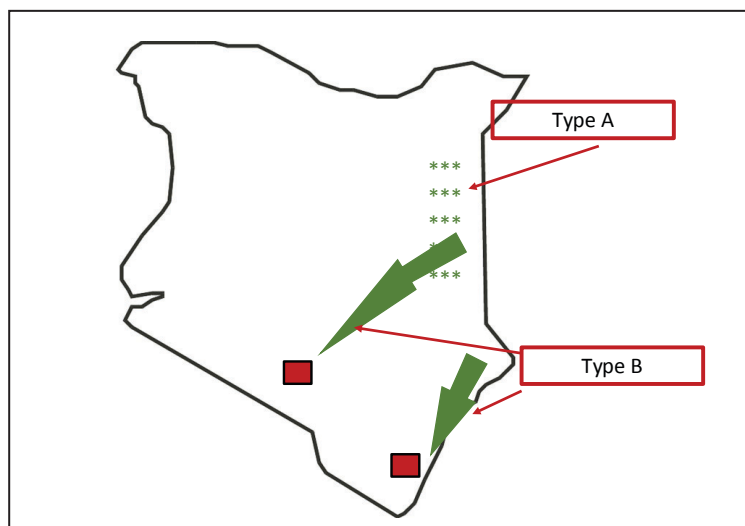
Immigrants residing in Wajir County were quite similar to those in Moyale. They belonged to the same Somali clan (although from Ethiopia) and thus quite easily blended in with the local population. Several key informants pointed out, that such migrants were often hired to work in the domestic sector that was shunned by the local population. When it came to perceptions of irregular migrants, the principle of the same ethnic origins applied as well. As one of the respondents stated: *the local population only report illegal immigrants when they come across individuals who are not of the same clan, otherwise they help their clansmen regardless of which part of the border they come from* (KII 20/4/2015). Indeed, a synergy between the irregular migrants and local population was discernable.

Finally is the third type, namely Ethiopians coming and settling in major towns such as Nairobi and other locations in Kenya. Some of them enter Kenya legally but become irregular migrants when their legal entry expires. A special sub-type within this group includes those migrants who were trafficked to Kenya from Ethiopia. Some respondents pointed out several cases of Ethiopians, specifically women, who were trafficked to Nairobi and the Coast for the purpose of sexual exploitation. It is difficult to estimate the scale of this occurrence as some migrants readily engaged in sex work in the absence of other income-earning alternatives. However, informants from Nairobi and the Coast specifically pointed out that many of the Ethiopian women found in massage parlors were irregular migrants. Since some of them were smuggled and others trafficked, it would require additional research to establish the scale of trafficking of Ethiopian females to Kenya.

The second pattern of irregular migration involved the Somali who travelled to Kenya with the intention of permanent or temporary residence. As it is in the previous pattern, immigrants in this type can be categorized according to the destination (see Figure 8). There are two types within this pattern where people migrated in order to:

- a) Settle in North-eastern Kenya (Kenyans of Somali origin)
- b) Settle in major towns

**Figure 8: Somali Migrants to Kenya**



*Source: Author*

The Somali who cross the porous Kenya-Somalia border in type A settle in Kenya in the same mode as that of the Ethiopians around Moyale and Sololo. What transpired from the interviews with key informants was that they use their ethnic background to receive support from the local people. One of the informants stated that: *They (irregular migrants) are not a real security threat to Kenya given that many are in business. The locals are just cautious of them, and the migrants live among themselves hence there is not much interaction between them and the locals. However, the more their population grows as they settle in Kenya the more the perception of a threat comes out due to the fact that most do not have proper documentation in terms of identification cards (IDs) or birth certificates (KII 18/4/2015).*

Other respondents pointed out the economic reasons that made migrants settle in Kenya. In this type, it transpired that some immigrants settled in North-eastern Kenya for a limited period of time as they intended to travel further. Being on transit, rather than taking one long journey, they tended to prefer long stop-overs after crossing into Kenya.

Similar patterns emerged when it came to the Somali who belong to type B, namely

those arriving and settling in main towns in Kenya. Nairobi's Eastleigh area and other major towns with substantial Somali communities serve as magnets for irregular migrants. Often, they come with the intention of migrating elsewhere, but different circumstances make them settle in.

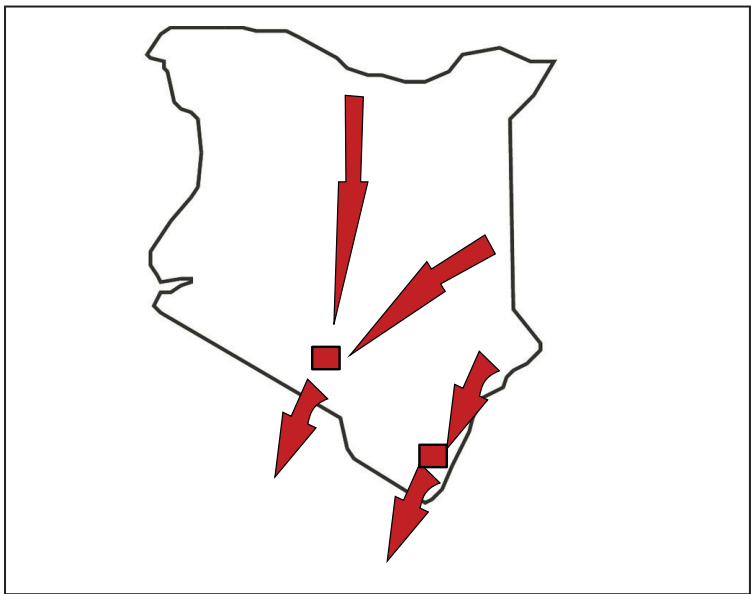
*They (irregular migrants) prefer to be in the USA or Europe. They mostly prefer Europe, especially the United Kingdom which has a welfare benefits system that supports the jobless and migrants. In Kenya, majority of the migrants that come have families living in the country already and hence come to stay with them (KII 2/4/2015).*

Interestingly, there are indicators that some of the Somali are also victims of trafficking. A few respondents referred to some brothels where women, both mature and underage, from Somalia are exploited sexually. They are typically brought in with the promise of work but forced into commercial sex instead. It was reported that such facilities exist in Eastleigh and other areas in the country.

*There are cases of Somali and Ethiopian girls being lured into Kenya with promises of jobs but end up in houses where they are abused. These girls are placed in brothels in Eastleigh and cannot report their trafficked situations due to fear of reprisals from their handlers. They are mostly duped into travelling with promises for work and are threatened with exposure to the police if they do not comply since they lack legal documentation (KII 05/3/2015).*

The third type of migration involves migrants (from both Ethiopia and Somalia) who come to Kenya aiming at travelling to another country. These migrants are on transit and their intention is to stay in Kenya for the shortest time possible. Figure 9 below, presents this transit migration pattern.

**Figure 9: Transit Migration Pattern**



*Source: Author*

This type of migration is found among the Somalis and Ethiopians passing through Kenya on their way out. One of the common destination is southern Africa, but other countries outside the continent of Africa are also options for the migrants. As immigrants pass through Kenya with the intention of finding their way out as fast as possible, they rarely associate with the local populations. The language barrier, they speak little English and no Kiswahili, also contributed to suspicion and a feeling of insecurity from the transit immigrants. As one respondent observed, “*they are not connected to any incidents of robbery or banditry. However, there is tension when these migrants live among the locals as they are seen as outsiders given that there is a serious language barrier. Therefore, people are scared of them by virtue of being strangers in the society*” (KII 10/3/2015).

It is difficult to establish whether transit migrants are trafficked or smuggled as the difference can only be ascertained at the destination country. Often, they are treated as people being smuggled. It was also unclear as to how many people were transiting through Kenya. A court in Moyale had prosecuted 140 irregular migrants between January and March 2015. When it comes to Ethiopian migrants, those on transit are associated with certain regions in Ethiopia, particularly the ethnic group called Kambaata.

As migrants are typically ferried in small groups, they use public transport. There is a network of middlemen organizing for the transport and reception of the migrants. The presence of brokers raises the question of criminal networks facilitating the movement, which in turn invites the problem of criminalization and/or securitization of migration. This is discussed as part of Objective Three.

*Who is involved in the process of Irregular Migration?*

When asked about institutions and groups in Kenya that were involved in migration, the respondents identified the following actors: Police, Immigration, job agencies, criminal groups, ethnic leaders, and to a lesser extent, religious leaders. Table 5 below, presents the respondents’ perceptions on who was associated with irregular migration.

**Table 5: Actors in Irregular Migration**

Actor	Yes (%)	No (%)
Police	81.2	18.8
Immigration	79.9	20.1
Agents	72.3	27.7
Organized Criminal Groups	70.2	29.8
Ethnic leaders	69.1	30.9
Religious leaders	49.3	50.7

*Source: Author*

Both Police and Immigration Department are government institutions yet they scored highest on levels of involvement in abetting irregular migration. The police were said to play all kinds of roles when dealing with immigrants. Many respondents observed that the police usually knew about the irregular immigrants. For example, one respondent noted: *“Government officials especially police abuse the migrants when they fail to offer bribes for protection and freedom. Their movement is orchestrated at night where transportation is done by trucks which may endanger their lives given that they are carried in airtight containers that may lead to suffocation on transit as was in a case reported in Tanzania where immigrants died from this dangerous mode of travel”* (KII 08/3/2015).

On a number of occasions, it was reported that the police protected irregular migrants from being discovered by other security agencies. One respondent stated that *“Police handcuff illegal migrants, get them safely through KDF’s barriers then set them free”* (KII 22/4/2015). Respondents also indicated that the police treated the immigrants as an additional source of income and thus they expected money in exchange for not arresting them or setting them free after arrest.

*The business people who are immigrants always give the police money failure to which they are threatened with arrest and branded Al-Shabaab members or sympathizers of the terror group* (KII 12/3/2015).

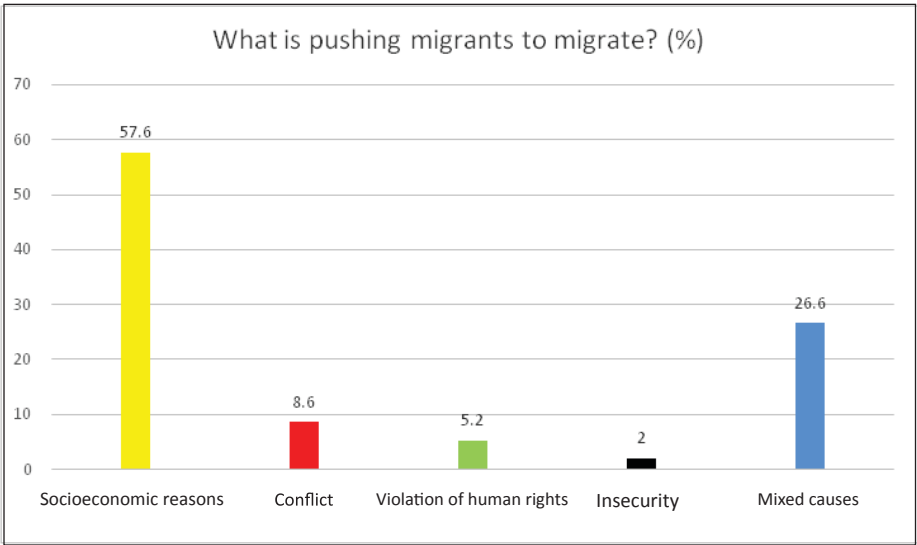
As for the other actors, ethnic leaders appeared to play a critical role. They were often associated with irregular migration where they assisted the immigrants, of the same ethnic background, arriving in Kenya to either acquire Kenyan identification documents or by simply not reporting their presence to the relevant authorities.

### **Push and Pull Factors in Irregular Migration**

This section assesses what would be pushing and/or pulling migrants to engage in irregular migration. Figure 10 shows the variables that led people to migrate. Socio-economic reasons appeared to be the main push factor. Respondents mentioned poverty and lack of economic opportunities as the main reason for migration. This push factor

corresponds with the variables that attracted migrants such as the need for cheap labour force, economic opportunities, availability of social amenities (schools, hospitals) in destination countries, etc.

**Figure 10: Push Factors in Irregular Migration**

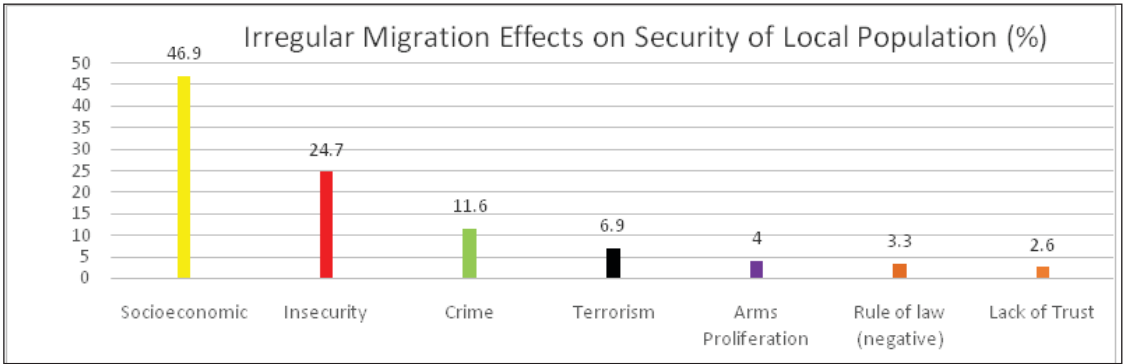


Many respondents from Ethiopia also attributed violation of human rights to their need to migrate while those from Somalia mentioned conflict at home. This corresponds with the current situations in the origin countries.

**Irregular Migration and Security in Kenya**

A key concern of this research was whether migrants were having any impact on security. Figure 11 presents perceptions on how irregular migrants affected the security of the local population. According to the respondents, there were several ways in which irregular migrants affected security.

Figure 11: Effects of Irregular Migrants on Security



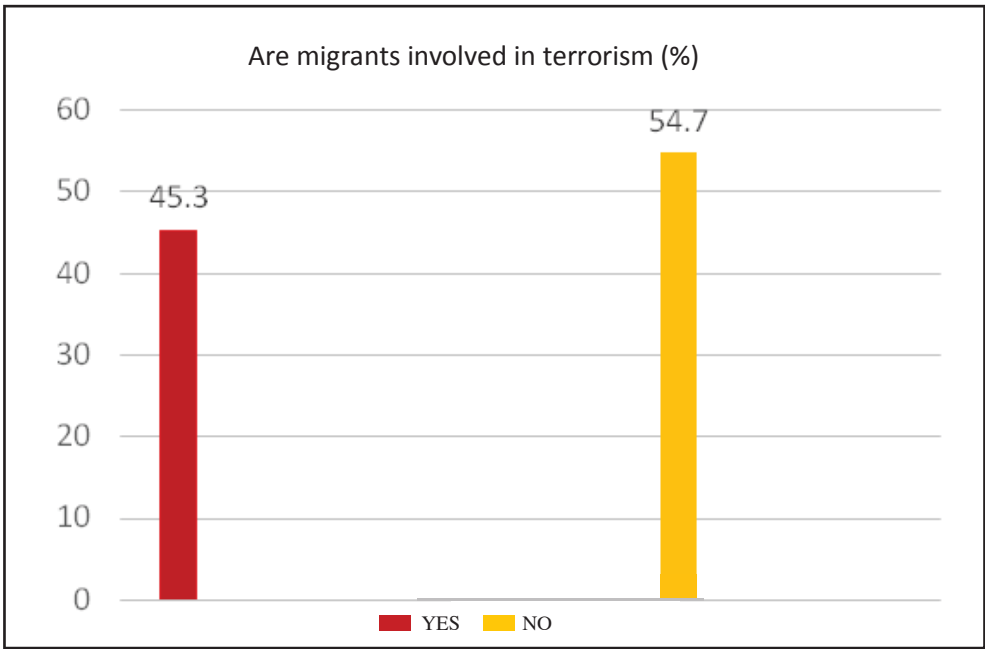
From the above chart, it is evident that socioeconomic reasons top the list of negative effects of migrants on security. Respondents blamed immigrants for taking economic opportunities, crowding limited social amenities, making the job market more competitive, etc. Such complaints were not typical to Kenya as immigrants around the world are similarly blamed (cf. xenophobic attacks in South Africa in 2015). The next reason was insecurity. Immigrants were accused of creating fear, which then fueled insecurity. This can be associated with suspicions and misunderstandings. Slightly above 10% pointed out that immigrants involved in crime and less than 7% linked immigrants with terrorism. As for the criminal activities, immigrants were associated with the local types of crime. For instance, one respondent in Mombasa confirmed that: *“some of the immigrants are introduced to drugs by their handlers who smuggle them and may exploit this situation in order to control the immigrants into doing illegal activities like crime and prostitution. The women are more susceptible to this form of manipulation as they are lured into the sex trade”* (KII 19/3/2015). A respondent in Moyale indicated that *“some immigrants commit cattle rustling”* (KII 20/3/2015). Commercial sex in Mombasa and cattle rustling in Northern Kenya are not the domains of immigrants but after blending they joined the local people in committing these activities. A respondent from Garisa attested: *“Migrants also work with organized groups in Garissa like the Lomoyians which is a group comprising migrant and local youths who accost and rob locals and visitors to Garissa”* (KII 28/3/2015).



*Migration and Terrorism*

One popular hypothesis is that there is a direct relationship between irregular migration and terrorism. This specifically applies to immigrants of Somali origin. The link between irregular migration and terrorism is examined in Figures 12 and 13. First, respondents were asked if according to their knowledge (not information acquired from the media - TV and newspapers) the immigrants were associating with terrorism. Figure 12 summarises the responses.

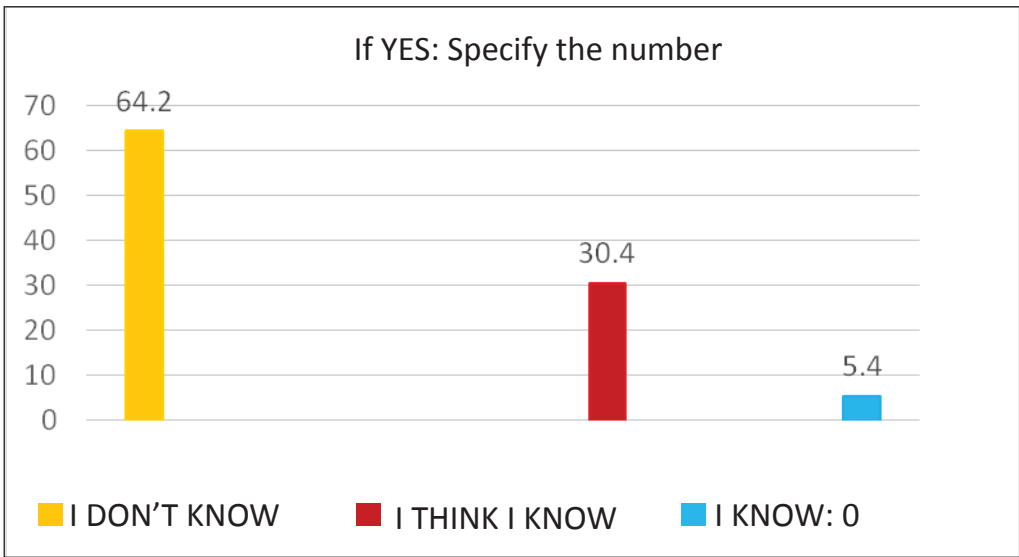
**Figure 12: Migrant Involvement in Terrorism**



About 55% of the respondents claimed that immigrants had nothing to do with terrorism while 45% claimed they were actually involved in terror activities. This may be interpreted to mean that most of the migrants were not involved in terrorism. However, when those who said YES were asked to provide the number of immigrants who had joined terrorist organisations (see Figure 13 below), the majority (64.2%) were unable to provide any numbers. Since only 5.4% revealed that none of the migrants they knew had apparently joined a terrorist organization, it appears that perpetration of terrorism played a marginal

role in irregular migration. The possible explanation for the remaining 30% of the respondents who appeared to associate immigrants with terrorism is that some of the terrorists, who enter Kenya, pose or are perceived as immigrants.

Figure 13: Number of Immigrants Joining Terrorist Organisations



In addition, incidents where Al Shabaab engaged in human trafficking and human smuggling may have given the impression that migrants were linked to terrorism. However, there were several respondents who, while lacking any substantial evidence, linked the immigrants with terror groups like the Al Shabaab.

When a court official was interviewed, he responded as follows:

**Question:** *Do you think that irregular migrants are a security threat?*

**Answer:** *Not really because most of them are individuals who are fleeing hardships seeking greener pastures. There are however, immigrants coming from Mogadishu who are considered as a potential terrorist threat and they are given jail terms. However, the others who are not considered to be of high risk are fined Ksh. 5,000 - 10,000 and repatriated back to their country, which is mostly a walk to the border (KII 24/4/2015).*

There was however a pattern of generalization, all immigrants from Somalia are terrorist threat) while those from other countries are not,that could be seen in other informant answers such as: “the suspicion based on them being strangers in Namanga fuels the notion that the migrants **could be** affiliated to terror groups from Somalia especially Al-Shabaab” (KII 18/3/2015).

*Effects of Migrants on Human and State Security*

The study established that in a number of situations, migrants contributed to insecurity by playing a dual role, that of victims and perpetrators. Below are three examples of irregular migrants playing the role of abuser and abused at the same time, as presented in Figures 14, 15 and 16.

**Figure 14: Immigrants and Corruption**

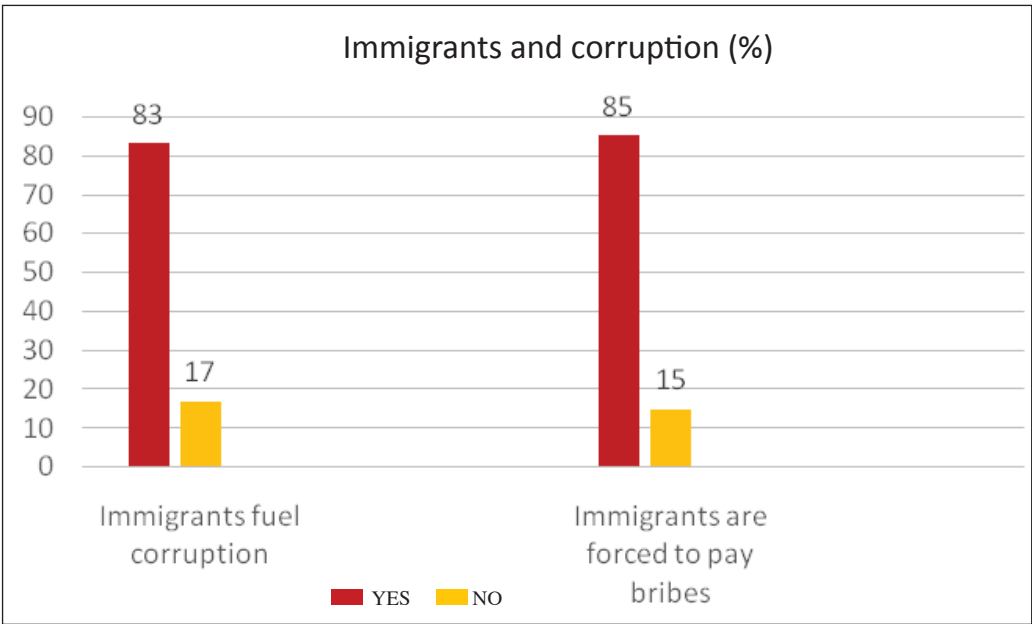


Figure 15: Immigrants and Crime

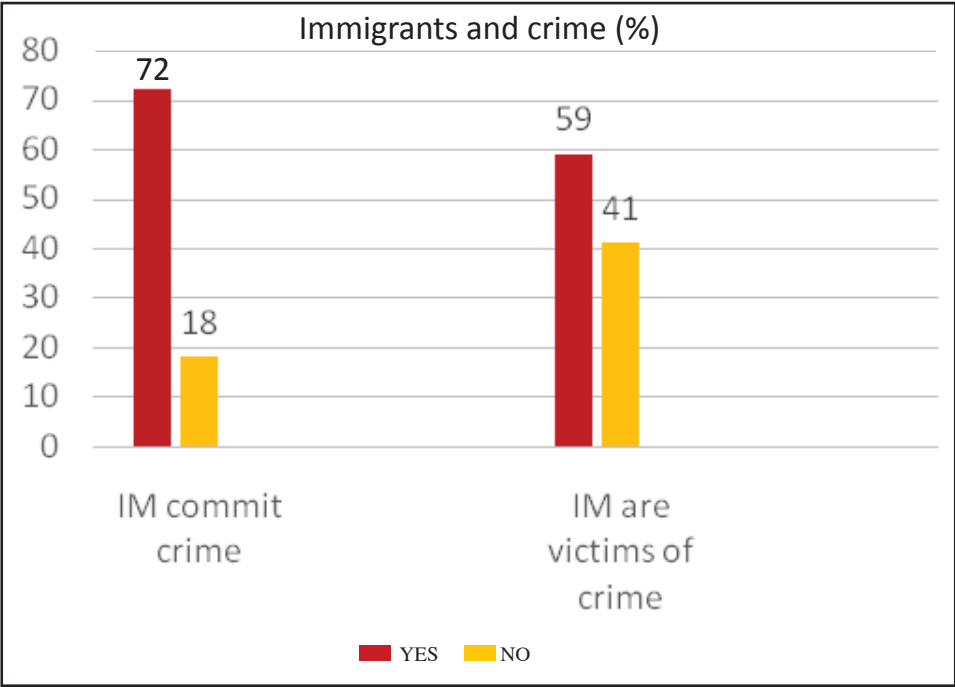
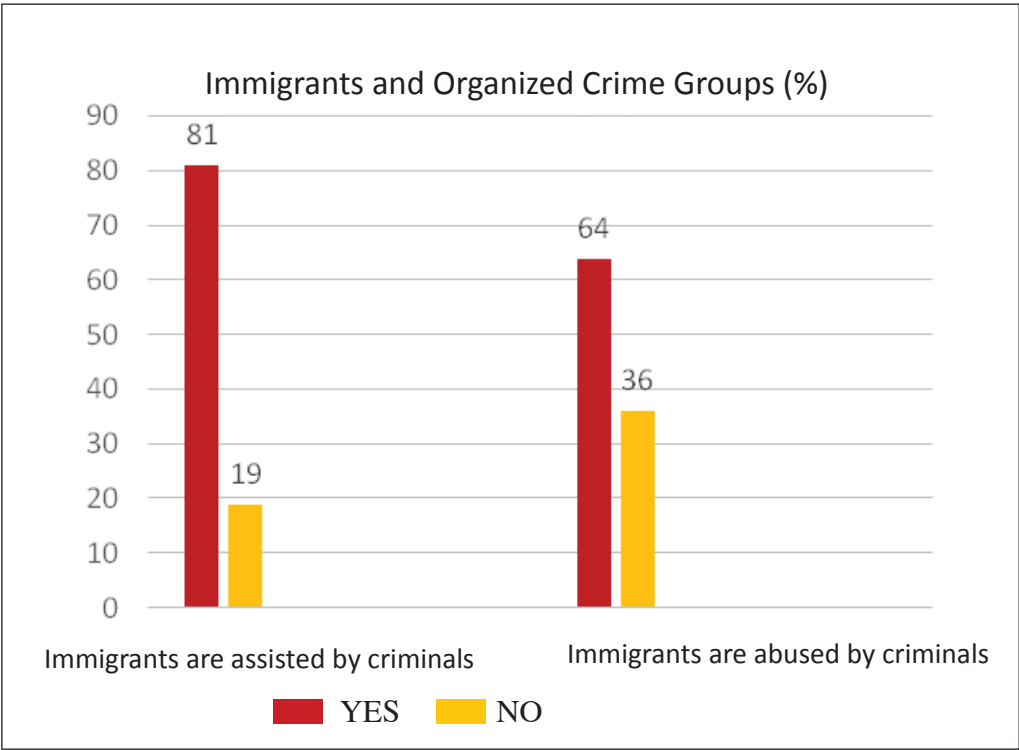


Figure 16: Immigrants and Organized Crime



The above three graphs show that immigrants were both perpetrators and victims of different types of insecurity. They bribed willingly but were also forced to bribe. They engaged in crime as much as they were victims of crime and finally, where they were assisted by organized criminal groups, they were at the same time abused by the same criminals.

The patterns presented by the above diagrams were confirmed in the key informant interviews. Immigrants were found to commit petty thefts, robberies or joined local gangs. Interestingly, when it came to types of crime, besides joining gangs, immigrants were also associated with smuggling of drugs and weapons across borders. One respondent in Namanga maintained that:

*In terms of robbery and smuggling of weapons, no incidences have been reported as the Somali migrants are mostly on transit to other destinations thus they do not interfere with life in Namanga. One incident that stands out however is the relocation of camels, which were suspected to have been used by the Somali migrants to smuggle weapons at night. The camels were subsequently relocated by the authorities to allay this fear (KII 26/3/2015).*

*The migrants do pose some danger to the local community as their agents openly carry weapons which may cause fear and anxiety among the locals in Namanga who come across them at night. They prefer moving around at night in groups comprising young men and boys of up to 18 years. The migrants often part with money for their freedom especially when the locals report them to the police (KII 18/3/2015).*

This comment (from the Community Elder in Namanga) corresponds with other respondents' remarks (especially those from Moyale):

*"the locals do take advantage of them through the brokers by asking for money at illegal road blocks, because they do not use the main roads but would rather use the unofficial roads (KII 24/4/2015).*

Also, the immigrants were often victims of sexual exploitation as attested to by several informants:

#### **Question:**

*Do you know of any of the migrants from Somalia or Ethiopia who have been subjected to sexual exploitation?*

#### **Answer:**

*There are many cases. Abuse of these immigrants, especially sexual exploitation of women and young girls, goes unreported as the victims are afraid of exposing their illegal status to the authorities which may lead to possible deportation hence their vulnerability. They also become wary of the possible exploitation and abuse by the authorities in some cases. (KII 29/3/2015).*

The raping of female migrants by local gangs, their own smugglers or even members of the security forces appeared to be a common occurrence associated with migration. Often, female migrants were forced to offer sex in exchange for not being arrested.

*Because they (migrants) are known to carry money, the locals put up illegal barriers to extort money from them (KII 22/4/2015)*

This already indicates that it is the social environment that leads to the negative impact of migration on security. Still the question is what then makes irregular migration impact negatively on security? In search of an answer to this question, a set of two cross-tabulations is presented in Table 6, below.

**Table 6: Irregular Migration and Organized Criminal Groups (OCGs)**

Place	Irregular Migrants are facilitated by Organized Criminal Groups				
	No OCG	Low	Moderate	High	Total
Ethiopian Border	14.2% (51)	4.7% (17)	4.7% (17)	5.6% (20)	29.2% (105)
Somali Border	4.7% (17)	8.9% (32)	3.9% (18)	2.8% (10)	23% (73)
Coast	2.8% (10)	2.2% (8)	6.4% (8)	7.2% (26)	18.7% (67)
Nairobi and Namanga	7.8% (28)	4.2% (15)	8.6% (31)	11.1% (40)	31.8% (114)
<b>Total</b>	<b>29.5% (106)</b>	<b>20.1% (72)</b>	<b>23.7% (85)</b>	<b>26.7% (96)</b>	<b>100% (359)</b>

$\chi^2 = 66.420$ ,  $df = 9$ ,  $P < .001$ , Cramer's  $V = .248$

Table 6 shows the cross-tabulation of two variables: organized criminal groups and place of origin. The statistics are amenable to varying interpretations especially by looking at the chi-square and measures of association. The chi-square of 66.420 is significant at .001. The variables appear to be significantly associated and the extent to which they are associated is indicated by a Cramer's V of .248 which shows a moderate association between the two variables. From the cells, it appears that the distribution of percentages compare favourably especially along the Ethiopian Border and Nairobi and Namanga (row-wise). While along the Ethiopian Border the highest score is at No OCG (14.2%), in the case of Nairobi and Namanga, the highest percentage is 11.1%. Figure 17 presents these differences in a clearer way.

Figure 17: Organized Criminal Groups and Irregular Migration

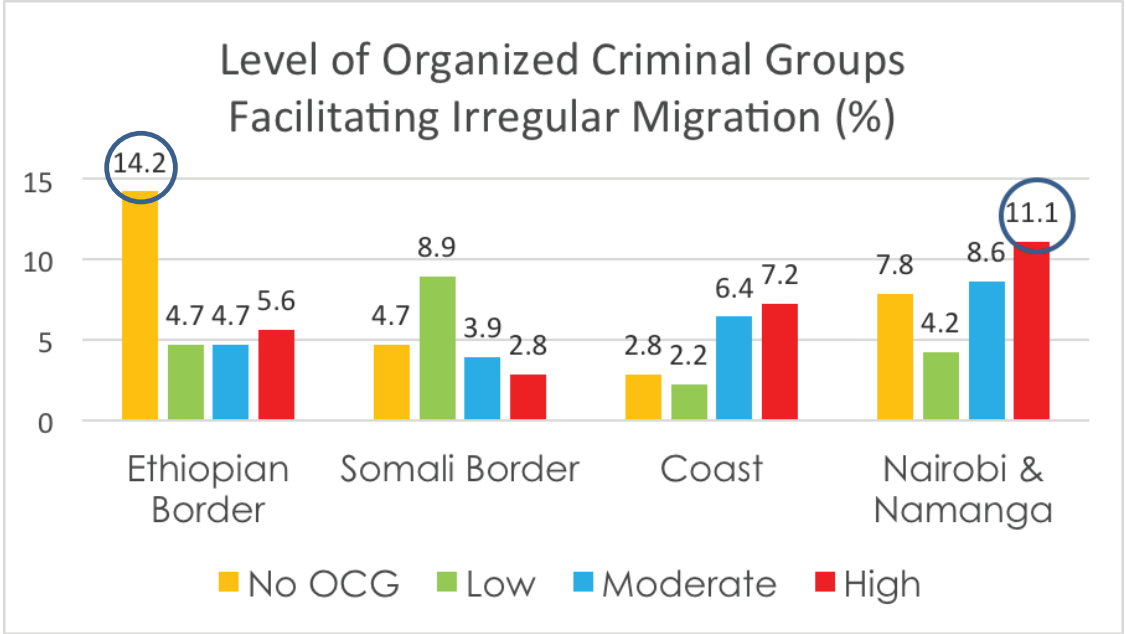


Table 7 and Figure 17 suggest the differential impacts of lack of OCGs along the Ethiopian Border in contrast with the relatively high presence of the OCGs in Nairobi/Namanga. The possible explanation is that irregular migrants in Nairobi and Namanga were either on transit or they blended easily in the crime-prone milieu of Nairobi. On the other hand, those along the Ethiopian border were not facilitated by organized criminals. This pattern repeats itself if the ‘Place’ variable is cross-tabulated with the variable ‘Security Incidents’ caused by irregular migrants.



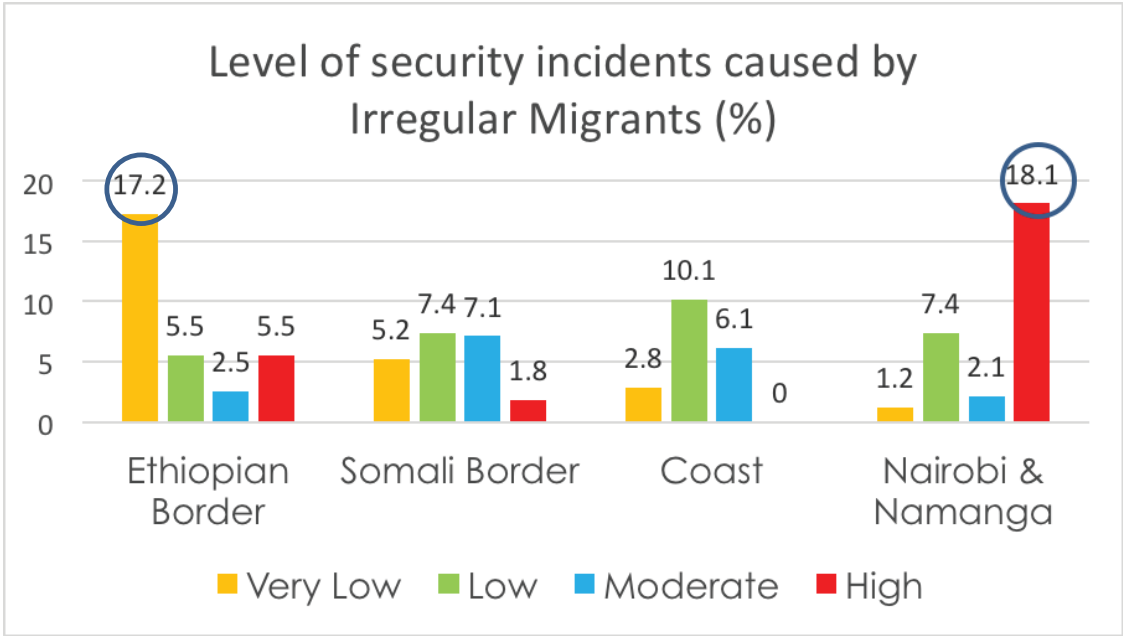
The results are presented in Table 7, below.

**Table 7: Irregular Migrants and Levels of Security Incidents**

Place	Level of Security incidents caused by Irregular Migrants in Last Three Months				
	Very Low (0 or 1)	Low (2-5)	Moderate (6-10)	High (more than 10)	Total
Ethiopian Border	17.2% (56)	5.5% (18)	2.5% (8)	5.5% (18)	30.7% (100)
Somali Border	5.2% (17)	7.4% (24)	7.1% (23)	1.8% (6)	21.5% (70)
Coast	2.8% (9)	10.1% (33)	6.1% (20)	0% (0)	19% (62)
Nairobi & Namanga	1.2% (4)	7.4% (24)	2.1% (7)	18.1% (59)	28.8% (94)
<b>Total</b>	<b>26.4% (86)</b>	<b>30.4% (99)</b>	<b>17.8% (58)</b>	<b>25.5% (83)</b>	<b>100% (326)</b>

$\chi^2 = 175.368, df = 9, P < .001, \text{Cramer's } V = .423$

**Figure 18: Irregular Migrants and Levels of Security Incidents**



From the figure above, the pattern tends to repeat itself. When the columns were compared in terms of level of insecurity incidents, the two extremes become visible. The Ethiopian Border had 17.2% of the respondents claiming that there were no security incidents or the level was very low (1). On the other hand, the Nairobi and Namanga corridor had 18.1% of respondents claiming the number of security incidents involving migrants was quite high (more than 10 in the past 3 months).

In addition, the figures in Table 7 reveal a similar tendency in the relationship between the two phenomena. As the Chi-square is 175.368 at the  $p < .001$ , it shows that there is an association between the two variables. With the Cramer's V at .423, it shows that there is a strong positive correlation between the two variables.

With this data, it is possible to arrive at the conclusion that it is the presence of organized criminal groups that make irregular migration impact negatively on security. If immigrants were not managed by OCGs, they were likely to have low or no impact on security. However, if they were associated with OCGs (gangs), the impact of irregular migration on security becomes significant. A similar conclusion can be drawn from information gathered from the key informant interviews, which confirmed a low presence of security incidents and organized criminals alongside the Ethiopian border migration corridor as opposed to the Nairobi-Namanga one. The interview below attests to this.

**Question:** *Do the immigrants get involved in any criminal activities?*

**Answer:** *No, they don't. The funny thing is that illegal immigrants tend to cooperate a lot with the police when arrested. They have no issues and their only concern is to cross over to Kenya headed for South Africa (KII 24/4/2015).*

Also, the presence of weapons became apparent in those places. As one respondent explained:

*There is a criminal network of individuals from Ethiopia, Kenya and Tanzania who work together to ensure that passage for these migrants is availed. This is known to the senior police and immigration officers given that transportation is mainly by road through, up to four, manned road blocks (KII 19/3/2015).*

On the other hand, respondents in Namanga and Nairobi stressed the presence of criminal groups managing the process.

## Conclusion

Irregular Migration is a complex and multifaceted phenomenon. Immigrants do impact on the Kenyan society in both positive and negative ways. This study focused on the negative impact on security. There are three types of irregular migration across the Kenya-Somalia and Kenya-Ethiopia borders: The first involves Ethiopians and Somalis on transit to Southern Africa and other destinations. The second type entails Ethiopians who settle (temporarily or permanently) in Kenya: along the Kenya-Ethiopia border, in Wajir County and in other major towns, and finally, the third type comprises Somali immigrants settling down in Kenya (temporarily or permanently) in Wajir, Garissa and Mandera counties and in other major towns in the country.

While the migration of Somalis (both on transit and those residing in Kenya) was fuelled by conflict/war and socio-economic factors, that of Ethiopians (both on transit and those residing in Kenya) was an outcome of human rights abuses and socio-economic attributes.

Irregular migration has had positive and negative influences on security in Kenya. Immigrants are typically blamed for negatively impacting on several aspects of human security (as elsewhere in the world), but this is rather an outcome of “Us” versus “Them” attitude and limited social services in Kenya. In actual fact, the study found a low correlation between irregular migration and terrorism. The fact that immigrants were associated with terrorists was a matter of negative stereotyping. Notably, in some circumstances, terrorists blended with immigrants or even organised the migration process; however, this was rather marginal.

The impact of irregular migration on security varies, but the single variable that appeared to determine the impact was the involvement of organized criminal groups or OCGs. In areas where OCGs managed irregular migration, the latter had a significant negative impact on security, while in places where the presence of OCGs was minimal, the migrants had little influence on security. It is therefore safe to conclude that OCGs acted as catalyst in the process of irregular migration which had implications for security.

## Recommendations

In order to minimize the negative impact of irregular migration on security, the study advances the following recommendations to different stakeholders namely the government of Kenya, various International Organizations, IPSTC and civil society:

The Government of Kenya is the key stakeholder when it comes to maintaining both human and state security. In order to minimize the negative impact irregular migration has on security, the government should:

- Counteract the proliferation of organized criminal groups along the migration routes.
- Sensitize local communities on irregular migration and use community policing when it comes to combating organized crime.
- Participate in regional and bilateral cooperation towards addressing the root causes of migration in the Eastern Africa region.
- Finalize amendment of the Counter-trafficking Act and train members of law enforcement agencies on handling victims of human trafficking and smuggled migrants.
- Use victim-sensitive approaches in prosecution.
- Improve governance by boosting including state presence along border areas.
- Address corruption among state institutions and agents to stem the flow of SALW.

International Institutions (IGAD, UN) are key stakeholders when it comes to migration. As migration starts outside Kenya, they can particularly be involved in:

- Promoting safe migration in countries of origin.
- Spearhead inter-governmental consultations on migration in the Eastern Africa region.
- Spearhead anti-trafficking and anti-smuggling plans of action in the region that will focus on countering organized crime.

Civil Society organizations especially those working at the community level need to:

- Sensitize local communities on irregular migration, specifically the direct negative impact of migration at the local community level.
- Train local leaders and other stakeholders on irregular migration.
- Assist victims of human trafficking by providing psychosocial, legal, and medical assistance.

The International Peace Support Training Centre could consider:

- Developing training modules on irregular migration, specifically on the differences between smuggling and trafficking of migrants for PSO and law enforcement staff.
- Undertaking further research on each of the three types of migration and in particular focus on their impact on peace and security.

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